

H.169

An act relating to relieving employers' experience-rating records

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 4 (effective date) in its entirety and by inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

\* \* \*

(6)(A)(i) "Employment," subject to the other provisions of this subdivision (6), means service within the jurisdiction of this ~~state~~ State, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977, by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly without this ~~state~~ State may by election as hereinbefore provided be treated as if wholly within the jurisdiction of this ~~state~~ State. And whenever an employing unit shall have elected to come under the provisions of a similar act

of a state where a part of the services of an employee are performed, the ~~commissioner~~ Commissioner, upon his or her approval of said election as to any such employee, may treat the services covered by said approved election as having been performed wholly without the jurisdiction of this ~~state~~ State.

\* \* \*

(C) The term "employment" shall not include:

\* \* \*

(xxi) Service performed by a direct seller if the individual is in compliance with all the following:

(I) The individual is engaged in:

(aa) the trade or business of selling or soliciting the sale of consumer products, including services or other intangibles, in the home or a location other than in a permanent retail establishment, including whether the sale or solicitation of a sale is to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis for resale by the buyer or any other person; or

(bb) the trade or business of the delivery or distribution of newspapers or shopping news, including any services directly related to such trade or business.

(II) Substantially all the remuneration, whether or not received in cash, for the performance of the services described in subdivision (I) of this

subdivision (C)(xxi) is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

(III) The services performed by the individual are performed pursuant to a written contract between the individual and the person for whom the services are performed, and the contract provides that the individual will not be treated as an employee for federal and state tax purposes.

\* \* \*

Second: By adding a Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage except that Sec. 4 of this act shall take effect on July 1, 2013.