A bill for an act

relating to unemployment compensation; eliminating an exception to the general rule for determining independent contractor status; requiring certain audit activities; requiring a report; amending Minnesota Statutes 2007 Supplement, section 268.035, subdivision 25b.

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

Section 1. Minnesota Statutes 2007 Supplement, section 268.035, subdivision 25b, is amended to read:

Subd. 25b. **Trucking industry/independent contractors.** In the trucking industry, an owner-operator of a vehicle that is licensed and registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory agency is an independent contractor, and is not considered an employee, while performing services in the operation of the truck only if each of the following factors is present:

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

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

(3) the individual bears the principal burdens of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road;

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

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

(6) the individual enters into a written contract that specifies the relationship to be that of an independent contractor and not that of an employee.

This subdivision does not apply to parcel delivery drivers who deliver shipments less than 250 pounds per parcel.

EFFECTIVE DATE. This section is effective October 1, 2008.

Sec. 2. **UNEMPLOYMENT COMPENSATION AUDITS.**

The commissioner of employment and economic development shall conduct sufficient audits of trucking industry employers to determine if there is a pattern of improper classification of owner-operators as independent contractors. The commissioner shall, in addition to any other audits, target audit companies that have been found by courts and regulators in other jurisdictions to have improperly classified owner-operators as independent contractors either in connection with unemployment compensation laws or other laws. The commissioner shall report on the findings of the audits by October 1, 2010, to the chairs of the standing committees of the senate and house of representatives having jurisdiction over unemployment compensation issues.

EFFECTIVE DATE. This section is effective October 1, 2008, and expires June 30, 2010.