
OLR Bill Analysis

sHB 6151

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

SUMMARY:

This bill exempts certain professional truck drivers from coverage under the state's unemployment law. These drivers will not accrue unemployment benefits for their service and businesses using them will not need to pay unemployment taxes or meet the unemployment law's requirements, other than its record keeping requirements, for their service. The exemption applies to drivers who transport property under a contract with another party if:

1. the driver's vehicle has a gross vehicle weight rating over 10,000 pounds;
2. the driver owns the vehicle or holds it under a "commercially reasonable" bona fide lease subject to certain conditions;
3. the driver's pay is based on factors that can include mileage-based rates, a percentage of any rate schedules, time spent driving, or a flat fee;
4. the driver can refuse to work without consequence and can accept work from many contractors without consequence; and
5. the driver is not considered an employee under the unemployment law's "ABC test." When considering if a driver meets the ABC test, the bill prohibits the labor commissioner from making a determination solely because the driver chooses to perform services only for one party (see BACKGROUND).

Under the bill, commercially reasonable means the lease, loan, or loan guarantee for the driver's vehicle (1) is not with the contracting

party or any related entity and (2) has terms equal to those typically available for a retail trucking equipment lease or purchase in the state.

The bill also prohibits the exemption from affecting any state income tax requirements.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

ABC Test

Unemployment law presumes a worker to be an employer's employee unless the worker meets the ABC test's three requirements. Workers who satisfy the test are generally considered independent contractors exempt from the unemployment law. The worker must (A) be free from the employer's control and direction; (B) perform a service outside the employer's usual course of business or outside of all the employer's places or businesses; and (C) be customarily engaged in an independently established trade, occupation, profession, or business of the same nature as the service being performed for the employer. Under current law, a worker can fail part C of the test if he or she provides services for only one employer.

Related Bill

sHB 6560, reported favorably by the Transportation Committee, creates a similar unemployment exemption for professional truck drivers and messenger couriers.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 3 (03/19/2013)