

1 S.82

2 Introduced by Senators Sirotkin, Ayer, Lyons, and MacDonald

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; unemployment insurance; employee
6 misclassification

7 Statement of purpose of bill as introduced: This bill proposes to create an
8 interagency commission to investigate and evaluate the problem of employee
9 misclassification in Vermont, including its impacts on workers' compensation
10 rates, unemployment insurance contributions, and State tax revenues.

11 An act relating to establishing the Vermont Commission on Employee
12 Misclassification

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 712 is added to read:

15 § 712. VERMONT COMMISSION ON EMPLOYEE

16 MISCLASSIFICATION; REPORT

17 (a) Legislative purpose. The General Assembly deems it prudent to
18 establish a permanent and formal mechanism to ensure collaboration and
19 consultation among State agencies and departments for the purpose of reducing
20 employee misclassification and its associated harm to Vermont's

1 unemployment insurance and workers' compensation systems, State tax
2 revenues, workers, and law-abiding businesses.

3 (b) Definition. As used in this section, "employee misclassification" means
4 improperly classifying employees as independent contractors.

5 (c) Creation and purpose. The Vermont Commission on Employee
6 Misclassification is created in the Department of Labor to:

7 (1) investigate and evaluate the problem of employee misclassification
8 with respect to payroll taxes, occupation safety, unemployment insurance, and
9 workers' compensation;

10 (2) develop and implement strategies to improve interagency
11 cooperation to address employee misclassification; and

12 (3) recommend legislative, regulatory, and administrative measures to
13 reduce the frequency of employee misclassification.

14 (d) Membership. The Commission shall be composed of the following
15 11 members:

16 (1) the Commissioner of Labor or designee;

17 (2) the Commissioner of Financial Regulation or designee;

18 (3) the Commissioner of Taxes or designee;

19 (4) the Commissioner of Buildings and General Services or designee;

20 (5) the Attorney General or designee;

21 (6) the Secretary of Transportation or designee;

1 (7) the Secretary of Human Services or designee;

2 (8) the Secretary of Commerce and Community Development or
3 designee;

4 (9) the Commissioner of Liquor Control or designee;

5 (10) a member of the House of Representatives, who shall be appointed
6 by the Speaker of the House and shall serve until the beginning of the
7 biennium immediately following the one in which the member is
8 appointed; and

9 (11) a member of the Senate, who shall be appointed by the Committee
10 on Committees and shall serve until the beginning of the biennium
11 immediately following the one in which the member is appointed.

12 (e) Duties. The Commission shall have the following duties:

13 (1) evaluate the current practices, policies, and procedures employed by
14 State agencies and departments in relation to the monitoring, investigation, and
15 enforcement of employee misclassification, and recommend measures to
16 improve the monitoring, investigation, and enforcement of employee
17 misclassification;

18 (2) evaluate Vermont's laws and regulations related to the classification
19 of employees and recommend legislative and regulatory changes to reduce the
20 frequency and improve the enforcement of employee misclassification;

1 (3) evaluate existing reporting and complaint mechanisms employed by
2 State agencies and departments in relation to employee misclassification, and
3 recommend specific measures that agencies and departments can implement to
4 facilitate the filing of complaints and the identification of potential violators of
5 the requirements for classifying employees in Vermont;

6 (4) identify barriers to information sharing among State agencies and
7 departments in relation to employee misclassification, and recommend
8 legislative, regulatory, programmatic, and administrative changes to improve
9 such information sharing;

10 (5) review templates for State contracts and grant applications and
11 recommend changes to ensure that contractors for State projects and recipients
12 of State grants comply with the requirements for classifying employees in
13 Vermont;

14 (6) develop, implement, and revise as necessary an outreach campaign
15 to educate and inform employers, workers, and the general public about the
16 requirements for classifying employees in Vermont and the costs of employee
17 misclassification;

18 (7) collaborate with businesses, labor, and other stakeholders to develop
19 strategies to reduce the frequency of employee misclassification;

20 (8) ensure that State agencies and departments are engaged in timely
21 enforcement of instances of employee misclassification;

1 (9) ensure that information regarding penalties imposed for instances of
2 employee misclassification, including related debarment periods, are posted to
3 a website accessible to the general public, so long as the provision of such
4 notice is not otherwise prohibited by law; and

5 (10) analyze the actual and projected additional tax revenue and
6 unemployment insurance contributions, as well as the actual and projected
7 reduction in workers' compensation premiums and costs resulting from
8 recommendations made by, and any actions taken by, the Commission
9 pursuant to this subsection.

10 (f) Assistance. The Commission shall have the administrative, technical,
11 and legal assistance of the Department of Labor.

12 (g) Report. On or before December 15 of each year, the Commission shall
13 submit a written report to the Governor and the General Assembly with its
14 findings and any recommendations for legislative or regulatory action. The
15 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
16 to the report to be made under this subsection.

17 (h) Meetings.

18 (1) The Commissioner of Labor shall call the first meeting of the
19 Commission to occur on or before September 1, 2015.

20 (2) The Commissioner of Labor or designee shall be the Chair. The
21 Commission may elect a deputy chair to serve in the absence of the Chair.

1 (3) A majority of the membership of the Commission shall constitute a
2 quorum.

3 (i) Reimbursement. For attendance at meetings during adjournment of the
4 General Assembly, legislative members of the Commission shall be entitled to
5 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.
6 § 406 for not more than four meetings per year.

7 (j) Limitations. The Commission's powers shall be limited to information
8 gathering and interagency coordination. This section shall not be construed to
9 grant the Commission any enforcement or regulatory authority.

10 Sec. 2. 3 V.S.A. § 2222d is added to read:

11 § 2222d. EMPLOYEE MISCLASSIFICATION; INVESTIGATION AND
12 ENFORCEMENT

13 (a) As used in this section, "employee misclassification" means improperly
14 classifying employees as independent contractors.

15 (b) The Secretary of Administration shall ensure that all State agencies do
16 the following:

17 (1) coordinate their efforts to combat employee misclassification in a
18 manner that increases the efficiency and effectiveness of those efforts; and

19 (2) share information concerning any employer determined to have
20 misclassified one or more employees as independent contractors in a central
21 database accessible to all State agencies and departments.

1 (c) The Secretary shall adopt rules and procedures necessary to carry out
2 the duties set forth in subsection (b) of this section.

3 (d) The Secretary of Administration shall report on or before January 15 of
4 each year to the House Committee on Ways and Means and the Senate
5 Committee on Finance regarding activities that he or she has undertaken
6 pursuant to this section and any additional tax revenue and unemployment
7 insurance contributions, as well as any reduction in workers' compensation
8 premiums and costs realized as a result of the efforts undertaken by the
9 Secretary pursuant to this section. The provisions of 2 V.S.A. § 20(d)
10 (expiration of required reports) shall not apply to the report to be made under
11 this subsection.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on July 1, 2015.