



HOUSE OF REPRESENTATIVES

HB 2114

independent business status; declaration

Prime Sponsor: Representative Petersen, et al., LD 12

DPA Committee on Commerce

DPA Caucus and COW

X House Engrossed

OVERVIEW

HB 2114 establishes the Declaration of Independent Business Status (Declaration), which prescribes the relationship between the employer and the independent contractor.

PROVISIONS

1. Creates a new chapter of law entitled *Employment Relationships*, which outlines the criteria for a Declaration form that serves as proof of an independent contractor relationship between the employer and the contractor.
2. States that an independent contractor may assert the relationship with an employer by executing the Declaration, if both parties consistently follow its provisions.
3. Creates a rebuttable presumption of the business relationship by executing the Declaration.
4. Requires the Declaration be signed/dated by the independent contractor and that the form contain the following statements:

The contractor:

- a. Operates an independent business to provide services for the contracting party as an independent contractor.
- b. Is not an employee of the contracting party and any services or work performed do not create a right to unemployment benefits or any other benefits resulting from an employment relationship.
- c. Is not insured by the contracting party's health or worker's compensation insurance coverage.
- d. Is responsible for all tax liability, and is authorized to accept work from other business entities and individuals besides the contracting party.
- e. Acknowledges that the contracting party expects the contractor to provide services to other business entities and is not solely dependent on the contracting party.
- f. Has the right to accept or refuse requests for services by the contracting party.
- g. Reserves the right to subcontract services to qualified employees or subcontractors.
- h. Recognizes that the contracting party does not determine the time, day, method, or process to perform services; however, does have the right to enforce quality standards and deadlines to complete services.
- i. Is responsible for all required registrations and licenses to operate the business.
- j. Understands the contracting party will make payments according to the contract, but not pay a regular salary or payment.
- k. Is responsible for all tools, equipment and expenses incurred while performing the services for the contracting party.

HB 2114

1. Acknowledges that the terms and conditions of the Declaration apply to the contractor, all employees and independent contractors.
5. Acknowledges that a Declaration does not solely constitute an independent contractor status.
6. Asserts the Declaration must comply with the declaration under the worker's compensation statutes relating to an independent contractor
7. States any supervision or control exercised by a business to comply with federal, state or municipal laws, ordinances, rules or regulations may not be considered for the purposes of determining the independent contractor or employment status of any relationship.

CURRENT LAW

Although no current law exists that details the specific independent business status and relationship between an employer and a contractor, the various statutory definitions and descriptions are utilized by state agencies to determine the work relationship.

For example, [A.R.S. § 23-613.01](#) defines an *employee* as any person performing services for an employer, and subject to the direction, rule or control of the employer in both method and final result performing a job. Statute describes control as setting the employee's work hours, work location, right to perform services for other employers, use of certain tools, equipment, materials, expenses and using other workers. Statute also lists a description of individuals that do not fall into the category of *employee*, such as independent contractors, business people, agents or consultants, or those working in an independent trade, skill or occupation, including sports officials, among others.