

HB5815



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5815

Introduced 2/10/2010, by Rep. John D. Cavaletto

SYNOPSIS AS INTRODUCED:

820 ILCS 405/212.1

Amends the Unemployment Insurance Act. Makes a technical change in a Section concerning truck operators.

LRB096 18487 WGH 36247 b

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 212.1 as follows:

6 (820 ILCS 405/212.1)

7 Sec. 212.1. Truck Owner-Operator.

8 (a) The ~~The~~ term "employment" shall not include services
9 performed by an individual as an operator of a truck,
10 truck-tractor, or tractor, provided the person or entity to
11 which the individual is contracted for service shows that the
12 individual:

13 (1) Is either:

14 (i) Registered or licensed as a motor carrier of
15 real or personal property by the Illinois Commerce
16 Commission, the Interstate Commerce Commission, or any
17 successor agencies, or

18 (ii) Operating the equipment under an
19 owner-operator lease contract with the person or
20 entity, when the person or entity is registered,
21 licensed, or both, as a motor carrier of real or
22 personal property licensed by the Illinois Commerce
23 Commission, the Interstate Commerce Commission, or any

1 successor agencies; and

2 (2) Has the right to terminate the lease contract and
3 thereafter has the right to perform the same or similar
4 services, on whatever basis and whenever he or she chooses,
5 for persons or entities other than the person or entity to
6 which the individual is contracted for services;

7 (3) Is not required by the person or entity to which
8 the individual is contracted for services to perform
9 services, or be available to perform services, at specific
10 times or according to a schedule or for a number of hours
11 specified by the person or entity, provided that pickup or
12 delivery times specified by a shipper or receiver shall not
13 be deemed specified by the person or entity;

14 (4) Either leases the equipment or holds title to the
15 equipment, provided that the individual or entity from
16 which the equipment is leased, or which holds any security
17 or other interest in the equipment, is not:

18 (i) The person or entity to which the individual is
19 contracted for service, or

20 (ii) Owned, controlled, or operated by or in common
21 with, to any extent, whether directly or indirectly,
22 the person or entity to which the individual is
23 contracted for services or a family member of a
24 shareholder, owner, or partner of the person or entity;

25 (5) Pays all costs of licensing and operating the
26 equipment (except when federal or State law or regulation

1 requires the carrier to pay), and the costs are not
2 separately reimbursed by any other individual or entity;
3 and

4 (6) Maintains a separate business identity, offering
5 or advertising his or her services to the public, by
6 displaying its name and address on the equipment or
7 otherwise.

8 (b) Subsection (a) shall not apply:

9 (1) If, as a condition for retaining the individual's
10 services, the person or entity to which the individual is
11 contracted specifies the person or entity from which the
12 equipment is to be leased or purchased; or

13 (2) To any services that are required to be covered as
14 a condition of approval of this Act by the United States
15 Secretary of Labor under Section 3304(a)(6)(A) of the
16 Federal Unemployment Tax Act.

17 (c) Nothing in this Section shall be construed or used to
18 effect the existence or non-existence of an employment
19 relationship other than for purposes of this Act.

20 (d) For purposes of this Section:

21 (1) "Family member" means any parent, sibling, child,
22 sibling of a parent, or any of the foregoing relations by
23 marriage.

24 (2) "Ownership", "control", or "operation" may be
25 through any one or more natural persons or proxies, powers
26 of attorney, nominees, proprietorships, partnerships,

1 associations, corporations, trusts, joint stock companies,
2 or other entities or devices, or any combination thereof.

3 (3) "Person or entity" means a sole proprietorship,
4 partnership, association, corporation, or any other legal
5 entity.

6 (Source: P.A. 89-252, eff. 8-8-95.)