

Amendment No. 595

Senate Amendment to Assembly Bill No. 254 First Reprint (BDR 53-101)

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

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

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

MSN/TMC



Date: 5/16/2011

A.B. No. 254—Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)



ASSEMBLY BILL NO. 254—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO REVIEW THE UNITED STATES DEPARTMENT OF LABOR'S REPORT
ON THE NEVADA OCCUPATIONAL SAFETY AND HEALTH PROGRAM)

MARCH 10, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)

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 grounds for the issuance of a citation for certain occupational safety and health violations; providing for the issuance of a citation for certain occupational safety and health violations upon a determination by the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative that any employee has access to a hazard; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if, upon inspection or investigation, the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative believes an employer is in violation of the Nevada Occupational Safety and Health Act, the Division shall issue a citation to the employer for the violation. (NRS 618.465)

~~This~~ Section 1 of this bill provides that the Administrator or the authorized representative may find a violation to have occurred based upon a determination of the Administrator or authorized representative that any employee has access to a hazard. ~~This~~ Sections 1, 1.3 and 1.7 of this bill also ~~includes~~ include within the scope of behavior for which a citation may be issued the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act. ~~It~~ and that requires an employer to correct or modify a condition or practice in or relating to a place of employment and authorize the Division to take certain actions to enforce such a settlement agreement.

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

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated ~~(a)~~ :

(a) A requirement of this chapter, or any standard, rule or order adopted or issued pursuant to this chapter, ~~for any provision of a settlement agreement entered into relating to this chapter,~~ the Division shall with reasonable promptness issue a citation to the employer, ~~(b)~~; or

(b) Any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, the Division may issue a citation to the employer.

2. Each citation issued under this section must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter , ~~(a)~~ the provision of the standard, rule, regulation or order , or the provision of the settlement agreement alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

~~(a)~~ 3. A citation issued under this section may be based upon a determination of the Administrator or the Administrator's authorized representative that any employee has access to a hazard.

~~(b)~~ 4. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

~~(c)~~ ~~(d)~~ 5. No citation may be issued under this section after 6 months following the occurrence of any violation.

~~(e)~~ 6. The Administrator may adopt regulations to carry out the provisions of this section.

Sec. 1.3. NRS 618.515 is hereby amended to read as follows:

618.515 If any person disobeys an order of the Division, any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, or a subpoena issued by ~~(a)~~ the Division or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which the person may be lawfully interrogated, ~~(then)~~ the district judge of the county in which the person resides, on application of the Administrator or the Administrator's representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 1.7. NRS 618.525 is hereby amended to read as follows:

618.525 1. The Division may prosecute, defend and maintain actions in the name of the Division for the enforcement of the provisions of this chapter or any settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of

1 employment, and is entitled to all extraordinary writs or other relief provided by
2 the Constitution of the State of Nevada, the statutes of this State and the Nevada
3 Rules of Civil Procedure in connection therewith for the enforcement thereof.

4 2. Verification of any pleading, affidavit or other paper required may be made
5 by the Division.

6 3. In any action or proceeding or in the prosecution of any appeal by the
7 Division, no bond or undertaking may be required to be furnished by the Division.

8 **Sec. 2.** This act becomes effective on January 1, 2012.