

SENATE BILL NO. 315—COMMITTEE ON JUDICIARY

MARCH 4, 1999

Referred to Committee on Judiciary

SUMMARY—Requires certain information concerning arbitration to be presented at trial de novo before jury. (BDR 3-1642)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to civil actions; requiring arbitrators to make certain findings in certain civil actions; requiring such findings to be introduced into evidence at a trial de novo before a jury; requiring the court to give certain jury instructions concerning arbitration at a trial de novo before a jury; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 38 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If an action is submitted to arbitration in accordance with the provisions of NRS 38.250 to 38.258, inclusive, the arbitrator or panel of arbitrators shall, in addition to any other written findings of fact or conclusions of law, make written findings in accordance with this subsection concerning each cause of action. The written findings must be in substantially the following form, with “panel of arbitrators” being substituted for “arbitrator” when appropriate:

Based upon the evidence presented at the arbitration hearing concerning the cause of action for, the arbitrator finds in favor of(name of the party) and(“awards damages in the amount of \$.....” or “does not award any damages on that cause of action”).

1 2. If an action is submitted to arbitration in accordance with the
2 provisions of NRS 38.250 to 38.258, inclusive, and, after
3 arbitration, a party requests a trial anew before a jury:

4 (a) The written findings made by the arbitrator or the panel of
5 arbitrators pursuant to subsection 1 must be admitted at trial. The
6 testimony of the arbitrator or arbitrators, whenever taken, must not be
7 admitted at trial, and the arbitrator or arbitrators must not be deposed or
8 called to testify concerning the arbitration. Any other evidence
9 concerning the arbitration must not be admitted at trial, unless the
10 admission of such evidence is required by the constitution of this state or
11 the Constitution of the United States.

12 (b) The court shall give the following instruction to the jury
13 concerning the action, substituting "panel of arbitrators" for
14 "arbitrator" when appropriate:

15 During the course of this trial, certain evidence was admitted
16 concerning the findings of an arbitrator. On the cause of action
17 for, the arbitrator found in favor of(name of
18 the party) and("awarded damages in the amount of
19 \$....." or "did not award any damages on that cause of
20 action"). The findings of the arbitrator may be given the same
21 weight as other evidence or may be disregarded. However, you
22 must not give those findings undue weight because they were
23 made by an arbitrator, and you must not use the findings of the
24 arbitrator as a substitute for your independent judgment. You
25 must weigh all the evidence that was presented at trial and arrive
26 at a conclusion based upon your own determination of the cause
27 of action.
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30 3. The court shall give a separate instruction pursuant to paragraph
31 (b) of subsection 2 for each such cause of action that is tried before a
32 jury.

33 **Sec. 2.** NRS 38.250 is hereby amended to read as follows:

34 38.250 Except as otherwise provided in NRS 38.310:

35 1. All civil actions filed in district court for damages, if the cause of
36 action arises in the State of Nevada and the amount in issue does not
37 exceed \$40,000 must be submitted to nonbinding arbitration in accordance
38 with the provisions of NRS ~~{38.253, 38.255 and 38.258.}~~ **38.250 to 38.258,**
39 **inclusive, and section 1 of this act.**

40 2. A civil action for damages filed in justice's court may be submitted
41 to arbitration if the parties agree, orally or in writing, to the submission.

1 **Sec. 3.** The amendatory provisions of this act apply to an action that is
2 filed on or after October 1, 1999.

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