

Amendment No. 292

Senate Amendment to Senate Bill No. 361 (BDR 53-1125)

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 361 (§ 7).

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/BJE



Date: 4/20/2009

S.B. No. 361—Revises provisions relating to employee leasing companies.
(BDR 53-1125)



SENATE BILL NO. 361—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employee leasing companies.
(BDR 53-1125)

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 employee leasing companies; authorizing the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations relating to a third party that may act on behalf of an employee leasing company; providing various means for an employee leasing company and its clients to provide workers' compensation coverage; requiring employee leasing companies to pay an annual registration fee; requiring employee leasing companies to submit certain audited financial statements; providing the means by which an employee of an employee leasing company may notify a supervisor of an injury for the purposes of industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill authorizes the Administrator of the Division of Industrial Relations of the Department of Business and Industry to adopt regulations to allow an employee leasing company to enter into an agreement with ~~in person~~ an assurance organization to act on its behalf with regard to certain regulatory provisions.

Section 4 of this bill provides for the ways that an employee leasing company and its clients may satisfy the requirement to obtain workers' compensation coverage for their employees. **Sections 9 and 10** of this bill make changes consistent with the provisions of **section 4**.

Section 7 of this bill requires an employee leasing company to pay a fee for the issuance or renewal of its certificate of registration.

Section 8 of this bill requires an employee leasing company to provide certain financial statements along with its application for the issuance or renewal of a certificate of registration.

Sections 13.2-13.8 of this bill provide for the ways than an employee of an employee leasing company may notify a supervisor of an injury for industrial insurance purposes.

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

Section 1. NRS 616A.465 is hereby amended to read as follows:
616A.465 1. Except as otherwise provided in this section, the Division shall:

(a) Regulate insurers pursuant to chapters 616A to 617, inclusive, of NRS;
(b) Investigate insurers regarding compliance with statutes and the Division's regulations;

(c) Determine whether an employee leasing company is entitled 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 ~~+~~, and sections 3 and 4 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, "employee leasing company" has the meaning ascribed to it in NRS 616B.670.

Sec. 2. Chapter 616B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. *The Administrator may adopt regulations authorizing and setting forth qualifications for ~~[a person]~~ an assurance organization selected by an employee leasing company to act on behalf of the employee leasing company in complying with the requirements of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act and any regulations adopted pursuant thereto, including, without limitation, any requirements regarding obtaining or renewing a certificate of registration. Such ~~[a person]~~ an assurance organization must be independent of the employee leasing company and approved by the Administrator.*

2. *Nothing in this section or any regulations adopted pursuant thereto:*

(a) Limits or otherwise affects the authority of the Administrator to issue or revoke a certificate of registration of an employee leasing company ~~+~~ subject to the appeals process;

(b) Limits or otherwise affects the authority of the Administrator to investigate compliance with or enforce any provision of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act and any regulations adopted pursuant thereto; or

(c) Requires an employee leasing company to authorize ~~a person~~ an assurance organization to act on its behalf.

3. As used in this section, "assurance organization" means a person who meets the qualifications set forth by the Administrator pursuant to regulations adopted pursuant to subsection 1.

Sec. 4. 1. An employee leasing company may satisfy its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company by:

(a) Confirming that the client company has obtained a policy of workers' compensation insurance directly from an insurer, and maintains that policy, which covers all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~for the purpose of providing coverage for~~ workers' compensation;

(b) Confirming that the client company is a member of an association of self-insured employers which is certified by the Commissioner and which has assumed responsibility, and maintains responsibility, for covering all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~for the purpose of providing coverage for workers' compensation;~~

(c) Confirming that the client company is certified by the Commissioner as a self-insured employer which self-insures all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company, subject to the same requirements and conditions as if the client company were the sole employer of the leased employees ~~for the purpose of providing coverage for workers' compensation;~~

(d) Obtaining a policy of workers' compensation insurance directly from an insurer ~~on a multiple coordinated policy basis,~~ and maintaining that policy, which covers all of the employees leased to the client company or all of the employees leased to the client company and other client companies affiliated with the client company such that:

(1) The policy covers the liability of both the employee leasing company and the client company or companies for payments required by chapters 616A to 616D, inclusive, or chapter 617 of NRS; ~~and~~

(2) A separate policy is issued to or on behalf of each client company or group of affiliated client companies under the multiple coordinated policy; and

(3) The employee leasing company controls payments and communications related to the policy; or

(e) Obtaining a policy of workers' compensation insurance on a master policy basis directly from an insurer, and maintaining that policy, which ~~covers~~

(1) ~~All~~ Covers some or all of the employees of the employee leasing company who are leased to ~~the~~ one or more client ~~company~~ companies; and

(2) ~~All~~ May cover all of the employees of the employee leasing company who work directly for the employee leasing company and are not leased to any client company. ~~and~~

~~(3) Some or all of the employees of the employee leasing company who are leased to other client companies.~~

2. With respect to a policy of workers' compensation insurance described in paragraph (a) of subsection 1:

(a) The policy may name the employee leasing company as an additional insured; and

(b) If the employee leasing company is licensed as a producer of insurance pursuant to NRS 683A.261 and is authorized by the insurer, the employee leasing company may negotiate coverage, collect premiums on behalf of the insurer and otherwise act as an intermediary with respect to the policy.

3. If an employee leasing company or a client company maintains a policy of workers' compensation insurance which provides coverage for leased employees, each insurer insuring leased employees shall report to the ~~(Commissioner)~~ Advisory Organization, as defined in NRS 686B.1752:

(a) Payroll and claims data for each client company in a manner that identifies both the client company and the employee leasing company; and

(b) The status of coverage with respect to each client company in accordance with any applicable requirements regarding proof of coverage.

4. If the services that an employee leasing company offers to a client company do not include obtaining and maintaining a policy of workers' compensation insurance for the employees which the employee leasing company will lease to the client company, the employee leasing company shall:

(a) Before entering into an agreement with the client company to provide services as an employee leasing company, provide written notice to the client company that the client company will remain responsible for providing coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company; and

(b) In the written agreement with the client company to provide services as an employee leasing company, clearly set forth the responsibility of the client company to provide coverage for workers' compensation for all of the employees of the client company, including, without limitation, the employees leased from the employee leasing company.

5. If an employee leasing company offers to provide coverage for workers' compensation for the employees that the employee leasing company leases to a client company in accordance with paragraph (d) or (e) of subsection 1:

(a) The coverage for workers' compensation must not take effect until the client company executes the written agreement required by NRS 616B.688 between the employee leasing company and the client company; and

(b) The written agreement required by NRS 616B.688 between the employee leasing company and the client company must:

(1) Explain that coverage for workers' compensation does not take effect until the effective date designated by the insurer in the policy of workers' compensation insurance;

(2) Provide that, while the policy of workers' compensation insurance is in force, the employee leasing company will pay all premiums required by the policy, including, without limitation, any adjustments or assessments, and will be entitled to any refunds of premiums;

(3) Set forth the procedures by which the client company or the employee leasing company may terminate the agreement and any fees or costs payable upon termination;

(4) Provide that, except as otherwise provided by law, all services provided by the employee leasing company to the client company will cease immediately on the effective date of any termination of the agreement;

(5) Provide that the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company has the right to inspect the premises and records of the client company;

(6) Provide that the loss experience of the client company will continue to be reported in the name of the client company to the Commissioner and will be available to subsequent insurers upon request;

(7) Provide that the policy of workers' compensation insurance covers only those employees acknowledged in writing by the employee leasing company to be employees of the employee leasing company who are being leased to the client company;

(8) Explain that the client company is responsible at all times for providing coverage for workers' compensation for any employees of the client company who are not leased from the employee leasing company; and

(9) Provide that the client company must provide satisfactory evidence of the coverage required by subparagraph (8) to the insurer from whom the policy of workers' compensation insurance is obtained by the employee leasing company.

6. Nothing in this section prohibits the employees of an employee leasing company who are leased to one or more client companies from being considered as a group for the purposes of any eligibility for dividends, discounts on premiums, rating arrangements or options or obtaining policies with large deductibles.

7. The exclusive remedy provided by NRS 616A.020 applies to the employee leasing company, the client company and to all employees of the client company, including, without limitation, the employees leased from the employee leasing company, whether the employee leasing company or the client company provides the coverage for workers' compensation.

8. The Administrator and the Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 5. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act*, unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* to operate an employee leasing company.

2. "Client company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.

3. "Employee leasing company" means a company which, pursuant to a written or oral agreement:

(a) Places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company on a regular basis without any limitation on the duration of their employment; or

(b) Leases to a client company:

(1) Five or more part-time or full-time employees; or

(2) Ten percent or more of the total number of employees within a classification of risk established by the Commissioner.

Sec. 6. NRS 616B.673 is hereby amended to read as follows:

616B.673 1. A person shall not operate an employee leasing company in this State unless he has complied with the provisions of NRS 616B.670 to 616B.697, inclusive ~~H~~, *and sections 3 and 4 of this act*. The Administrator shall

1 issue a certificate of registration to each applicant who complies with the provisions
2 of NRS 616B.670 to 616B.697, inclusive ~~H~~, *and sections 3 and 4 of this act.*

3 2. Any person who violates the provisions of subsection 1 is guilty of a
4 misdemeanor.

5 3. Each certificate of registration issued by the Administrator pursuant to
6 NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* expires 1
7 year after it is issued unless renewed before that date.

8 **Sec. 7.** NRS 616B.679 is hereby amended to read as follows:

9 616B.679 1. Each application must include:

10 (a) The applicant's name and title of his position with the employee leasing
11 company.

12 (b) The applicant's age, place of birth and social security number.

13 (c) The applicant's address.

14 (d) The business address of the employee leasing company.

15 (e) The business address of the registered agent of the employee leasing
16 company, if the applicant is not the registered agent.

17 (f) If the applicant is a:

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

20 (2) Corporation, the name of the corporation and the name, address, age,
21 social security number and title of each officer of the corporation.

22 (g) Proof of:

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

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

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

28 (4) Insurance coverage for any benefit plan from an insurer authorized
29 pursuant to title 57 of NRS that is offered by the employee leasing company to its
30 employees.

31 (h) *A registration or renewal fee of \$500.*

32 (i) Any other information the Administrator requires.

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

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

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

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

37 3. An applicant shall submit to the Administrator any change in the
38 information required by this section within 30 days after the change occurs. The
39 Administrator may revoke the certificate of registration of an employee leasing
40 company which fails to comply with the provisions of NRS 616B.670 to 616B.697,
41 inclusive ~~H~~, *and sections 3 and 4 of this act.*

42 4. If an insurer cancels an employee leasing company's policy, the insurer
43 shall immediately notify the Administrator in writing. The notice must comply with
44 the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served
45 personally on or sent by first-class mail or electronic transmission to the
46 Administrator.

47 **Sec. 8.** NRS 616B.679 is hereby amended to read as follows:

48 616B.679 1. Each application must include:

49 (a) The applicant's name and title of his position with the employee leasing
50 company.

51 (b) The applicant's age, place of birth and social security number.

52 (c) The applicant's address.

53 (d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

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

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

(g) Proof of:

(1) Compliance with the provisions of NRS 360.780.

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

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

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) *A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:*

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement of the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

~~(+)~~ (j) Any other information the Administrator requires.

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

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

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

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

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, and sections 3 and 4 of this act.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. An employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. Each financial statement must:

(a) *Indicate that the applicant has maintained positive working capital, as defined by generally accepted accounting principles, throughout the period covered by the financial statement; or*

(b) *Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designed by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.*

Sec. 9. NRS 616B.682 is hereby amended to read as follows:

616B.682 Each employee leasing company operating in this State shall:

1. Maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and written agreements with client companies.

2. Maintain at that office or similar site in this State records establishing that the employee leasing company ~~maintains~~:

(a) *Maintains* current policies of workers' compensation insurance providing coverage for each employee it leases to each client company ~~or~~; *or*

(b) *Pursuant to section 4 of this act, otherwise satisfies its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company.*

3. Keep the records described in subsection 2 open for inspection and copying, during its regular business hours, by:

(a) Each employee it leases to each client company and any representative of each such employee; and

(b) The public.

Sec. 10. NRS 616B.685 is hereby amended to read as follows:

616B.685 If a person operates an employee leasing company and a temporary employment service in this State, the person ~~shall maintain~~:

1. *Shall maintain* separate payroll records for the company and the service. The records must be maintained in this State. ~~A separate~~

2. *Shall not maintain a* policy of workers' compensation insurance ~~must be maintained for~~ *which covers both employees of* the employee leasing company ~~and employees of the temporary employment service.~~

Sec. 11. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* shall be deemed to be the employer of the employees it leases to a client company.

2. If an employee leasing company complies with the provisions of subsection 3, the employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans, including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

3. An employee leasing company shall not offer its employees any self-funded industrial insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS.

4. If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums,

forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 12. NRS 616B.694 is hereby amended to read as follows:

616B.694 The Administrator may adopt regulations to carry out the provisions of NRS 616B.670 to 616B.697, inclusive ~~+~~, *and sections 3 and 4 of this act.*

Sec. 13. NRS 616B.697 is hereby amended to read as follows:

616B.697 An action for damages caused by the failure of an employee leasing company to comply with the provisions of NRS 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act* may be brought against any person who is required to sign the application for a certificate of registration for the employee leasing company.

Sec. 13.2. NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer shall:

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

(b) If the employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. From among the names furnished by the employer pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but the employer shall not require the employee to select a particular physician or chiropractor from among the names furnished by the employer. Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning his physical condition except as required by NRS 616C.177.

4. Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

5. This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer

at any convenient time after medical attention which is required immediately has been completed.

6. An employee leasing company must provide to each employee covered under an employee leasing contract instructions on how to notify the leasing company supervisor and client company of an injury in plain, clear language placed in conspicuous type in a specifically labeled area of instructions given to the employee.

Sec. 13.5. NRS 616C.015 is hereby amended to read as follows:

616C.015 1. An employee or, in the event of the employee's death, one of his dependents, shall provide written notice of an injury that arose out of and in the course of employment to the employer of the employee as soon as practicable, but within 7 days after the accident.

2. The notice required by subsection 1 must:

(a) Be on a form prescribed by the Administrator. The form must allow the injured employee or his dependent to describe briefly the accident that caused the injury or death.

(b) Be signed by the injured employee or by a person on his behalf, or in the event of the employee's death, by one of his dependents or by a person acting on behalf of the dependent.

(c) Include an explanation of the procedure for filing a claim for compensation.

(d) Be prepared in duplicate so that the injured employee or his dependent and the employer can retain a copy of the notice.

3. Upon receipt of the notice required by subsection 1, the employer, the injured employee's supervisor or the agent of the employer who was in charge of the type of work or the area where the accident occurred shall sign the notice. The signature of the employer, the supervisor or the employer's agent is an acknowledgment of the receipt of the notice and shall not be deemed to be a waiver of any of the employer's defenses or rights.

4. An employer shall maintain a sufficient supply of the forms required to file the notice required by subsection 1 for use by his employees.

5. An employer shall retain any notice provided pursuant to subsection 1 for 3 years after the date of the accident. An employer insured by a private carrier shall not file a notice of injury with the private carrier.

6. The claim of a leased employee is not barred if he gives notice to his client company supervisor, rather than to his leasing company supervisor. Notification of an injury by a leased employee to his client company supervisor shall be deemed sufficient notice of injury to the employer.

Sec. 13.8. NRS 616D.120 is hereby amended to read as follows:

616D.120 1. Except as otherwise provided in this section, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator, ~~for~~ employer or employee leasing company has:

(a) Induced a claimant to fail to report an accidental injury or occupational disease;

(b) Without justification, persuaded a claimant to:

(1) Settle for an amount which is less than reasonable;

(2) Settle for an amount which is less than reasonable while a hearing or an appeal is pending; or

(3) Accept less than the compensation found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 617, inclusive, of NRS;

(c) Refused to pay or unreasonably delayed payment to a claimant of compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay occurs:

(1) Later than 10 days after the date of the settlement agreement or stipulation;

(2) Later than 30 days after the date of the decision of a court, hearing officer, appeals officer or the Division, unless a stay has been granted; or

(3) Later than 10 days after a stay of the decision of a court, hearing officer, appeals officer or the Division has been lifted;

(d) Refused to process a claim for compensation pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(e) Made it necessary for a claimant to initiate proceedings pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation or other relief found to be due him by a hearing officer, appeals officer, court of competent jurisdiction, written settlement agreement, written stipulation or the Division when carrying out its duties pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) Failed to comply with the Division's regulations covering the payment of an assessment relating to the funding of costs of administration of chapters 616A to 617, inclusive, of NRS;

(g) Failed to provide or unreasonably delayed payment to an injured employee or reimbursement to an insurer pursuant to NRS 616C.165; or

(h) Intentionally failed to comply with any provision of, or regulation adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of NRS,

the Administrator shall impose an administrative fine of \$1,500 for each initial violation, or a fine of \$15,000 for a second or subsequent violation.

2. Except as otherwise provided in chapters 616A to 616D, inclusive, or chapter 617 of NRS, if the Administrator determines that an insurer, organization for managed care, health care provider, third-party administrator, ~~for~~ employer or employee leasing company has failed to comply with any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, the Administrator may take any of the following actions:

(a) Issue a notice of correction for:

(1) A minor violation, as defined by regulations adopted by the Division; or

(2) A violation involving the payment of compensation in an amount which is greater than that required by any provision of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto.

The notice of correction must set forth with particularity the violation committed and the manner in which the violation may be corrected. The provisions of this section do not authorize the Administrator to modify or negate in any manner a determination or any portion of a determination made by a hearing officer, appeals officer or court of competent jurisdiction or a provision contained in a written settlement agreement or written stipulation.

(b) Impose an administrative fine for:

(1) A second or subsequent violation for which a notice of correction has been issued pursuant to paragraph (a); or

(2) Any other violation of this chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted pursuant thereto, for which a notice of correction may not be issued pursuant to paragraph (a).

1 ↪ The fine imposed must not be greater than \$375 for an initial violation, or more
2 than \$1,500 for any second or subsequent violation.

3 (c) Order a plan of corrective action to be submitted to the Administrator
4 within 30 days after the date of the order.

5 3. If the Administrator determines that a violation of any of the provisions of
6 paragraphs (a) to (e), inclusive, or (h) of subsection 1 has occurred, the
7 Administrator shall order the insurer, organization for managed care, health care
8 provider, third-party administrator, ~~for~~ employer or employee leasing company to
9 pay to the claimant a benefit penalty:

10 (a) Except as otherwise provided in paragraph (b), in an amount that is not less
11 than \$5,000 and not greater than \$37,500; or

12 (b) Of \$3,000 if the violation involves a late payment of compensation or other
13 relief to a claimant in an amount which is less than \$500 or which is not more than
14 14 days late.

15 4. To determine the amount of the benefit penalty, the Administrator shall
16 consider the degree of physical harm suffered by the injured employee or his
17 dependents as a result of the violation of paragraph (a), (b), (c), (d), (e) or (h) of
18 subsection 1, the amount of compensation found to be due the claimant and the
19 number of fines and benefit penalties, other than a benefit penalty described in
20 paragraph (b) of subsection 3, previously imposed against the insurer, organization
21 for managed care, health care provider, third-party administrator, ~~for~~ employer or
22 employee leasing company pursuant to this section. If this is the third violation
23 within 5 years for which a benefit penalty, other than a benefit penalty described in
24 paragraph (b) of subsection 3, has been imposed against the insurer, organization
25 for managed care, health care provider, third-party administrator, ~~for~~ employer or
26 employee leasing company, the Administrator shall also consider the degree of
27 economic harm suffered by the injured employee or his dependents as a result of
28 the violation of paragraph (a), (b), (c), (d), (e) or (h) of subsection 1. Except as
29 otherwise provided in this section, the benefit penalty is for the benefit of the
30 claimant and must be paid directly to him within 10 days after the date of the
31 Administrator's determination. If the claimant is the injured employee and he dies
32 before the benefit penalty is paid to him, the benefit penalty must be paid to his
33 estate. Proof of the payment of the benefit penalty must be submitted to the
34 Administrator within 10 days after the date of his determination unless an appeal is
35 filed pursuant to NRS 616D.140. Any compensation to which the claimant may
36 otherwise be entitled pursuant to chapters 616A to 616D, inclusive, or chapter 617
37 of NRS must not be reduced by the amount of any benefit penalty received pursuant
38 to this subsection.

39 5. In addition to any fine or benefit penalty imposed pursuant to this section,
40 the Administrator may assess against an insurer who violates any regulation
41 concerning the reporting of claims expenditures or premiums received that are used
42 to calculate an assessment, an administrative penalty of up to twice the amount of
43 any underpaid assessment.

44 6. If:

45 (a) The Administrator determines that a person has violated any of the
46 provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310 or
47 616D.350 to 616D.440, inclusive; and

48 (b) The Fraud Control Unit for Industrial Insurance of the Office of the
49 Attorney General established pursuant to NRS 228.420 notifies the Administrator
50 that the Unit will not prosecute the person for that violation,

51 ↪ the Administrator shall impose an administrative fine of not more than \$15,000.

1 7. Two or more fines of \$1,000 or more imposed in 1 year for acts
2 enumerated in subsection 1 must be considered by the Commissioner as evidence
3 for the withdrawal of:

4 (a) A certificate to act as a self-insured employer.

5 (b) A certificate to act as an association of self-insured public or private
6 employers.

7 (c) A certificate of registration as a third-party administrator.

8 8. The Commissioner may, without complying with the provisions of NRS
9 616B.327 or 616B.431, withdraw the certification of a self-insured employer,
10 association of self-insured public or private employers or third-party administrator
11 if, after a hearing, it is shown that the self-insured employer, association of self-
12 insured public or private employers or third-party administrator violated any
13 provision of subsection 1.

14 9. If the Administrator determines that a vocational rehabilitation counselor
15 has violated the provisions of NRS 616C.543, the Administrator may impose an
16 administrative fine on the vocational rehabilitation counselor of not more than \$250
17 for a first violation, \$500 for a second violation and \$1,000 for a third or
18 subsequent violation.

19 **Sec. 14.** 1. This section and sections 1 to 7, inclusive, and 9 to ~~13.7~~ **13.8**,
20 inclusive, of this act become effective on October 1, 2009.

21 2. Section 8 of this act becomes effective on January 1, 2010.