



**Substitute House Bill No. 6151**

**Public Act No. 13-168**

**AN ACT CONCERNING CERTAIN OPERATORS OF MOTOR VEHICLES AND ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.**

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

Section 1. Subdivision (5) of subsection (a) of section 31-222 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

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

(B) Service performed in the employ of the United States government, any other state, any town or city of any other state, or any political subdivision or instrumentality of any of them; except that, to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make contributions to an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed for such

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instrumentalities; provided, if this state is not certified for any year by the Secretary of Labor under Section 3304 of the Federal Internal Revenue Code, the contributions required of such instrumentalities with respect to such year shall be refunded by the administrator from the fund in the same manner and within the same period as is provided in sections 31-268, 31-269, 31-270 and 31-271 with respect to contributions erroneously collected;

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

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

(E) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this subparagraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual

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performs for such employer for some portion of the day service not in the course of the employer's trade or business; or (ii) such individual was so employed by such employer in the performance of such service during the preceding calendar quarter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(P) Service performed by the operator of a motor vehicle transporting property for compensation pursuant to an agreement with a contracting party, provided the following conditions are met:

(i) The motor vehicle has a gross vehicle weight rating in excess of ten thousand pounds;

(ii) The operator owns such motor vehicle or holds it under a bona fide lease arrangement, provided any lease arrangement, loan or loan guarantee is commercially reasonable and is not with the contracting party or any related entity. For purposes of this subparagraph, a lease arrangement, loan or loan guarantee shall be commercially reasonable

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if it is on terms equal to terms available in a trucking equipment purchase or lease in customary and usual retail transactions generally available in the state;

(iii) The operator's compensation is based on factors, which may include, but not be limited to, mileage-based rates, a percentage of any schedule of rates or by the hours or time expended in relation to actual performance of the service contracted for or an agreed upon flat fee;

(iv) The operator may refuse to work without consequence and may accept work from multiple contracting entities in compliance with statutory and regulatory limitations without consequence. The service performed by the operator shall satisfy the requirements of subparagraph (B)(ii) of subdivision (1) of subsection (a) of this section, except that the administrator shall not find that the operator is an employee of the contracting party solely because such operator chooses to perform services only for such contracting party; and

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

Approved June 24, 2013