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SENATE BILL 6321

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State of Washington

64th Legislature

2016 Regular Session

By Senators Baumgartner and Pedersen

Read first time 01/15/16. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to certain exclusions from the definition of  
2 worker under industrial insurance statutes; and amending RCW  
3 51.08.181.

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

5 **Sec. 1.** RCW 51.08.181 and 2008 c 102 s 5 are each amended to  
6 read as follows:

7 For the purposes of this title, any individual performing  
8 services that require registration under chapter 18.27 RCW or  
9 licensing under chapter 19.28 RCW for remuneration under an  
10 independent contract is not a worker when:

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.

14 (a) For the purposes of this chapter, control or direction means  
15 exercising direct supervision over the methods and details of  
16 performance of the product or service that the contracted individual  
17 has the responsibility to deliver.

18 (b) Requirements regarding deadline for completion or date and  
19 time of entry to a worksite do not constitute control or direction,  
20 nor do reasonable expectations of professional dress, conduct, and  
21 demeanor or any other conditions the owner of the property specified

1 in the agreement. This section does not affect the right of any party  
2 to enforce the agreement;

3 (2) The service is either outside the usual course of business  
4 for which the service is performed, or the service is performed  
5 outside all of the places of business of the enterprise for which the  
6 service is performed, or the individual is responsible, both under  
7 the contract and in fact, for the costs of the principal place of  
8 business from which the service is performed;

9 (3) The individual is customarily engaged in (~~(an independently~~  
10 ~~established)) a trade, occupation, profession, or business, of the~~  
11 same nature as that involved in the contract of service(~~(, or the~~  
12 ~~individual has a principal place of business for the business the~~  
13 ~~individual is conducting that is eligible for a business deduction~~  
14 ~~for federal income tax purposes other than that furnished by the~~  
15 ~~employer for which the business has contracted to furnish services;~~

16 ~~(4) On the effective date of the contract of service, the~~  
17 ~~individual is responsible for filing at the next applicable filing~~  
18 ~~period, both under the contract of service and in fact, a schedule of~~  
19 ~~expenses with the internal revenue service for the type of business~~  
20 ~~the individual is conducting));~~

21 ~~((+5))~~ (4) On the effective date of the contract of service, or  
22 within a reasonable period after the effective date of the contract,  
23 the individual has an active and valid certificate of registration  
24 with the department of revenue, and an active and valid account with  
25 ~~((any other state agencies))~~ the department as required by the  
26 particular case, for the business the individual is conducting for  
27 the payment of all state taxes normally paid by employers and  
28 businesses and has registered for and received a unified business  
29 identifier number from the state of Washington. If checked quarterly  
30 or within a reasonable period before, during, and/or after the  
31 agreement, reliance on department of revenue and department published  
32 information constitutes compliance with this subsection;

33 ~~((+6) On the effective date of the contract of service, the~~  
34 ~~individual is maintaining a separate set of books or records that~~  
35 ~~reflect all items of income and expenses of the business which the~~  
36 ~~individual is conducting;)) and~~

37 ~~((+7))~~ (5) On the effective date of the contract of service, the  
38 individual has a valid contractor registration pursuant to chapter  
39 18.27 RCW or an electrical contractor license pursuant to chapter  
40 19.28 RCW. If checked quarterly or within a reasonable period before,

1 during, and/or after the agreement, reliance on department published  
2 information constitutes compliance with this subsection.

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