

ASSEMBLY BILL NO. 363—ASSEMBLYMEN HORNE, PARKS, ALLEN,
ARBERRY, ATKINSON, BOBZIEN, CARPENTER, DENIS,
GERHARDT, KIHUEN, KOIVISTO, MARVEL, MCCLAIN,
MUNFORD, OCEGUERA, OHRENSCHALL, PIERCE,
SEGERBLOM, SETTELMAYER AND WOMACK

MARCH 15, 2007

JOINT SPONSORS: SENATORS BEERS,
RHOADS, TITUS, WIENER AND WOODHOUSE

Referred to Committee on Commerce and Labor

SUMMARY—Provides that certain theatrical or stage performers
are covered by workers' compensation benefits.
(BDR 53-1058)

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 workers' compensation; providing that certain
theatrical or stage performers who participate in long-
running entertainment productions are covered by
workers' compensation benefits; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

Existing law excludes any person engaged as a theatrical or stage performer or
in an exhibition from being covered by workers' compensation benefits. (NRS
616A.110, 617.080) Existing law also excludes most persons who are independent
contractors from being covered by workers' compensation benefits. (Chapters
616A-617 of NRS)

This bill provides that a person who is a theatrical or stage performer and who
participates in a long-running entertainment production is covered by workers'
compensation benefits, whether or not the person would otherwise be considered an
independent contractor. This bill defines a long-running entertainment production
as any entertainment production that is designed, intended or projected to offer
performances to a live audience at a single location, whether on a regular, periodic
or intermittent basis, over a period exceeding 7 consecutive calendar days.



* A B 3 6 3 *

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

Section 1. Chapter 616A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is paid a wage, commission or other compensation as a theatrical or stage performer to participate in a long-running entertainment production, the person shall be deemed to be an employee of the company or other entity that pays the wage, commission or other compensation and the person is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS, whether or not the person would otherwise be considered an independent contractor.

2. For the purposes of this section:

(a) "Long-running entertainment production" means any entertainment production that is designed, intended or projected to offer performances to a live audience at a single location over a period exceeding 7 consecutive calendar days, regardless of whether those performances are or will be offered on a regular, periodic or intermittent basis. The term includes, without limitation, any such entertainment production which begins rehearsals, training, preparation or similar activity but which fails to offer performances to a live audience for whatever reason.

(b) A person "participates" in a long-running entertainment production any time the person is engaged in a performance for a live audience or in any rehearsals, training, preparation or similar activity for which the person is paid a wage, commission or other compensation.

Sec. 2. NRS 616A.110 is hereby amended to read as follows:

616A.110 "Employee" excludes:

1. Any person whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer.

2. Any person engaged as a theatrical or stage performer or in an exhibition **H**, *except as otherwise provided in section 1 of this act.*

3. Musicians when their services are merely casual in nature and not lasting more than 2 consecutive days, and not recurring for the same employer, as in wedding receptions, private parties and similar miscellaneous engagements.

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



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

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

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

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

9. Any person who:

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

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

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

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

(c) Performs pursuant to a written agreement with the person for whom the services are performed which provides that he is not an employee for the purposes of this chapter.

Sec. 3. Chapter 617 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is paid a wage, commission or other compensation as a theatrical or stage performer to participate in a long-running entertainment production, the person shall be deemed to be an employee of the company or other entity that pays the wage, commission or other compensation and the person is entitled to the benefits of chapter 617 of NRS, whether or not the person would otherwise be considered an independent contractor.

2. For the purposes of this section:

(a) "Long-running entertainment production" means any entertainment production that is designed, intended or projected to offer performances to a live audience at a single location over a period exceeding 7 consecutive calendar days, regardless of whether those performances are or will be offered on a regular, periodic or intermittent basis. The term includes, without limitation, any such entertainment production which begins



1 *rehearsals, training, preparation or similar activity but which fails*
2 *to offer performances to a live audience for whatever reason.*

3 *(b) A person "participates" in a long-running entertainment*
4 *production any time the person is engaged in a performance for a*
5 *live audience or in any rehearsals, training, preparation or similar*
6 *activity for which the person is paid a wage, commission or other*
7 *compensation.*

8 **Sec. 4.** NRS 617.080 is hereby amended to read as follows:

9 617.080 "Employee" excludes:

10 1. Any person whose employment is both casual and not in the
11 course of the trade, business, profession or occupation of his
12 employer.

13 2. Any person engaged in household domestic service, farm,
14 dairy, agricultural or horticultural labor, or in stock or poultry
15 raising, except as otherwise provided in this chapter.

16 3. Any person engaged as a theatrical or stage performer or in
17 an exhibition ~~H~~, *except as otherwise provided in section 3 of this*
18 *act.*

19 4. Musicians when their services are merely casual in nature
20 and not lasting more than 2 consecutive days, and not recurring for
21 the same employer, as in wedding receptions, private parties and
22 similar miscellaneous engagements.

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

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

32 7. Any person who:

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

35 (1) On the basis of a deposit, commission, purchase for
36 resale or similar arrangement specified by the Administrator of the
37 Division of Industrial Relations of the Department of Business and
38 Industry by regulation, if the products are to be resold to another
39 person in his home or place other than a retail store; or

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

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



- 1 (c) Performs pursuant to a written agreement with the person for
- 2 whom the services are performed which provides that he is not an
- 3 employee for the purposes of this chapter.

