

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB4368 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Brian Hill

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 4368

By: Hill

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to independent contractor
9 classification; creating The Uniform Worker
10 Classification Act; providing short title; stating
11 purpose; including and interpreting other provisions
12 of law; stating criteria to determine independent
13 contractor; requiring certain classification based on
14 criteria; construing right of principal to hire
15 employee; requiring uniform classification of workers
16 within state; directing political subdivision to use
17 certain criteria to determine worker classification;
18 providing for codification; and providing an
19 effective date.

20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 720 of Title 40, unless there is
23 created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as "The Uniform Worker
Classification Act".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 720.1 of Title 40, unless there
is created a duplication in numbering, reads as follows:

1 The purpose of The Uniform Worker Classification Act is to bring
2 clarity, certainty, and uniformity under the laws of this state to
3 differentiate employees from independent contractors in employment
4 and to impose objective and uniform standards for making that
5 distinction. All laws where the application thereof is contingent
6 upon the classification of a worker as being an employee are hereby
7 superseded and interpreted to the extent necessary by this act
8 including, but not limited, to any workers' compensation,
9 unemployment compensation, wage, civil rights, and tort claims laws
10 codified in the statutes of this state.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 720.2 of Title 40, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Subject only to the provisions of subsection B of this
15 section, a person shall be classified as an independent contractor
16 under the laws of this state including, but not limited to, those
17 laws codified in statute and identified in Section 1 of this act,
18 if:

19 1. The person signs a written contract with the principal, in
20 substantial compliance with the terms of this subsection, that
21 states the principal's intent to retain the services of the person
22 as an independent contractor and contains acknowledgements that the
23 person understands that he or she is:

24

- 1 a. providing services for the principal as an independent
2 contractor,
- 3 b. not going to be treated as an employee of the
4 principal,
- 5 c. not going to be provided by the principal with either
6 workers' compensation or unemployment compensation
7 benefits,
- 8 d. obligated to pay all applicable federal and state
9 income taxes, if any, on any monies earned pursuant to
10 the contractual relationship, and that the principal
11 will not make any tax withholdings from any payments
12 from the principal, and
- 13 e. responsible for the majority of supplies and other
14 variable expenses that he or she incurs in connection
15 with performing the contracted for services unless:
16 (1) the expenses are for travel that is not local,
17 (2) the expenses are reimbursed under an express
18 provision of the contract, or
19 (3) the supplies or expenses reimbursed are commonly
20 reimbursed under industry practice;

21 2. The person has either filed, intends to file or is
22 contractually required to file, in regard to the fees earned from
23 the work, an income tax return with the Internal Revenue Service for
24 a business or for earnings from self-employment, or provides his or

1 her services through a business entity including, but not limited
2 to, a partnership, limited liability company or corporation or
3 through a sole proprietorship registered and doing business as
4 required under state or local law;

5 3. With the exception of the exercise of control necessary to
6 ensure compliance with statutory, regulatory, licensing, permitting,
7 or other similar obligations required by a governmental or
8 regulatory entity, or to protect persons or property or to protect a
9 franchise brand, the person has the right to control the manner and
10 means by which the work is to be accomplished, even though he or she
11 may not have control over the final result of the work. This
12 provision shall be deemed satisfied even though the principal may
13 provide orientation, information, guidance, or suggestions about the
14 principal's products, business, services, customers, operating
15 systems, and training otherwise required by law;

16 4. The person satisfies three or more of the following
17 criteria:

18 a. except for an agreement with the principal relating to
19 final completion or final delivery time or schedule,
20 range of work hours, or the time entertainment is to
21 be presented if the work contracted for is
22 entertainment, the person has control over the amount
23 of time personally spent providing services,
24

- 1 b. except for services that can only be performed at
2 specific locations, the person has control over where
3 the services are performed,
- 4 c. the person is not required to work exclusively for one
5 principal unless:
- 6 (1) a law, regulation or ordinance prohibits the
7 person from providing services to more than one
8 principal, or
- 9 (2) a license or permit that the person is required
10 to maintain in order to perform the work limits
11 the person to working for only one principal at a
12 time or requires identification of the principal,
- 13 d. the person is free to exercise independent initiative
14 in soliciting others to purchase his or her services,
15 or
- 16 e. the person is free to hire employees or to contract
17 with assistants, helpers, or substitutes to perform
18 all or some of the work;

19 5. The person cannot be required to perform additional services
20 without a new or modified contract;

21 6. The person obtains a license or other permission from the
22 principal to utilize any workspace of the principal in order to
23 perform the work for which the person was engaged;

1 7. The person has been subject to an employment audit by the
2 Internal Revenue Service and the Internal Revenue Service has not
3 reclassified the person to be an employee or has not reclassified
4 the category of workers to be employees;

5 8. The person is responsible for maintaining and bearing the
6 costs of any required business licenses, insurance, certifications,
7 or permits required to perform the services; or

8 9. The person meets the standards promulgated by the Internal
9 Revenue Service for an independent contractor or is an incorporated
10 business entity.

11 B. All workers who do not satisfy the criteria set forth in
12 subsection A of this section shall be classified as employees. In
13 addition, nothing contained in subsection A of this section shall
14 require a principal to classify a worker who meets the criteria
15 contained therein as an independent contractor, the principal always
16 being free to hire the worker as an employee.

17 C. The state and its political subdivisions shall determine and
18 classify independent contractor status uniformly. Each political
19 subdivision shall utilize the provisions of this section to
20 determine independent contractor status.

21 SECTION 4. This act shall become effective November 1, 2021.

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23 58-2-10507 LRB 02/14/22
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