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* * * Misclassification of Employees * * *

CONTRACTING OUT FORBIDDEN; PROHIBITED ACTS; PENALTIES

(a) An employer shall not be relieved in whole or in part from liability created by the provisions of this chapter by any contract, rule, regulation, or device whatsoever.

(b) A person, or their agent, who provides an individual who is or will be performing services for the person, or their agent, with material assistance related to the establishment of an independent business, including the registration of an unincorporated business with the Vermont Secretary of State, the establishment of a corporation or L.L.C., or the acquisition of a federal Employer Identification Number, may, after notice and an opportunity for a hearing, be assessed an administrative penalty of not more than \$5,000.00. As used in this subsection, “material assistance” does not include:

(1) inquiring about whether an unincorporated business, corporation, or L.L.C. is actively registered with the Secretary of State;

(2) inquiring about whether an individual operates an unincorporated business, corporation, or L.L.C.; or

(3) referring an individual to a State agency, department, or website related to the registration or establishment of an unincorporated business, corporation, or L.L.C.

(c) The penalty and enforcement provisions of section 495b of this title shall apply to this chapter.

Sec. 2. 21 V.S.A. § 1369 is amended to read:

§ 1369. FALSE STATEMENTS TO AVOID UNEMPLOYMENT PROGRAM OBLIGATIONS

(a) A person, or their agent, who willfully makes a material false statement or representation to avoid becoming or remaining subject to this chapter, or to avoid or reduce a contribution or other payment required of an employer under this chapter for either herself or himself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$5,000.00.

(b) An employing unit or employer, or their agent, who provides an individual who is or will be performing services for the employing unit or employer with material assistance related to the establishment of an independent business, including the registration of an unincorporated business with the Vermont Secretary of State, the establishment of a corporation or L.L.C., or the acquisition of a federal Employer Identification Number, may, after notice and an opportunity for a hearing, be assessed an administrative penalty of not more than \$5,000.00. As used in this subsection, “material assistance” does not include:

(1) inquiring about whether an unincorporated business, corporation, or L.L.C. is actively registered with the Secretary of State;

(2) inquiring about whether an individual operates an unincorporated business, corporation, or L.L.C.; or

(3) referring an individual to a State agency, department, or website related to the registration or establishment of an unincorporated business, corporation, or L.L.C.