
SENATE BILL 5904

State of Washington

61st Legislature

2009 Regular Session

By Senators Kohl-Welles, Prentice, Keiser, Franklin, Hobbs, and Kline

Read first time 02/06/09. Referred to Committee on Labor, Commerce & Consumer Protection.

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 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;

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

18 (3) The individual is customarily engaged in an independently
19 established trade, occupation, profession, or business, of the same

1 nature as that involved in the contract of service, or the individual
2 has a principal place of business for the business the individual is
3 conducting that is eligible for a business deduction for federal income
4 tax purposes other than that furnished by the employer for which the
5 business has contracted to furnish services;

6 (4) On the effective date of the contract of service, the
7 individual is responsible for filing at the next applicable filing
8 period, both under the contract of service and in fact, a schedule of
9 expenses with the internal revenue service for the type of business the
10 individual is conducting;

11 (5) On the effective date of the contract of service, or within a
12 reasonable period after the effective date of the contract of service,
13 the individual has an active and valid certificate of registration with
14 the department of revenue, and an active and valid account with any
15 other state agencies as required by the particular case, for the
16 business the individual is conducting for the payment of all state
17 taxes normally paid by employers and businesses and has registered for
18 and received a unified business identifier number from the state of
19 Washington;

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

24 (7) On the effective date of the contract of service, the
25 individual has a valid contractor registration pursuant to chapter
26 18.27 RCW or an electrical contractor license pursuant to chapter 19.28
27 RCW.

--- END ---