
SUBSTITUTE SENATE BILL 5983

State of Washington 64th Legislature 2016 Regular Session

By Senate Commerce & Labor (originally sponsored by Senator Warnick)

READ FIRST TIME 01/28/16.

1 AN ACT Relating to agricultural services performed by an
2 individual for remuneration; and amending RCW 51.08.195 and
3 50.04.140.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 51.08.195 and 2008 c 102 s 4 are each amended to
6 read as follows:

7 As an exception to the definition of "employer" under RCW
8 51.08.070 and the definition of "worker" under RCW 51.08.180,
9 services performed by an individual for remuneration shall not
10 constitute employment subject to this title if it is shown that:

11 (1) The individual has been and will continue to be free from
12 control or direction over the performance of the service, both under
13 the contract of service and in fact; and

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

20 (3) The individual is customarily engaged in an independently
21 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
4 income tax purposes; and

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

10 (5) On the effective date of the contract of service, or within a
11 reasonable period after the effective date of the contract, the
12 individual has established an account with the department of revenue,
13 and other state agencies as required by the particular case, for the
14 business the individual is conducting for the payment of all state
15 taxes normally paid by employers and businesses and has registered
16 for and received a unified business identifier number from the state
17 of Washington, unless the individual provides services related to
18 agricultural farming operations and is specifically exempted from
19 registering with the department of revenue or having a unified
20 business identifier number by statute; and

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

25 **Sec. 2.** RCW 50.04.140 and 1991 c 246 s 6 are each amended to
26 read as follows:

27 Services performed by an individual for remuneration shall be
28 deemed to be employment subject to this title unless and until it is
29 shown to the satisfaction of the commissioner that:

30 (1)(a) Such individual has been and will continue to be free from
31 control or direction over the performance of such service, both under
32 his or her contract of service and in fact; and

33 (b) Such service is either outside the usual course of business
34 for which such service is performed, or that such service is
35 performed outside of all the places of business of the enterprises
36 for which such service is performed; and

37 (c) Such individual is customarily engaged in an independently
38 established trade, occupation, profession, or business, of the same
39 nature as that involved in the contract of service.

1 (2) Or as a separate alternative, it shall not constitute
2 employment subject to this title if it is shown that:

3 (a) Such individual has been and will continue to be free from
4 control or direction over the performance of such service, both under
5 his or her contract of service and in fact; and

6 (b) Such service is either outside the usual course of business
7 for which such service is performed, or that such service is
8 performed outside of all the places of business of the enterprises
9 for which such service is performed, or the individual is
10 responsible, both under the contract and in fact, for the costs of
11 the principal place of business from which the service is performed;
12 and

13 (c) Such individual is customarily engaged in an independently
14 established trade, occupation, profession, or business, of the same
15 nature as that involved in the contract of service, or such
16 individual has a principal place of business for the work the
17 individual is conducting that is eligible for a business deduction
18 for federal income tax purposes; and

19 (d) On the effective date of the contract of service, such
20 individual is responsible for filing at the next applicable filing
21 period, both under the contract of service and in fact, a schedule of
22 expenses with the internal revenue service for the type of business
23 the individual is conducting; and

24 (e) On the effective date of the contract of service, or within a
25 reasonable period after the effective date of the contract, such
26 individual has established an account with the department of revenue,
27 and other state agencies as required by the particular case, for the
28 business the individual is conducting for the payment of all state
29 taxes normally paid by employers and businesses and has registered
30 for and received a unified business identifier number from the state
31 of Washington, unless the individual provides services related to
32 agricultural farming operations and is specifically exempted from
33 registering with the department of revenue or having a unified
34 business identifier number by statute; and

35 (f) On the effective date of the contract of service, such
36 individual is maintaining a separate set of books or records that
37 reflect all items of income and expenses of the business which the
38 individual is conducting.

--- END ---