



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
DIVISION COUNSEL

NOTICE OF INTENT TO ACT ON PROPOSED REGULATIONS

**Notice of Hearing for the Adoption of Regulations
of the Division of Industrial Relations,
Department of Business and Industry**

LCB File No. R040-17

The Division of Industrial Relations, Department of Business and Industry, State of Nevada (the "Division"), will conduct a public workshop on proposed permanent regulations necessary to implement Assembly Bill 190, chapter 105, Statutes of Nevada 2017, at page 467, now codified as NRS 618.9901 through 618.9913, inclusive

The public hearing on these proposed regulations will be conducted by videoconference on Monday, January 28, 2019 at 1:30 p.m. at the following locations:

Nevada Business Center
Division of Industrial Relations
Employee Training Room
3360 W. Sahara Avenue, 1st Floor
Las Vegas, Nevada

Division of Industrial Relations
Safety Consultation & Training Section
Training Room
4600 Kietzke Lane, Suite E-144
Reno, Nevada

Pursuant to NRS 233B.608 and 233B.609, the Division is providing the following statements pertaining to the public hearing on the proposed additions to Chapter 618 of the Nevada Administrative Code ("NAC").

The need and purpose of the proposed revisions to regulations: *The Division of Industrial Relations, Occupational Safety and Health Administration ("OSHA") may adopt regulations to carry out the provisions of sections 2 to 16, inclusive, of Assembly Bill 190, chapter 105, Statutes of Nevada 2017, at page 467, now codified at NRS 618.9901 through 618.9913, inclusive. In addition, the Division is required to adopt regulations approving the OSHA 10/30 courses for certain employees in the entertainment industry and setting forth guidelines for job-specific training to qualify as continuing education as provided in NRS 618.9909 (Section 9 of Assembly Bill 190).*

The estimated economic effect of the proposed regulations on (a) regulated businesses and (b) the public, including, stated separately: (i) adverse and beneficial effects; and (ii) immediate and long-

term effects:

(a) Regulated businesses:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on regulated businesses as the result of these regulations implementing Assembly Bill 190. The adverse effects, if any, are difficult to determine at this time. There will be no direct or indirect cost to regulated or small businesses.

The Division believes that there will be no beneficial effects, either direct or indirect, on regulated businesses as the result of these regulations implementing Assembly Bill 190.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on regulated and small businesses as a result of these regulations implementing Assembly Bill 190. There will be no direct or indirect costs to regulated or small businesses.

The Division does not anticipate any long term effects, either adverse or beneficial, on regulated and small businesses as a result of these regulations implementing Assembly Bill 190. There will be no direct or indirect costs to regulated or small businesses.

(b) The public:

(i) Adverse and beneficial effects:

The Division anticipates no adverse effects, either direct or indirect, on the public as the result of these regulations implementing Assembly Bill 190. There will be no direct or indirect cost to regulated or small businesses.

The Division believes that there will be no beneficial effects, either direct or indirect, on the public as the result of these regulations implementing Assembly Bill 190.

(ii) Immediate and long-term effects:

The Division does not anticipate any immediate effects, either adverse or beneficial, on the public as a result of these regulations implementing Assembly Bill 190. There will be no direct or indirect costs to regulated or small businesses.

The Division does not anticipate any long term effects, either adverse or beneficial, on the public as a result of these regulations implementing Assembly Bill 190. There will be no direct or indirect costs to regulated or small businesses.

The estimated cost to the Division for enforcement of the proposed regulations: *The Division does not anticipate incurring any additional cost for these proposed permanent regulations necessary to implement Assembly Bill 190, now codified at NRS 618.9901 through 618.9913, inclusive.*

The Division believes that the proposed regulation does not overlap or duplicate any existing regulation. *The proposed regulation is not required by federal law and there is no equivalent federal law.*

The proposed regulation does not establish a new fee or increase an existing fee. *The proposed regulation does not provide for a new fee or increase an existing fee payable to the Division.*

The Division invites representatives of regulated businesses and the public to attend the public hearing and/or prepare written and/or oral comments concerning the proposed regulations. Interested persons may submit written comments to Donald C. Smith, Esq., Senior Division Counsel, Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102. Written submissions must be received by the Division by January 24, 2019. If no person who is directly affected by the proposed regulation appears to make oral comments, the Division will proceed immediately to act upon any written submissions.

Persons with disabilities who require special accommodations or assistance at the public hearing must notify Kim Toledo, at the Division of Industrial Relations, Occupational Safety and Health Administration, 3360 W. Sahara Ave., Suite 200, Las Vegas, Nevada 89102, in writing or by calling (702) 486-9168 at least three (3) working days prior to the scheduled hearing date.

A copy of this notice and the proposed regulations are available at the Division's web page (<http://dir.nv.gov/OSHA/home/>), the Division's offices (400 West King, Suite 201, Carson City, Nevada; 3360 W. Sahara Ave., Suite 200, Las Vegas, Nevada; 4600 Kietzke Lane, Suite F-153, Reno, Nevada) and at the main branch of the public library of each county. Additional copies of the notice and proposed regulations will be available at the main public library, for inspection and copying by members of the public during business hours, in all counties in which an office of the Division is not maintained. This notice and the text of the proposed regulations are also in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Notice required by NRS 233B.064: Upon adoption of any regulation, the agency (the Division), if requested to do so by an interested person, either before adoption or thirty days thereafter, shall issue a concise statement or the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been posted at the Division's offices; Nevada Business Center, 3360 W. Sahara Avenue, #200 and #250, Las Vegas, Nevada; Director's Office, Department of Business and Industry, 3360 W. Sahara Avenue, Suite 425, Las Vegas, Nevada; and the Nevada State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada. In addition, this notice has been posted on the Division's Web site at: <http://dir.nv.gov/OSHA/home/>.

**PROPOSED REGULATION OF
THE DIVISION OF INDUSTRIAL RELATIONS OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R040-17

October 5, 2017

EXPLANATION – Matter in *italics* is new, matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 2, 8, 10, 16 and 17, NRS 618.295 and section 8 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467; §§3-7 and 11-15, NRS 618.295 and sections 8 and 9 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467.

A REGULATION relating to occupational safety; providing for certain health and safety training for certain employees in the entertainment industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires: (1) supervisory employees working on certain sites related to the entertainment industry to complete a 30-hour health and safety course developed by the Occupational Safety and Health Administration of the United States Department of Labor (OSHA) not later than 15 days after being hired; (2) certain other workers on such a site to complete a 10-hour course developed by OSHA not later than 15 days after being hired; and (3) those supervisory employees and workers to obtain a completion card for the applicable required course. These courses are respectively designated as the "OSHA-30 course" and the "OSHA-10 course." (Section 11 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467) Existing law also requires the Division of Industrial Relations of the Department of Business and Industry to adopt regulations to approve courses for the purposes of fulfilling these requirements. (Section 9 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467) **Section 12** of this regulation provides that OSHA-10 and OSHA-30 courses which meet or exceed guidelines issued by OSHA shall be deemed by the Division to be approved for the purposes of fulfilling these requirements. **Section 11** of this regulation requires that all courses approved by the Division be conducted and made available in a language and format understandable to each employee taking the course.

Existing law provides that a completion card expires 5 years after the date of issuance and sets forth the requirements for renewal by a supervisory employee or other worker in the entertainment industry. (Section 11 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467) **Section 13** of this regulation provides that an OSHA-10 course or OSHA-10

continuing education course and an OSHA-30 or OSHA-30 continuing education course, as applicable, satisfy the requirements for renewal of a completion card. **Section 14** of this regulation sets forth certain requirements of an employer that offers an OSHA-10 or OSHA-30 continuing education course. **Section 14** also authorizes the employer to offer those continuing education courses online if developed by, or with the assistance of, a qualified continuing education provider.

Section 15 of this regulation provides that only a trainer, as defined in section 10 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467, or a qualified continuing education course instructor may provide an OSHA-10 or OSHA-30 continuing education course. **Section 15** also sets forth the requirements for consideration by the Administrator of the Division in determining whether a person may act as a qualified continuing education provider.

Section 1. Chapter 618 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Approved OSHA-10 continuing education course” means a 5-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-10 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.*

Sec. 4. *“Approved OSHA-10 course” means a 10-hour course that is deemed approved by the Division pursuant to section 12 of this regulation.*

Sec. 5. *“Approved OSHA-30 continuing education course” means a 15-hour training course, offered to a person, that meets or exceeds one-half of the time, pro rata, of the guidelines issued by the Occupational Safety and Health Administration of the United States*

Department of Labor as they relate to the subject matter of OSHA-30 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates.

Sec. 6. *“Approved OSHA-30 course” means a 30-hour course that is deemed approved by the Division pursuant to section 12 of this regulation.*

Sec. 7. *“Qualified continuing education course instructor” means a person who possesses credentials in the field of safety that the Administrator determines to be adequate, pursuant to subsection 2 of section 15 of this regulation, to prepare the person to provide:*

- 1. Approved OSHA-10 continuing education courses; and*
- 2. Approved OSHA-30 continuing education courses.*

Sec. 8. *“Valid completion card” means an unexpired completion card issued to a person for:*

- 1. An approved OSHA-10 course; or*
- 2. An approved OSHA-30 course.*

Sec. 9. *As used in section 5 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 466, the Division interprets the term “site” to include an outdoor stage.*

Sec. 10. *As used in section 7 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 466, the Division interprets the term “worker” as not including an actor, athlete, musician, singer or other person who performs entertainment at the site.*

Sec. 11. *All courses described in sections 2 to 15, inclusive, of this regulation must be conducted and made available in a language and format that is understandable to each employee.*

Sec. 12. 1. *An OSHA-10 course, offered to a person, that meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-10 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates, shall be deemed by the Division to be an approved OSHA-10 course.*

2. An OSHA-30 course, offered to a person, that meets or exceeds the guidelines issued by the Occupational Safety and Health Administration of the United States Department of Labor as they relate to the subject matter of OSHA-30 training courses, including, without limitation, federal safety and health regulatory requirements specific to the industry in which the employer of the person participates, shall be deemed by the Division to be an approved OSHA-30 course.

Sec. 13. 1. *An employee may renew a valid completion card for an OSHA-10 course by completing an approved OSHA-10 course or approved OSHA-10 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-10 course must provide his or her employer with the valid completion card and written proof of completion of an approved OSHA-10 course or approved OSHA-10 continuing education course.*

2. An employee may renew a valid completion card for an OSHA-30 course by completing an approved OSHA-30 course or approved OSHA-30 continuing education course before the expiration of the valid completion card. An employee who has renewed a valid completion card for an OSHA-30 course must provide his or her employer with the valid completion card

and written proof of completion of an approved OSHA-30 course or approved OSHA-30 continuing education course.

Sec. 14. 1. *If an employer offers, and an employee completes, an approved OSHA-10 continuing education course or an approved OSHA-30 continuing education course, the employer shall:*

- (a) Provide to the employee written proof of completion of the course;*
- (b) On request, provide to the Division written proof of completion of the course; and*
- (c) Retain a copy of the written proof of completion of the course for at least 5 years.*

2. *An employer may offer, and an employee may complete, an approved OSHA-10 continuing education course or an approved OSHA-30 continuing education course online if the course is developed by, or with the assistance of, a qualified continuing education course instructor.*

Sec. 15. 1. *No person other than a trainer, as defined in subsection 3 of section 10 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 467, or a qualified continuing education course instructor may provide an OSHA-10 continuing education course or an OSHA-30 continuing education course.*

2. *The Administrator may determine that a person may act as a qualified continuing education course instructor if the person, without limitation:*

(a) Is authorized by the Occupational Safety and Health Administration of the United States Department of Labor as a trainer, including, without limitation, if the person has completed OSHA 501, the Trainer Course in OSHA Standards for General Industry;

(b) Has 3 years of experience in overseeing matters of occupational safety and health in the entertainment industry; or

(c) Has 2 years of experience in overseeing matters of occupational safety and health in the entertainment industry and has:

(1) A college degree in occupational safety and health; and

(2) Been designated as:

(I) A certified safety professional; or

(II) A certified industrial hygienist.

Sec. 16. 1. A worker who was hired before the effective date of this regulation shall comply with the provisions of sections 11 and 12 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at pages 467-8, by the later of:

(a) Fifteen days after the worker was hired; or

(b) The effective date of this regulation.

2. As used in this section, “worker” has the meaning ascribed to it in section 7 of Assembly Bill No. 190, chapter 105, Statutes of Nevada 2017, at page 466.

Sec. 17. This regulation becomes effective on January 1, 2018, or upon filing with the Secretary of State, whichever occurs later.