

ASSEMBLY BILL NO. 254—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMISSION’S SUBCOMMITTEE
TO REVIEW THE UNITED STATES DEPARTMENT OF LABOR’S REPORT
ON THE NEVADA OCCUPATIONAL SAFETY AND HEALTH PROGRAM)

MARCH 10, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to occupational safety; revising provisions governing the grounds for the issuance of a citation for certain occupational safety and health violations; providing for the issuance of a citation for certain occupational safety and health violations upon a determination by the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator’s authorized representative that any employee has access to a hazard; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that if, upon inspection or investigation, the
2 Administrator of the Division of Industrial Relations of the Department of Business
3 and Industry or the Administrator’s authorized representative believes an employer
4 is in violation of the Nevada Occupational Safety and Health Act, the Division shall
5 issue a citation to the employer for the violation. (NRS 618.465)
6 **Section 1** of this bill provides that the Administrator or the authorized
7 representative may find a violation to have occurred based upon a determination of
8 the Administrator or authorized representative that any employee has access to a
9 hazard. **Sections 1, 1.3 and 1.7** of this bill also include within the scope of behavior
10 for which a citation may be issued the violation of any provision of a settlement
11 agreement entered into that relates to the Nevada Occupational Safety and Health



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12 Act and that requires an employer to correct or modify a condition or practice in or
13 relating to a place of employment and authorize the Division to take certain actions
14 to enforce such a settlement agreement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 618.465 is hereby amended to read as follows:
2 618.465 1. If, upon inspection or investigation, the
3 Administrator or the Administrator's authorized representative
4 believes that an employer has violated ~~fa~~ :

5 (a) A requirement of this chapter, or any standard, rule or order
6 adopted or issued pursuant to this chapter, the Division shall with
7 reasonable promptness issue a citation to the employer ~~f~~ ; or

8 (b) *Any provision of a settlement agreement entered into*
9 *relating to this chapter which requires the employer to correct or*
10 *modify a condition or practice in or relating to a place of*
11 *employment, the Division may issue a citation to the employer.*

12 2. Each citation *issued under this section* must be in writing
13 and describe with particularity the nature of the violation, including
14 a reference to the section of this chapter , ~~for~~ the provision of the
15 standard, rule, regulation or order , *or the provision of the*
16 *settlement agreement* alleged to have been violated. In addition
17 the citation must fix a reasonable time for the abatement of the
18 violation. The Administrator may prescribe procedures for the
19 issuance of a notice in lieu of a citation with respect to:

20 (a) Minor violations which have no direct or immediate
21 relationship to safety or health; and

22 (b) Violations which are not serious and which the employer
23 agrees to correct within a reasonable time.

24 ~~f2~~ 3. *A citation issued under this section may be based upon*
25 *a determination of the Administrator or the Administrator's*
26 *authorized representative that any employee has access to a*
27 *hazard.*

28 4. Each citation issued under this section, or a copy or copies
29 thereof, must be prominently posted as prescribed in regulations
30 adopted by the Administrator at or near each place a violation
31 referred to in the citation occurred.

32 ~~f3~~ 5. No citation may be issued under this section after 6
33 months following the occurrence of any violation.

34 6. *The Administrator may adopt regulations to carry out the*
35 *provisions of this section.*

36 **Sec. 1.3.** NRS 618.515 is hereby amended to read as follows:
37 618.515 If any person disobeys an order of the Division, *any*
38 *provision of a settlement agreement entered into relating to this*



1 *chapter which requires the employer to correct or modify a*
2 *condition or practice in or relating to a place of employment, or a*
3 subpoena issued by ~~the~~ *the Division* or one of its representatives,
4 refuses to permit an inspection or refuses to testify as a witness to
5 any matter regarding which the person may be lawfully interrogated,
6 ~~then~~ the district judge of the county in which the person resides, on
7 application of the Administrator or the Administrator's
8 representative, shall compel obedience by attachment proceedings
9 as for contempt, as in the case of disobedience of the requirements
10 of subpoenas issued from the court on a refusal to testify therein.

11 **Sec. 1.7.** NRS 618.525 is hereby amended to read as follows:

12 618.525 1. The Division may prosecute, defend and maintain
13 actions in the name of the Division for the enforcement of the
14 provisions of this chapter *or any settlement agreement entered into*
15 *relating to this chapter which requires the employer to correct or*
16 *modify a condition or practice in or relating to a place of*
17 *employment*, and is entitled to all extraordinary writs *or other relief*
18 provided by the Constitution of the State of Nevada, the statutes of
19 this State and the Nevada Rules of Civil Procedure in connection
20 therewith for the enforcement thereof.

21 2. Verification of any pleading, affidavit or other paper
22 required may be made by the Division.

23 3. In any action or proceeding or in the prosecution of any
24 appeal by the Division, no bond or undertaking may be required to
25 be furnished by the Division.

26 **Sec. 2.** This act becomes effective on January 1, 2012.



