)			Pa

1	S.251
2	Introduced by Senator Snelling
3	Referred to Committee on
4	Date:
5	Subject: Labor; workers' compensation; employee classification
6	Statement of purpose: This bill proposes to clarify that independent
7	contractors in the employ of a delivery or messenger business are not
8	employees for purposes of the workers' compensation and unemployment
9	compensation statutes.
10	An act relating to courier businesses
11	It is hereby enacted by the General Assembly of the State of Vermont:
12	Sec. 1. 21 V.S.A. § 601 is amended to read:
13	§ 601. DEFINITIONS
14	Unless the context otherwise requires, words and phrases used in this
15	chapter shall be construed as follows:
16	* * *
17	(14) "Worker" and "employee" means an individual who has entered
18	into the employment of, or works under contract of service or apprenticeship
19	with, an employer. Any reference to a worker who has died as the result of a
20	work injury shall include a reference to the worker's dependents, and any

1	reference to a worker who is a minor or incompetent shall include a reference
2	to the minor's committee, guardian, or next friend. The term "worker" or
3	"employee" does not include:
4	* * *
5	(I) An individual providing services for remuneration for a private,
6	for-profit delivery or messenger service, if the individual:
7	(i) Is free to accept or reject jobs from the delivery or messenger
8	service and the delivery or messenger service does not have control over when
9	the individual works;
10	(ii) is remunerated for each delivery or the remuneration is based
11	on factors that relate to the work performed, including receipt of a percentage
12	of any rate schedule;
13	(iii) pays all expenses and the opportunity for profit or loss rests
14	solely with the individual;
15	(iv) is responsible for operating costs, including fuel, repairs,
16	supplies, and motor vehicle insurance;
17	(v) determines the method of performing the service, including
18	selection of routes and order of deliveries;
19	(vi) is responsible for the completion of a specific job and is liable
20	for any failure to complete that job;

2010	

1	(vii) enters into a contract with the delivery or messenger service
2	which specifies that the individual is an independent contractor and not an
3	employee of the delivery or messenger service; and
4	(viii) provides the vehicle used to perform the service.
5	* * *
6	Sec. 2. 21 V.S.A. § 1301 is amended to read:
7	§ 1301. DEFINITIONS
8	The following words and phrases, as used in this chapter, shall have the
9	following meanings unless the context clearly requires otherwise:
10	* * *
11	(6)(A)(i) "Employment," subject to the other provisions of this
12	subdivision (6), means service within the jurisdiction of this state, performed
13	prior to January 1, 1978, which was employment as defined in this subdivision
14	prior to such date and, subject to the other provisions of this subdivision,
15	service performed after December 31, 1977, by an employee, as defined in
16	subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including
17	service in interstate commerce, performed for wages or under any contract of
18	hire, written or oral, expressed or implied. Services partly within and partly
19	without this state may by election as hereinbefore provided be treated as if
20	wholly within the jurisdiction of this state. And whenever an employing unit
21	shall have elected to come under the provisions of a similar act of a state where

a part of the services of an employee are performed, the commissioner, upon
his or her approval of said election as to any such employee, may treat the
services covered by said approved election as having been performed wholly
without the jurisdiction of this state.
* * *
(C) The term "employment" shall not include:
* * *
(xxii) Services performed by an individual for remuneration for a
private, for-profit delivery or messenger service, if the individual:
(I) Is free to accept or reject jobs from the delivery or
messenger service and the delivery or messenger service does not have control
over when the individual works;
(II) is remunerated for each delivery or the remuneration is
based on factors that relate to the work performed, including receipt of a
percentage of any rate schedule;
(III) pays all expenses and the opportunity for profit or loss
rests solely with the individual;
(IV) is responsible for operating costs, including fuel, repairs,
supplies, and motor vehicle insurance;
(V) determines the method of performing the service, including
selection of routes and order of deliveries;

1	(VI) is responsible for the completion of a specific job and is
2	liable for any failure to complete that job;
3	(VII) enters into a contract with the delivery or messenger
4	service which specifies that the individual is an independent contractor and not
5	an employee of the delivery or messenger service; and
6	(VIII) provides the vehicle used to perform the service.
7	* * *