

1 H.731

2 Introduced by Representatives Marcotte of Coventry and Botzow of Pownal

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; unemployment insurance;

6 classification of employees

7 Statement of purpose of bill as introduced: This bill proposes to prohibit  
8 employers from providing persons who will be performing services for them  
9 with substantial and material assistance related to the establishment of an  
10 independent business in order to avoid their obligation under the workers'  
11 compensation and unemployment insurance laws.

12 An act relating to the classification of employees

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 625 is amended to read:

15 § 625. CONTRACTING OUT FORBIDDEN; PROHIBITED ACTS;

16 PENALTIES

17 (a) An employer shall not be relieved in whole or in part from liability  
18 created by the provisions of this chapter by any contract, rule, regulation, or  
19 device whatsoever.

1        (b) A person who, for the purpose of avoiding its obligations under this  
2        chapter, provides an individual who is or will be performing services for the  
3        person with substantial and material assistance related to the establishment of  
4        an independent business, including the registration of an unincorporated  
5        business with the Vermont Secretary of State, the establishment of a  
6        corporation or L.L.C., or the acquisition of a federal Employer Identification  
7        Number, may, after notice and an opportunity for a hearing, be assessed an  
8        administrative penalty of not more than \$5,000.00. As used in this subsection,  
9        “substantial and material assistance” does not include:

10        (1) inquiring about whether an unincorporated business, corporation, or  
11        L.L.C. is actively registered with the Secretary of State;

12        (2) inquiring about whether an individual operates an unincorporated  
13        business, corporation, or L.L.C.; or

14        (3) referring an individual to a State agency, department, or website  
15        related to the registration or establishment of an unincorporated business,  
16        corporation, or L.L.C.

17        Sec. 2. 21 V.S.A. § 1369 is amended to read:

18        § 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT

19                    PROGRAM OBLIGATIONS

20        (a) A person who willfully makes a material false statement or  
21        representation to avoid becoming or remaining subject to this chapter, or to

1 avoid or reduce a contribution or other payment required of an employer under  
2 this chapter for either herself or himself or for any other person, after notice  
3 and opportunity for hearing, may be assessed an administrative penalty of not  
4 more than \$5,000.00.

5 (b) An employing unit or employer who, for the purpose of avoiding its  
6 obligations under this chapter, provides an individual who is or will be  
7 performing services for the employing unit or employer with substantial and  
8 material assistance related to the establishment of an independent business,  
9 including the registration of an unincorporated business with the Vermont  
10 Secretary of State, the establishment of a corporation or L.L.C., or the  
11 acquisition of a federal Employer Identification Number, may, after notice and  
12 an opportunity for a hearing, be assessed an administrative penalty of not more  
13 than \$5,000.00. As used in this subsection, “substantial and material  
14 assistance” does not include:

15 (1) inquiring about whether an unincorporated business, corporation, or  
16 L.L.C. is actively registered with the Secretary of State;

17 (2) inquiring about whether an individual operates an unincorporated  
18 business, corporation, or L.L.C.; or

19 (3) referring an individual to a State agency, department, or website  
20 related to the registration or establishment of an unincorporated business,  
21 corporation, or L.L.C.

1       Sec. 3. EFFECTIVE DATE

2           This act shall take effect on July 1, 2018.