

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 subdivisions 1301(6)(C)(xxi)(I)-(III)
11 of this title.

12 (I) An individual who receives foster care payments excluded from
13 the definition of gross income under 26 U.S.C. § 131.

14 (J) An independent contractor if it can be demonstrated that the
15 individual meets all of the following conditions:

16 (i) maintains a separate business with a separate office, equipment,
17 materials, or other facilities and has continuing recurring business liabilities or
18 obligations;

19 (ii) holds or has applied for a federal employer identification
20 number with the Internal Revenue Service or has filed business or

1 self-employment income tax returns with the federal Internal Revenue Service
2 based on that work or service in the previous year;

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

5 (I) will perform specific services or work for specific amounts
6 of money, and the independent contractor controls the means of performing the
7 services or work;

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

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

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

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

16 ~~(H)~~(K) With the approval of the Commissioner, a corporation or a
17 limited liability company (L.L.C.) may elect to file exclusions from the
18 provisions of this chapter. A corporation or an L.L.C. may elect to exclude up
19 to four executive officers or managers or members from coverage requirements
20 under this chapter. If all officers of the corporation or all managers or
21 members of an L.L.C. make such election, receive approval, and the business

1 has no employees, the corporation or L.L.C. shall not be required to purchase
2 workers' compensation coverage. If after election, the officer, manager, or
3 member suffers a personal injury and files a claim under this chapter, the
4 employer shall have all the defenses available in a personal injury claim.
5 However, this election shall not prevent any other individual, other than the
6 individual excluded under this section, found to be an employee of the
7 corporation or L.L.C. to recover workers' compensation from either the
8 corporation, L.L.C., or the statutory employer.

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13 (Committee vote: _____)

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Senator [surname]

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FOR THE COMMITTEE