

CHAPTER 288

LABOR AND INDUSTRY

SENATE BILL 04-249

BY SENATOR(S) Hillman, Entz, and Taylor;
 also REPRESENTATIVE(S) King, Cadman, Cloer, Hefley, Larson, Marshall, Ragsdale, Rhodes, Rippy, Schultheis, Welker, and Williams T.

AN ACT

CONCERNING THE DEFINITION OF AN EMPLOYER FOR PURPOSES OF THE "COLORADO WORKERS' COMPENSATION ACT" IN SITUATIONS IN WHICH A GENERAL CONTRACTOR ENGAGES OTHERS TO PERFORM WORK ON THE GENERAL CONTRACTOR'S BEHALF.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 8-41-401 (1) (a), Colorado Revised Statutes, is amended, and the said 8-41-401 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

8-41-401. Lessor contractor-out deemed employer - liability - recovery.
 (1) (a) Any person, company, or corporation operating or engaged in or conducting any business by leasing or contracting out any part or all of the work thereof to any lessee, sublessee, contractor, or subcontractor, irrespective of the number of employees engaged in such work, shall be construed to be an employer as defined in articles 40 to 47 of this title and shall be liable as provided in said articles to pay compensation for injury or death resulting therefrom to said lessees, sublessees, contractors, and subcontractors and their employees or employees' dependents, except ~~that no such person, company, or corporation shall be construed to be an employer and is not liable under articles 40 to 47 of this title.~~ AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION.

~~(f) If such lessee, sublessee, contractor, or subcontractor has complied with section 8-40-202 (2) (b) relative to such work;~~

~~(H) If the person working for such lessee, sublessee, contractor, or subcontractor is a working general partner or the sole proprietor of such lessee, sublessee, contractor, or subcontractor and is not covered under a policy of workers'~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~compensation insurance; or~~

~~(H) If the corporate officer as defined in section 8-41-202 (4) (a) or a member as defined in section 8-41-202 (4) (b) working for such lessee, sublessee, contractor, or subcontractor has executed and filed an election to reject coverage under section 8-41-202 (1):~~

(a.5) THE GENERAL ASSEMBLY HEREBY FINDS AND DETERMINES THAT THE DECISION OF THE COLORADO COURT OF APPEALS IN THE CASE OF *NEWSOM V. FRANK M. HALL & CO.*, NO. 02CA1375 (FEBRUARY 26, 2004), IN WHICH THE COURT HELD THAT AN INDEPENDENT CONTRACTOR MAY BE AN ENTITY OTHER THAN A NATURAL PERSON, DID NOT ACCURATELY REFLECT THE INTENT OF THE GENERAL ASSEMBLY WHEN IT PASSED SENATE BILL 93-132 AND SENATE BILL 95-072. THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE TERM "INDIVIDUAL", AS USED IN THIS SECTION AND IN SECTION 8-40-202, MEANS A NATURAL PERSON.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2004