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# Bill Restricting Employee Leasing to Hit Businesses Hard

By Alexander Bratersky

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The sponsors of the legislation argue that it will protect workers' rights. **D. Abramov**

Amendments to the Labor Code restricting employee leasing might hit hard Russian companies and Western firms working in the country and deprive the budget of billions of rubles.

Employee leasing, also known as joint employment, is a type of outsourcing in which an employer transfers personnel management tasks, such as benefits, payroll and workers' compensation, to another company, called a professional employer organization.

The controversial amendments to the Labor Code, passed by the State Duma in the key second reading in early May, were supported by labor unions, which say that the legislation will help workers to feel more secure and provide them with benefits.

The amendments were drafted by United Russia heavyweight Andrei Isayev, a former union

leader. Under the legislation, companies that outsource personnel to professional employee organizations would still have to sign labor contracts with such employees.

The legislation also gives more power to labor inspectors to check employee leasing arrangements and introduces fines ranging from 50,000 rubles ($1,500) to 100,000 rubles ($3,117) for companies that failed to sign labor contracts with employees.

### Help for Unions

Many companies that outsource employees in Russia either sign contracts of service with them or do not sign any contracts at all. Contracts of service, unlike labor contracts, do not stipulate any benefits or pension plans.

"Outsourced workers are not union members and lack opportunities to defend their labor rights," United Russia Deputy Mikhail Tarasenko, a co-sponsor of the amendments, said in December 2012.

Tarasenko was echoed by Boris Kagarlitsky, head of the Institute for Globalization, who said current flaws in labor law allow employers to escape responsibility for temporary workers.

"If I were employed by a factory as a temporary worker and I were hit by a brick, it is not clear who would be responsible. You can go to court, but you might not win," Kagarlitsky said.

The amendments could improve conditions for temporary workers, but this will only happen if the government is interested in enforcing them, he said.

### A Response to the Magnitsky Act?

Though Isayev argues that the amendments were aimed at protecting workers' rights, he said in December that they were also a response to the U.S. Magnitsky Act.

The act, passed in 2012, was aimed against Russian officials suspected of causing the death of lawyer Sergei Magnitsky in detention in 2009.

He said the Russian legislation on employee leasing would result in labor unions promoting the adoption of similar laws in Western countries.

"The decision to ban employee leasing in one of the G20 countries will create a chain reaction, with trade unions in developed countries pushing similar laws," Isayev said at a panel discussion devoted to the amendments.

The amendments were passed in the second reading only after the adoption of the Magnitsky Act, despite having been submitted to the State Duma as early as in 2010 and approved in the first reading in 2011.

Though the law was drafted by United Russia, several Cabinet ministers, including Labor Minister Maxim Topilin, were not satisfied with some of the provisions. Topilin said in May that the legislation needed to be revised.

Alexander Leonov, an expert advising the State Duma's Labor Committee, said Monday that

the draft would be considered in the second reading again and revised.

"We are currently having consultations with the government on that matter," he said.

### Billions Lost

The amendments have been criticized by leading industry players. Julia Sakharova, president of the Association of Personnel Consultants, said the budget might lose up to 11 billion rubles because of the amendments, since they will force companies to stop honoring work-related formalities.

She said 7.2 billion rubles of this amount would be lost because companies engaged in personnel leasing would stop paying value added tax.

Michael Germershausen, managing director of Antal Russia, said in a column written for Forbes Russia in 2010 that 70,000 to 10,000 people could lose their jobs because of the amendments.

Vladimir Lazarev, CEO of human resource consulting firm Manpower Group Russia, said the amendments will have a "negative effect on the economy."

"Financial losses will be suffered not only by outsourcing companies but also by companies that hire seasonal labor", Lazarev said.

Valery Martsinovich, head of management consulting company Hay Group's branch in Eastern Europe, said that companies that outsource employee management tasks would be forced to look for other solutions to stay competitive.

"Instead of outsourcing cashiers, why not buy a cash register service from another company?" Martsinovich said, adding that many companies would have to switch to illegal forms of employment.

Martisinovich said legislators should look to Australia as an example of high-quality employee leasing, which is widespread in the country's mining industry and allows it to keep a low unemployment rate of 5 percent.

Martsinovich said that Russia's main problem is not employee leasing but the quality of companies that provide such services.

"They shouldn't just use people, they should operate human capital effectively," Martsinovich said, adding that most outsourcing companies mostly offer personnel engaged in simple manual labor, such as warehouse workers.

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