
SUBSTITUTE SENATE BILL 5904

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Prentice, Keiser, Franklin, Hobbs, and Kline)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to defining independent contractor for purposes of
2 prevailing wage; and adding a new section to chapter 39.12 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.12 RCW
5 to read as follows:

6 For the purposes of this chapter, an individual employed on a
7 public works project is not considered to be a laborer, worker, or
8 mechanic when:

9 (1) The individual has been and is free from control or direction
10 over the performance of the service, both under the contract of service
11 and in fact;

12 (2) The service is either outside the usual course of business for
13 the contractor or contractors for whom the individual performs
14 services, or the service is performed outside all of the places of
15 business of the enterprise for which the individual performs services,
16 or the individual is responsible, both under the contract and in fact,
17 for the costs of the principal place of business from which the service
18 is performed;

- 1 (3) The individual is customarily engaged in an independently
2 established trade, occupation, profession, or business, of the same
3 nature as that involved in the contract of service, or the individual
4 has a principal place of business for the business the individual is
5 conducting that is eligible for a business deduction for federal income
6 tax purposes other than that furnished by the employer for which the
7 business has contracted to furnish services;
- 8 (4) On the effective date of the contract of service, the
9 individual is responsible for filing at the next applicable filing
10 period, both under the contract of service and in fact, a schedule of
11 expenses with the internal revenue service for the type of business the
12 individual is conducting;
- 13 (5) On the effective date of the contract of service, or within a
14 reasonable period after the effective date of the contract of service,
15 the individual has an active and valid certificate of registration with
16 the department of revenue, and an active and valid account with any
17 other state agencies as required by the particular case, for the
18 business the individual is conducting for the payment of all state
19 taxes normally paid by employers and businesses and has registered for
20 and received a unified business identifier number from the state of
21 Washington;
- 22 (6) On the effective date of the contract of service, the
23 individual is maintaining a separate set of books or records that
24 reflect all items of income and expenses of the business which the
25 individual is conducting; and
- 26 (7) On the effective date of the contract of service, if the nature
27 of the work performed requires registration under chapter 18.27 RCW or
28 licensure under chapter 19.28 RCW, the individual has a valid
29 contractor registration pursuant to chapter 18.27 RCW or an electrical
30 contractor license pursuant to chapter 19.28 RCW.

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