

INDUSTRY ALERT - PLEASE TAKE ACTION!

We have a chance right now to correct the Workers' Compensation Law as it pertains to the Harness Racing Industry. The Empire State Harness Horsemen's Alliance (ESHHA) has collectively retained counsel and drafted the necessary language to fix the problems within the current law and persuaded the State Assembly and Senate to introduce our legislative changes. These changes are now embodied in bill numbers are A 10309 and S 7072.

The rest is up to you and everyone else involved in our industry. You must contact your local Assemblyman/Assemblywoman and your local State Senator by letter, e-mail, fax, or phone. This is not a high priority item in Albany which is why they must be contacted by large numbers of people. Ask your family, friends, neighbors, those in any groups to which you belong to join in and write or call. We have enclosed a list of local Assembly and Senate members. If you need help locating your Legislator, please contact our office.

We have submitted a proposal that adds the following five exemptions to the existing Workers' Compensation Law:

1. Catch Drivers
2. Temporary Designated Trainers
3. Shippers
4. Farriers
5. Veterinarians

If these exemptions are approved, Catch Drivers now by regulation independent contractors, would be so by statute, and their earnings would not be added to your payroll for Workers' Compensation premium assessments. Temporary designated Trainers would no longer be assessed premiums for Shippers, Farriers, and Veterinarians as they would also now be statutorily considered Independent Contractors and their fees could not be added to your payroll.

When contacting your State Legislator, some of the points you should consider mentioning are:

1. Under New York Law an employee is a person who contracts to work for an employer and is under the employer's control with respect to the results provided and the means used to achieve the results.
2. A person who works for another, subject to less extensive control is an "Independent Contractor".
3. To establish the presence or absence of control, typical factors to be considered are:

- a. The employer's control over the time, place and method of the worker's performance.
- b. Whether the employer furnished equipment, tools or supplies used by the worker..
- c. Whether the worker received a salary from the employer.
- d. Whether the employer withholds taxes or merely pays commissions.
- e. Whether the employer reimburses the worker's expenses.
- f. Whether the employer sets the worker's rate.
- g. Whether the employee restricts the worker's performance of services for others.

All of our proposed exemptions fall outside of the legal employer-employee relationship **definition**. The **Catch Driver** is free to accept or decline requests to drive horses; furnishes his/her own equipment; and pays his/her own expenses. The Designated Trainer asserts no meaningful control over the services being provided by the Groom; has no financial or meaningful employment relationship with the Groom; provides no equipment or supplies to the Groom, and does not compensate the Groom.

The Shipper, Farrier and Veterinarian all are compensated pursuant to a negotiated fee and such fee is not related to hours worked; they are all free to provide services to customers of their choice; all are responsible for their own expenses and equipment; and all are free to terminate services at any time.

Don't use it all; use your own experiences with Workers' Compensation nightmares if you've had any. Concentrate on Drivers fees, or Designated Trainers, or Shippers, Farriers, or Veterinarians. Keep it simple and concentrate on the difference between employees and independent contractors. Please do your part. Let's stop the State Insurance Fund from winding up with your hard earned dollars. We may never have this chance again.

REMEMBER, ask your legislators to support bills:

A 10309 and S 7072

New York State Government

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