

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.

~

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 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 that 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.



\* S B 3 6 1 R 1 \*

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

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

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

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

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

22     *(c) Requires an employee leasing company to authorize an*  
23 *assurance organization to act on its behalf.*

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

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

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

39     *(b) Confirming that the client company is a member of an*  
40 *association of self-insured employers which is certified by the*  
41 *Commissioner and which has assumed responsibility, and*  
42 *maintains responsibility, for covering all of the employees of the*  
43 *client company, including, without limitation, the employees*  
44 *leased from the employee leasing company, subject to the same*  
45 *requirements and conditions as if the client company were the sole*



1 *employer of the leased employees for the purpose of providing*  
2 *coverage for workers' compensation;*

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

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

16 *(1) The policy covers the liability of both the employee*  
17 *leasing company and the client company or companies for*  
18 *payments required by chapters 616A to 616D, inclusive, or chapter*  
19 *617 of NRS;*

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

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

25 *(e) Obtaining a policy of workers' compensation insurance on*  
26 *a master policy basis directly from an insurer, and maintaining*  
27 *that policy, which:*

28 *(1) Covers some or all of the employees of the employee*  
29 *leasing company who are leased to one or more client companies;*  
30 *and*

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

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

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

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

43 *3. If an employee leasing company or a client company*  
44 *maintains a policy of workers' compensation insurance which*  
45 *provides coverage for leased employees, each insurer insuring*



1 *leased employees shall report to the Advisory Organization, as*  
2 *defined in NRS 686B.1752:*

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

43       616B.670 As used in NRS 616B.670 to 616B.697, inclusive,  
44 *and sections 3 and 4 of this act*, unless the context otherwise  
45 requires:



\* S B 3 6 1 R 1 \*

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

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

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

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

14 (b) Leases to a client company:

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

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

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

19 616B.673 1. A person shall not operate an employee leasing  
20 company in this State unless he has complied with the provisions of  
21 NRS 616B.670 to 616B.697, inclusive ~~§~~, *and sections 3 and 4 of*  
22 *this act*. The Administrator shall issue a certificate of registration to  
23 each applicant who complies with the provisions of NRS 616B.670  
24 to 616B.697, inclusive ~~§~~, *and sections 3 and 4 of this act*.

25 2. Any person who violates the provisions of subsection 1 is  
26 guilty of a misdemeanor.

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

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

32 616B.679 1. Each application must include:

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

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

37 (c) The applicant's address.

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

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

41 (f) If the applicant is a:

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



\* S B 3 6 1 R 1 \*

(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 registration or renewal fee of \$500.*

(i) 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.

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

616B.679 1. Each application must include:

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

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

(c) The applicant's address.

(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.

~~(i)~~ (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.



\* S B 3 6 1 R 1 \*

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

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

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

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

24       616B.682 Each employee leasing company operating in this  
25 State shall:

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

29       2. Maintain at that office or similar site in this State records  
30 establishing that the employee leasing company **[maintains]** :

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

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

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

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

42       (b) The public.



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

2     616B.685 If a person operates an employee leasing company  
3 and a temporary employment service in this State, the person ~~[shall~~  
4 ~~maintain]~~ :

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

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

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

13     616B.691 1. For the purposes of chapters 612 and 616A to  
14 617, inclusive, of NRS, an employee leasing company which  
15 complies with the provisions of NRS 616B.670 to 616B.697,  
16 inclusive, *and sections 3 and 4 of this act* shall be deemed to be the  
17 employer of the employees it leases to a client company.

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

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

29     4. If an employee leasing company fails to:

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

31     (b) Submit any reports or other information required,

32     ↪ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617  
33 of NRS, the client company is jointly and severally liable for the  
34 contributions, premiums, forfeits or interest attributable to the wages  
35 of the employees leased to it by the employee leasing company.

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

37     616B.694 The Administrator may adopt regulations to carry  
38 out the provisions of NRS 616B.670 to 616B.697, inclusive ~~[,]~~ *, and*  
39 *sections 3 and 4 of this act.*

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

41     616B.697 An action for damages caused by the failure of an  
42 employee leasing company to comply with the provisions of NRS  
43 616B.670 to 616B.697, inclusive, *and sections 3 and 4 of this act*  
44 may be brought against any person who is required to sign the



\* S B 3 6 1 R 1 \*

1 application for a certificate of registration for the employee leasing  
2 company.

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

5 616C.010 1. Whenever any accident occurs to any employee,  
6 he shall forthwith report the accident and the injury resulting  
7 therefrom to his employer.

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

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

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

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

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

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

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

40 3. From among the names furnished by the employer pursuant  
41 to subsection 2, the employee shall select one of those physicians or  
42 chiropractors to conduct the examination, but the employer shall not  
43 require the employee to select a particular physician or chiropractor  
44 from among the names furnished by the employer. Thereupon, the  
45 examining physician or chiropractor shall report forthwith to the



1 employer and to the insurer the character and extent of the injury.  
2 The employer shall not require the employee to disclose or permit  
3 the disclosure of any other information concerning his physical  
4 condition except as required by NRS 616C.177.

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

7 5. This section does not prohibit an employer from requiring  
8 the employee to submit to an examination by a physician or  
9 chiropractor specified by the employer at any convenient time after  
10 medical attention which is required immediately has been  
11 completed.

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

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

20 616C.015 1. An employee or, in the event of the employee's  
21 death, one of his dependents, shall provide written notice of an  
22 injury that arose out of and in the course of employment to the  
23 employer of the employee as soon as practicable, but within 7 days  
24 after the accident.

25 2. The notice required by subsection 1 must:

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

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

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

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

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

43 4. An employer shall maintain a sufficient supply of the forms  
44 required to file the notice required by subsection 1 for use by his  
45 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,



1 written settlement agreement, written stipulation or the Division  
2 when carrying out its duties pursuant to chapters 616A to 616D,  
3 inclusive, or chapter 617 of NRS;

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

7 (g) Failed to provide or unreasonably delayed payment to an  
8 injured employee or reimbursement to an insurer pursuant to NRS  
9 616C.165; or

10 (h) Intentionally failed to comply with any provision of, or  
11 regulation adopted pursuant to, this chapter or chapter 616A, 616B,  
12 616C or 617 of NRS,

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

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

24 (a) Issue a notice of correction for:

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

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

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

38 (b) Impose an administrative fine for:

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

41 (2) Any other violation of this chapter or chapter 616A,  
42 616B, 616C or 617 of NRS, or any regulation adopted pursuant  
43 thereto, for which a notice of correction may not be issued pursuant  
44 to paragraph (a).



\* S B 3 6 1 R 1 \*

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

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

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

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

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

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



\* S B 3 6 1 R 1 \*

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

6. If:

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

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

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

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

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

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

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

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

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

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

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

