

FINAL BILL REPORT

ESSB 5837

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SYNOPSIS AS ENACTED

Brief Description: Revising provisions for industrial insurance and employment compensation coverage.

SPONSORS: Senate Committee on Commerce & Labor (originally sponsored by Senators Anderson, Owen, Snyder and Matson).

SENATE COMMITTEE ON COMMERCE & LABOR

HOUSE COMMITTEE ON COMMERCE & LABOR

BACKGROUND:

Under both industrial insurance and unemployment compensation laws, virtually every employee is covered but independent contractors and corporate officers are not. Many contracting and employment situations make it difficult to determine whether there is an employer/employee relationship or whether the service is being provided by an independent contractor. Business organizations and the duties of corporate officers are so varied that it is difficult to devise a definition that is workable.

Sole proprietors and partners are generally not covered by industrial insurance, except that building contractors and licensed electricians who registered or became licensed after July 26, 1981 are covered unless they take positive steps to withdraw from coverage.

SUMMARY:

The definitions of "worker" and "employer" are amended to include a six-part test that determines when services are performed by an independent contractor, and that no employer-worker relationship exists: (a) the individual performing the services is free from direction and control from the person purchasing the services; (b) the service performed is outside the usual course of business for the entity the service is performed for; (c) the individual is customarily engaged in the trade or business of the nature involved in the particular contract, or the individual has a place of business for that type of business that qualified for a business deduction for federal income tax purposes; (d) the individual is responsible for filing a schedule of expenses with the Internal Revenue Service for the type of business involved; (e) the individual has established an account with state agencies for the payment of taxes normally paid by such businesses; and (f) the individual is maintaining a separate set of books for the business.

Corporate officers are among the list of employments excluded from industrial insurance coverage. The definition of corporate officer is amended to indicate they must be voluntarily elected or appointed, that they must also be director and shareholder, and exercise substantial control in the daily management of the corporation, and that their duties do not include manual labor.

In the case of corporations that are not public companies, they may name up to eight officers who meet a less stringent test, or may exclude any number of officers under the test applicable to public corporations.

The list of excluded employments is expanded to include newspaper carriers and insurance agents and brokers.

The definition for services performed by an independent contractor, rather than as employment subject to the unemployment compensation law, is expanded to include that same six-part test which is added to the industrial insurance law.

VOTES ON FINAL PASSAGE:

Senate	48	1	
House	97	0	(House amended)
Senate	45	1	(Senate concurred)

EFFECTIVE: January 1, 1992