

Amendment 1 to Independent Contractor Protections Ordinance (CB 120069)

Sponsor: CM Herbold

Remove licensed medical professional exemption for independent contractors, authorize the OLS Director to issue rules exempting certain classes of independent contractors, and clarify that the Director’s rulemaking is discretionary

On page 9, after line 12, amend the following Section as shown below:

14.34.010 Definitions

“Independent contractor” means a person or entity composed of no more than one person, regardless of corporate form or method of organizing the person’s business, that is hired by a hiring entity as a self-employed person or entity to provide services in exchange for compensation.

1. “Independent contractor” includes a platform gig worker.

2. “Independent contractor” does not include ~~((~~

~~1. Any)) any person duly authorized to practice law and who is engaged in the practice of law for the services at issue. ((;))~~

~~((2. Any person who is a licensed medical professional acting within the scope of that license for the services at issue; and~~

~~4. Pursuant to rules that the Director may issue, any person working in a profession that is governed by a comparable code of ethics and who is working within the scope of that profession for the services at issue.))~~

3. The Director may issue rules excluding classes of independent contractors from this definition based on the Director's determination that the class of independent contractors has adequate bargaining power in establishing their business relationships with hiring entities. The Director shall not exclude classes of independent contractors from this definition who are working in professions with workforces that are vulnerable to violations of this Chapter 14.34. When considering whether classes of independent contractors are vulnerable to violations of this Chapter, the Director may consider any number of factors, including but not limited to whether classes of independent contractors work in industries prone to misclassification, have limited English proficiency, or are unlikely to volunteer information about violations.

On page 23, after line 12, amend the following Section as shown below:

14.34.125 Rulemaking authority

The Director is authorized to administer and enforce this Chapter 14.34. (~~The Director shall exercise all responsibilities under this Chapter 14.34 pursuant to rules and regulations developed under Chapter 3.02.~~) The Director is authorized to promulgate, revise, or rescind rules and regulations deemed necessary, appropriate, or convenient to administer, evaluate and enforce the provisions of this Chapter 14.34 pursuant to Chapter 3.02, providing affected entities with due process of law and in conformity with the intent and purpose of this Chapter 14.34. Any guidelines or rules promulgated by the Director shall have the force and effect of law and may be relied on by hiring entities, independent contractors, and other parties to determine their rights and responsibilities under this Chapter 14.34.

Renumber sections and correct any internal references accordingly.

Effect: This amendment would (1) remove the exemption for licensed medical professionals, (2) authorize the Office of Labor Standards Director to issue rules exempting certain classes of independent contractors, and (3) clarify that the Director's rulemaking is discretionary.