

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 220 entitled “An act relating to amending
4 the workers’ compensation law, establishing a registry of sole contractors,
5 increasing the funds available to the Department of Tourism and Marketing for
6 advertising, and regulating legacy insurance transfers” respectfully reports that
7 it has considered the same and recommends that the bill be amended in Sec. 2,
8 21 V.S.A. § 601 (definitions), in subdivision (14), by striking all after
9 subdivision (G)(iv) and inserting in lieu thereof the following:

10 (H) A direct seller as defined by 21 V.S.A. § 1301(6)(C)(xxi)(I)-(III).

11 (I) An independent contractor if it can be demonstrated that the
12 independent contractor meets all of the following conditions:

13 (i) maintains a separate business with a separate office, equipment,
14 materials, or other facilities and has continuing recurring business liabilities or
15 obligations;

16 (ii) holds or has applied for a federal employer identification
17 number with the Internal Revenue Service or has filed business or
18 self-employment income tax returns with the federal Internal Revenue Service
19 based on that work or service in the previous year;

20 (iii) operates under a written contract that specifies that the
21 independent contractor complies with all of the following:

1 (I) will perform specific services or work for specific amounts
2 of money, and the independent contractor controls the means of performing the
3 services or work;

4 (II) incurs the main expenses related to the service or work that
5 the independent contractor performs under contract;

6 (III) is responsible for the satisfactory completion of work or
7 services that he or she contracts to perform and is liable for a failure to
8 complete the work or service;

9 (IV) receives compensation for work or service performed
10 under a written contract on a commission or per-job competitive bid basis and
11 not on any other basis;

12 (V) may realize a profit or suffer a loss under contracts to
13 perform work or service; and

14 (iv) voluntarily elected the status of independent contractor.

15 ~~(H)~~(J) With the approval of the Commissioner, a corporation or a
16 limited liability company (L.L.C.) may elect to file exclusions from the
17 provisions of this chapter. A corporation or an L.L.C. may elect to exclude up
18 to four executive officers or managers or members from coverage requirements
19 under this chapter. If all officers of the corporation or all managers or
20 members of an L.L.C. make such election, receive approval, and the business
21 has no employees, the corporation or L.L.C. shall not be required to purchase

1 workers' compensation coverage. If after election, the officer, manager, or
2 member suffers a personal injury and files a claim under this chapter, the
3 employer shall have all the defenses available in a personal injury claim.
4 However, this election shall not prevent any other individual, other than the
5 individual excluded under this section, found to be an employee of the
6 corporation or L.L.C. to recover workers' compensation from either the
7 corporation, L.L.C., or the statutory employer.

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(Committee vote: _____)

Senator [surname]

FOR THE COMMITTEE