

Amendment No. 245

Assembly Amendment to Assembly Bill No. 148 (BDR 53-276)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

AAK/WLK



Date: 4/14/2009

A.B. No. 148—Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)



ASSEMBLY BILL NO. 148—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 9, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Requires certain health and safety training for construction workers and supervisors. (BDR 53-276)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; requiring employees on a construction site to receive certain health and safety training; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill requires: (1) supervisory employees working on a construction site to ~~obtain certification that they have completed~~ **complete** a specified 30-hour health and safety course not later than ~~60~~ **15** days after ~~commencing work on the construction site;~~ **being hired;** and (2) all other ~~employees~~ **construction workers** working on the construction site to ~~obtain similar certification regarding~~ **complete** a specified 10-hour course not later than ~~60~~ **15** days after ~~commencing work on the construction site;~~ **being hired.**

Section 8 of this bill allows the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses ~~for certification. Section 9 of this bill requires the Division to issue a certification to any person who completes an approved course and provides that the certification expires after 10 years.~~ **which may be used to fulfill the requirements of section 10.**

Section 11 of this bill requires employers to terminate the employment of an employee on a construction site who fails to provide proof of obtaining the required ~~certification~~ **training** not later than ~~60~~ **15** days after ~~commencing work;~~ **being hired.** **Section 12** of this bill provides for administrative fines for employers who continue to employ ~~uncertified~~ **certain** employees on a construction site after the ~~60~~ **15**-day period ~~if those employees have not obtained the required training.~~

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

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12 of this act, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 to 6 of this act, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Construction site” means any location at which construction work is being commenced or is in progress.*

1 Sec. 3.5. “Construction worker” means a person who actually performs
2 physical work at a construction site;

3 1. To accomplish the construction or destruction involved in the
4 construction project; or

5 2. Who supervises any person engaged in work described in subsection 1.

6 Sec. 4. “OSHA-10” means a 10-hour course in construction industry safety
7 and health hazard recognition and prevention developed by the Occupational
8 Safety and Health Administration of the United States Department of Labor.

9 Sec. 5. “OSHA-30” means a 30-hour course in construction industry safety
10 and health hazard recognition and prevention developed by the Occupational
11 Safety and Health Administration of the United States Department of Labor.

12 Sec. 6. “Supervisory employee” means any person having authority in the
13 interest of the employer to hire, transfer, suspend, lay off, recall, promote,
14 discharge, assign, reward or discipline other employees or responsibility to direct
15 them, to adjust their grievances or effectively to recommend such action, if in
16 connection with the foregoing, the exercise of such authority is not of a merely
17 routine or clerical nature but requires the use of independent judgment. The
18 exercise of such authority shall not be deemed to place the employee in
19 supervisory employee status unless the exercise of such authority occupies a
20 significant portion of the employee’s workday.

21 Sec. 7. The Division may adopt such regulations as are necessary to carry
22 out the provisions of sections 2 to 12, inclusive, of this act.

23 Sec. 8. ~~1. Any OSHA 10 or OSHA 30 course offered by the Division is~~
24 ~~an approved course for the purposes of certification pursuant to section 9 of this~~
25 ~~act.~~

26 ~~2.~~ The Division may, by regulation, approve additional OSHA-10 or
27 OSHA-30 courses for the purposes of fulfilling the
28 requirements of section 10 of this act.

29 2. The Division shall establish a registry to track the providers of courses
30 approved pursuant to subsection 1.

31 Sec. 9. ~~1. The Division shall~~

32 ~~(a) Issue an OSHA 10 certification to any person who submits to the~~
33 ~~Division proof that he has completed an OSHA 10 course approved by the~~
34 ~~Division; and~~

35 ~~(b) Issue an OSHA 30 certification to any person who submits to the~~
36 ~~Division proof that he has completed an OSHA 30 course approved by the~~
37 ~~Division.~~

38 ~~2. A certification issued pursuant to this section expires 10 years after the~~
39 ~~date it is issued.~~ (Deleted by amendment.)

40 Sec. 10. 1. Not later than 15 days after the date an employee a
41 construction worker other than a supervisory employee begins work on a
42 construction site, the employee construction worker must obtain from
43 the Division an OSHA-10 certification completion card issued pursuant to
44 upon completion of a course approved by the Division pursuant to section 8 of
45 this act.

46 2. Not later than 15 days after the date a supervisory employee begins
47 work on a construction site, is hired, the supervisory employee must obtain from
48 the Division an OSHA-30 certification completion card issued pursuant to
49 upon completion of a course approved by the Division pursuant to section 8 of
50 this act.

51 3. Any completion card used to satisfy the requirements of this section
52 expires 5 years after the date it is issued.

1 Sec. 11. 1. ~~If [an employee on a construction site]~~ a construction worker
2 other than a supervisory employee fails to present his employer with a current
3 and valid OSHA-10 ~~[certification]~~ completion card not later than ~~[60]~~ 15 days
4 after ~~[beginning work on a construction site]~~ being hired, his employer shall
5 terminate his employment.

6 2. If a supervisory employee on a construction site fails to present his
7 employer with a current and valid OSHA-30 ~~[certification]~~ completion card not
8 later than ~~[60]~~ 15 days after ~~[beginning work on a construction site]~~ being hired,
9 his employer shall terminate his employment.

10 Sec. 12. 1. If the Division finds that an employer has failed to terminate
11 an employee as required by section 11 of this act, it shall:

12 ~~[1-1]~~ (a) Upon the first violation, in lieu of any other penalty under this
13 chapter, impose upon the employer an administrative fine of not more than \$500.

14 ~~[2-1]~~ (b) Upon the second violation, in lieu of any other penalty under this
15 chapter, impose upon the employer an administrative fine of not more than
16 \$1,000.

17 ~~[3-1]~~ (c) Upon the third and each subsequent violation, impose upon the
18 employer the penalty ~~[for]~~ provided in NRS 618.635 as if the employer had
19 committed a willful violation. ~~[authorized by NRS 618.635.]~~

20 2. For the purposes of this section, any number of violations discovered in a
21 single day constitute a single violation.

22 3. Before a fine or any other penalty is imposed upon an employer pursuant
23 to this section, the Division must follow the procedures set forth in this chapter
24 for the issuance of a citation, including, without limitation, the procedures set
25 forth in NRS 618.475 for notice to the employer and an opportunity for the
26 employer to contest the violation.