



General Assembly

January Session, 2013

Raised Bill No. 6560

LCO No. 3896



Referred to Committee on TRANSPORTATION

Introduced by:
(TRA)

AN ACT CONCERNING OWNER-OPERATORS OF CERTAIN VEHICLES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (5) of subsection (a) of section 31-222 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (5) No provision of this chapter, except section 31-254, shall apply to
5 any of the following types of service or employment, except when
6 voluntarily assumed, as provided in section 31-223:

7 (A) Service performed by an individual in the employ of his son,
8 daughter or spouse, and service performed by a child under the age of
9 eighteen in the employ of his father or mother;

10 (B) Service performed in the employ of the United States
11 government, any other state, any town or city of any other state, or any
12 political subdivision or instrumentality of any of them; except that, to
13 the extent that the Congress of the United States permits states to

14 require any instrumentalities of the United States to make
15 contributions to an unemployment fund under a state unemployment
16 compensation law, all of the provisions of this chapter shall be
17 applicable to such instrumentalities and to services performed for such
18 instrumentalities; provided, if this state is not certified for any year by
19 the Secretary of Labor under Section 3304 of the Federal Internal
20 Revenue Code, the contributions required of such instrumentalities
21 with respect to such year shall be refunded by the administrator from
22 the fund in the same manner and within the same period as is
23 provided in sections 31-268, 31-269, 31-270 and 31-271 with respect to
24 contributions erroneously collected;

25 (C) Service with respect to which unemployment compensation is
26 payable under an unemployment compensation plan established by an
27 Act of Congress, provided the administrator is authorized to enter into
28 agreements with the proper agencies under such Act of Congress, to
29 provide reciprocal treatment to individuals who have, after acquiring
30 potential rights to benefits under this chapter, acquired rights to
31 unemployment compensation under such Act of Congress, or who
32 have, after acquiring potential rights to unemployment compensation
33 under such Act of Congress, acquired rights to benefits under this
34 chapter, and provided further, in computing benefits the administrator
35 shall disregard all wages paid by employers who fall within the
36 definition of "employer" in Section 1(a) of the Federal Railroad
37 Unemployment Insurance Act;

38 (D) Service performed in this state or elsewhere with respect to
39 which contributions are required and paid under an unemployment
40 compensation law of any other state;

41 (E) Service not in the course of the employer's trade or business
42 performed in any calendar quarter by an employee, unless the cash
43 remuneration paid for such service is fifty dollars or more and such
44 service is performed by an individual who is regularly employed by
45 such employer to perform such service. For purposes of this

46 subparagraph, an individual shall be deemed to be regularly
47 employed by an employer during a calendar quarter only if (i) on each
48 of some twenty-four days during such quarter such individual
49 performs for such employer for some portion of the day service not in
50 the course of the employer's trade or business; or (ii) such individual
51 was so employed by such employer in the performance of such service
52 during the preceding calendar quarter;

53 (F) Service performed in any calendar quarter in the employ of any
54 organization exempt from income tax under Section 501(a) of the
55 Internal Revenue Code or under Section 521 of said code excluding
56 any organization described in Section 401(a) of said code, if the
57 remuneration for such service is less than fifty dollars;

58 (G) Service performed in the employ of a school, college, or
59 university if such service is performed (i) by a student who is enrolled
60 and is regularly attending classes at such school, college or university,
61 or (ii) by the spouse of such a student, if such spouse is advised at the
62 time such spouse commences to perform such service, that (I) the
63 employment of such spouse to perform such service is provided under
64 a program to provide financial assistance to such student by such
65 school, college or university, and (II) such employment will not be
66 covered by any program of unemployment insurance;

67 (H) Service performed as a student nurse in the employ of a hospital
68 or a nurses' training school chartered pursuant to state law by an
69 individual who is enrolled and is regularly attending classes in such
70 nurses' training school, and service performed as an intern in the
71 employ of a hospital by an individual who has completed a four years'
72 course in a medical school chartered or approved pursuant to state
73 law;

74 (I) Service performed by an individual under the age of eighteen in
75 the delivery or distribution of newspapers or shopping news, not
76 including delivery or distribution to any point for subsequent delivery

77 or distribution;

78 (J) Service performed by an individual who is enrolled, at a
79 nonprofit or public educational institution which normally maintains a
80 regular faculty and curriculum and normally has a regularly organized
81 body of students in attendance at the place where its educational
82 activities are carried on, as a student in a full-time program, taken for
83 credit at such institution, which combines academic instruction with
84 work experience, if such service is an integral part of such program,
85 and such institution has so certified to the employer, except that this
86 subparagraph shall not apply to service performed in a program
87 established for or on behalf of an employer or group of employers;

88 (K) Service performed by an individual as an insurance agent, other
89 than an industrial life insurance agent, and service performed by an
90 individual as a real estate salesperson, if all such service is performed
91 for remuneration solely by way of commission;

92 (L) Service performed in the employ of a hospital, if such service is
93 performed by a patient of the hospital, as defined in subsection (h) of
94 this section;

95 (M) Service performed by an individual in the employ of any town,
96 city or other political subdivision, provided such service is performed
97 in lieu of payment of any delinquent tax payable to such town, city or
98 other political subdivision;

99 (N) Service performed by an individual as an outside sales
100 representative of a for-profit travel agency if substantially all of such
101 service is performed outside of any travel agency premises, and all
102 such service is performed for remuneration solely by way of
103 commission. For purposes of this subparagraph, an "outside sales
104 representative" means an individual whose services to a for-profit
105 travel agency are performed under such travel agency's Airlines
106 Reporting Corporation accreditation, or the International Airlines
107 Travel Agent Network endorsement; and

108 (O) Service performed by the operator of an escort motor vehicle,
109 for an oversize vehicle, overweight vehicle or a vehicle with a load
110 traveling upon any Connecticut highway pursuant to a permit
111 required by section 14-270, and the regulations adopted pursuant to
112 said section, provided the following conditions are met:

113 (i) The service is provided by an individual operator who is
114 engaged in the business or trade of providing such escort motor
115 vehicle;

116 (ii) The operator is, and has been, free from control and direction by
117 any other business or other person in connection with the actual
118 performance of such services;

119 (iii) The operator owns his or her own vehicle, and statutorily
120 required equipment, and exclusively employs this equipment in
121 providing such services; and

122 (iv) The operator is treated as an independent contractor for all
123 purposes, including, but not limited to, federal and state taxation,
124 workers' compensation, choice of hours worked and choice to accept
125 referrals from multiple entities without consequence.

126 (P) (i) Notwithstanding subparagraph (B)(ii)(III) of subdivision (1)
127 of subsection (a) of this section, service performed in intrastate or
128 interstate commerce by the owner-operator of a motor vehicle or motor
129 vehicles with a gross vehicle weight rating of more than ten thousand
130 pounds who transports property by motor vehicle for compensation,
131 provided the following conditions are met:

132 (I) The operator owns the motor vehicle or holds it under a bona
133 fide lease arrangement, provided any lease arrangement, loan or loan
134 guarantee is commercially reasonable and is not with the contracting
135 entity, or any related entity, with the exception of a lease arrangement
136 with the contracting entity for the use of a substitute motor vehicle to
137 perform services in the event that the operator's primary motor vehicle

138 is being serviced or repaired. For the purposes of this subparagraph, a
139 lease arrangement, loan or loan guarantee shall be commercially
140 reasonable if it is on terms equal to terms available in a trucking
141 equipment purchase or lease in customary and usual retail transactions
142 generally available in the state;

143 (II) The operator's compensation is based on factors related to the
144 work performed, including, but not limited to, mileage-based rates, a
145 percentage of any schedule of rates or by the hours or time expended
146 in relation to actual performance of the service contracted for; and

147 (III) The operator may refuse work without consequence and may
148 accept work from multiple contracting entities in compliance with
149 statutory and regulatory limitations without consequence. Nothing in
150 this subparagraph shall prevent such operator from working for a
151 single contracting entity.

152 (ii) The provisions of this subparagraph shall not affect the
153 applicability of any provision of chapter 229.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-222(a)(5)

Statement of Purpose:

To apply the independent contractor standard to owner-operators of certain vehicles.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]