

ASSEMBLY BILL NO. 340—ASSEMBLYMAN ELLISON

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing occupational safety.
(BDR 53-995)

FISCAL NOTE: Effect on Local Government: No.
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; revising provisions governing the assessment of administrative fines by the Division of Industrial Relations of the Department of Business and Industry for violations of the Nevada Occupational Safety and Health Act; exempting certain persons from certain requirements relating to mandatory safety and health hazard training; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Division of Industrial Relations of the Department of
2 Business and Industry to enforce the Nevada Occupational Safety and Health Act.
3 (NRS 618.175) **Section 3** of this bill requires the Division to adopt regulations: (1)
4 prescribing with specificity those situations in which a serious violation exists in a
5 place of employment; (2) prescribing the criteria which the Division must consider
6 in evaluating the gravity of a violation; (3) prescribing the criteria which the
7 Division must consider in evaluating the amount of any administrative fine assessed
8 by the Division; and (4) requiring that the employees and agents of the Division
9 who conduct inspections receive certain training. **Section 4** of this bill prohibits the
10 Division from assessing an administrative fine for a violation if the Occupational
11 Safety and Health Administration of the United States Department of Labor has
12 identified the violation as a violation of a substantially similar provision of federal
13 law and has imposed a fine or other sanction pursuant to federal law.

14 **Section 5** of this bill exempts certain persons who are performing work on a
15 residential building that is not more than three stories in height from certain
16 requirements in state law concerning the completion of training relating to the
17 safety and health of construction workers. **Section 5** also exempts certain persons
18 who are performing work in a county whose population is less than 50,000
19 (currently all counties other than Clark and Washoe Counties and Carson City)
20 from such requirements. These persons would instead be required to comply with



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the federal laws and regulations governing such training which are administered by the Occupational Safety and Health Administration. **Section 2** of this bill expresses the findings and declarations of the Legislature that exempting such persons from the requirements in state law concerning such training will have a beneficial economic effect on this State and will not have a detrimental effect on the safety and health of the residents of this State.

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 and 3 of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. The training required by NRS 618.950 to 618.990, inclusive, is important for the safety and health of construction workers in this State;

2. Because of the current economic conditions in this State, the financial burden of completing such courses is prohibitive for many persons in the construction industry in this State;

3. A person who is exempted from the requirements of NRS 618.950 to 618.990, inclusive, must comply with the requirements established by the Occupational Safety and Health Administration of the United States Department of Labor relating to the completion of OSHA-10 and OSHA-30 courses;

4. The cost of complying with the requirements of federal law relating to the completion of OSHA-10 courses and OSHA-30 courses is not as burdensome as the cost of complying with the requirements of NRS 618.950 to 618.990, inclusive; and

5. Exempting certain persons from the requirements of NRS 618.950 to 618.990, inclusive, will have a beneficial effect on the economy of this State and will not have a detrimental effect on the safety and health of the residents of this State.

Sec. 3. *For the purposes of this chapter, the Division shall adopt regulations:*

1. Prescribing with specificity those situations in which a serious violation exists in a place of employment;

2. Prescribing the criteria which the Division must consider in evaluating the gravity of a violation;

3. Prescribing the criteria which the Division must consider in evaluating the amount of any administrative fine assessed by the Division; and

4. Requiring that the employees and agents of the Division who conduct inspections pursuant to this chapter receive training concerning the regulations adopted pursuant to this section.



1 **Sec. 4.** NRS 618.625 is hereby amended to read as follows:

2 618.625 1. ~~{The}~~ ***Except as otherwise provided in subsection***
3 ***2, the*** Division may assess administrative fines provided for in this
4 chapter, giving due consideration to the appropriateness of the
5 penalty with respect to the size of the employer, the gravity of the
6 violation, the good faith of the employer and the history of previous
7 violations.

8 2. ~~{For purposes of this chapter, a serious violation exists in a~~
9 ~~place of employment if there is a substantial probability that death~~
10 ~~or serious physical harm could result from a condition which exists,~~
11 ~~or from one or more practices, means, methods, operations or~~
12 ~~processes which have been adopted or are in use in that place of~~
13 ~~employment unless the employer did not and could not, with the~~
14 ~~exercise of reasonable diligence, know of the presence of the~~
15 ~~violation.}~~ ***The Division shall not assess an administrative fine***
16 ***provided for in this chapter for any violation which has been***
17 ***identified by the Occupational Safety and Health Administration***
18 ***of the United States Department of Labor as a violation of a***
19 ***substantially similar provision of federal law and for which the***
20 ***Occupational Safety and Health Administration has imposed any***
21 ***fine or other sanction pursuant to federal law.***

22 3. Administrative fines owed under this chapter must be paid to
23 the Division. The fines may be recovered in a civil action in the
24 name of the Division brought in a court of competent jurisdiction in
25 the county where the violation is alleged to have occurred or where
26 the employer has his or her principal office.

27 **Sec. 5.** NRS 618.970 is hereby amended to read as follows:

28 618.970 The provisions of NRS 618.950 to 618.990, inclusive,
29 do not apply to:

30 1. The Department of Transportation; ~~for~~

31 2. An employee of the Department of Transportation while
32 performing his or her duties as an employee of the Department ~~H~~;

33 3. ***Any construction worker or supervisory employee while***
34 ***performing work on a residential building that is not more than***
35 ***three stories in height; or***

36 4. ***Any construction worker or supervisory employee while***
37 ***performing work in a county whose population is less than 50,000.***

38 **Sec. 6.** This act becomes effective upon a public declaration
39 by the Governor that:

40 1. Any modification to the state plan for carrying out the
41 Nevada Occupational Safety and Health Act which is required by
42 the provisions of this act has been approved by the Secretary of
43 Labor; and

44 2. Implementation of the modified state plan for carrying out
45 the Nevada Occupational Safety and Health Act will not result in



1 any reduction in the grant received by this State from the Federal
2 Government through the Occupational Safety and Health
3 Administration under section 23(g) of the Occupational Safety and
4 Health Act of 1970, 29 U.S.C. § 672(g), to assist this State in
5 administering and enforcing the approved state plan.

