

**HB 3188 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Holvey

**House Committee On Business and Labor**

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**Action Date:** 04/12/21

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 11-0-0-0

**Yeas:** 11 - Bonham, Boshart Davis, Breese-Iverson, Bynum, Clem, Evans, Fahey, Grayber, Holvey, Post, Witt

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 3/15, 4/12

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**WHAT THE MEASURE DOES:**

Modifies definition of "employer" and "worker" for purposes of workers' compensation law. Updates threshold for employment that is "casual" and thus not subject to workers' compensation laws.

**ISSUES DISCUSSED:**

- Extensive case law involving "direction and control"
- Current emphasis on employer's "direction and control" of worker
- Desire to have agencies consistently apply definition of independent contractor (ORS 670.600)
- Insurers are verifying if worker is classified properly
- Recommendation from the Management-Labor Advisory Committee

**EFFECT OF AMENDMENT:**

Modifies definition of "employer" to remove reference to direction and control. Updates threshold for employment that is "casual" and thus not subject to workers' compensation laws.

**BACKGROUND:**

Workers' compensation law requires most employers to provide their workers with workers' compensation insurance coverage; the law provides an exclusive remedy for job-related injuries and occupational diseases. A person who is paid for their work and is under the direction and control of the employer is a "subject worker," meaning they are subject to workers' compensation law. There are, however, approximately 30 statutory exemptions to the "worker" definition.

Being free from the direction and control of an employer is one factor of a four-part test to determine if a worker is an independent contractor, as provided in ORS 670.600(2). The other prongs of the four-part test are: customarily engaged in an independently established business; licensed by the Landscape Contractors Board or Construction Contractors Board, if work performed requires such a license; and is responsible for obtaining other licenses or certifications necessary to perform the work. To be deemed an independent contractor, all relevant parts of the test must be satisfied.

House Bill 3188 A modifies the definition of a worker, for purposes of workers' compensation insurance laws, to include all persons who are paid for their services other than independent contractors and those statutorily exempted. The measure updates the threshold for determining when employment is casual and thus not subject to workers' compensation laws.