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## **OLR Bill Analysis**

### **SB 385**

#### ***AN ACT CONCERNING OWNER OPERATORS IN THE MOTOR CARRIER INDUSTRY.***

#### **SUMMARY:**

This bill makes truck drivers who meet certain conditions independent contractors, rather than employees, for purposes of unemployment compensation law. As independent contractors they are not eligible for unemployment compensation benefits, and the entities that hire them (“contracting entity”) are not responsible for paying unemployment taxes on the drivers’ pay.

EFFECTIVE DATE: Upon passage

#### **CRITERIA FOR INDEPENDENT CONTRACTOR DRIVERS**

The bill exempts a truck driver (“owner-operator”) from the unemployment compensation law’s definition of employee if he or she drives, or causes to be driven, certain large trucks (“qualified motor vehicle”) (see BACKGROUND) in either intrastate or interstate commerce and:

1. owns or leases the vehicle, provided the lease, loan, or loan guarantee is not with the contracting entity (unless the lease is for a substitute motor vehicle when the operator’s primary vehicle is being serviced or repaired);
2. is responsible for substantially all of the vehicle’s principal operating costs, including maintenance, fuel, repairs, supplies, insurance, and personal expenses, provided the contracting entity may pay the operator for operating costs directly related to services the owner-operator renders, including tolls, permits, communication charges, and loading fees;
3. is responsible for supplying the necessary services to operate

the vehicle;

4. the operator's compensation is based on work performed, including mileage-based rates, a percentage of any rate schedule, or the hours or time spent actually performing the contracted-for services;
5. the operator substantially controls the means and manner of performing services, and does so according to federal and state requirements and the shipper's specifications;
6. the operating agreement includes provisions meeting the above conditions and must be presented to the state labor department on request; and
7. the operator acknowledges his or her status as an independent contractor and not an employee of the contracting entity.

By law (CGS § 31-222 (a)(1)(B)(ii)), to be considered an independent contractor a person must:

1. be free from control and direction in connection with the performance of the service, both under his or her contract of hire and in fact;
2. perform the service either outside the employer's usual course of business or outside of all the employer's places of business; and
3. be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service performed.

## **BACKGROUND**

### ***Qualified Motor Vehicle***

By law, a qualified motor vehicle is one used, designed, or maintained to carry people or property that (1) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds; or (2) has at least three axles, regardless of weight; or

(3) is used in combination, and the combined gross vehicle weight or registered gross vehicle weight exceeds 26,000 pounds. But it does not include a recreational vehicle that an individual uses exclusively for personal pleasure and not for any trade or business (CGS § 12-478 (4)).

**COMMITTEE ACTION**

Transportation Committee

Joint Favorable

Yea 37 Nay 0 (03/14/2012)