

A BILL FOR AN ACT

To amend 3 CMC, Div. 4, Section 4437 to add a new subsection (m) allowing assignment of nonresident workers to perform substantially similar services or labor outside the worker's original job classification, and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Findings. Non-resident businesses which require their own employees be present at certain phases of production or service contracts by CNMI businesses require that their employees, including their non-resident employees, be allowed entry into the CNMI for these special industry requirements. It is necessary to immediately provide such non-resident employees or foreigners businesses special entry permits for the continued and uninterrupted business operations of CNMI businesses. In order to provide for this continued and uninterrupted business operation it is necessary to provide a special category for a 180-day Special Entry Permit and establish the criteria for the issuance of such permits.

Section 2. Intent. It is the intent of the Legislature to remove unreasonable bureaucratic or regulatory obstacles and allow the more efficient use and employment of alien labor, thus achieving a sustainable and equitable balance between resident and alien labor. Additionally, it is the intent of this legislation to allow workers to be assigned to different jobs in the same occupational category, as defined in 3 CMC 4412 (k), as the employees' original contract.

Section 3. Amendment. 3 CMC, Div. 4, Section 4437 is hereby amended to add a new subsection (m) to read as follows:

(m) An employer may assign an employee to perform any services or labor outside the employee's job classification; provided that such assignment is within the scope of employer's business, is not prohibited by statute, and is in the same occupational category, as defined in 3 CMC 4412 (k), as the employee's original

contract. Such assignment shall not affect any terms or conditions of the employee's original employment contract.

Section 4. Amendment. Title 3, Division 4, Chapter 3, Article 4 of the Commonwealth Code is hereby amended by adding a new subsection (j) of Section 4331 to read as follows:

(j) Special Industry Entry Permit. A 180-day Special Industry Entry Permit may be issued to a non-resident individual upon application to the Secretary of Labor and Immigration only upon meeting all of the following requirements:

(1) That the non-resident individual is employed or will be employed by a foreign resident business who does not have a substantial physical presence in the CNMI and is not required to obtain a CNMI business license; and

(2) That the foreign resident business has a direct and legitimate business relationship with an established licensed and bonafide CNMI business activity; and

(3) That the presence of the affected non-resident individual employee is absolutely necessary in carrying-out the business objective of the foreign resident business; and

(4) Without the presence of such foreign resident business employee, the business relationship between the foreign resident business and the CNMI resident business would not be consummated.

For purposes of this subsection, the term Foreign Resident Business means any person who does not have an active trade or business in the CNMI, is not a resident of the CNMI, and is not required to obtain a CNMI business license.

Section 5. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 6. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any

liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 7. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Jesus T. Attao
JESUS T. ATTAO
Acting Speaker
House of Representatives

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 21st day of December, 1998

/s/ Jesus R. Sablan
~~PEDRO P. TENORIO~~ **JESUS R. SABLAN**
Acting Governor
Commonwealth of the Northern Mariana Islands