

1 Introduced by Committee on Commerce and Economic Development

2 Date:

3 Subject: Labor; workers' compensation; unemployment insurance;
4 independent contractors

5 Statement of purpose of bill as introduced: This bill proposes to amend
6 definitions related to independent contractors in the workers' compensation
7 and unemployment compensation statutes, to provide for notice of the
8 requirements regarding employee classification at worksites, to permit the
9 Department of Labor to enter an employer's premises for the purposes of
10 investigating compliance with the workers' compensation and unemployment
11 compensation statutes, to permit the Department to obtain an injunction to
12 enforce a stop-work order related to a violation of the workers' compensation
13 statute, to clarify the requirements for consultation regarding debarment of
14 employers that have violated the wage and hour, workers' compensation, and
15 unemployment compensation statutes, and to create an Employee
16 Classification Task Force.

17 An act relating to classification of employees and independent contractors

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

2 Sec. 1. 21 V.S.A. § 398 is added to read:

3 § 398. NOTICE TO PERSONS RECEIVING COMPENSATION AS AN
4 INDEPENDENT CONTRACTOR

5 (a)(1) Every employer shall post in a prominent and accessible place on a
6 site where work is performed a poster provided by the Department that shall
7 explain the differences between an “employee” and an “independent
8 contractor” pursuant to the applicable provisions of chapters 9 and 17 of this
9 title. The poster shall also include information regarding:

10 (A) the protections against retaliation provided by this title;

11 (B) the penalties provided pursuant to this title for failure to classify
12 an individual properly as an employee;

13 (C) how an individual may file a complaint or inquiry with the
14 Commissioner about his or her employment classification status; and

15 (D) how an employer may obtain guidance or information from the
16 Department with respect to the proper classification of employees and
17 independent contractors.

18 (2)(A) The information set forth on the poster shall be in English or
19 other languages as required by the Commissioner.

20 (B) If the poster is located outdoors, it shall be constructed of
21 materials capable of withstanding adverse weather conditions.

1 (3) An employer shall, at the time of hiring, provide home-based
2 employees and employees that do not work at a fixed worksite with the
3 information required under subdivision (1) of this subsection. The information
4 shall be provided to the employees in a format provided by the Department.

5 (b) On or before August 1, 2016, the Commissioner shall create the poster
6 required pursuant to subsection (a) of this section and shall make it available to
7 employers on the Department’s website.

8 (c) An employer who violates the provisions of this section shall be subject
9 to an administrative penalty of not more than \$100.00 per violation.

10 Sec. 2. 21 V.S.A. § 603 is amended to read:

11 § 603. WITNESSES, OATHS, BOOKS, PAPERS, RECORDS

12 (a) So far as it is necessary in his or her examinations, and investigations
13 and in the determination of matters within his or her jurisdiction, the
14 ~~commissioner~~ Commissioner shall have power to subpoena witnesses,
15 administer oaths, and ~~to~~ demand the production of books, papers, records, and
16 documents for his or her examination. In addition, the Commissioner or his or
17 her designee may, upon presenting appropriate credentials, at reasonable times
18 and without unduly disrupting business operations enter and inspect any place
19 of business or employment, question any employees, and investigate any facts,
20 conditions, or matters necessary and material to the administration of this
21 chapter. The employer shall, at reasonable times and without unduly

1 disrupting business operations, make its workers available to meet with the
2 Commissioner or designee, as required by the Commissioner. The
3 Commissioner or designee shall inform the employer of his or her rights to
4 refuse entry and to consult with legal counsel, and of the Commissioner's
5 rights under this section. If entry is refused, the Commissioner may apply to
6 the Civil Division of the Superior Court for an order to enforce the rights given
7 to the Commissioner under this section.

8 * * *

9 Sec. 3. 21 V.S.A. § 692 is amended to read:

10 § 692. PENALTIES; FAILURE TO INSURE; STOP WORK ORDERS

11 * * *

12 (b) Stop-work orders. If an employer fails to comply with the provisions of
13 section 687 of this title after investigation by the Commissioner, the
14 Commissioner ~~shall~~ may issue an emergency order to that employer to stop
15 work until the employer has secured workers' compensation insurance. If the
16 Commissioner determines that issuing a stop-work order would immediately
17 threaten the safety or health of the public, the Commissioner may permit work
18 to continue until the immediate threat to public safety or health is removed.
19 The Commissioner shall document the reasons for permitting work to continue,
20 and the document shall be available to the public. In addition, the employer
21 shall be assessed an administrative penalty of not more than \$250.00 for every

1 day that the employer fails to secure workers' compensation coverage after the
2 Commissioner issues an order to obtain insurance and may also be assessed an
3 administrative penalty of not more than \$250.00 for each employee for every
4 day that the employer fails to secure workers' compensation coverage as
5 required in section 687 of this title. When a stop-work order is issued, the
6 Commissioner shall post a notice at a conspicuous place on the work site of the
7 employer informing the employees that their employer failed to comply with
8 the provisions of section 687 of this title and that work at the work site has
9 been ordered to cease until workers' compensation insurance is secured. If an
10 employer fails to comply with a stop-work order, the Commissioner may seek
11 an order from the Civil Division of the Superior Court to enjoin the employer
12 from employing any individual. The stop-work order shall be rescinded as
13 soon as the Commissioner determines that the employer is in compliance with
14 section 687 of this title.

15 (c) Debarment. An employer ~~against whom a stop-work order has been~~
16 ~~issued~~ who has not been in compliance with section 687 of this chapter, unless
17 the Commissioner determines that the failure to comply was inadvertent or
18 excusable, is prohibited from contracting, directly or indirectly, with the State
19 or any of its subdivisions for a period of up to three years following the date of
20 the issuance of ~~the stop-work order~~ an administrative citation, as determined
21 by the Commissioner in consultation with the ~~Commissioner of Buildings and~~

1 ~~General Services or the Secretary of Transportation, as appropriate. Either the~~
2 ~~Secretary or the Commissioner, as appropriate, shall be consulted in any~~
3 ~~contest of the prohibition of the employer from contracting with the State or its~~
4 ~~subdivisions~~ Secretary of Administration. The consultation shall be informal
5 and shall occur within five business days of the notification by the
6 Commissioner. The results of the consultation shall be documented.

7 (e)(d) Penalty for violation of stop-work order. In addition to any other
8 penalties, an employer who violates a stop-work order described in subsection
9 (b) of this section is subject to:

10 (1) ~~a civil~~ an administrative penalty of not more than \$5,000.00 for the
11 first violation and ~~a civil~~ an administrative penalty of not more than
12 \$10,000.00 for a second or subsequent violation; or

13 (2) a criminal fine of not more than \$10,000.00 or imprisonment for not
14 more than 180 days, or both.

15 Sec. 4. 21 V.S.A. § 7 is added to read:

16 § 7. COLLECTION OF ADMINISTRATIVE PENALTIES

17 The Commissioner may collect any unpaid administrative penalty assessed
18 pursuant to this title by filing an action in Superior Court, or through any other
19 means available to State agencies.

1 Sec. 5. 4 V.S.A. § 1102 is amended to read:

2 § 1102. JUDICIAL BUREAU; JURISDICTION

3 * * *

4 (b) The Judicial Bureau shall have jurisdiction of the following matters:

5 * * *

6 (20) ~~Violations of 21 V.S.A. § 692(c)(1).~~ [Repealed.]

7 * * *

8 Sec. 6. 21 V.S.A. § 690 is amended to read:

9 § 690. CERTIFICATE, FORM; COPY OF POLICY

10 * * *

11 (b)(1) In addition to any other authority provided to the ~~commissioner~~
12 Commissioner pursuant to this chapter, the ~~commissioner~~ Commissioner may
13 issue a written request to an employer subject to the provisions of this chapter
14 to provide a workers' compensation compliance statement on a form provided
15 by the ~~commissioner~~ Commissioner. The employer shall provide the
16 compliance statement to the Commissioner within 30 days of the request. For
17 the purposes of this subsection, an employer includes subcontractors and
18 independent contractors. The form shall require all the following information
19 sorted by job site:

20 * * *

1 (c) Upon receiving written authorization from an employer to release
2 information to the Commissioner, the employer's agent or broker or the
3 authorized representative of an insurance or guarantee company shall promptly
4 provide any contract or policy information, including an insurance application,
5 binder, or reported payroll, that is requested by the Commissioner pursuant to
6 this section.

7 [Sec. 7: DEPARTMENT OF LABOR PROPOSAL]

8 Sec. 7. 21 V.S.A. § 625 is amended to read:

9 § 625. CONTRACTING OUT FORBIDDEN

10 (a) ~~An~~ Except as provided in subdivisions 601(3) and (14) of this chapter,
11 an employer shall not be relieved in whole or in part from liability created by
12 the provisions of this chapter by any contract, rule, regulation, or device
13 whatsoever.

14 (b) The Commissioner may investigate complaints and determine whether
15 the requirements to be an independent contractor set forth in
16 21 V.S.A. § 601(31) are met. Unless the Commissioner determines that the
17 improper classification was inadvertent or excusable, any person that, for the
18 purpose of avoiding its obligations under this title, improperly classifies an
19 employee as an independent contractor, may, after notice and an opportunity
20 for a hearing, be assessed an administrative penalty of not more than
21 \$5,000.00.

1 [Sec. 7: ASSOCIATED INDUSTRIES OF VERMONT PROPOSAL]

2 Sec. 7. 21 V.S.A. § 625 is amended to read:

3 § 625. CONTRACTING OUT FORBIDDEN

4 (a) ~~An~~ Except as provided in subdivisions 601(3) and (14) of this chapter,
5 an employer shall not be relieved in whole or in part from liability created by
6 the provisions of this chapter by any contract, rule, regulation, or device
7 whatsoever.

8 (b) The Commissioner may investigate complaints and determine whether
9 the requirements to be an independent contractor set forth in
10 21 V.S.A. § 601(31) are met. Any person that, for the purpose of avoiding its
11 obligations under this title, willfully and knowingly misclassifies an employee
12 as an independent contractor, may, after notice and an opportunity for a
13 hearing, be assessed an administrative penalty of not more than \$5,000.00.

14 (c) Any administrative penalty imposed pursuant to this section may be in
15 addition to other penalties authorized pursuant to chapters 9 and 17 of this title.

16 Sec. 8. 8 V.S.A. § 3661 is amended to read:

17 § 3661. CEASE AND DESIST POWERS; PROSECUTIONS AND
18 PENALTIES

19 * * *

20 (c) An employer who purposefully makes a false statement or
21 representation that results in a lower workers' compensation premium, after

1 notice and opportunity for hearing before the Commissioner, may be assessed
2 an administrative penalty of not more than \$20,000.00 in addition to any other
3 appropriate penalty. In addition, an employer found to have violated this
4 section is prohibited from contracting, directly or indirectly, with the State or
5 any of its subdivisions for up to three years following the date the employer
6 was found to have made a false statement or misrepresentation, as determined
7 by the Commissioner in consultation with the ~~Commissioner of Buildings and~~
8 ~~General Services or the Secretary of Transportation, as appropriate. Either the~~
9 ~~Secretary or the Commissioner, as appropriate, shall be consulted in any appeal~~
10 ~~relating to prohibiting the employer from contracting with the State or its~~
11 ~~subdivisions~~ Secretary of Administration. The consultation may be informal
12 and shall occur within five business days of the notification by the
13 Commissioner. The outcome of the consultation shall be documented.

14 * * *

15 Sec. 9. 21 V.S.A. § 1314a is amended to read:

16 § 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;
17 PENALTIES

18 * * *

19 (f)(1) Any employing unit or employer that fails to:

1 (A) File any report required by this section shall be subject to a an
2 administrative penalty of \$100.00 for each report not received by the
3 prescribed due dates.

4 (B) Properly classify an individual regarding the status of
5 employment is subject to a an administrative penalty of not more than
6 \$5,000.00 for each improperly classified employee. In addition, an employer
7 found to have violated this section is prohibited from contracting, directly or
8 indirectly, with the State or any of its subdivisions for up to three years
9 following the date the employer was found to have failed to properly classify,
10 as determined by the Commissioner in consultation with the ~~Commissioner of~~
11 ~~Buildings and General Services or the Secretary of Transportation, as~~
12 ~~appropriate. Either the Secretary or the Commissioner, as appropriate, shall be~~
13 ~~consulted in any appeal relating to prohibiting the employer from contracting~~
14 ~~with the State or its subdivisions~~ Secretary of Administration. The
15 consultation may be informal and shall occur within five business days of the
16 notification by the Commissioner. The outcome of the consultation shall be
17 documented.

18 Sec. 10. 21 V.S.A. § 708 is amended to read:

19 § 708. PENALTY FOR FALSE REPRESENTATION

20 (a) Action by the Commissioner of Labor. A person who ~~willfully~~
21 purposefully makes a false statement or representation, ~~for the purpose of~~

1 ~~obtaining~~ to obtain any benefit or payment under the provisions of this chapter,
2 either for herself or himself or for any other person, after notice and
3 opportunity for hearing, may be assessed an administrative penalty of not more
4 than \$20,000.00, and shall forfeit all or a portion of any right to compensation
5 under the provisions of this chapter, as determined to be appropriate by the
6 Commissioner after a determination by the Commissioner that the person has
7 ~~willfully~~ purposefully made a false statement or representation of a material
8 fact. In addition, an employer found to have violated this section is prohibited
9 from contracting, directly or indirectly, with the State or any of its subdivisions
10 for up to three years following the date the employer was found to have made a
11 purposeful false statement or misrepresentation of a material fact, as
12 determined by the Commissioner in consultation with the ~~Commissioner of~~
13 ~~Buildings and General Services or the Secretary of Transportation, as~~
14 ~~appropriate. Either the Secretary or the Commissioner, as appropriate, shall be~~
15 ~~consulted in any contest relating to the prohibition of the employer from~~
16 ~~contracting with the State or its subdivisions~~ Secretary of Administration. The
17 consultation may be informal and shall occur within five business days of the
18 notification by the Commissioner. The outcome of the consultation shall be
19 documented.

20 (b) ~~When~~ In addition to any penalties assessed pursuant to subsection (a) of
21 this section, when the Department of Labor has sufficient reason to believe that

1 an employer has purposefully made a false statement or representation ~~for the~~
2 ~~purpose of obtaining~~ to obtain a lower workers' compensation premium, the
3 Department shall refer the alleged violation to the Commissioner of Financial
4 Regulation for the Commissioner's consideration of enforcement pursuant to
5 8 V.S.A. § 3661(c).

6 Sec. 11. 21 V.S.A. § 1307 is amended to read:

7 § 1307. COMMISSIONER OF LABOR, DUTIES AND POWERS OF

8 The ~~commissioner of labor~~ Commissioner of Labor shall administer this
9 chapter. The ~~commissioner~~ Commissioner may employ such persons, make
10 such expenditures, require such reports, make such investigations, and take
11 such other action as he or she considers necessary or suitable to that end. In
12 the discharge of his or her duties imposed by this chapter, the ~~commissioner~~
13 Commissioner may administer oaths, take depositions, certify to official acts,
14 and subpoena witnesses and compel the production of books, papers,
15 correspondence, memoranda, and other records necessary and material to the
16 administration of this chapter. In addition, the Commissioner or his or her
17 designee may, upon presenting appropriate credentials, at reasonable times and
18 without unduly disrupting business operations, enter and inspect any place of
19 business or employment, question any employee, and investigate any fact,
20 condition, or matter necessary and material to the administration of this
21 chapter. The employer shall, at reasonable times and without unduly

1 disrupting business operations, make its workers available to meet with the
2 Commissioner or his or her designee, as required by the Commissioner. The
3 Commissioner or his or her designee shall inform the employer of his or her
4 rights to refuse entry and to consult with legal counsel, and of the
5 Commissioner’s rights under this section. If entry is refused, the
6 Commissioner may apply to the Civil Division of the Superior Court for an
7 order to enforce the rights given to the Commissioner under this section.

8 Sec. 12. 21 V.S.A. § 601 is amended to read:

9 § 601. DEFINITIONS

10 Unless the context otherwise requires, words and phrases used in this
11 chapter shall be construed as follows:

12 * * *

13 (3) “Employer” includes any body of persons, corporate or
14 unincorporated, public or private, and the legal representative of a deceased
15 employer, and includes the owner or lessee of premises or other person who is
16 virtually the proprietor or operator of the business there carried on, but who, by
17 reason of there being an independent contractor or for any other reason, is not
18 the direct employer of the workers there employed. If the employer is insured,
19 the term “employer” includes the employer’s insurer so far as applicable. A
20 person is not deemed to be an “employer” for the purposes of this chapter as
21 the result of entering into a contract for services or labor with ~~an individual~~

1 a sole proprietor or partner owner, who has knowingly and voluntarily waived
2 coverage of this chapter pursuant to subdivision (14)(F) of this section, or is a
3 corporate officer or L.L.C. member or manager that has filed, and had
4 approved, an exclusion pursuant to subdivision 14(H) of this section and who
5 meets the criteria set forth in that subdivision.

6 * * *

7 (14) “Worker” and “employee” means ~~an individual~~ a person who has
8 entered into the employment of, or works under contract of service or
9 apprenticeship with, an employer. Any reference to a worker who has died as
10 the result of a work injury shall include a reference to the worker’s dependents,
11 and any reference to a worker who is a minor or incompetent shall include a
12 reference to the minor’s committee, guardian, or next friend. ~~The term~~
13 ~~“worker” or “employee” does not include~~ A person who performs services for
14 compensation is presumed to be an employee unless the employing unit
15 demonstrates that the person is one of the following:

16 * * *

17 (B) An individual engaged in amateur sports, including a referee or
18 official that is paid on a per game or per event basis, even if an employer
19 contributes to the support of such sports.

20 * * *

1 (F)(i) ~~The~~ A sole proprietor or partner owner or partner owners of an
2 unincorporated business provided the following conditions are met:

3 ~~(i)(I)(aa)~~ The individual performs work that is distinct and
4 separate from that of the person with whom the individual contracts or partner
5 owner is an independent contractor and has purchased workers' compensation
6 coverage for him- or herself; or

7 (bb) the individual or partner owner is an independent
8 contractor, is actively registered with the Vermont Secretary of State, and
9 elects to file a notice of waiver of the coverage requirements under this chapter
10 that is approved by the Commissioner.

11 ~~(ii)~~ The individual controls the means and manner of the work
12 performed.

13 ~~(iii)~~ The individual holds him or herself out as in business for him
14 or herself.

15 ~~(iv)~~ The individual holds him or herself out for work for the
16 general public and does not perform work exclusively for or with another
17 person.

18 ~~(v)~~ The individual is not treated as an employee for purposes of
19 income or employment taxation with regard to the work performed.

20 ~~(vi)~~ (II) The services are performed pursuant to a written
21 agreement or contract between the individual or partner owner and another

1 ~~person~~ the person who is providing compensation for the services, and the
2 written agreement or contract explicitly states that the individual or partner
3 owner is not considered to be an employee under this chapter, is working
4 independently, has no employees, and has not contracted with other
5 independent contractors. The written contract or agreement shall also include
6 information regarding the right of the individual or partner owner to purchase
7 workers' compensation insurance coverage and the individual's or partner
8 owner's election not to purchase that coverage. However, if the individual or
9 partner owner who is party to the agreement or contract under this subdivision
10 is found to have employees, those employees may file a claim for benefits
11 under this chapter against either or both parties to the agreement.

12 (ii) If, after making an election under subdivision (F)(i)(I)(bb) of
13 this subdivision (14), the individual or partner owner suffers a personal injury
14 arising out of and in the course of his or her employment, he or she may bring
15 an action to recover damages for personal injury against the person who is
16 providing compensation for the services, and in such action the person who is
17 providing compensation for the services shall have all of the defenses available
18 in a personal injury claim. However, this election shall not prevent any other
19 individual, other than the individual excluded pursuant to subdivision
20 (F)(i)(I)(bb) of this subdivision (14), who is determined to be an employee of
21 the unincorporated business from claiming workers' compensation benefits

1 under this chapter from the unincorporated business, or from a statutory
2 employer.

3 (iii) An individual or partner owner that makes an election under
4 subdivision (F)(i)(I)(bb) of this subdivision (14) shall collect and maintain
5 documentation that any other person hired to perform services for the sole
6 proprietor or partner owner’s unincorporated business has workers’
7 compensation coverage, or is otherwise in compliance with the provisions of
8 this chapter.

9 * * *

10 (H) With the approval of the Commissioner, a corporation or a
11 limited liability company (L.L.C.) may elect to file exclusions from the
12 provisions of this chapter. A corporation or an L.L.C. may elect to exclude up
13 to four corporate executive officers or four L.L.C. managers or members from
14 coverage requirements under this chapter. If all officers of the corporation or
15 all managers or members of an L.L.C. make such election, receive approval,
16 and the business has no employees, the corporation or L.L.C. shall not be
17 required to purchase workers’ compensation coverage. ~~If after election, the~~
18 ~~officer, manager, or member experiences a personal injury and files a claim~~
19 ~~under this chapter, the employer shall have all the defenses available in a~~
20 ~~personal injury claim. However, this election shall not prevent any other~~
21 ~~individual, other than the individual excluded under this section, found to be an~~

1 ~~employee of the corporation or L.L.C. to recover workers' compensation from~~
2 ~~either the corporation, L.L.C., or the statutory employer.~~

3 (i) A person shall not be deemed to be an “employer” for purposes
4 of this chapter of corporate executive officers or L.L.C. managers or members
5 that are excluded under this subdivision (14) if the following conditions
6 are met:

7 (I) The corporate executive officers or L.L.C. managers or
8 members operate a separate and distinct business that is an independent
9 contractor, is actively registered with the Vermont Secretary of State, and
10 elects to file a corporate officer or L.L.C. member exclusion from the
11 provisions of this chapter.

12 (II) The services are performed pursuant to a written agreement
13 or contract between the corporation or L.L.C. and the person who is providing
14 compensation for the services, and the written agreement or contract explicitly
15 states that the corporate executive officers or L.L.C. managers or members are
16 not considered to be employees under this chapter and are working
17 independently. The written contract or agreement shall also include
18 information regarding the right of the corporation or L.L.C. to purchase
19 workers' compensation insurance coverage and of the corporate executive
20 officers or the L.L.C. managers or members to elect not to exclude themselves
21 from coverage.

1 prior to such date and, subject to the other provisions of this subdivision,
2 service performed after December 31, 1977, by an employee, as defined in
3 subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including
4 service in interstate commerce, performed for wages or under any contract of
5 hire, written or oral, expressed or implied. Services partly within and partly
6 without this State may by election as hereinbefore provided be treated as if
7 wholly within the jurisdiction of this State. And whenever an employing unit
8 shall have elected to come under the provisions of a similar act of a state where
9 a part of the services of an employee are performed, the Commissioner, upon
10 his or her approval of said election as to any such employee, may treat the
11 services covered by said approved election as having been performed wholly
12 without the jurisdiction of this State.

13 * * *

14 (B) Services performed by an individual for wages shall be deemed
15 to be employment subject to this chapter unless and until it is shown to the
16 satisfaction of the Commissioner that the individual:

17 (i) ~~Such individual has been and will continue to be free from~~
18 ~~control or direction over the performance of such services, both under his or~~
19 ~~her contract of service and in fact; and~~

20 (ii) ~~Such service is either outside the usual course of the business~~
21 ~~for which such service is performed, or that such service is performed outside~~

1 of all the places of business of the enterprise for which such service is
2 performed; and

3 (iii) Such individual is customarily engaged in an independently
4 established trade, occupation, profession, or business.

5 is free from the direction and control of the employing unit, both under the
6 individual's contract of service and in fact;

7 (ii) controls the means and manner of the services performed;

8 (iii) operates a separate and distinct business from that of the
9 person with whom he or she contracts;

10 (iv) holds him- or herself out as in business for him- or herself;

11 (v) offers his or her services to the general public; and

12 (vi) is not treated as an employee for purposes of income or
13 employment taxation with regard to the services performed.

14 * * *

15 Sec. 14. 21 V.S.A. § 8 is added to read:

16 § 8. VERMONT EMPLOYEE CLASSIFICATION TASK FORCE

17 (a) Creation and purpose. The Vermont Employee Classification Task
18 Force is created in the Department of Labor to reduce the frequency of
19 employee misclassification through enhanced education, improved
20 coordination of State resources, and increased collaboration among State
21 government, businesses, labor, and other stakeholders.

1 (b) Membership. The Task Force shall be composed of the following **nine**
2 **members:**

- 3 (1) the Commissioner of Labor or designee;
4 (2) the Secretary of Administration or designee;
5 (3) the Secretary of Transportation or designee;
6 (4) the Commissioner of Buildings and General Services or designee;
7 (5) the Commissioner of Financial Regulation or designee;
8 (6) the Secretary of Human Services or designee;
9 (7) the Commissioner of Taxes or designee;
10 (8) the Attorney General or designee; **and**
11 (9) the Commissioner of Liquor Control or designee.

12 (c) Meetings.

- 13 (1) The Task Force shall meet at least six times per year.
14 (2) The Commissioner of Labor or designee shall be the Chair.
15 (3) A majority of the membership of the Task Force shall constitute a
16 quorum.

17 (d) Duties.

- 18 (1) The Task Force shall have the following duties:
19 (A) to develop and implement an ongoing outreach program to
20 educate and inform employers, workers, and the general public about the
21 proper classification of employees and independent contractors;

1 (B) to examine and evaluate existing misclassification enforcement
2 by State agencies and departments;

3 (C) to develop and implement strategies to improve coordination,
4 cooperation, and information sharing among State agencies and departments in
5 relation to the investigation and enforcement of employee misclassification;

6 (D) to review and establish reasonable mechanisms to accept
7 complaints and reports of noncompliance;

8 (E) to ensure that State agencies and departments are engaged in
9 timely enforcement;

10 (F) to ensure that penalties and debarment periods are posted on a
11 publically available website in a timely manner, to the extent permitted by law;

12 (G) to review and recommend additional methods to provide public
13 notice and share information regarding enforcement, penalties, and debarment
14 periods;

15 (H) to develop strategies and programs to assist businesses in
16 complying with Vermont’s requirements for the proper classification of
17 employees and independent contractors, and to reduce the frequency of
18 employee misclassification; and

19 (I) to recommend legislative, regulatory, and administrative measures
20 to reduce the frequency of employee misclassification.

1 (2) The Task Force shall consult and collaborate with businesses, labor,
2 and other interested stakeholders to accomplish the duties set forth in
3 subdivision (1) of this subsection, and may appoint representatives of business,
4 labor, and other interested stakeholders to subcommittees as the Task Force
5 deems appropriate.

6 (e) Report. The Task Force shall report annually on or before January 15
7 of each year to the House Committee on Commerce and Economic
8 Development and the Senate Committee on Finance regarding the activities
9 that it has undertaken pursuant to this section, the progress of the Task Force’s
10 ongoing education and outreach programs, the number and results of the
11 employer audits conducted during the previous calendar year, and any barriers
12 or impediments to the proper classification of employees and independent
13 contractors that the Task Force has identified. The report may recommend
14 legislative, regulatory, and administrative measures to reduce the frequency of
15 employee misclassification. The provisions of 2 V.S.A. § 20(d) (expiration of
16 required reports) shall not apply to the report to be made under this subsection.

17 (f) Definition. As used in this section, “employee misclassification” means
18 the improper classification of employees as independent contractors.

19 Sec. 15. EFFECTIVE DATE

20 This act shall take effect on July 1, 2016.