

1.1 A bill for an act

1.2 relating to employment; regulating the employment status of certain truckers
1.3 for the purpose of unemployment compensation and workers' compensation;
1.4 amending Minnesota Statutes 2008, section 268.035, subdivision 25b; proposing
1.5 coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota
1.6 Rules, parts 5224.0290; 5224.0291; 5224.0292.

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

1.8 Section 1. **[176.043] TRUCKING INDUSTRY; INDEPENDENT**
1.9 **CONTRACTORS.**

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

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

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

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

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

1.22 (5) the individual's compensation is based on factors related to the work performed,
1.23 such as a percentage of any schedule of rates, and not on the basis of the hours or time
1.24 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 enters into a written contract that specifies the relationship to be
2.5 that of an independent contractor and not that of an employee.

2.6 Sec. 2. Minnesota Statutes 2008, section 268.035, subdivision 25b, is amended to read:

2.7 Subd. 25b. **Trucking industry/independent contractors.** In the trucking industry
2.8 or messenger/courier industries, an ~~owner-operator~~ operator of a vehicle that is licensed
2.9 and registered as a truck, tractor, ~~or truck-tractor,~~ or messenger/courier by a governmental
2.10 motor vehicle regulatory agency is an ~~independent contractor, and is not considered an~~
2.11 employee, while performing services in the operation of the truck only if employee, unless
2.12 each of the following factors is present and if each factor is present, the operator is an
2.13 independent contractor:

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

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

2.16 (3) the individual ~~bears the principal burdens of~~ is responsible for the operating
2.17 costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses ~~while~~
2.18 ~~on the road.~~ The individual may be paid the carrier's fuel surcharge and incidental costs,
2.19 including but not limited to, tolls, permits, and lumper fees;

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

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

2.25 (6) the individual enters into a written contract that includes billing and payment
2.26 procedures, and specifies the relationship to be that of an independent contractor and not
2.27 that of an employee; and

2.28 (7) the individual substantially controls the means and manner of performing the
2.29 services, in conformance with regulatory requirements and specifications of the shipper.

2.30 Sec. 3. **REPEALER.**

2.31 Minnesota Rules, parts 5224.0290; 5224.0291; and 5224.0292, are repealed.