

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60201-LR-60 (3/1)

Short Title: Workers Comp./Drivers' Status. (Public)

Sponsors: Representative Sutton.

Referred to:

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CURRENT STATUS OF DRIVERS AS EMPLOYEES
OR INDEPENDENT CONTRACTORS UNDER THE WORKERS'
COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-19.1 reads as rewritten:

"§ 97-19.1. Truck, tractor, or truck tractor trailer driver's status as employee or independent contractor.

(a) An individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency may be an employee or an independent contractor under this Article dependent upon the application of the common law test for determining employment status.

Any principal contractor, intermediate contractor, or subcontractor, irrespective of whether such contractor regularly employs three or more employees, who contracts with an individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency and who has not secured the payment of compensation in the manner provided for employers set forth in G.S. 97-93 for himself personally and for his employees and subcontractors, if any, shall be liable as an employer under this Article for the payment of compensation and other benefits on account of the injury or death of the independent contractor and his employees or subcontractors due to an accident arising out of and in the course of the performance of the work covered by such contract.

(b) Notwithstanding subsection (a) of this section, a principal contractor, intermediate contractor, or subcontractor shall not be liable as an employer under this Article for the payment of compensation on account of the injury or death of the independent contractor if the principal contractor, intermediate contractor, or

1 subcontractor (i) contracts with an independent contractor that is licensed by a
2 governmental motor vehicle regulatory agency and (ii) the independent contractor is
3 operating the vehicle pursuant to that license.

4 (c) The principal contractor, intermediate contractor, or subcontractor may insure
5 any and all of his independent contractors and their employees or subcontractors in a
6 blanket policy, and when insured, the independent contractors, subcontractors, and
7 employees will be entitled to compensation benefits under the blanket policy.

8 A principal contractor, intermediate contractor, or subcontractor may include in the
9 governing contract with an independent contractor in the interstate or intrastate carrier
10 industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental
11 motor vehicle regulatory agency an agreement for the independent contractor to
12 reimburse the cost of covering that independent contractor under the principal
13 contractor's, intermediate contractor's, or subcontractor's coverage of his business."

14 **SECTION 2.** This act is effective when it becomes law.