

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;

1 a part of the services of an employee are performed, the commissioner, upon
2 his or her approval of said election as to any such employee, may treat the
3 services covered by said approved election as having been performed wholly
4 without the jurisdiction of this state.

5 * * *

6 (C) The term "employment" shall not include:

7 * * *

8 (xxii) Services performed by an individual for remuneration for a
9 private, for-profit delivery or messenger service, if the individual:

10 (I) Is free to accept or reject jobs from the delivery or
11 messenger service and the delivery or messenger service does not have control
12 over when the individual works;

13 (II) is remunerated for each delivery or the remuneration is
14 based on factors that relate to the work performed, including receipt of a
15 percentage of any rate schedule;

16 (III) pays all expenses and the opportunity for profit or loss
17 rests solely with the individual;

18 (IV) is responsible for operating costs, including fuel, repairs,
19 supplies, and motor vehicle insurance;

20 (V) determines the method of performing the service, including
21 selection of routes and order of deliveries;

