

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 818

Short Title: Workers Comp./Drivers' Status.

(Public)

Sponsors: Representative Sutton.

Referred to: Judiciary III.

March 21, 2005

1 A BILL TO BE ENTITLED
2 AN ACT RELATING TO THE CURRENT STATUS OF DRIVERS AS EMPLOYEES
3 OR INDEPENDENT CONTRACTORS UNDER THE WORKERS'
4 COMPENSATION ACT.

5 The General Assembly of North Carolina enacts:

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

7 "**§ 97-19.1. Truck, tractor, or truck tractor trailer driver's status as employee or**
8 **independent contractor.**

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

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

24 (b) Notwithstanding subsection (a) of this section, a principal contractor,
25 intermediate contractor, or subcontractor shall not be liable as an employer under this
26 Article for the payment of compensation on account of the injury or death of the
27 independent contractor if the principal contractor, intermediate contractor, or
28 subcontractor (i) contracts with an independent contractor that is licensed by a

1 governmental motor vehicle regulatory agency and (ii) the independent contractor is
2 operating the vehicle pursuant to that license.

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

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

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