

SENATE BILL NO. 493—SENATORS DONDERO LOOP, SPEARMAN,
PARKS; BROOKS, DENIS, D. HARRIS, OHRENSCHALL,
WASHINGTON AND WOODHOUSE

MARCH 29, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to misclassification of
employees. (BDR 53-1087)

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 employee misclassification; requiring certain
state agencies to share information relating to suspected
employee misclassification under certain circumstances;
creating the Task Force on Employee Misclassification;
providing its duties; making various other changes
relating to employee misclassification; providing an
administrative penalty; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill requires the offices of the Labor Commissioner, the
Division of Industrial Relations of the Department of Business and Industry, the
Employment Security Division of the Department of Employment, Training and
Rehabilitation, the Department of Taxation and the Attorney General to share
amongst their respective offices information relating to suspected employee
misclassification that is received in the performance of their official duties under
certain circumstances. **Section 4** of this bill defines “employee misclassification” as
the practice by an employer of improperly classifying employees as independent
contractors to avoid any legal obligation under state labor, employment and tax
laws, including, without limitation, the laws governing minimum wage, overtime,
unemployment insurance, workers’ compensation insurance, temporary disability
insurance, wage payment and payroll taxes.

Section 8 of this bill creates and sets forth the membership of the Task Force
on Employee Misclassification. **Section 9** of this bill sets forth the duties of the
Task Force.

Existing law defines “independent contractor.” (NRS 616A.255) **Section 11.5**
of this bill expands that definition. Existing law also provides that a person is
conclusively presumed to be an independent contractor in certain circumstances.



(NRS 608.0155) **Section 10.5** of this bill clarifies that such an independent contractor must hold a state or local business license to operate in this State. Existing law requires an employer to post a notice upon his or her premises that contains certain information. (NRS 616A.490) **Section 11.7** of this bill requires such a notice to include the relevant definitions of "employee" and "independent contractor." **Section 11.3** of this bill authorizes the Labor Commissioner to impose various administrative penalties against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify an employee. **Section 13.5** of this bill authorizes a person to file a complaint with certain administrative agencies to seek an administrative penalty.

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

Section 1. Chapter 607 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Employee" means a person who performs services for wages for an employer. The term does not include an independent contractor.*

Sec. 4. *"Employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

Sec. 5. *"Employer" includes, without limitation:*

1. The State of Nevada, any state agency, or any county, city, town, school district or other unit of local government;

2. Any public or quasi-public corporation; and

3. Any person, firm, corporation, partnership or association.

Sec. 6. *"Independent contractor" has the meaning ascribed to it in NRS 616A.255.*

Sec. 7. *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:*

1. Shall communicate between their respective offices information relating to suspected employee misclassification



1 *which is received in the performance of their official duties and*
2 *which is not otherwise declared by law to be confidential.*

3 *2. May communicate between their respective offices*
4 *information relating to employee misclassification which is*
5 *received in the performance of their official duties and which is*
6 *otherwise declared by law to be confidential, if the confidentiality*
7 *of the information is otherwise maintained under the terms and*
8 *conditions required by law.*

9 **Sec. 8. 1. The Task Force on Employee Misclassification,**
10 **consisting of 10 members, is hereby created.**

11 *2. The following persons shall serve as ex officio members of*
12 *the Task Force:*

13 *(a) The Labor Commissioner or the Labor Commissioner's*
14 *designee.*

15 *(b) The Administrator of the Division of Industrial Relations*
16 *of the Department of Business and Industry or the Administrator's*
17 *designee.*

18 *(c) The Administrator of the Employment Security Division of*
19 *the Department of Employment, Training and Rehabilitation or*
20 *the Administrator's designee.*

21 *(d) The Executive Director of the Department of Taxation or*
22 *the Executive Director's designee.*

23 *(e) The Attorney General or the Attorney General's designee.*

24 *3. The following persons shall serve as appointed members of*
25 *the Task Force:*

26 *(a) One person who represents an employer located in this*
27 *State that employs more than 500 full-time or part-time employees.*

28 *(b) One person who represents an employer located in this*
29 *State that employs 500 or fewer full-time or part-time employees.*

30 *(c) One person who is an independent contractor in this State.*

31 *(d) One person who represents organized labor in this State.*

32 *(e) One person who represents the general public in this State.*

33 *4. The members of the Task Force described in subsection 3:*

34 *(a) Must be appointed by the Legislative Commission from*
35 *recommendations submitted to the Legislative Commission by the*
36 *Governor, the Majority Leader of the Senate and the Speaker of*
37 *the Assembly.*

38 *(b) After the initial terms, serve a term of 2 years and until*
39 *their respective successors are appointed. A member may be*
40 *reappointed in the same manner as the original appointments.*

41 *5. Any vacancy occurring in the appointed membership of the*
42 *Task Force must be filled in the same manner as the original*
43 *appointment not later than 30 days after the vacancy occurs.*



6. The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.

7. At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.

8. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

9. The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.

10. Members of the Task Force serve without compensation.

11. The Labor Commissioner shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.

Sec. 9. The Task Force on Employee Misclassification shall:

1. Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.

2. Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.

3. Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.

4. On or before July 1, 2020, and on or before July 1 of each subsequent year, submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.

Sec. 10. 1. The Task Force on Employee Misclassification may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.

2. The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.

3. The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a



quorum may exercise any power or authority conferred on the subcommittee.

Sec. 10.5. NRS 608.0155 is hereby amended to read as follows:

608.0155 1. For the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance or bonding *in order to operate in this State;* and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:

(I) Purchase or lease of ordinary tools, material and equipment regardless of source;

(II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and

(III) Lease of any work space from the principal required to perform the work for which the person was engaged.

↪ The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the



1 basis of the amount of income the person receives, the equipment
2 commonly used and the expenses commonly incurred in the trade or
3 profession in which the person engages.

4 2. The fact that a person is not conclusively presumed to be an
5 independent contractor for failure to satisfy three or more of the
6 criteria set forth in paragraph (c) of subsection 1 does not
7 automatically create a presumption that the person is an employee.

8 3. As used in this section, “foreign national” has the meaning
9 ascribed to it in NRS 294A.325.

10 **Sec. 11.** NRS 612.265 is hereby amended to read as follows:

11 612.265 1. Except as otherwise provided in this section and
12 NRS 239.0115 and 612.642, *and section 7 of this act*, information
13 obtained from any employing unit or person pursuant to the
14 administration of this chapter and any determination as to the
15 benefit rights of any person is confidential and may not be disclosed
16 or be open to public inspection in any manner which would reveal
17 the person’s or employing unit’s identity.

18 2. Any claimant or a legal representative of a claimant is
19 entitled to information from the records of the Division, to the
20 extent necessary for the proper presentation of the claimant’s claim
21 in any proceeding pursuant to this chapter. A claimant or an
22 employing unit is not entitled to information from the records of the
23 Division for any other purpose.

24 3. The Administrator may, in accordance with a cooperative
25 agreement among all participants in the statewide longitudinal data
26 system developed pursuant to NRS 400.037 and administered
27 pursuant to NRS 223.820, make the information obtained by the
28 Division available to:

29 (a) The Board of Regents of the University of Nevada for the
30 purpose of complying with the provisions of subsection 4 of NRS
31 396.531; and

32 (b) The Director of the Department of Employment, Training
33 and Rehabilitation for the purpose of complying with the provisions
34 of paragraph (d) of subsection 1 of NRS 232.920.

35 4. Subject to such restrictions as the Administrator may by
36 regulation prescribe, the information obtained by the Division may
37 be made available to:

38 (a) Any agency of this or any other state or any federal agency
39 charged with the administration or enforcement of laws relating to
40 unemployment compensation, public assistance, workers’
41 compensation or labor and industrial relations, or the maintenance
42 of a system of public employment offices;

43 (b) Any state or local agency for the enforcement of child
44 support;



(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation;

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

5. Upon written request made by the State Controller or a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request may be made electronically and must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the State Controller or local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation assigned to the State Controller for collection or owed to the local government, as applicable. Except as otherwise provided in NRS 239.0115, the information obtained by the State Controller or local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation assigned to the State Controller for collection or owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

6. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure



1 of this information to a state agency. The Administrator may require
2 the state agency to certify in writing that the agency will take all
3 actions necessary to maintain the confidentiality of the information
4 and prevent its unauthorized disclosure.

5 7. Upon request therefor, the Administrator shall furnish to any
6 agency of the United States charged with the administration of
7 public works or assistance through public employment, and may
8 furnish to any state agency similarly charged, the name, address,
9 ordinary occupation and employment status of each recipient of
10 benefits and the recipient's rights to further benefits pursuant to this
11 chapter.

12 8. To further a current criminal investigation, the chief
13 executive officer of any law enforcement agency of this State may
14 submit a written request to the Administrator that the Administrator
15 furnish, from the records of the Division, the name, address and
16 place of employment of any person listed in the records of
17 employment of the Division. The request must set forth the social
18 security number of the person about whom the request is made and
19 contain a statement signed by the chief executive officer certifying
20 that the request is made to further a criminal investigation currently
21 being conducted by the agency. Upon receipt of such a request, the
22 Administrator shall furnish the information requested. The
23 Administrator may charge a fee to cover the actual costs of any
24 related administrative expenses.

25 9. In addition to the provisions of subsection 6, the
26 Administrator shall provide lists containing the names and addresses
27 of employers, and information regarding the wages paid by each
28 employer to the Department of Taxation, upon request, for use in
29 verifying returns for the taxes imposed pursuant to chapters 363A,
30 363B and 363C of NRS. The Administrator may charge a fee to
31 cover the actual costs of any related administrative expenses.

32 10. Upon the request of any district judge or jury commissioner
33 of the judicial district in which the county is located, the
34 Administrator shall, in accordance with other agreements entered
35 into with other district courts and in compliance with 20 C.F.R. Part
36 603, and any other applicable federal laws and regulations
37 governing the Division, furnish the name, address and date of birth
38 of persons who receive benefits in any county, for use in the
39 selection of trial jurors pursuant to NRS 6.045. The court or jury
40 commissioner who requests the list of such persons shall reimburse
41 the Division for the reasonable cost of providing the requested
42 information.

43 11. The Division of Industrial Relations of the Department of
44 Business and Industry shall periodically submit to the
45 Administrator, from information in the index of claims established



pursuant to NRS 616B.018, a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS. Upon receipt of that information, the Administrator shall compare the information so provided with the records of the Employment Security Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the Division of Industrial Relations must be in a form determined by the Administrator and must contain the social security number of each such person. If it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency.

12. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

13. The Administrator, any employee or other person acting on behalf of the Administrator, or any employee or other person acting on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

(a) Uses or permits the use of the list for any political purpose;

(b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or

(c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 11.3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty provided by law, the Labor Commissioner may impose an administrative penalty against an employer who misclassifies a person as an independent contractor or otherwise fails to properly classify a person as an



employee of the employer. An administrative penalty imposed pursuant to this section must be:

(a) For a first offense committed by an employer who unintentionally misclassified or otherwise failed to properly classify a person as an employee of the employer, a warning issued to the employer by the Labor Commissioner.

(b) For a first offense committed by an employer who willfully misclassified or otherwise failed to properly classify a person as an employee of the employer, a fine of not more than \$5,000 for each employee who was misclassified imposed by the Labor Commissioner.

(c) For a second offense:

(1) A fine of \$5,000 for each employee who was misclassified imposed by the Labor Commissioner; and

(2) The suspension of the state business license of the employer for not more than 1 year.

(d) For a third offense, the revocation of the state business license of the employer. An employer whose state business license was revoked pursuant to this paragraph shall not apply to the Secretary of State for a state business license for a period of 3 years, beginning on the date of the revocation of the employer's state business license.

2. If the state business license of an employer is suspended or revoked pursuant to subsection 1, the Labor Commissioner shall submit a notice of the suspension or revocation to the Secretary of State. The Labor Commissioner shall provide a copy of such notice to the employer.

3. Before the Labor Commissioner may enforce an administrative penalty against an employer for misclassifying or otherwise failing to properly classify an employee of the employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose an administrative penalty as set forth in subsection 1 if the Labor Commissioner finds that:

(a) The employer misclassified a person as an independent contractor; or

(b) The employer otherwise failed to properly classify a person as an employee of the employer.

4. As used in this section:

(a) "Employee" has the meaning ascribed to it in NRS 608.010.

(b) "Employer" has the meaning ascribed to it in NRS 608.011.



(c) *“Independent contractor” has the meaning ascribed to it in NRS 616A.255.*

Sec. 11.5. NRS 616A.255 is hereby amended to read as follows:

616A.255 “Independent contractor” means any person who renders service for a specified recompense ~~[for a specified result, under the control of the person’s principal as to the result of the person’s work only and not as to the means by which such result is accomplished.]~~ *and who:*

1. Has been and will continue to be free from control or direction exercised by a person with whom he or she entered into a contract of service or a person for whom he or she performs a service;

2. Performs a service that is outside of the scope of the usual course of business of the business for which the service is performed; and

3. Satisfies at least one of the following conditions:

(a) Performs a service in the course of a trade, occupation, profession or business that is established independently from the person with whom he or she contracts to perform or performs a service and which is of the same nature as that involved in the contract of service of performance of a service;

(b) Meets the requirements set forth in paragraph (a) of subsection 1 of NRS 608.0155; or

(c) Meets the requirements set forth in paragraph (b) of subsection 1 of NRS 608.0155.

Sec. 11.7. NRS 616A.490 is hereby amended to read as follows:

616A.490 *1.* Every employer shall post a notice upon his or her premises in a conspicuous place identifying the employer’s industrial insurer. The notice must ~~[include]~~:

(a) Include the insurer’s name, business address and telephone number and the name, business address and telephone number of its nearest adjuster in this State. The employer shall at all times maintain the notice provided for the information of his or her employees.

(b) Prominently set forth any applicable definitions of “employee” and “independent contractor,” as those terms are defined in chapters 616A to 616D, inclusive, of NRS.

Sec. 12. NRS 616B.012 is hereby amended to read as follows:

616B.012 *1.* Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, *and section 7 of this act*, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to



1 public inspection in any manner which would reveal the person's
2 identity.

3 2. Any claimant or legal representative of the claimant is
4 entitled to information from the records of the insurer, to the extent
5 necessary for the proper presentation of a claim in any proceeding
6 under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

7 3. The Division and Administrator are entitled to information
8 from the records of the insurer which is necessary for the
9 performance of their duties. The Administrator may, by regulation,
10 prescribe the manner in which otherwise confidential information
11 may be made available to:

12 (a) Any agency of this or any other state charged with the
13 administration or enforcement of laws relating to industrial
14 insurance, unemployment compensation, public assistance or labor
15 law and industrial relations;

16 (b) Any state or local agency for the enforcement of child
17 support;

18 (c) The Internal Revenue Service of the Department of the
19 Treasury;

20 (d) The Department of Taxation; and

21 (e) The State Contractors' Board in the performance of its duties
22 to enforce the provisions of chapter 624 of NRS.

23 ➤ Information obtained in connection with the administration of a
24 program of industrial insurance may be made available to persons or
25 agencies for purposes appropriate to the operation of a program of
26 industrial insurance.

27 4. Upon written request made by a public officer of a local
28 government, an insurer shall furnish from its records the name,
29 address and place of employment of any person listed in its records.
30 The request must set forth the social security number of the person
31 about whom the request is made and contain a statement signed by
32 proper authority of the local government certifying that the request
33 is made to allow the proper authority to enforce a law to recover a
34 debt or obligation owed to the local government. Except as
35 otherwise provided in NRS 239.0115, the information obtained by
36 the local government is confidential and may not be used or
37 disclosed for any purpose other than the collection of a debt or
38 obligation owed to the local government. The insurer may charge a
39 reasonable fee for the cost of providing the requested information.

40 5. To further a current criminal investigation, the chief
41 executive officer of any law enforcement agency of this State may
42 submit to the Administrator a written request for the name, address
43 and place of employment of any person listed in the records of an
44 insurer. The request must set forth the social security number of the
45 person about whom the request is made and contain a statement



signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and
(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A, 363B and 363C of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 13. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, *and section 7 of this act*, the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:



(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial



condition of any self-insured employer or association of self-insured public or private employers.

Sec. 13.5. Chapter 616D of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer who is found after a hearing conducted in accordance with subsection 3 to have misclassified a person as an independent contractor is liable to such person for:

(a) Treble damages, including, without limitation, lost wages or benefits;

(b) Reasonable attorney's fees; and

(c) Costs.

2. A person may file a complaint alleging the misclassification of the person as an independent contractor with the Administrator, the Fraud Control Unit for Industrial Insurance or any other appropriate state agency. The Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section shall make a determination on the allegations of the complaint within 120 days after receipt of the complaint. If the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that receives a complaint pursuant to this section finds that an employer misclassified an employee as an independent contractor, the Administrator, the Fraud Control Unit for Industrial Insurance or other state agency, as applicable, may impose the penalties set forth in subsection 1.

3. A hearing conducted pursuant to this section must be held in accordance with chapter 233B of NRS.

4. Each party may petition for judicial review of the decision of the Administrator, the Fraud Control Unit for Industrial Insurance or any other state agency that holds a hearing on a complaint submitted pursuant to subsection 2 in the manner provided by chapter 233B of NRS.

5. As used in this section, "Fraud Control Unit for Industrial Insurance" means the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420.

Sec. 14. 1. As soon as practicable after passage and approval of this act, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall solicit applications and make recommendations to the Legislative Commission for the appointment of members to the Task Force on Employee Misclassification who are described in subsection 3 of section 8 of this act.

2. As soon as practicable after July 1, 2019, the Legislative Commission shall, after considering each recommendation received pursuant to subsection 1, appoint the members of the Task Force on



1 Employee Misclassification described in subsection 3 of section 8 of
2 this act.

3 3. The terms of the members of the Task Force on Employee
4 Misclassification appointed pursuant to subsection 2 expire on
5 June 30, 2021.

6 **Sec. 15.** The provisions of subsection 1 of NRS 218D.380 do
7 not apply to any provision of this act which adds or revises a
8 requirement to submit a report to the Legislature.

9 **Sec. 16.** 1. This section and sections 14 and 15 of this act
10 become effective upon passage and approval.

11 2. Sections 1 to 13.5, inclusive, of this act become effective on
12 July 1, 2019.

