

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 483

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO EMPLOYMENT; CLARIFYING DEFINITIONS IN THE EMPLOYEE
LEASING ACT TO ENSURE PROPER CLASSIFICATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-13A-2 NMSA 1978 (being Laws 1993,
Chapter 162, Section 2) is amended to read:

"60-13A-2. DEFINITIONS. -- As used in the Employee Leasing
Act:

A. "applicant" means a person applying for
registration as an employee leasing contractor;

B. "client" means a person who obtains workers
through an employee leasing arrangement;

C. "department" means the regulation and licensing
department;

D. "employee leasing arrangement" means any

1 arrangement in which a client contracts with an employee
2 leasing contractor for the contractor to provide leased workers
3 to the client; provided, "employee leasing arrangements" does
4 not include temporary workers;

5 E. "employee leasing contractor" means any person
6 who provides leased workers to a client in New Mexico through
7 an employee leasing arrangement;

8 F. "leased worker" means a worker provided to a
9 client through an employee leasing arrangement; [~~provided that
10 if a worker has been previously employed by the client prior to
11 working for an employee leasing contractor, it shall be
12 presumed that the worker is a leased worker and not a temporary
13 worker; and further~~] provided that if a worker works and should
14 be classified in any construction class or in any oil and gas
15 well service or drilling class pursuant to provisions of or
16 regulations adopted under the New Mexico Insurance Code, the
17 worker shall be presumed to be a leased worker and the employee
18 leasing contractor that provides the worker shall comply with
19 the provisions of the Employee Leasing Act;

20 G. "person" means an individual or any other legal
21 entity; [~~and~~]

22 H. "temporary services employer" means an employing
23 unit that contracts with clients or customers to supply workers
24 to perform services for the client or customer and performs all
25 of the following functions:

1 (1) negotiates with clients or customers for
2 such matters as time, place, type of work, working conditions,
3 quality and price of the services;

4 (2) determines assignments of workers, even
5 though workers retain the right to refuse specific assignments;

6 (3) retains the authority to reassign or
7 refuse to reassign a worker to other clients or customers when
8 a worker is determined unacceptable by a specific client or
9 customer;

10 (4) assigns the worker to perform services for
11 a client or customer;

12 (5) sets the rate of pay for the worker,
13 whether or not through negotiation; and

14 (6) pays the worker directly; and

15 [~~H.-~~] I. "temporary worker" means a worker hired and
16 employed by [~~an~~] a temporary services employer to support or
17 supplement another's work force in special work situations,
18 such as employee absences, temporary skill shortages, temporary
19 provision of specialized professional skills, seasonal
20 workloads and special temporary assignments, including [~~but not~~
21 limited to] the production of motion pictures, television
22 programs and other commercial media projects; provided that if
23 a worker who is employed by a temporary services employer works
24 and should be classified in any construction class or in any
25 oil and gas well service or drilling class pursuant to

. 146811. 1

underscored material = new
[bracketed material] = delete

1 provisions of or regulations adopted under the New Mexico
2 Insurance Code, the worker shall be presumed to be a temporary
3 worker and the temporary services employer that provides the
4 worker shall comply with the provisions of the Employee Leasing
5 Act. "

6 Section 2. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.