

ASSEMBLY BILL NO. 316—ASSEMBLYMEN DENIS, PIERCE,
CONKLIN AND GIUNCHIGLIANI

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Provides for regulation of agents who book performing artists. (BDR 53-1169)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 employment; providing for the regulation of agents who book performing artists with client businesses; providing that an agent shall be deemed to be the employer of such a performing artist; providing a penalty; 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 616A.110 is hereby amended to read as
2 follows:
3 616A.110 “Employee” excludes:
4 1. Any person whose employment is both casual and not in the
5 course of the trade, business, profession or occupation of his
6 employer.
7 2. ~~{Any}~~ ***Except as otherwise provided in sections 4 to 15,***
8 ***inclusive, of this act, any*** person engaged as a theatrical or stage
9 performer or in an exhibition.
10 3. ~~{Musicians}~~ ***Except as otherwise provided in sections 4 to***
11 ***15, inclusive, of this act, musicians*** when their services are merely
12 casual in nature and not lasting more than 2 consecutive days, and



1 not recurring for the same employer, as in wedding receptions,
2 private parties and similar miscellaneous engagements.

3 4. Any person engaged in household domestic service, farm,
4 dairy, agricultural or horticultural labor, or in stock or poultry
5 raising, except as otherwise provided in chapters 616A to 616D,
6 inclusive, of NRS.

7 5. Any person performing services as a voluntary ski patrolman
8 who receives no compensation for his services other than meals,
9 lodging, or use of the ski tow or lift facilities.

10 6. Any person who performs services as a sports official for a
11 nominal fee at a sporting event that is amateur, intercollegiate or
12 interscholastic and is sponsored by a public agency, public entity or
13 private, nonprofit organization. As used in this subsection, "sports
14 official" includes an umpire, referee, judge, scorekeeper, timekeeper
15 or other person who is a neutral participant in a sporting event.

16 7. Any clergyman, rabbi or lay reader in the service of a
17 church, or any person occupying a similar position with respect to
18 any other religion.

19 8. Any real estate broker, broker-salesman or salesman
20 licensed pursuant to chapter 645 of NRS.

21 9. Any person who:

22 (a) Directly sells or solicits the sale of products, in person or by
23 telephone:

24 (1) On the basis of a deposit, commission, purchase for
25 resale or similar arrangement specified by the Administrator by
26 regulation, if the products are to be resold to another person in his
27 home or place other than a retail store; or

28 (2) To another person from his home or place other than a
29 retail store;

30 (b) Receives compensation or remuneration based on sales to
31 customers rather than for the number of hours that he works; and

32 (c) ~~Performs~~ *Except as otherwise provided in sections 4 to 15,*
33 *inclusive, of this act, performs* pursuant to a written agreement with
34 the person for whom the services are performed which provides that
35 he is not an employee for the purposes of this chapter.

36 **Sec. 2.** NRS 616A.465 is hereby amended to read as follows:

37 616A.465 1. Except as otherwise provided in this section, the
38 Division shall:

39 (a) Regulate insurers pursuant to chapters 616A to 617,
40 inclusive, of NRS;

41 (b) Investigate insurers regarding compliance with statutes and
42 the Division's regulations;

43 (c) Determine whether an employee leasing company is entitled
44 to a certificate of registration pursuant to NRS 616B.673; ~~and~~



(d) Regulate employee leasing companies pursuant to the provisions of NRS 616B.670 to 616B.697, inclusive ~~H~~;

(e) Determine whether an agent is entitled to a certificate of registration pursuant to section 8 of this act; and

(f) Regulate agents pursuant to the provisions of sections 4 to 15, inclusive, of this act.

2. The Commissioner is responsible for reviewing rates, investigating the solvency of insurers, authorizing private carriers pursuant to chapter 680A of NRS and certifying:

(a) Self-insured employers pursuant to NRS 616B.300 to 616B.330, inclusive, and 616B.336;

(b) Associations of self-insured public or private employers pursuant to NRS 616B.350 to 616B.446, inclusive; and

(c) Third-party administrators pursuant to chapter 683A of NRS.

3. The Department of Administration is responsible for contested claims relating to industrial insurance pursuant to NRS 616C.310 to 616C.385, inclusive. The Administrator is responsible for administrative appeals pursuant to NRS 616B.215.

4. The Nevada Attorney for Injured Workers is responsible for legal representation of claimants pursuant to NRS 616A.435 to 616A.460, inclusive, and 616D.120.

5. The Division is responsible for the investigation of complaints. If a complaint is filed with the Division, the Administrator shall cause to be conducted an investigation which includes a review of relevant records and interviews of affected persons. If the Administrator determines that a violation may have occurred, the Administrator shall proceed in accordance with the provisions of NRS 616D.120 and 616D.130.

6. As used in this section ~~H~~, ~~“employee”~~:

(a) “Agent” has the meaning ascribed to it in section 5 of this act.

(b) “Employee leasing company” has the meaning ascribed to it in NRS 616B.670.

Sec. 3. Chapter 616B of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 15, inclusive, of this act.

Sec. 4. *As used in sections 4 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5, 6 and 7 of this act have the meanings ascribed to them in those sections.*

Sec. 5. *“Agent” means an agent, manager or producer who accepts a fee to book a performing artist with a client business.*

Sec. 6. *“Client business” means a business that uses an agent to attain the services of a performing artist.*



1 **Sec. 7. "Performing artist" means:**

2 1. A musician providing music for hire, including, without
3 limitation, a member of a local supporting band and orchestra
4 commonly known as a house band; and

5 2. Any person engaged as a theatrical or stage performer or
6 in an exhibition.

7 **Sec. 8. 1. A person shall not operate as an agent in this**
8 **State unless he has complied with the provisions of sections 4 to**
9 **15, inclusive, of this act. The Administrator shall issue a**
10 **certificate of registration to each applicant who complies with the**
11 **provisions of sections 4 to 15, inclusive, of this act.**

12 2. Any person who violates the provisions of subsection 1 is
13 guilty of a misdemeanor.

14 3. Each certificate of registration issued by the Administrator
15 pursuant to sections 4 to 15, inclusive, of this act expires 1 year
16 after it is issued unless renewed before that date.

17 **Sec. 9. An applicant for the issuance or renewal of a**
18 **certificate of registration must submit to the Administrator a**
19 **written application upon a form provided by the Administrator.**

20 **Sec. 10. 1. Each application must include:**

21 (a) The name and title of the applicant.

22 (b) The age, place of birth and social security number of the
23 applicant.

24 (c) The residence and business address of the applicant.

25 (d) The business address of the resident agent of the applicant,
26 if any.

27 (e) If the applicant is a:

28 (1) Partnership, the name of the partnership and the name,
29 address, age, social security number and title of each partner.

30 (2) Corporation, the name of the corporation and the name,
31 address, age, social security number and title of each officer of the
32 corporation.

33 (f) Proof of:

34 (1) Compliance with the provisions of NRS 360.780.

35 (2) The payment of any premiums for industrial insurance
36 required by chapters 616A to 617, inclusive, of NRS.

37 (3) The payment of contributions or payments in lieu of
38 contributions required by chapter 612 of NRS.

39 (4) Insurance coverage for any benefit plan from an
40 insurer authorized pursuant to title 57 of NRS that is offered by
41 the agent to the performing artists that the agent books with client
42 businesses.

43 (g) Any other information the Administrator requires.

44 2. Each application must be notarized and signed under
45 penalty of perjury:



1 (a) If the applicant is a sole proprietorship, by the sole
2 proprietor.

3 (b) If the applicant is a partnership, by each partner.

4 (c) If the applicant is a corporation, by each officer of the
5 corporation.

6 3. An applicant shall submit to the Administrator any change
7 in the information required by this section within 30 days after the
8 change occurs. The Administrator may revoke the certificate of
9 registration of an agent who fails to comply with the provisions of
10 sections 4 to 15, inclusive, of this act.

11 4. If an insurer cancels the policy of an agent, the insurer
12 shall immediately notify the Administrator in writing. The notice
13 must comply with the provisions of NRS 687B.310 to 687B.355,
14 inclusive, and must be served personally on or sent by first-class
15 mail or electronic transmission to the Administrator.

16 Sec. 11. Each agent operating in this State shall maintain an
17 office or similar site in this State for retaining, reviewing and
18 auditing his payroll records and written agreements with client
19 businesses.

20 Sec. 12. 1. The employment relationship with a performing
21 artist who is booked by an agent with a client business must be
22 established by written agreement between the agent and the client
23 business.

24 2. The agent shall give written notice of the employment
25 relationship to each performing artist that the agent books with
26 the client business.

27 Sec. 13. 1. For the purposes of chapters 612 and 616A to
28 617, inclusive, of NRS, an agent who complies with the provisions
29 of sections 4 to 15, inclusive, of this act shall be deemed to be the
30 employer of any performing artist that the agent books with a
31 client business.

32 2. For the purposes of sponsoring and maintaining any
33 benefit plans, an agent shall be deemed to be the employer of each
34 performing artist that the agent books with a client business.

35 3. An agent shall not offer the performing artists that the
36 agent books with a client business any self-funded insurance
37 program. An agent shall not act as a self-insured employer or be a
38 member of an association of self-insured public or private
39 employers pursuant to chapters 616A to 616D, inclusive, or
40 chapter 617 of NRS or pursuant to title 57 of NRS.

41 4. If an agent fails to:

42 (a) Pay any contribution, premium, forfeit or interest due; or

43 (b) Submit any report or other information required,

44 ↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or
45 617 of NRS, the client business is jointly and severally liable for



1 *the contribution, premium, forfeit or interest attributable to the*
2 *wages of the performing artists booked with it by the agent.*

3 **Sec. 14.** *The Administrator may adopt regulations to carry*
4 *out the provisions of sections 4 to 15, inclusive, of this act.*

5 **Sec. 15.** *An action for damages caused by the failure of an*
6 *agent to comply with the provisions of sections 4 to 15, inclusive,*
7 *of this act may be brought against any person who is required to*
8 *sign the application for a certificate of registration for the agent.*

9 **Sec. 16.** An agent doing business in this State on October 1,
10 2005, must comply with sections 4 to 15, inclusive, of this act on or
11 before January 1, 2006.

12 **Sec. 17.** 1. This section and section 14 of this act become
13 effective upon passage and approval.

14 2. Sections 1 to 13, inclusive, 15 and 16 of this act become
15 effective on October 1, 2005.



