

SENATE BILL REPORT

SB 5983

As Reported by Senate Committee On:
Commerce & Labor, January 27, 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, 1/27/16 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 5983 be substituted therefor, and the substitute bill do pass.

Signed by Senators Baumgartner, Chair; Braun, Vice Chair; King and Warnick.

Minority Report: Do not pass.

Signed by Senator Keiser.

Minority Report: That it be referred without recommendation.

Signed by Senators Hasegawa, Ranking Minority Member; Conway.

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;

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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.

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 (Recommended Substitute): Creates an exception to the fifth part of the six-part independent contractor test for individuals who provide services related to agricultural farming operations that are exempt from registering with the Department of Revenue or having a unified business identifier number.

EFFECT OF CHANGES MADE BY COMMERCE & LABOR COMMITTEE (Recommended Substitute): The exception to the independent contractor test requirement in the original bill is narrowed to services related to agricultural farming operations that are exempt from registering with the Department of Revenue or having a unified business identifier number.

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 on Original Bill: 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 on Original Bill: PRO: Senator Warnick, prime sponsor

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