

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 108 entitled “An act relating to employee
4 misclassification” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 § 712. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
9 ATTORNEY GENERAL

10 (a) In addition to any other remedies provided under this chapter, an
11 individual may file a complaint with the Attorney General that an employer
12 has committed a violation of section 687 or 708 of this chapter by claiming
13 that it is not an employer as defined pursuant to subdivision 601(3) of this
14 chapter or that an individual is not a worker or employee as defined pursuant to
15 subdivision 601(14) of this chapter.

16 (b) The Attorney General may investigate the complaint and may enforce
17 the provisions of section 687 or 708 of this chapter by restraining prohibited
18 acts, seeking civil penalties, obtaining assurances of discontinuance, and
19 conducting civil investigations in accordance with the procedures established
20 in 9 V.S.A. §§ 2458–2461 as though a violation of section 687 or 708 of this
21 chapter and any related violations of the provisions of this chapter were unfair

1 acts in commerce. Any employer, employment agency, or labor organization
2 complained against shall have the same rights and remedies as specified in
3 9 V.S.A. §§ 2458–2461. The Superior Courts may impose the same civil
4 penalties and investigation costs and order other relief to the State of Vermont
5 or an aggrieved employee for a violation of section 687 or 708 of this chapter
6 and any related violations of the provisions of this chapter as they are
7 authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and
8 2461 in an unfair act in commerce. In addition, the Superior Courts may order
9 restitution of wages or other benefits on behalf of an employee and may order
10 reinstatement and other appropriate relief on behalf of an employee.

11 (c) If, following the investigation, the Attorney General determines that an
12 employer has committed a violation of section 687 or 708 of this chapter, the
13 Attorney General shall notify the Commissioners of Labor, of Financial
14 Regulation, and of Taxes of the determination, and those Commissioners shall
15 review whether the employer is in compliance with the laws related to
16 employee classification that are under their jurisdiction.

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

18 § 1379. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
19 ATTORNEY GENERAL

20 (a) In addition to any other remedies provided under this chapter, an
21 individual that is misclassified by an employing unit or harmed by an

1 employing unit's misclassification of an employee as an independent
2 contractor may file a complaint of the misclassification and any related
3 violations of the provisions of this chapter with the Attorney General.

4 (b) The Attorney General may investigate the complaint and may enforce
5 the provisions of this chapter by restraining prohibited acts, seeking civil
6 penalties, obtaining assurances of discontinuance, and conducting civil
7 investigations in accordance with the procedures established in 9 V.S.A.
8 §§ 2458–2461 as though the misclassification of an employee and any related
9 violations of the provisions of this chapter were unfair acts in commerce. Any
10 employer, employment agency, or labor organization complained against shall
11 have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The
12 Superior Courts may impose the same civil penalties and investigation costs
13 and order other relief to the State of Vermont or an aggrieved employee for the
14 misclassification of an employee and any related violations of the provisions of
15 this chapter as they are authorized to impose or order under the provisions of
16 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the
17 Superior Courts may order restitution of wages or other benefits on behalf of
18 an employee and may order reinstatement and other appropriate relief on
19 behalf of an employee.

20 (c) If, following the investigation, the Attorney General determines that an
21 employee has been misclassified as an independent contractor, the Attorney

1 General shall notify the Commissioners of Labor, of Financial Regulation, and
2 of Taxes of the determination, and those Commissioners shall review whether
3 the employer is in compliance with the laws related to employee classification
4 that are under their jurisdiction.

5 Sec. 3. 21 V.S.A. § 346 is added to read:

6 § 346. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

7 MISCLASSIFICATION

8 (a) In addition to any other remedies provided under this subchapter, an
9 individual may file a complaint with the Attorney General that an employer
10 has committed a violation of section 342, 343, 348, 482, or 483 of this chapter
11 by misclassifying an employee as an independent contractor.

12 (b) The Attorney General may investigate a complaint of a violation of
13 section 342, 343, 348, 482, or 483 of this chapter that is related to the
14 misclassification of an employee as an independent contractor and may enforce
15 those provisions by restraining prohibited acts, seeking civil penalties,
16 obtaining assurances of discontinuance, and conducting civil investigations in
17 accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as
18 though the misclassification of an employee and any related violations of the
19 provisions of section 342, 343, 348, 482, or 483 of this chapter were unfair acts
20 in commerce. Any employer complained against shall have the same rights
21 and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts

1 may impose the same civil penalties and investigation costs and order other
2 relief to the State of Vermont or an aggrieved employee for the
3 misclassification of an employee and any related violations of the provisions of
4 this chapter as they are authorized to impose or order under the provisions of
5 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the
6 Superior Courts may order restitution of wages or other benefits on behalf of
7 an employee and may order reinstatement and other appropriate relief on
8 behalf of an employee.

9 (c) If, following the investigation, the Attorney General determines that an
10 employer committed a violation of section 342, 343, 348, 482, or 483 of this
11 chapter by misclassifying an employee as an independent contractor, the
12 Attorney General shall notify the Commissioners of Labor, of Financial
13 Regulation, and of Taxes of the determination, and those Commissioners shall
14 review whether the employer is in compliance with the laws related to
15 employee classification that are under their jurisdiction.

16 Sec. 4. 21 V.S.A. § 387 is added to read:

17 § 387. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

18 MISCLASSIFICATION

19 (a) In addition to any other remedies provided under this subchapter, an
20 individual may file a complaint with the Attorney General that an employer

1 has committed a violation of this subchapter by misclassifying an employee as
2 an independent contractor.

3 (b) The Attorney General may investigate a complaint of a violation of this
4 subchapter that is related to the misclassification of an employee as an
5 independent contractor and may enforce the provisions of this subchapter by
6 restraining prohibited acts, seeking civil penalties, obtaining assurances of
7 discontinuance, and conducting civil investigations in accordance with the
8 procedures established in 9 V.S.A. §§ 2458–2461 as though the
9 misclassification of an employee and any related violations of the provisions of
10 this subchapter were unfair acts in commerce. Any employer complained
11 against shall have the same rights and remedies as specified in 9 V.S.A.
12 §§ 2458–2461. The Superior Courts may impose the same civil penalties and
13 investigation costs and order other relief to the State of Vermont or an
14 aggrieved employee for the misclassification of an employee and any related
15 violations of the provisions of this chapter as they are authorized to impose or
16 order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in
17 commerce. In addition, the Superior Courts may order restitution of wages or
18 other benefits on behalf of an employee and may order reinstatement and other
19 appropriate relief on behalf of an employee.

20 (c) If, following the investigation, the Attorney General determines that an
21 employer has violated this subchapter by misclassifying an employee as an

1 independent contractor, the Attorney General shall notify the Commissioners
2 of Labor, of Financial Regulation, and of Taxes of the determination, and those
3 Commissioners shall review whether the employer is in compliance with the
4 laws related to employee classification that are under their jurisdiction.

5 Sec. 5. EFFECTIVE DATE

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

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10 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE