

1 S.108

2 Introduced by Senator Pearson

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; unemployment insurance; employee
6 misclassification

7 Statement of purpose of bill as introduced: This bill proposes to permit the
8 Attorney General to enforce complaints of employee misclassification under
9 the workers' compensation and unemployment insurance laws.

10 An act relating to employee misclassification

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

12 Sec. 1. 21 V.S.A. § 712 is added to read:

13 § 712. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY

14 ATTORNEY GENERAL

15 (a) In addition to any other remedies provided under this chapter, an
16 individual who is misclassified by an employer or harmed by an employer's
17 misclassification of an employee as an independent contractor may file a
18 complaint with the Attorney General of the misclassification and any related
19 violations of the provisions of this chapter.

1 (b) The Attorney General shall investigate the complaint and may enforce
2 the provisions of this chapter by restraining prohibited acts, seeking civil
3 penalties, obtaining assurances of discontinuance, and conducting civil
4 investigations in accordance with the procedures established in 9 V.S.A.
5 §§ 2458–2461 as though the misclassification of an employee and any related
6 violations of the provisions of this chapter were unfair acts in commerce.

7 (c) If, following the investigation, the Attorney General determines that an
8 employee has been misclassified as an independent contractor, the Attorney
9 General shall notify the Commissioners of Labor, of Financial Regulation, and
10 of Taxes of the determination, and those Commissioners shall review whether
11 the employer is in compliance with the laws related to employee classification
12 that are under their jurisdiction.

13 Sec. 2. 21 V.S.A. § 1379 is added to read:

14 § 1379. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
15 ATTORNEY GENERAL

16 (a) In addition to any other remedies provided under this chapter, an
17 individual that is misclassified by an employing unit or harmed by an
18 employing unit’s misclassification of an employee as an independent
19 contractor may file a complaint of the misclassification and any related
20 violations of the provisions of this chapter with the Attorney General.

1 (b) The Attorney General shall investigate the complaint and may enforce
2 the provisions of this chapter by restraining prohibited acts, seeking civil
3 penalties, obtaining assurances of discontinuance, and conducting civil
4 investigations in accordance with the procedures established in 9 V.S.A.
5 §§ 2458–2461 as though the misclassification of an employee and any related
6 violations of the provisions of this chapter were unfair acts in commerce.

7 (c) If, following the investigation, the Attorney General determines that an
8 employee has been misclassified as an independent contractor, the Attorney
9 General shall notify the Commissioners of Labor, of Financial Regulation, and
10 of Taxes of the determination, and those Commissioners shall review whether
11 the employer is in compliance with the laws related to employee classification
12 that are under their jurisdiction.

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on July 1, 2019.