

Senate File 2296 - Enrolled

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AN ACT

REGARDING PERSONS WHO ARE DEEMED INDEPENDENT CONTRACTORS WHEN
PERFORMING SERVICES WHILE OPERATING CERTAIN VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 85.61, subsection 11, paragraph c, subparagraph (3), Code 2020, is amended to read as follows:

(3) (a) For purposes of this subparagraph, "owns" includes but is not limited to holding legal title to a vehicle or being a party to an agreement for the conditional sale or lease of the vehicle that includes the party's right to purchase upon performance of conditions stated in the agreement with an immediate right of possession. In the event a mortgagor of a vehicle is entitled to possession of the vehicle, then the conditional vendee or lessee and the mortgagor shall both be deemed to own the vehicle.

(b) An owner-operator who, as an individual or partner, or shareholder of a corporate owner-operator, owns a vehicle licensed and registered as a truck, road tractor, or truck tractor by a governmental agency, is an independent contractor while performing services in the operation of the owner-operator's vehicle if all of the following conditions are substantially present:

~~(a)~~ (i) The owner-operator is responsible for the maintenance of the vehicle.

~~(b)~~ (ii) The owner-operator bears the principal burden of the vehicle's operating costs, including fuel, repairs,

supplies, collision insurance, and personal expenses for the operator while on the road.

~~(e)~~ (iii) The owner-operator is responsible for supplying the necessary personnel to operate the vehicle, and the personnel are considered the owner-operator's employees.

~~(d)~~ (iv) The owner-operator's compensation is based on factors related to the work performed, including a percentage of any schedule of rates or lawfully published tariff, and not on the basis of the hours or time expended.

~~(e)~~ (v) The owner-operator determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.

~~(f)~~ (vi) The owner-operator enters into a contract which specifies the relationship to be that of an independent contractor and not that of an employee.

Sec. 2. Section 91A.2, subsection 3, Code 2020, is amended to read as follows:

3. a. "Employee" means a natural person who is employed in this state for wages by an employer. Employee also includes a commission salesperson who takes orders or performs services on behalf of a principal and who is paid on the basis of commissions but does not include persons who purchase for their own account for resale.

b. For the purposes of **this chapter**, the following persons engaged in agriculture are not employees:

~~a.~~ (1) The spouse of the employer and relatives of either the employer or spouse residing on the premises of the employer.

~~b.~~ (2) A person engaged in agriculture as an owner-operator or tenant-operator and the spouse or relatives of either who reside on the premises while exchanging labor with the operator or for other mutual benefit of any and all such persons.

~~c.~~ (3) Neighboring persons engaged in agriculture who are exchanging labor or other services.

c. For purposes of this chapter, "employee" does not include an independent contractor as described in section 85.61, subsection 11, paragraph "c", subparagraph (3).

Sec. 3. Section 91D.1, Code 2020, is amended by adding the

following new subsection:

NEW SUBSECTION. 3A. For purposes of this chapter, "employee" does not include an independent contractor as described in section 85.61, subsection 11, paragraph "c", subparagraph (3).

Sec. 4. Section 96.19, subsection 17, Code 2020, is amended to read as follows:

17. "Employing unit" means any individual or type of organization, including this state and its political subdivisions, state agencies, boards, commissions, and instrumentalities thereof, any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1936, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of [this chapter](#). Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of [subsection 16](#) or [section 96.8, subsection 3](#), the employing unit shall for all the purposes of [this chapter](#) be deemed to employ each individual in the employ of each such contractor or subcontractor for each day during which such individual is engaged in performing such work; except that each such contractor or subcontractor who is an employer by reason of [subsection 16](#) or [section 96.8, subsection 3](#), shall alone be liable for the contributions measured by wages payable to individuals in the contractor's or subcontractor's employ, and except that any employing unit who shall become liable for and pay contributions with respect to individuals in the employ of any such contractor or subcontractor who is not an employer by reason of [subsection 16](#) or [section 96.8, subsection 3](#), may recover the same from such contractor or subcontractor, except

as any contractor or subcontractor who would in the absence of subsection 16 or section 96.8, subsection 3, be liable to pay said contributions, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to general rules of the department. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work, and provided, further, that such employment was for a total of not less than eight hours in any one calendar week. An employing unit shall not be deemed to employ an independent contractor as described in section 85.61, subsection 11, paragraph "c", subparagraph (3).

CHARLES SCHNEIDER
President of the Senate

PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2296, Eighty-eighth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2020

KIM REYNOLDS
Governor