

**House File 2385 - Introduced**

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**A BILL FOR**

- 1 An Act prohibiting the misclassification of employees as
- 2 independent contractors, providing penalties, and including
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 3, Code 2026, is amended  
2 to read as follows:

3 3. The department of workforce development is responsible  
4 for administration of unemployment compensation benefits and  
5 collection of employer contributions under chapter 96, providing  
6 for the delivery of free public employment services established  
7 pursuant to chapter 96, other job placement and training  
8 programs established pursuant to section 84A.6, employment  
9 agencies under chapter 84I, enforcement of chapter 95 relating  
10 to misclassification, and the delivery of services located  
11 throughout the state.

12 Sec. 2. NEW SECTION. **95.1 Definitions.**

13 As used in this chapter, unless the context otherwise  
14 requires:

15 1. "Department" means the department of workforce  
16 development.

17 2. "Employee" means an individual who performs services in  
18 this state for an employer in return for remuneration and who  
19 is considered an employee under regulations or guidelines of the  
20 federal internal revenue service in effect as of the date of an  
21 alleged misclassification.

22 3. "Employer" means a person who employs an individual in  
23 this state for wages.

24 4. "Independent contractor" means an individual who performs  
25 services in this state for an employer in return for remuneration  
26 and who is considered an independent contractor under regulations  
27 or guidelines of the federal internal revenue service in effect  
28 as of the date of an alleged misclassification.

29 5. "Misclassify" or "misclassification" means to classify an  
30 individual for employment purposes as an independent contractor  
31 rather than an employee, contrary to regulations or guidelines  
32 of the federal internal revenue service in effect as of the date  
33 of an alleged misclassification, with the effect of denying the  
34 individual eligibility for an employment benefit provided by law  
35 or for a government program.

1     Sec. 3. NEW SECTION.   **95.2 Misclassification of employees**  
2 **prohibited.**

3     An employer shall not willfully misclassify an individual.

4     Sec. 4. NEW SECTION.   **95.3 Civil penalty — procedures.**

5     1. An employer who violates section 95.2 shall be subject to  
6 a civil penalty of up to five thousand dollars per misclassified  
7 individual for a first offense, up to seven thousand five hundred  
8 dollars per misclassified individual for a second offense, and  
9 up to ten thousand dollars per misclassified individual for each  
10 subsequent offense.

11    2. The department shall provide written notice to an employer  
12 prior to imposition of a civil penalty under this section. An  
13 employer may contest and seek judicial review of a determination  
14 of the department under this chapter pursuant to chapter 17A;  
15 however, for purposes of this section, an employer shall bear the  
16 burden to demonstrate by a preponderance of the evidence that the  
17 employer did not violate section 95.2.

18    3. Upon a final determination of the department that an  
19 employer violated section 95.2 and the conclusion of the period  
20 for any appeals, all of the following apply:

21    a. The department shall bring an action in district court to  
22 collect the penalties provided in this section. The department  
23 shall remit any penalties collected to the treasurer of state for  
24 deposit in the general fund.

25    b. The department shall refer the violation to a county  
26 attorney. A county attorney shall not be bound by any  
27 determination of the department.

28    Sec. 5. NEW SECTION.   **95.4 Criminal penalty.**

29    In addition to the civil penalties provided in section 95.3,  
30 an employer who violates section 95.2 commits a class "D" felony.

31    Sec. 6. NEW SECTION.   **95.5 Enforcement — rules.**

32    1. The department shall enforce this chapter. The department  
33 may establish additional procedures to implement this chapter and  
34 may employ inspectors and any other personnel deemed necessary to  
35 implement this chapter, subject to the provisions of chapter 8A,

1 subchapter IV.

2 2. The department shall adopt rules pursuant to chapter 17A  
3 to administer this chapter.

4 Sec. 7. APPLICABILITY. This Act applies to  
5 misclassification, as defined in section 95.1, as enacted by this  
6 Act, of an individual by an employer occurring on or after the  
7 effective date of this Act.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with  
10 the explanation's substance by the members of the general assembly.

11 This bill prohibits an employer from willfully misclassifying  
12 an individual who performs services for the employer in return  
13 for remuneration as an independent contractor rather than an  
14 employee with the effect of denying the individual eligibility  
15 for an employment benefit provided by law or for a government  
16 program. Whether an individual performs services as an employee  
17 or independent contractor is determined under regulations or  
18 guidelines of the federal internal revenue service in effect  
19 as of the date of an alleged misclassification. The bill is  
20 enforced by the department of workforce development.

21 An employer who violates this prohibition shall be subject to  
22 a civil penalty of up to \$5,000 per misclassified individual for  
23 a first offense, up to \$7,500 per misclassified individual for  
24 a second offense, and up to \$10,000 per misclassified individual  
25 for each subsequent offense.

26 The department shall provide written notice to an employer  
27 prior to imposition of a civil penalty. An employer may contest  
28 and seek judicial review of a determination of the department  
29 pursuant to Code chapter 17A. An employer shall bear the burden  
30 of proving that the employer did not misclassify an individual.  
31 Upon a final determination of the department that a violation  
32 occurred and the conclusion of the period for any appeals, the  
33 department shall bring an action in district court to collect the  
34 civil penalties for deposit in the general fund and refer the  
35 violation to a county attorney. A county attorney shall not be

1 bound by any determination of the department.

2 An employer who misclassifies an individual in violation of  
3 the bill commits a class "D" felony. A class "D" felony is  
4 punishable by confinement for no more than five years and a fine  
5 of at least \$1,025 but not more than \$10,245.

6 The bill applies to misclassification of an individual by an  
7 employer occurring on or after the effective date of the bill.

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