



Pacific Law Journal Review of Selected Nevada Legislative

Volume 1983 | Issue 1

Article 59

1-1-1983

Employment Practices; Exclusions from Unemployment Compensation

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Recommended Citation

University of the Pacific, McGeorge School of Law, *Employment Practices; Exclusions from Unemployment Compensation*, 1983 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1983/iss1/59>

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Employment Practices; exclusions from unemployment compensation

NEV. REV. STAT. §612.— (new); §§612.118, 612.432, 612.434 (amended).

SB 238 (Committee on Commerce and Labor); 1983 STAT. Ch 259 (*Effective May 12, 1983*)

Existing law defines employment as services performed for wages or under a contract for hire.¹ Chapter 259 expands the list of existing exclusions² from the definition of employment for purposes of unemployment compensation.³ Under Chapter 259, a service will no longer fall within the definition of employment if (1) the person directly sells or solicits the sale of a product either in person or by telephone on the basis of a deposit, commission, purchase for resale or similar arrangement, or the product is to be resold in a place other than a retail store, or the sale is made to another from a home or place other than a retail store,⁴ (2) the person receives compensation or remuneration based on the amount of sales or service performed, rather than on the number of hours worked,⁵ and (3) the person performs the sale or service pursuant to a written agreement stating that the seller is not performing as an employee for the purpose of unemployment compensation eligibility.⁶ In addition, some short-term, seasonal work is excluded from the definition of employment.⁷ A full-time student who works at an organized camp for less than thirteen weeks per year,⁸ between academic years or terms⁹ will not be eligible for unemployment compensation if the camp meets certain requirements¹⁰.

1. NEV. REV. STAT. §612.065 (definition of employment).

2. *See id.* §§612.095, 612.100, 612.105, 612.110, 612.117, 612.118, 612.119, 612.120, 612.121(2), 612.125, 612.130, 612.133, 612.135, 612.140.

3. *Compare* 1983 Nev. Stat. c. 259, §§1, 5, at 600-02 with NEV. REV. STAT. §§612.095, 612.100, 612.105, 612.110, 612.117, 612.118, 612.119, 612.120, 612.121(2), 612.125, 612.130, 612.133, 612.135, 612.140.

4. 1983 Nev. Stat. c. 259, §1(1)(a)-(b), at 600.

5. *Id.* c. 259, §1(2), at 600.

6. *Id.* c. 259, §1(3), at 600.

7. *See id.* c. 259, §5, at 601; *see also id.* c. 259, §6(2), at 602 (this provision applies retroactively to services performed after December 31, 1982 until January 1, 1984).

8. *See id.* c. 259, §5(1), at 601 (the student must be enrolled in a school, college or university).

9. *Id.* (the student must have been enrolled immediately before employment and expect to be enrolled as a full-time student the next year or term subsequent to service).

10. *See id.* c. 259, §5(2)(a)-(b), at 601 (the camp must (a) be in operation for seven months or less in the calendar year of the employment and have been in operation for seven months or less in the calendar year preceding the employment or (b) have had average gross receipts for any six

Prior to the enactment of Chapter 259, employment did not include services performed by an individual under the age of twenty-two who was enrolled in an educational institution that combined academic instruction with work experience.¹¹ Chapter 259 eliminates this age limitation¹² and excludes all participants in this type of program from receiving unemployment compensation.¹³

Furthermore, existing law denies unemployment compensation benefits to some individuals who perform instructional, research, administrative or other services¹⁴ for an educational institution.¹⁵ Specifically, unemployment compensation benefits are denied during periods (1) between two successive academic years or terms,¹⁶ (2) of sabbatical leave pursuant to a personal contract,¹⁷ or (3) of vacation or recess for holiday,¹⁸ if reasonable assurances for a continuation of employment during the subsequent year or term are given.¹⁹ Chapter 259 expands this particular exclusion²⁰ by also denying benefits during the same periods to employees of governmental agencies who provide services to educational institutions.²¹ This exclusion is qualified, however, by permitting an employee to receive a retroactive payment of benefits for weeks previously claimed and denied if the employee is not offered an opportunity to continue working for the educational institution upon return.²² Finally, prior law did not exclude service in an institution of higher education from the definition of employment.²³ With the enactment of Chapter 259, employees in institutions of higher education are now excluded from the definition of employment.²⁴

months of the calendar year preceding the employment that were not more than one-third of the average gross receipts for the other six months of that year).

11. 1971 Nev. Stat. c. 607, §3, at 1350 (enacting NEV. REV. STAT. §612.118).

12. Compare NEV. REV. STAT. §612.118 (amended by 1983 Nev. Stat. c. 259, §2, at 600) with 1971 Nev. Stat. c. 607, §3, at 1350 (enacting NEV. REV. STAT. §612.118).

13. See 1983 Nev. Stat. c. 259, §2, at 600.

14. See NEV. REV. STAT. §394.041 (definition of educational services).

15. *Id.* §§612.432, 612.434.

16. *Id.* §612.434.

17. *Id.*

18. *Id.* §612.432.

19. *Id.* §§612.432, 612.434.

20. Compare *Id.* §612.432 (amended by 1983 Nev. Stat. c. 259, §3, at 600) with 1977 Nev. Stat. c. 452, §7, at 903 (enacting NEV. REV. STAT. §612.432); compare NEV. REV. STAT. §612.434 (amended by 1983 Nev. Stat. c. 259, §4, at 601) with 1977 Nev. Stat. c. 429, §20, at 843 (enacting NEV. REV. STAT. §612.434).

21. See 1983 Nev. Stat. c. 259, §§3, 4, at 600-01.

22. *Id.* c. 259, §4(3), at 601.

23. See 1977 Nev. Stat. c. 452, §7, at 903 (enacting NEV. REV. STAT. §612.432); 1981 Nev. Stat. c. 206, §4, at 396 (amending NEV. REV. STAT. §612.434).

24. Compare NEV. REV. STAT. §612.432 (amended by 1983 Nev. Stat. c. 259, §3, at 600) with 1977 Nev. Stat. c. 452, §7, at 903 (enacting NEV. REV. STAT. §612.434); compare Nev. Rev. Stat. §612.434 (amended by 1983 Nev. Stat. c. 259, §4, at 601) with 1981 Nev. Stat. c. 206, §4, at 396 (amending NEV. REV. STAT. §612.434).