

SB 6321 - S AMD 588

By Senator Baumgartner

ADOPTED 02/16/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 51.08.181 and 2008 c 102 s 5 are each amended to
4 read as follows:

5 For the purposes of this title, any individual performing
6 services that require registration under chapter 18.27 RCW or
7 licensing under chapter 19.28 RCW for remuneration under an
8 independent contract is not a worker when:

9 (1) The individual has been, and will continue to be, free from
10 control or direction over the performance of the service, both under
11 the contract of service and in fact. For the purposes of this
12 chapter, requirements regarding sequencing, deadlines, or date and
13 time of entry to a worksite do not constitute control or direction,
14 nor do reasonable expectations of professional dress, conduct,
15 demeanor, safety, or any other conditions specified in the agreement
16 with the owner of the property or a higher tier contractor. This
17 section does not affect the right of any party to enforce the
18 agreement;

19 (2) The service is either outside the usual course of business
20 for which the service is performed, or the service is performed
21 outside all of the places of business of the enterprise for which the
22 service is performed, or the individual is responsible, both under
23 the contract and in fact, for the costs of the principal place of
24 business from which the service is performed;

25 (3) The individual is customarily engaged in ((an independently
26 established)) a trade, occupation, profession, or business, of the
27 same nature as that involved in the contract of service((, or the
28 individual has a principal place of business for the business the
29 individual is conducting that is eligible for a business deduction
30 for federal income tax purposes other than that furnished by the
31 employer for which the business has contracted to furnish services;

1 ~~(4) On the effective date of the contract of service, the~~
2 ~~individual is responsible for filing at the next applicable filing~~
3 ~~period, both under the contract of service and in fact, a schedule of~~
4 ~~expenses with the internal revenue service for the type of business~~
5 ~~the individual is conducting));~~

6 ~~((+5))~~ (4) On the effective date of the contract of service, or
7 within a reasonable period after the effective date of the contract,
8 the individual has an active and valid certificate of registration
9 with the department of revenue, and an active and valid account with
10 ~~((any other state agencies))~~ the department as required by the
11 particular case, for the business the individual is conducting for
12 the payment of all state taxes normally paid by employers and
13 businesses and has registered for and received a unified business
14 identifier number from the state of Washington. If checked quarterly
15 or within a reasonable period before, during, and/or after the
16 agreement, reliance on department of revenue and department published
17 information constitutes compliance with this subsection;

18 ~~((+6) On the effective date of the contract of service, the~~
19 ~~individual is maintaining a separate set of books or records that~~
20 ~~reflect all items of income and expenses of the business which the~~
21 ~~individual is conducting;))~~ and

22 ~~((+7))~~ (5) On the effective date of the contract of service, the
23 individual has a valid contractor registration pursuant to chapter
24 18.27 RCW or an electrical contractor license pursuant to chapter
25 19.28 RCW. If checked quarterly or within a reasonable period before,
26 during, and/or after the agreement, reliance on department published
27 information constitutes compliance with this subsection."

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28 On page 1, line 2 of the title, after "statutes;" strike the
29 remainder of the title and insert "and amending RCW 51.08.181."

EFFECT: Eliminates the definition of control or direction;
expands the situations which do not constitute control or direction,
including requirements for sequencing and safety and includes the

requirements made in an agreement with a higher tier contractor, not just the property owner.

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