

1.1 A bill for an act

1.2 relating to employment; providing standard definition of independent contractor
1.3 for truck driver-operators for purposes of workers' compensation, unemployment
1.4 compensation, and income taxation; amending Minnesota Statutes 2008, sections
1.5 268.035, subdivision 25b; 290.92, by adding a subdivision; proposing coding
1.6 for new law in Minnesota Statutes, chapter 176; repealing Minnesota Rules,
1.7 parts 5224.0290; 5224.0291.

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

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

1.10 **CONTRACTORS.**

1.11 In the trucking industry, an owner-operator of a vehicle that is licensed and
1.12 registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory
1.13 agency is an independent contractor for purposes of this chapter, not an employee, while
1.14 performing services in the operation of the vehicle, if each of the following factors are
1.15 substantially present:

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

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

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

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;

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2.1 (6) the individual generally determines the details and means of performing the
2.2 services, in conformance with regulatory requirements, operating procedures of the
2.3 carrier, and specifications of the shipper; 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
2.8 industry, an owner-operator of a vehicle that is licensed and registered as a truck, tractor,
2.9 or truck-tractor by a governmental motor vehicle regulatory agency is an independent
2.10 contractor for purposes of this chapter, and is not considered an employee, while
2.11 performing services in the operation of the ~~truck-only~~ vehicle, if each of the following
2.12 factors ~~is~~ are substantially present:

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

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

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

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

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

2.22 (6) the individual generally determines the details and means of performing the
2.23 services, in conformance with regulatory requirements, operating procedures of the
2.24 carrier, and specifications of the shipper; and

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

2.27 Sec. 3. Minnesota Statutes 2008, section 290.92, is amended by adding a subdivision
2.28 to read:

2.29 Subd. 32. **Truck driver-owner; independent contractor.** In the trucking industry,
2.30 an owner-operator of a vehicle that is licensed and registered as a truck, tractor, or
2.31 truck-tractor by a governmental motor vehicle regulatory agency is an independent
2.32 contractor for purposes of this chapter, not an employee, while performing services in the
2.33 operation of the vehicle, if each of the following factors are substantially present:

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

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

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

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

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

3.9 (6) the individual generally determines the details and means of performing the
3.10 services, in conformance with regulatory requirements, operating procedures of the
3.11 carrier, and specifications of the shipper; and

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

3.14 Sec. 4. **REPEALER.**

3.15 Minnesota Rules, parts 5224.0290; and 5224.0291, are repealed.