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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **2250**

04/21/2015 Authored by Johnson, S.,
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to workers' compensation; modifying trucking and messenger/courier
1.3 industries; amending Minnesota Statutes 2014, section 176.043.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2014, section 176.043, is amended to read:

1.6 **176.043 TRUCKING AND MESSENGER/COURIER INDUSTRIES;**
1.7 **INDEPENDENT CONTRACTORS.**

1.8 In the trucking and messenger/courier industries, an operator of a car, van, truck,
1.9 tractor, or truck-tractor that is licensed and registered by a governmental motor vehicle
1.10 agency is an employee unless each of the following factors is present, and if each factor is
1.11 present, the operator is an independent contractor:

1.12 (1) the individual owns the equipment or holds it under a bona fide lease arrangement;

1.13 (2) the individual is responsible for the maintenance of the equipment;

1.14 (3) the individual is responsible for the operating costs, including fuel, repairs,
1.15 supplies, vehicle insurance, and personal expenses. The individual may be paid the
1.16 carrier's fuel surcharge and incidental costs, including, but not limited to, tolls, permits,
1.17 and lumper fees;

1.18 (4) the individual is responsible for supplying the necessary personal services
1.19 to operate the equipment;

1.20 (5) the individual's compensation is based on factors related to the work performed,
1.21 such as a percentage of any schedule of rates, and not on the basis of the hours or time
1.22 expended;

2.1 (6) the individual ~~substantially~~ controls the means and manner of performing the
2.2 services, in conformance with regulatory requirements and specifications of the shipper;
2.3 ~~and~~

2.4 (7) the individual can perform services for other persons or entities and use the
2.5 individual's owned or leased equipment to perform any such services;

2.6 (8) the individual is not required to enter into an exclusive arrangement with one
2.7 person or entity either by signing an exclusivity agreement or entering into a contract or
2.8 agreement that includes an exclusivity provision; and

2.9 ~~(7)~~ (9) the individual enters into a written contract that specifies the relationship to
2.10 be that of an independent contractor and not that of an employee.