

1 Sec. 2. 21 V.S.A. § 601 is amended to read:

2 § 601. DEFINITIONS

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

5 * * *

6 (31)(A) “Independent contractor” means a person that is economically
7 independent of the person’s employing unit under the totality of the
8 circumstances based on an assessment of the following factors:

9 (i) whether the ~~person~~individual is free from the direction and
10 control of the employing unit with respect to the means and manner of the
11 services performed, both under the person’s contract of service and in fact;

12 (ii) whether the ~~person~~individual performs work that is an integral
13 part of the employing unit’s business;

14 (iii) whether the ~~person’s managerial skills affect its~~individual has
15 an opportunity for profit or loss ~~depending on his or her managerial skill;~~

16 (iv) whether the ~~nature~~individual has a substantial investment in
17 the facilities, tool, instruments, materials, and ~~extent of the relative~~
18 investmentsknowledge used by ~~the person and the employing unit in the~~
19 resources, assets,~~him~~ or ~~equipment necessary~~her to ~~perform~~complete the
20 services contracted forwork;

1 (v) whether the work performed requires the person to exercise
2 specialized business skills, judgment, and initiative;

3 (vi) whether the person individual holds itself himself or herself out
4 as in business for itself himself or herself and competes to offer its services to
5 the general public in the open market; and

6 (vii) whether the degree individual is not treated as an employee
7 for purposes of income or employment taxation with regard to which the
8 relationship between the person work performed and either:

9 (I) holds or has applied for a federal employer identification
10 number; or

11 (II) has filed business or self-employment tax returns with the
12 federal Internal Revenue Service within the employing unit is permanent or
13 indefinite past year or will file business or self-employment tax returns with the
14 federal Internal Revenue Service for the current year.

15 (B) In considering whether a person is economically independent
16 pursuant to subdivision (A) of this subdivision (31), no single factor in and of
17 itself shall be dispositive.

18 (C) If multiple persons are performing the same work on a project or
19 jobsite, the determination of whether the person is economically independent
20 of the employing unit shall take into account the relationship between the

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1 specific services performed by the person and the circumstances of the project
2 or job in relation to which the person is providing services.

3 (D) An independent contractor shall purchase workers' compensation
4 coverage for its employees as provided in this chapter.

5 Sec. 3. 21 V.S.A. § 1301 is amended to read:

6 § 1301. DEFINITIONS

7 The following words and phrases, as used in this chapter, shall have the
8 following meanings unless the context clearly requires otherwise:

9 * * *

10 (6)(A)(i) "Employment," subject to the other provisions of this
11 subdivision (6), means service within the jurisdiction of this State, performed
12 prior to January 1, 1978, which was employment as defined in this subdivision
13 prior to ~~such~~ that date and, subject to the other provisions of this subdivision,
14 service performed after December 31, 1977, by an employee, as defined in
15 subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including
16 service in interstate commerce, performed for wages or under any contract of
17 hire, written or oral, expressed or implied. Services partly within and partly
18 without this State may by election as hereinbefore provided be treated as if
19 wholly within the jurisdiction of this State. And whenever an employing unit
20 shall have elected to come under the provisions of a similar act of a state where
21 a part of the services of an employee are performed, the Commissioner, upon

1 his or her approval of ~~said~~ the election as to any such employee, may treat the
2 services covered by ~~said~~ the approved election as having been performed
3 wholly without the jurisdiction of this State.

4 * * *

5 (B)(i) Services performed by an individual for wages shall be deemed
6 to be employment subject to this chapter unless and until it is shown to the
7 satisfaction of the Commissioner that the individual is economically
8 independent of his or her employing unit under the totality of the
9 circumstances in light of the following factors:

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

13 ~~(ii) Such service is either outside the usual course of the business~~
14 ~~for which such service is performed, or that such service is performed outside~~
15 ~~of all the places of business of the enterprise for which such service is~~
16 ~~performed; and~~

17 ~~(iii) Such individual is customarily engaged in an independently~~
18 ~~established trade, occupation, profession, or business.~~

19 (I) whether the individual is free from the direction and control
20 of ~~his or her~~the employing unit with respect to the means and manner of the

1 services performed, both under the ~~his or her~~person's contract of service and in
2 fact;

3 (II) whether the individual performs work that is an integral
4 part of ~~his or her~~the employing unit's business;

5 (III) whether the ~~individual's managerial skills affect his or her~~
6 ~~individual has an~~ opportunity for profit or loss ~~depending on his or her~~
7 ~~managerial skill;~~

8 (IV) ~~the nature and extent of the relative investments by~~
9 ~~whether~~ the individual ~~and the employing unit~~has a substantial investment in
10 ~~the resources, assets, facilities, tool, instruments, materials, and knowledge~~
11 ~~used by him or equipment necessary~~her to ~~perform~~complete the ~~services~~
12 ~~contracted for~~work;

13 (V) whether the work performed requires ~~the individual to~~
14 ~~exercise~~specialized ~~business~~skills, ~~judgment,~~ and initiative;

15 (VI) whether the individual holds himself or herself out as in
16 business for himself or herself and competes to offer ~~his or her~~its services to
17 the general public ~~in the open market;~~ and

18 (VII) ~~the degree to which the relationship between~~whether the
19 individual is not treated as an employee for purposes of income or employment
20 taxation with regard to the work performed ~~and~~ either;

1 (aa) holds or has applied for a federal employer
2 identification number; or

3 (bb) has filed business or self-employment tax returns with
4 the federal Internal Revenue Service within the employing unit is permanent or
5 indefinite past year or will file business or self-employment tax returns with the
6 federal Internal Revenue Service for the current year.

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7 (ii) In considering whether an individual is economically
8 independent pursuant to subdivision (i) of this subdivision (6)(B), no single
9 factor in and of itself shall be dispositive.

10 (iii) If multiple individuals are performing the same work on a
11 project or jobsite, the determination of whether an individual is economically
12 independent of the employing unit shall take into account the relationship
13 between the specific services performed by the individual and the
14 circumstances of the project or job in relation to which he or she is providing
15 services.

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