
**Labor & Workforce Development
Committee**

HB 1701

Brief Description: Concerning the misclassification of contractors as independent contractors in the construction industry.

Sponsors: Representatives Ormsby, Green, Sells, Kenney, Van De Wege, Hasegawa, Hudgins, Moeller, Miloscia, Sullivan, Upthegrove, Pettigrew, Seaquist, Hunter and Frockt.

Brief Summary of Bill

- Provides that a contractor registration violation occurs under certain circumstances when a contractor engages more than two independent contractors to work on the same task on a single job site.

Hearing Date: 2/11/11

Staff: Joan Elgee (786-7106).

Background:

The Contractor Registration Act (Act) requires general and specialty contractors to register with the Department of Labor and Industries (Department). The Act sets forth penalties for specific violations of the Act. For example, a contractor who fails to register is subject to a fine of not less than \$1,000 and not more than \$5,000.

With limited exceptions, all workers in the state are covered by mandatory industrial insurance. Some independent contractors are exempt from mandatory coverage. The term "independent contractor" is not defined in law; rather, this concept is embodied in several exception tests to the definition of "worker." If a worker fulfills the tests, the worker is not covered for purposes of workers' compensation and no industrial insurance premiums are due. Otherwise, the worker is a covered worker and premiums are due.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

Legislative intent is stated that the state loses over \$100 million per year in underground economy construction activity. The Legislature finds that if multiple contractors are working on the same task on a job site, the contractors must be working under direction and control such that they are not exempt independent contractors but are, in fact, covered workers. The Legislature further finds that prohibiting up front certain contracting, which by its nature creates a situation in which taxes due are not paid, will provide clarity to contractors and reduce the underground economy.

A contractor commits a contractor registration violation if the contractor engages more than two independent contractors to work on a single job site who: (1) are working on the same task, (2) bring no workers to that job site covered by industrial insurance, and (3) are not being treated as covered workers. A contractor has the burden or proof to show that independent subcontractors engaged by the contractor working in the same trade or occupation on a single job site are not working on the same task.

A "job site" is: (1) a single physical address, or (2) multiple buildings or addresses, or both, if the addresses or buildings are under the same contract with the general contractor. "Trade or occupation" means a trade or occupation as determined by the Department under prevailing wage provisions.

Penalties are established of \$500 for the first offense, \$2,500 for the second offense, and \$5,000 for the third or subsequent offense. For the third or subsequent offense, the Director of the Department must also suspend the contractor's certificate of registration for one year. The Director must also suspend the registration of any contractor until payment of penalties that have become final are paid in full.

Appropriation: None.

Fiscal Note: Requested on February 3, 2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.