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2 Representative Marcotte of Coventry moves that the bill be amended as
3 follows:

4 First: In Sec. Sec. 12, 21 V.S.A. § 601, by striking out subdivision (14)(F)
5 in its entirety and inserting a new subdivision (14)(F) to read:

6 (F)(i) The sole proprietor or partner owner or partner owners of an
7 unincorporated business provided all of the following are met:

8 ~~(i)~~(I)(aa) The individual or partner owner performs work that is
9 distinct and separate from that of the person with whom the individual
10 ~~contracts~~ or partner owner contracts; or

11 (bb) the individual or partner owner operates a separate and
12 distinct business from that of the person with whom he or she contracts, is
13 actively registered with the Vermont Secretary of State, and elects to file an
14 exclusion from coverage requirements under this chapter that is approved by
15 the Commissioner.

16 ~~(ii)~~(II) The individual or partner owner controls the means and
17 manner of the work performed.

18 ~~(iii)~~(III) The individual or partner owner holds ~~him~~ him- or herself
19 out as in business for ~~him~~ him- or herself.

1 ~~(iv)~~(IV) The individual or partner owner holds ~~him~~ him- or herself
2 out for work for the general public and does not perform work exclusively for
3 or with another person.

4 ~~(v)~~(V) The individual or partner owner is not treated as an
5 employee for purposes of income or employment taxation with regard to the
6 work performed.

7 ~~(vi)~~(VI) The services are performed pursuant to a written
8 agreement or contract between the individual or partner owner and another
9 person, and the written agreement or contract explicitly states that the
10 individual or partner owner is not considered to be an employee under this
11 chapter, is working independently, has no employees, and has not contracted
12 with other independent contractors. The written contract or agreement shall
13 also include information regarding the right of the individual or partner owner
14 to purchase workers' compensation insurance coverage and the individual's or
15 partner owner's election not to purchase that coverage. However, if the
16 individual or partner owner who is party to the agreement or contract under
17 this subdivision is found to have employees, those employees may file a claim
18 for benefits under this chapter against either or both parties to the agreement.

19 (VII) The person with whom the individual or partner owner
20 has contracted has not hired multiple sole proprietors, partnerships, or single

1 member corporations or L.L.C.s to perform the same work on a project or
2 jobsite.

3 (ii) If, after making an election under subdivision (F)(i)(I)(bb), the
4 individual or partner owner suffers a personal injury arising out of and in the
5 course of his or her employment, he or she may bring an action to recover
6 damages for personal injury against the employer, and in such action the
7 employer shall have all of the defenses available in a personal injury claim.
8 However, this election shall not prevent any other individual, other than the
9 individual excluded pursuant to subdivision (F)(i)(I)(bb), who is determined to
10 be an employee of the unincorporated business from claiming workers'
11 compensation benefits under this chapter from the unincorporated business, or
12 from a statutory employer.

13 (iii) An individual or partner owner that makes an election under
14 subdivision (F)(i)(I)(bb) shall ensure that any other individual hired to perform
15 services for the sole proprietor or partner owner's unincorporated business has
16 workers' compensation coverage.

17 Second: In Sec. 13, 21 V.S.A. § 1301, in subdivision (6)(D) by adding a
18 subdivision (xxii) to read:

19 (xxii) Service performed by a sole proprietor or partner owner of
20 an unincorporated business if:

1 (I) the Commissioner has approved an exclusion for the sole
2 proprietor or partner owner from the coverage requirements of chapter 9 of this
3 title pursuant to subdivision 601(14)(F)(i)(II)(bb) of this title; or

4 (II) the sole proprietor or partner owner has purchased workers'
5 compensation coverage, but would otherwise be eligible to be excluded from
6 the coverage requirements of chapter 9 of this title pursuant to subdivision
7 601(14)(F) of this title.

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