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LB139

Contractor Registration Act

LB139 introduced by Senator Mark Kolterman and has been signed by Governor Pete Ricketts. LB139 caps a five-year legislative effort by the Independent Insurance Agents of Nebraska to improve Worker's Compensation Insurance coverage in Nebraska. Neb.Rev.Stat. 48-101 et seq. <https://nebraskalegislature.gov/laws/statutes.php?statute=48-101>

LB139 will become law three calendar months after the legislature adjourns, thus no later than August 31, 2019. LB 139 is designed to help improve Worker's Compensation law in Nebraska by amending the Contractor Registration Act. Neb.Rev.Stat. 48-2101 et seq. <https://nebraskalegislature.gov/laws/statutes.php?statute=48-2101> It is important to note that this registration act only applies to contractors in the construction industry and only requires them to register.

LB139 adds a declaration of coverage to the existing Nebraska Department of Labor (DoL) Contractor Registration website. <https://www.dol.nebraska.gov/Conreg> LB139 requires clear information that a registered contractor:

- (A) carries Workers Compensation insurance; or
- (B) is self-insured; or
- (C) "does not carry Workers Compensation Insurance" as a sole proprietor with no employees.

DoL has edited its website to include the addition of an affirmative declaration of no coverage. This will allow anyone to consult this public DoL website to determine the insured status of a contractor before engaging them.

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The addition of an affirmative declaration of no coverage will clarify the insured status of construction industry contractors. Selecting Option (C) creates a new legal presumption for insurance premium determination that the contractor is not eligible for workers compensation coverage in the event of a claim by that contractor.

There are penalties for contractors not truthfully complying with the Construction Registration Act. There are civil fines and criminal penalties. The DoL can apply a civil fine of \$500 for a first offense and \$5,000 for a second offense. For serious violators the Attorney General can seek as much as a Class I misdemeanor (i.e., between zero and one year and/or \$1,000); but more likely is a Class III misdemeanor (i.e., between zero and three months and/or \$500): but with each day being its own violation.

Caveat: The new provisions of LB139 do not expand the scope of who must comply and register with the CRA. LB139 only captures construction contractors. LB139 does not apply to all independent contractors.

Existing law allows sole proprietor to go bare. LB139 does not change that. However, the DoL website's registration questions will make clear that an individual independent contractor does or does not carry Worker's Compensation Insurance on him/herself.

Also unchanged are best practices. Every general contractor who engages any subcontractor (both construction industry and not construction industry) ought to discover that subcontractor's WC coverage. If the a subcontractor lacks WC coverage, then the general contractor ought to contractually require that subcontractor to purchase WC (<https://nebraskalegislature.gov/laws/statutes.php?statute=48-116>). Or, that general contractor ought to include that contractor under the general contractor's WC coverage.

It also is wise for insurance agents to inform *in writing* all contractors and subcontractors those agents serve of the new requirement of CRA.

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