

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 205

Short Title: WC/Truck Drivers' Status. (Public)

Sponsors: Senators B. Jackson and Brown (Primary Sponsors).

Referred to: Rules and Operations of the Senate.

March 10, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE WORKERS' COMPENSATION ACT CONCERNING THE
3 STATUS OF TRUCK DRIVERS AS EMPLOYEES OR INDEPENDENT
4 CONTRACTORS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 97-19.1 reads as rewritten:

7 "§ 97-19.1. **Truck, tractor, or truck tractor trailer driver's status as employee or**
8 **independent contractor.**

9 (a) An individual in the interstate or intrastate carrier industry who operates a truck,
10 tractor, or truck tractor trailer ~~licensed by a governmental motor vehicle regulatory agency for a~~
11 motor carrier as defined in G.S. 20-4.01(21b) may be an employee or an independent contractor
12 under this Article dependent upon the application of the common law test for determining
13 employment status.

14 Any principal contractor, intermediate contractor, or subcontractor, irrespective of whether
15 such contractor regularly employs three or more employees, who contracts with an individual
16 in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer
17 ~~licensed by the United States Department of Transportation for a motor carrier as defined by~~
18 G.S. 20-4.01(21b) and who has not secured the payment of compensation in the manner
19 provided for employers set forth in G.S. 97-93 for himself personally and for his employees
20 and subcontractors, if any, shall be liable as an employer under this Article for the payment of
21 compensation and other benefits on account of the injury or death of the independent contractor
22 and his employees or subcontractors due to an accident arising out of and in the course of the
23 performance of the work covered by such contract.

24 (b) Notwithstanding subsection (a) of this section, a principal contractor, intermediate
25 contractor, or subcontractor shall not be liable as an employer under this Article for the
26 payment of compensation on account of the injury or death of the independent contractor if the
27 principal contractor, intermediate contractor, or subcontractor (i) contracts with an independent
28 contractor who ~~is an individual licensed by the United States Department of Transportation and~~
29 owns or leases the vehicle providing service, (ii) ~~the independent contractor personally is~~
30 operating the vehicle solely pursuant to that license, operates or is responsible for hiring or
31 engaging and paying personnel who operate the vehicle, and (iii) the independent contractor is
32 covered under an occupational accident policy either issued to the independent contractor or
33 motor carrier.

34 (c) A motor carrier and an independent contractor meeting the criteria contained in
35 subsection (b) of this section may, if mutually agreed to by the independent contractor and
36 motor carrier in writing, provide that the independent contractor and any of the independent



1 contractor's employees be covered by the motor carriers' workers' compensation insurance
2 policy or self-insurance and that the independent contractor and any of the independent
3 contractor's employees would be deemed employees of the motor carrier for purposes of
4 workers' compensation only. The motor carrier may charge the independent contractor for any
5 agreed upon premiums or, if self-insured, for any equitable assessment for such coverage. The
6 agreement shall not affect the independent contractor status of the independent contractor for
7 any purpose other than for workers' compensation.

8 (d) For purposes of this section, the term "occupational accident insurance" means the
9 type of insurance policy obtained by independent contractor owners operators in the trucking
10 industry that includes the following benefit categories: (i) temporary total disability type wage
11 replacement benefit, (ii) permanent disability or impairment benefit, (iii) a medical expense
12 payment benefit, and (iv) a death benefit. The occupational accident insurance policy may be
13 issued directly to the independent contractor owner operator or issued as a master policy for
14 which the motor carrier may charge the independent contractor owner operator an equitable
15 sum for the coverage.

16 (e) To satisfy the requirements of this section, any occupational accident policy or
17 workers' compensation policy must be purchased from an insurance company having an AM
18 Best "A" rating.

19 ~~(e) The principal contractor, intermediate contractor, or subcontractor may insure any~~
20 ~~and all of his independent contractors and their employees or subcontractors in a blanket~~
21 ~~policy, and when insured, the independent contractors, subcontractors, and employees will be~~
22 ~~entitled to compensation benefits under the blanket policy.~~

23 ~~A principal contractor, intermediate contractor, or subcontractor may include in the~~
24 ~~governing contract with an independent contractor in the interstate or intrastate carrier industry~~
25 ~~who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle~~
26 ~~regulatory agency an agreement for the independent contractor to reimburse the cost of~~
27 ~~covering that independent contractor under the principal contractor's, intermediate contractor's,~~
28 ~~or subcontractor's coverage of his business."~~

29 **SECTION 2.** This act is effective when it becomes law.