

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; REQUIRING AS A  
CONDITION OF ELIGIBILITY THAT TEMPORARY EMPLOYEES CONTACT A  
TEMPORARY SERVICES EMPLOYER FOR A NEW ASSIGNMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 51-1-52.1 NMSA 1978 (being Laws  
1987, Chapter 350, Section 1) is amended to read:

"51-1-52.1. LEASING EMPLOYER--TEMPORARY SERVICES  
EMPLOYER.--

A. As used in this section:

(1) "leasing employer" means an employing  
unit that contracts with clients or customers to supply  
workers to perform services for the client or customer and  
performs the following functions:

(a) retains the right to hire and  
terminate workers; and

(b) pays the worker from its own  
account; and

(2) "temporary services employer" means an  
employing unit that contracts with clients or customers to  
supply workers to perform services for the client or customer  
and performs all of the following functions:

(a) negotiates with clients or  
customers for such matters as time, place, type of work,

working conditions, quality and price of the services;

(b) determines assignments of workers, even though workers retain the right to refuse specific assignments;

(c) retains the authority to reassign or refuse to reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer;

(d) assigns the worker to perform services for a client or customer;

(e) sets the rate of pay for the worker, whether or not through negotiation; and

(f) pays the worker directly.

B. Notwithstanding any other provision of the Unemployment Compensation Law, if an individual or entity contracts to supply an employee to perform services for a client or customer and is a leasing employer or a temporary services employer, the individual or entity is the employer of the employee who performs the services. If an individual or entity contracts to supply an employee to perform services for a client or customer and is not a leasing employer or temporary services employer, the client or customer is the employer of the employee who performs the services. An individual or entity that contracts to supply an employee to perform services for a customer or client and pays wages to

the employee for the services, but is not a leasing employer or a temporary services employer, pays the wages as the agent of the employer.

C. Notwithstanding any other provision of the Unemployment Compensation Law, in circumstances which are in essence the loan of an employee from one employer to another employer wherein direction and control of the manner and means of performing the services transfers to the employer to whom the employee is loaned, the loaning employer shall continue to be the employer of the employee if the loaning employer continues to pay remuneration to the employee, whether or not reimbursed by the other employer. If the employer to whom the employee is loaned pays remuneration to the employee for the services performed, that employer shall be considered the employer for the purpose of any remuneration paid to the employee, regardless of whether the loaning employer also pays remuneration to the employee.

D. A temporary services employer shall provide an employee, at the time of hiring, with written notice that the employee is required to contact the temporary services employer for reassignment upon the completion of an assignment and that failure to do so may result in denial of unemployment benefits.

E. If an employee of a temporary services employer has received the written notice pursuant to

Subsection D of this section and fails without good cause to contact the temporary services employer upon completion of an assignment, the employee shall be deemed to have voluntarily left employment without good cause in connection with his employment for purposes of Section 51-1-7 NMSA 1978."