

## **2012 Amendments to Minn. Stat. § 181.723 Misclassification of Workers in the Construction Industry**

### **Purpose**

This law will assist state agencies investigate employee misclassification in the building construction industry and level the playing field for legitimate businesses by:

- Replacing the independent contractor exemption certificate program with a simplified two-year pilot project for registration of construction contractors; and
- Establishing a framework, including the longstanding nine-factor test, within which individual construction workers may be determined to be employees or independent contractors.

### **Summary of the Contractor Registration Pilot Project**

- Replaces the Independent Contractor Exemption Certificate program (ICEC) with a pilot contractor registration program.
- Pilot project begins July 1, 2012. Construction contractors, including independent contractors and business entities, will be required to be registered with the Department of Labor and Industry by September 15, 2012.
- The registration requirement does not apply to workers and businesses that are already licensed, registered or certified with DLI, or to employees.
- No fee will be charged for initial registration.
- Registration will be done online and requires information about the business and its owners and officers. This information is critical to enforcement activities of DLI, DEED, and Revenue and is the same information currently required for licensed residential building contractors, electrical contractors, and plumbing contractors.
- Registration information will be maintained on DLI web site so contractors can verify easily.
- Provides Penalties for failure to register, hiring unregistered contractors, misclassifying workers and coercing others to form a business entity. Penalty for failing to register will be forgiven if registration is achieved within 30 days.

### **Summary of Misclassification Provisions**

- Longstanding “nine factor test” is retained to establish independent contractor status.
- Business entities and their owners and officers are required to conduct business appropriately:
  - Active filing with Secretary of State, if required
  - Invoices submitted by the business entity, not individuals
  - Payments to the business entity, not individuals
  - Compliance with nine factor test
- Investigative and enforcement authority to be the same as existing DLI authority for existing construction licensing and registration.

**Read the Entire Law Here (it starts on page 12):**

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S1653.3.html&session=ls87>