

HOUSE BILL 539

By Howell

AN ACT to amend Tennessee Code Annotated, Title 50,  
relative to the definition of employee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-2-111, is amended by deleting the section and substituting instead the following:

(a) This chapter only applies to an individual if the individual performs services for an employer for wages and the services performed by the individual qualify as an employer-employee relationship with the employer under the twenty-factor test found in Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296, or subsequent guidance.

(b) Notwithstanding subsection (a), this chapter does not apply to an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier doing an interstate business while engaged in interstate commerce regardless of whether the common law relationship of master and servant exists.

SECTION 2. Tennessee Code Annotated, Section 50-3-103, is amended by deleting subdivision (7) and substituting instead the following:

(7) "Employee" means an individual who performs services for an employer for wages under a contract of hire if the services performed by the individual qualify as an employer-employee relationship with the employer under the twenty-factor test found in Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296, or subsequent guidance, including minors, whether lawfully or unlawfully employed, and persons in

executive positions, and includes county, metropolitan, and municipal government employees;

SECTION 3. Tennessee Code Annotated, Section 50-6-102(12)(D), is amended by deleting subdivision (i) and substituting instead the following:

(i) In a work relationship, in order to determine whether an individual is an "employee," or whether an individual is a "subcontractor" or an "independent contractor," an individual who performs services for an employer for wages is an employee of the employer for purposes of this chapter if the services performed by the individual qualify as an employer-employee relationship with the employer under the twenty-factor test found in Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296, or subsequent guidance; and

SECTION 4. Tennessee Code Annotated, Section 50-7-207, is amended by deleting subdivision (b)(2)(B) and substituting instead the following:

(B) Any individual who performs services for an employer for wages if the services are performed by the individual qualify as an employer-employee relationship with the employer under the twenty-factor test found in Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296, or subsequent guidance;

SECTION 5. Tennessee Code Annotated, Section 50-7-207, is amended by deleting subdivision (b)(2)(C).

SECTION 6. Tennessee Code Annotated, Section 50-7-207(e), is amended by deleting subdivisions (1)-(3) and substituting instead the following:

(1) Services performed by an individual who provides services as a leased-operator or an owner-operator of a motor vehicle or vehicles under contract to a common carrier conducting an interstate business while engaged in interstate commerce are deemed to be an excluded service for the purposes of this section, regardless of whether the common law relationship of master and servant exists; except, that this subdivision (e)(1) does not apply to services performed under subdivision (b)(3) or (b)(4); and

(2) It is the legislative intent that no elected official shall be eligible for benefits based upon service as an elected official.

SECTION 7. Tennessee Code Annotated, Section 50-9-103, is amended by deleting subdivision (9) and substituting instead the following:

(9) "Employee" means any individual who performs services for a covered employer for wages if the services performed by the individual qualify as an employer-employee relationship with the covered employer under the twenty-factor test found in Internal Revenue Service Revenue Ruling 87-41, 1987-1 C.B. 296, or subsequent guidance;

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.