

Amendment No. 811

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

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

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

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: 5/18/2009

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 complete a specified 30-hour health and safety course not later than 15 days after being hired; and (2) all other construction workers working on the construction site to complete a specified 10-hour course not later than 15 days after being hired.

Section 8 of this bill ~~requires~~ *requires* the Division of Industrial Relations of the Department of Business and Industry to adopt regulations approving courses which may be used to fulfill the requirements of **section 10**. *Section 8.5 of this bill requires providers of approved courses to display the card evidencing their authorization by the Occupational Safety and Health Administration of the United States Department of Labor to provide such a course at the location at which the course is being provided.*

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 training not later than 15 days after being hired. **Section 12** of this bill provides for administrative fines for employers who continue to employ certain employees on a construction site after the 15-day period if those employees have not obtained the required training.

Section 15 of this bill: (1) allows employees to satisfy the requirements of section 10 of this bill by completing an alternative course offered by their employer; (2) requires an employee that satisfies the requirements of section 10 by completing an alternative course to take an approved course before January 1, 2011; and (3) requires an employer to maintain and make available to the Division of Industrial Relations a record of all employees that have completed an alternative course until a date to be established by the Division by regulation.

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, inclusive, of this act, ~~inclusive,~~ unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, 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.*

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

~~1. To accomplish~~

(a) That results in the construction, alteration or destruction involved in the construction project ~~and~~, including, without limitation, painting and decorating; or

~~and~~ (b) Who supervises any person engaged in work described in ~~subsection 1.1~~ paragraph (a).

2. The term does not include a person to the extent that the person performs or supervises another person who performs work which is conducted:

(a) For the upkeep of an existing property for which a certificate of occupancy has been issued by the appropriate building inspector or other authority; and

(b) To prevent the property from degrading, to maintain the property in its original condition or to maintain the operational soundness of the property, including, without limitation, by repairing components of the property or by replacing components of the property with the same or similar components.

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

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

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

Sec. 6.5. *The provisions of sections 2 to 12, inclusive, of this act do not apply to:*

1. The Department of Transportation; or

2. An employee of the Department of Transportation while performing his duties as an employee of the Department.

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

1 Sec. 8. 1. The Division ~~may~~ shall, by regulation, approve OSHA-10 ~~or~~
2 courses and OSHA-30 courses for the purposes of fulfilling the requirements of
3 section 10 of this act.

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

6 3. The Division shall adopt regulations that set forth guidelines for job-
7 specific training to qualify as continuing education for the purposes of section 10
8 of this act.

9 Sec. 8.5. 1. Each trainer shall display his trainer card in a conspicuous
10 manner at each location where he provides an OSHA-10 course or OSHA-30
11 course.

12 2. No person other than a trainer may provide an OSHA-10 course or
13 OSHA-30 course.

14 3. As used in this section:

15 (a) "Trainer" means a person who is currently authorized by the
16 Occupational Safety and Health Administration of the United States Department
17 of Labor as a trainer, including, without limitation, a person who has completed
18 OSHA 500, the Trainer Course for the Construction Industry.

19 (b) "Trainer card" means the card issued upon completion of OSHA 500, the
20 Trainer Course for the Construction Industry, which reflects the authorization of
21 the holder by the Occupational Safety and Health Administration of the United
22 States Department of Labor to provide OSHA-10 courses and OSHA-30 courses.

23 Sec. 9. (Deleted by amendment.)

24 Sec. 10. 1. Not later than 15 days after the date a construction worker
25 other than a supervisory employee is hired, the construction worker must ~~obtain~~
26 ~~an OSHA-10~~.

27 (a) Obtain a completion card for an OSHA-10 course which is issued upon
28 completion of a course approved by the Division pursuant to section 8 of this act
29 ~~or~~; or

30 (b) Complete an OSHA-10 alternative course which is offered by his
31 employer.

32 2. Not later than 15 days after the date a supervisory employee is hired, the
33 supervisory employee must ~~obtain an OSHA-30~~.

34 (a) Obtain a completion card for an OSHA-30 course which is issued upon
35 completion of a course approved by the Division pursuant to section 8 of this act
36 ~~or~~; or

37 (b) Complete an OSHA-30 alternative course which is offered by his
38 employer.

39 3. Any completion card used to satisfy the requirements of this section
40 expires 5 years after the date it is issued ~~or~~ and may be renewed by:

41 (a) Completing an OSHA-10 course or OSHA-30 course, as applicable,
42 within the previous 5 years; or

43 (b) Providing proof satisfactory to the Division that the construction worker
44 has completed continuing education within the previous 5 years consisting of job-
45 specific training that meets the guidelines established by the Division pursuant to
46 section 8 of this act in an amount of:

47 (1) For a completion card issued for an OSHA-10 course, not less than 5
48 hours; or

49 (2) For a completion card issued for an OSHA-30 course, not less than
50 15 hours.

51 4. As used in this section:

52 (a) "OSHA-10 alternative course" means a 10-hour course offered to the
53 employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~present~~:

(a) Present his employer with a current and valid ~~OSHA-10~~ completion card for an OSHA-10 course; or

(b) Complete an OSHA-10 alternative course offered by his employer,
↪ not later than 15 days after being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to ~~present~~:

(a) Present his employer with a current and valid ~~OSHA-30~~ completion card for an OSHA-30 course; or

(b) Complete an OSHA-30 alternative course offered by his employer,
↪ not later than 15 days after being hired, his employer shall terminate his employment.

3. As used in this section:

(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:

(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and

(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.

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

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

(b) Upon the second violation, in lieu of any other penalty under this chapter, impose upon the employer an administrative fine of not more than \$1,000.

(c) Upon the third and each subsequent violation, impose upon the employer the penalty provided in NRS 618.635 as if the employer had committed a willful violation.

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

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

Sec. 13. Section 10 of this act is hereby amended to read as follows:

Sec. 10. 1. Not later than 15 days after the date a construction worker other than a supervisory employee is hired, the construction worker must ~~be~~

~~—(a) Obtain~~ obtain a completion card for an OSHA-10 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~For~~

~~—(b) Complete an OSHA-10 alternative course which is offered by his employer.~~

2. Not later than 15 days after the date a supervisory employee is hired, the supervisory employee must ~~be~~

~~—(a) Obtain~~ obtain a completion card for an OSHA-30 course which is issued upon completion of a course approved by the Division pursuant to section 8 of this act. ~~For~~

~~—(b) Complete an OSHA-30 alternative course which is offered by his employer.~~

3. Any completion card used to satisfy the requirements of this section expires 5 years after the date it is issued and may be renewed by:

(a) Completing an OSHA-10 course or OSHA-30 course, as applicable, within the previous 5 years; or

(b) Providing proof satisfactory to the Division that the construction worker has completed continuing education within the previous 5 years consisting of job-specific training that meets the guidelines established by the Division pursuant to section 8 of this act in an amount of:

(1) For a completion card issued for an OSHA-10 course, not less than 5 hours; or

(2) For a completion card issued for an OSHA-30 course, not less than 15 hours.

~~4. As used in this section:~~

~~—(a) “OSHA-10 alternative course” means a 10-hour course offered to the employees of an employer that:~~

~~—(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~—(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~—(b) “OSHA-30 alternative course” means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

Sec. 14. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. If a construction worker other than a supervisory employee fails to ~~be~~

~~(a) Present~~ **present** his employer with a current and valid completion card for an OSHA-10 course, ~~he or~~

~~(b) Complete an OSHA-10 alternative course offered by his employer,~~
~~he~~ not later than 15 days after being hired, his employer shall terminate his employment.

2. If a supervisory employee on a construction site fails to ~~be~~

~~(a) Present~~ **present** his employer with a current and valid completion card for an OSHA-30 course, ~~he or~~

~~(b) Complete an OSHA-30 alternative course offered by his employer,~~
~~he~~ not later than 15 days after being hired, his employer shall terminate his employment.

~~{3. As used in this section:~~

~~(a) "OSHA-10 alternative course" means a 10-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-10 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

~~(b) "OSHA-30 alternative course" means a 30-hour course offered to the employees of an employer that:~~

~~(1) Is approved by the safety committee of the employer established pursuant to NRS 618.383; and~~

~~(2) Meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor for an OSHA-30 course, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer participates.~~

Sec. 15. 1. Not later than January 1, 2011, an employee that satisfies the requirements of subsection 1 or 2 of section 10 of this act by completing an OSHA-10 alternative course or OSHA-30 alternative course, as defined in section 10 of this act, must complete an OSHA-10 course or OSHA-30 course, as defined in sections 4 and 5 of this act, as applicable, in order to continue to satisfy the requirements of subsection 1 or 2 of section 10 of this act.

2. An employer shall maintain a record of all employees that have completed an OSHA-10 alternative course or OSHA-30 alternative course offered by the employer and the date upon which the employee completed the course. The employer shall make the record available at all times for inspection by the Division of Industrial Relations of the Department of Business and Industry and its authorized agents.

1 ~~3. The Division of Industrial Relations shall, by regulation, establish the~~
2 ~~length of time that an employer must maintain the record described in~~
3 ~~subsection 2.~~

4 ~~Sec. 16. 1. This section and sections 1 to 12, inclusive, and 15 of this act~~
5 ~~become effective on January 1, 2010.~~

6 ~~2. Sections 13 and 14 of this act become effective on January 1, 2011.~~