

SENATE BILL NO. 315—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND  
INDUSTRY—INDUSTRIAL RELATIONS)

MARCH 12, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions concerning administration of Nevada occupational safety and health act. (BDR 53-577)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: 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 occupational safety and health; eliminating the requirement that safety and health representatives have practical experience in certain fields; providing that any person may file a complaint with the division of industrial relations of the department of business and industry alleging the existence of a violation of a safety and health standard or of an imminent danger; providing that an employee of the division may not testify concerning certain information obtained during an investigation and that such information is not subject to subpoena; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 618.255 is hereby amended to read as follows:  
2     618.255 1. The division may employ such qualified employees as in  
3     the opinion of the administrator are necessary to enforce the provisions of  
4     this chapter.  
5     2. ~~Any safety and health representative employed by the division~~  
6     ~~must have practical experience in the field of construction, trade, craft,~~  
7     ~~technical skill, profession or industry in which his services are required.~~  
8     ~~3.~~ The administrator and other employees of the division must not be  
9     financially interested in any business interfering with, or inconsistent with,  
10    their duties. Except as otherwise provided in NRS 284.143, the  
11    administrator and other employees of the division shall give their entire  
12    time to the business of the division and shall not pursue any other business  
13    or vocation or hold any office of profit.  
14    ~~4.~~ 3. An employee of the division shall not serve on any committee  
15    of any political party.



1     **Sec. 2.** NRS 618.341 is hereby amended to read as follows:  
2     618.341 1. Except as otherwise provided in this section, the public  
3 may inspect all records of the division which contain information  
4 regarding:

- 5     (a) An oral or written complaint filed ~~{by an employee or a~~  
6 ~~representative of employees alleging}~~ *with the administrator or his*  
7 *representative that alleges* the existence of an imminent danger or a  
8 violation of a safety or health standard that threatens physical harm;  
9     (b) The manner in which the division acted on any such complaint;  
10    (c) Any citation issued by the division to an employer and the reason for  
11 its issuance; and  
12    (d) Any penalty imposed by the division on an employer and the reason  
13 therefor.

14    2. The division shall, upon oral or written request and payment of any  
15 applicable charges, provide to any person a copy of any record of the  
16 division which is open to public inspection pursuant to subsection 1. The  
17 first six pages reproduced pursuant to each such request must be provided  
18 without charge. The charge for each additional page copied must not  
19 exceed the cost of reproduction.

20    3. Except as otherwise provided in subsection 4, the division shall  
21 keep confidential:

- 22    (a) The name of any ~~{employee}~~ *person* who filed any complaint  
23 against an employer or who made any statement to the division concerning  
24 an employer; and  
25    (b) Any information which is part of a current investigation by the  
26 division, but the fact that an investigation is being conducted is public  
27 information.

28 As used in this subsection, "current investigation" means any investigation  
29 conducted before the issuance of a citation or notice of violation or, if no  
30 citation or notice of violation is issued, an investigation which is not  
31 closed.

32    4. The division shall, upon the receipt of a written request from a law  
33 enforcement agency, disclose otherwise confidential information to that  
34 law enforcement agency for the limited purpose of pursuing a criminal  
35 investigation.

36     **Sec. 3.** NRS 618.365 is hereby amended to read as follows:

37     618.365 1. This chapter does not supersede or in any manner affect  
38 the Nevada Industrial Insurance Act or the Nevada Occupational Diseases  
39 Act or enlarge, diminish or affect in any other manner the common law or  
40 statutory rights, duties or liabilities of employers and employees under the  
41 laws of this state with respect to injuries, occupational or other, diseases or  
42 death of employees arising out of or in the course of employment.

43    2. Statements, reports and information obtained or received by the  
44 division in connection with an investigation under, or the administration or  
45 enforcement of, the provisions of this chapter *are not subject to subpoena*  
46 *and* must not be admitted as evidence in any civil action other than an  
47 action for enforcement, variance hearing or review ~~{under}~~ *pursuant to* this  
48 chapter. *An employee of the division may not testify concerning such*



1 *statements, reports or information, except in an action for enforcement*  
2 *or review pursuant to this chapter or in a variance hearing.*

3 3. Any report of investigation or inspection or any information  
4 concerning trade secrets or secret industrial processes obtained under this  
5 chapter must not be disclosed or open to public inspection, except:

6 (a) As such information may be disclosed to other officers or employees  
7 concerned with carrying out *the provisions of* this chapter;

8 (b) When relevant in any court proceeding under this chapter; or

9 (c) As otherwise provided in NRS 618.341.

10 4. The division, the courts, and where applicable, the review board  
11 may issue such orders as may be appropriate to protect the confidentiality  
12 of trade secrets.

13 **Sec. 4.** NRS 618.425 is hereby amended to read as follows:

14 618.425 1. Any *person, including, without limitation, an* employee,  
15 representative of employees, provider of health care or governmental  
16 officer or ~~employee~~ *person* whose primary duty *of employment* is to  
17 ensure public safety, including a building inspector, believing that a  
18 violation of a safety or health standard exists that threatens physical harm,  
19 or that an imminent danger exists, may request an investigation by ~~giving~~  
20 ~~notice, orally or in writing, to~~ *filing an oral or written complaint with* the  
21 administrator or his representative ~~to~~ *that alleges the existence of* the  
22 violation or danger.

23 2. The person ~~giving the notice~~ *filing the complaint* must state with  
24 reasonable particularity the grounds for the ~~notice~~ *complaint*. The name  
25 of any employee ~~giving~~ *filing* a complaint ~~notice or~~ *and the* names of  
26 employees mentioned in the complaint must be held confidential. If the  
27 complaint is given orally, the division shall send to the complainant a form  
28 upon which he may supplement his oral complaint. His failure to return the  
29 form does not affect the division's duty to act pursuant to this section.

30 3. If upon receipt of the ~~notification~~ *complaint* the division  
31 determines that there are reasonable grounds to believe that a violation or  
32 imminent danger exists, it shall make a special investigation within 14 days  
33 unless there is a substantial probability that death or serious physical harm  
34 could result from the violation or danger, then the investigation must be  
35 made immediately after the administrator receives the ~~notice~~ *complaint*  
36 to determine whether a violation or imminent danger exists. The division  
37 need not investigate a complaint within the times required by this  
38 subsection if, from the facts stated in the complaint, the administrator  
39 determines that the complaint is intended solely to harass the employer. If  
40 the division determines that there are no reasonable grounds to believe that  
41 a violation or imminent danger exists, it shall notify the ~~employees or~~  
42 ~~other~~ *person* who ~~gave the notice~~ *filed the complaint* of such  
43 determination within 14 days after the administrator receives the ~~notice~~ *complaint*.  
44

45 **Sec. 5.** NRS 618.435 is hereby amended to read as follows:

46 618.435 1. Before or during any inspection of a workplace, any  
47 *person, including, without limitation, an* employee, representative of  
48 employees, provider of health care or governmental officer or ~~employee~~  
49 *person* whose primary duty *of employment* is to ensure public safety,



1 including a building inspector, may notify the administrator or any  
2 representative of the administrator responsible for conducting the  
3 inspection, orally or in writing, of any violation of this chapter which ~~they~~  
4 ~~have~~ *he has* reason to believe exists in the workplace. The division shall  
5 by regulation establish procedures for informal review of any refusal by a  
6 representative of the administrator to issue a citation with respect to any  
7 such alleged violation and shall furnish the ~~employees or other persons~~  
8 *person* requesting the review a written statement of the reasons for the  
9 administrator's final disposition of the case within 14 days after the  
10 administrator receives the notice.

11 2. An opportunity must be afforded to a representative of the employer  
12 and an authorized representative of the employees to accompany the  
13 representative of the division during the physical inspection of the place of  
14 employment or, where there is no authorized representative of the  
15 employees, consultation must be had with a reasonable number of  
16 employees, but no more than one employee may accompany the division's  
17 representative during the inspection.

18 3. Any employee of the employer who accompanies the representative  
19 of the division during the inspection pursuant to subsection 2 is entitled to  
20 be paid by the employer at his regular rate of pay for the time spent with  
21 the representative of the division inspecting the place of employment if he  
22 would have otherwise been compensated for working during that time.

23 4. For the purposes of this section, "representative of an employee"  
24 means a person previously identified to the division as an authorized  
25 representative of the employee bargaining unit of a labor organization  
26 which has a collective bargaining relationship with the employer and  
27 represents the affected employees.

28 **Sec. 6.** This act becomes effective on July 1, 2001.

