

By: King of Parker

H.B. No. 736

A BILL TO BE ENTITLED

AN ACT

relating to the treatment of a landman as an independent contractor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 201.077, Labor Code, is amended to read as follows:

Sec. 201.077. SERVICE BY LANDMAN. (a) In this subtitle, "employment" does not include service performed for a private for-profit person by an individual as a landman if:

(1) the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals;

(2) substantially all remuneration, paid in cash or otherwise, for the performance of the service is directly related to the completion by the individual of the specific, contracted-for tasks, rather than to the number of hours worked by the individual; and

(3) the service performed by the individual is performed under a written contract between the individual and the person for whom the service is performed that provides that the individual is to be treated as an independent contractor and not as an employee with respect to the service provided under the contract.

1 (b) A contract for a service described by Subsection (a)(1)
2 to be performed by an individual as a landman does not constitute
3 employment for purposes of this subtitle, and the landman shall be
4 considered an independent contractor, if:

5 (1) the contract specifically states that:

6 (A) the landman is working as an independent
7 contractor; and

8 (B) the landman's employer does not determine the
9 means or methods of the work being performed; and

10 (2) the landman's compensation for the contracted
11 service is directly related only to the performance of the service.

12 SECTION 2. Section [151.0048](#), Tax Code, is amended by adding
13 Subsection (b-2) to read as follows:

14 (b-2) "Real property service" does not include a service
15 listed under Subsection (a) if the service is performed by a
16 landman:

17 (1) whose contract specifically states that:

18 (A) the landman is working as an independent
19 contractor; and

20 (B) the landman's employer does not determine the
21 means or methods of the work being performed; and

22 (2) whose compensation for the contracted service is
23 directly related only to the performance of the service.

24 SECTION 3. The amendments made by this Act are a
25 clarification of existing law and do not imply that existing law may
26 be construed as inconsistent with the law as amended by this Act.

27 SECTION 4. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2015.