

SENATE BILL REPORT

SB 5983

As of February 12, 2016

Title: An act relating to services performed by an individual for remuneration.

Brief Description: Addressing services performed by an individual for remuneration.

Sponsors: Senator Warnick.

Brief History:

Committee Activity: Commerce & Labor: 1/18/16.

SENATE COMMITTEE ON COMMERCE & LABOR

Staff: Jarrett Sacks (786-7448)

Background: An individual performing services for payment is generally covered by unemployment insurance and workers' compensation only if an employer-employee relationship exists, rather than an independent contractor relationship. For both workers' compensation and unemployment insurance, a six-part test is used to determine if an individual is an independent contractor. Under the test, an individual is an independent contractor if that individual:

1. is free from direction and control of the employer, both under contract and in fact;
2. performs services that are either:
 - a. outside the usual course of business for which the services are performed;
 - b. outside all of the places of business of the enterprises for which the services are performed; or
 - c. the individual pays the costs of the principal place of business where the services are performed;
3. customarily engages in an independently established business, profession, trade, or occupation, or has a principal place of business that qualifies for a business deduction for federal income tax purposes;
4. is responsible for filing a schedule of expenses with the Internal Revenue Service for the individual's business;
5. has established an account with the Department of Revenue, received a unified business identifier number from the state, and has established any other required state accounts for the payment of taxes; and
6. maintains a separate set of records that reflect all income and expenses of the individual's business.

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.

An individual must meet all six requirements to be considered an independent contractor. In the construction industry, there is a seventh requirement that the individual be a registered contractor or licensed electrician. For workers' compensation, there is an initial threshold test of whether the individual brings more than personal labor to the job. For unemployment insurance, there is an alternative three-part test.

In general, all individuals who engage in business within the state, or are otherwise required to obtain a business license, must register with the Department of Revenue, unless the individual's business:

- is not required to collect sales tax;
- has a gross income of less than \$12,000 per year; and
- is not required to pay any other taxes or fees.

Summary of Bill: Creates an exception to the fifth part of the six-part independent contractor test for individuals specifically exempted from those requirements, which are to establish an account with the Department of Revenue, receive a unified business identifier number from the state, and establish any other required state tax accounts.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There are discrepancies between agencies and farmers who do not have to register with the Department of Revenue, which the bill resolves.

Persons Testifying: PRO: Senator Warnick, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.