National Conference of State Legislatures

2010 Legislation on Employee Misclassification
Year End Search 2010

ARIZONA

AZ H 2477 Konopnicki (R)
Title: Civil Actions and Public Employees
Introduced: 01/15/2010
Status: Enacted. 04/16/2010 Signed by Governor. Chapter No. 72.
Summary: Relates to civil actions against public entities or public employees; includes leased employees; provides that a leased employee is a person providing services to a public entity under a lease agreement and is not an independent contractor or temporary employee.

COLORADO

CO H 1108 McCann (D)
Title: Nonprofit Youth Sports Coach Independent Contractor
Introduced: 01/15/2010
Status: Enacted. 04/15/2010 Signed by Governor. 04/26/2010 Chapter No. 119.
Summary: Establishes that a written contract between a coach and a nonprofit youth sports organization, declaring that the coach is an independent contractor and not an employee of the organization, is conclusive evidence of the independent contractor relationship between the coach and the organization; requires the written contract to contain a conspicuous declaration, acknowledged by the coach and organization, indicating that the coach is an independent contractor.

CONNECTICUT

CT H 5204 Joint Committee on Labor and Public Employees
Title: Joint Enforcement Commission
Introduced: 02/11/2010
Status: Enacted. 05/05/2010 Signed by Governor. Public Act No. 10-12.
Summary: Implements the recommendations of the joint enforcement commission on employee misclassification; provides that a violation shall constitute a separate offense for each day of the violation; provides penalties for any employer who, with the intent to defraud an insurance company or the state by failure to pay workers' compensation assessments or Second Injury Fund assessments.

GEORGIA

GA H 916 Maxwell (R)
Title: Retirement Ages
Introduced: 01/11/2010
Status: Enacted. 05/24/2010 Signed by Governor. Act No. 455.
Summary: benefits; provides that if a retiring employee has not reached normal retirement age on the date of retirement and returns to any paid service, his or her application for retirement shall be nullified; provides that certain service as an independent contractor shall not result in a suspension of retirement benefits.

KANSAS

KS S 8 Joint Committee on Legislative Educational Planning
Title: Tort Claims Act
Introduced: 01/12/2009
Status: Enacted. 04/06/2009 Signed by Governor. 05/20/2009 Chapter No. 2009-44.

Summary: Concerns the tort claims act; concerns the definition of terms; relates to medical students enrolled at the university of Kansas medical center who are in clinical training at the university medical center or at another health care institution on a specified date and any independent contractor under contract with a governmental entity; provides exemptions.

LOUISIANA

LA H 978 Nowlin (R)
Title: Dentists
Introduced: 03/29/2010
Status: Enacted. 06/25/2010 Signed by Governor. Act No. 612.
Summary: Provides that no provision in present law shall be construed to prohibit any person licensed as a dentist from being an employee or independent contractor of a nonprofit entity eligible to receive federal grants under the Public Health Service Act.

MAINE

ME S 96 Simpson (D)
Title: New Hire Reports and Child Support
Introduced: 01/30/2009
Status: Enacted. 05/26/2009 Signed by Governor. Public Law No. 198.
Summary: Revises requirements to include the reporting of independent contractors by any employer who is already required to report new hires; provides that the report is required when the aggregate compensation to be paid to the independent contractor equals or exceeds a specified amount; regards that this is consistent with the filing of the federal Internal Revenue Service 1099-MISC form under federal requirements.

MARYLAND

MD H 1470 Rudolph (D)
Title: Title Insurance
Introduced: 03/01/2010
Status: Enacted. 05/20/2010 Signed by Governor. Chapter No. 740.
Summary: Exempts a title insurance producer independent contractor who provides certain escrow closing or settlement services from blanket fidelity bond, surety bond, or letter of credit requirements; modifies the requirements for use of a title insurance producer independent contractor's services.

MINNESOTA

MN S 910 Tomassoni (DFL)
Title: Trucking Industry
Introduced: 02/23/2009
Status: Enacted. 05/16/2009 Signed by Governor. Filed with Secretary of State. Chapter No. 2009-89.
Summary: Concerns truckers and messenger and courier services for the purposes of unemployment compensation and workers' compensation; relates to independent contractors; specifies the requirements necessary to determine if the operator is an independent contractor.

MN S 1447 Lourey T (DFL)
Title: Human Services
Introduced: 03/12/2009
Status: Enacted. 05/21/2009 Signed by Governor. Filed with Secretary of State. Chapter No. 2009-142.
Summary: Concerns child care and child development, and foster care licensure denial, forfeit or revocation for violations, respiratory care licensure and scope of practice, day training and habilitation services or supported employment services licensure, and an children's services independent contractor.

NEBRASKA

NE L 563 Lathrop (NP)
Title: Contractor Employee Classification Act
Introduced: 01/21/2009
Status: Enacted. 04/13/2010 Signed by Governor.
Summary: Creates the Employee Classification Act; provides hat an individual performing construction labor or delivery services for a contractor is presumed an employee and not an independent contractor for purposes of the Act; prohibits the misclassification of such employees; provides for the reporting of suspected violations; provides for fines; provides for proceedings pursuant to the Employment Security Law.

NEW YORK

NY S 5847 Onorato (D)
Title: New York State Construction Industry Fair Play Act
Introduced: 06/11/2009
Status: Enacted. 08/27/2010 Signed by Governor. Chapter No. 418.
Summary: Creates the New York State Construction Industry Fair Play Act; relates to employee misclassification, construction industry fraud and failure to withhold income taxes or pay unemployment contributions or workers compensation premiums; provides that any person performing services for a contractor must be classified as an employee unless the person is a separate

OHIO

OH S 195 Patton (R)
Title: Employer Employee Uniform Standard
Introduced: 10/27/2009
Status: Pending - Adjourned
Summary: Creates a uniform standard to determine whether an individual performing services for an employer is an employee of that employer; relates to misclassification of public employees as independent contractors, labor organizations, wages and employer retaliation.

OREGON

OR H 3624 a Holvey (D)
Title: Appraisal Management Companies
Introduced: 02/01/2010
Status: Enacted. 03/23/2010 Signed by Governor. 04/07/2010 Chaptered. Chapter No. 87.
Summary: Certification and Licensure Board; establishes standards for appraisal management companies; prohibits appraisal management companies from attempting to influence appraisals, altering completed reports or placing certain requirements on independent contractor appraisers.

RHODE ISLAND

RI H 6329 Gemma (D)
Title: Underground Economy Study
Introduced: 06/26/2009
Status: Enacted. 11/13/2009 Became law without Governor's signature. Resolution No. 2009-267.
Summary: (Joint Resolution) Extends the reporting date of the Special Joint Commission to study the underground economy and employee misclassification.

RI S 1035 Maselli (D)
Title: Underground Economy Commission
Introduced: 06/26/2009
Status: Enacted. 11/13/2009. Became law without Governor's signature.
Summary: (Joint Resolution) Extends the reporting date of the Special Joint Commission to Study the Underground Economy and Employee Misclassification.

TENNESSEE

TN H 417 Matheny (R)
Title: Law Enforcement
Introduced: 02/09/2009
Status: Enacted. 05/21/2009 Signed by Governor. 05/28/2009 Public Chaptered. Chapter No. 284.
Summary: Relates to law enforcement; authorizes an independent contractor who provides on-site security and law enforcement capability for federal government property which is an air force base and home to a development center that is the most advanced and largest complex of flight simulation

TN S 3591 Ketron (R)
Title: Workers Compensation
Introduced: 01/28/2010
Status: Enacted. 06/30/2010 Signed by Governor. 07/02/2010 Public Chaptered. Chapter No. 1149.
Summary: Concerns the ability of limited liability companies engaged in the construction industry to file for an exemption from obtaining workers compensation insurance to cover themselves. Authorizes the Secretary of State to charge a fee for such exemption. Creates the Workers Compensation Employee Misclassification Education and Enforcement Fund and a task force to study related issues.

WASHINGTON

WA H 1555 Conway (D)
Title: Contractors
Introduced: 01/23/2009
Status: Enacted. 05/11/2009 Signed by Governor. Chapter No. 432.
Summary: Requires conducting education and outreach to employers on workers' compensation requirements and premium responsibilities including independent contractor issues; requires a contractor to maintain a list of all direct subcontractors and their registration certificate; provides the Department of Labor and Industries and the Employment Security Department a lien on retainage on public works contracts; extends the task force on the

WA S 5904 Kohl-Welles (D)
Title: Independent Contractors
Introduced: 02/06/2009
Status: Enacted. 04/10/2009 Signed by Governor. Chapter No. 63.
Summary: Defines independent contractor for purposes of prevailing wage.

WISCONSIN

WI A 929 Pocan (D)
Title: Willful Misclassification of an Employee
Introduced: 04/06/2010
Status: Enacted. 05/12/2010 Signed by Governor. Act No. 288.
Summary: Relates to willful misclassification of an employee as a nonemployee by a person engaged in the painting or drywall finishing of buildings or other structures with intent to evade the laws related to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination.

WI S 669 Risser (D)
Title: Willful Misclassification of an Employee
Introduced: 04/06/2010
Status: Failed
Summary: Relates to willful misclassification of an employee as a nonemployee by a person engaged in the painting or drywall finishing of buildings or other structures with intent to evade the laws related to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination.

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