

**LOST**

1 Senator Brown of the 26th offered the following amendment:

2 Amend the Senate Finance Committee substitute to HB 422 by inserting after  
3 "requirements;" on line 7 of page 1 the following:

4 "to provide that it shall be illegal for any person knowingly to coerce, induce, assist, or  
5 threaten an individual falsely to declare himself or herself to be an independent contractor  
6 or falsely to claim that an individual employed by such person is an independent contractor  
7 in order to avoid or evade the withholding and payment of taxes; to provide for penalties  
8 for violations;".

9 By redesignating Sections 3 and 4 as Sections 5 and 6, respectively, and inserting after line  
10 19 on page 14 the following:

11 **"SECTION 3.**

12 Said chapter is further amended by adding a new subsection (j) to Code Section 48-7-127,  
13 relating to tax penalties, to read as follows:

14 '(j) *False claims of independent contractor status.*

15 (1) It shall be illegal for any person knowingly to coerce, induce, assist, or threaten an  
16 individual falsely to declare himself or herself to be an independent contractor or falsely  
17 to claim that an individual employed by such person is an independent contractor in order  
18 to avoid or evade the withholding or payment of taxes required under this title.

19 (2) In addition to any other penalties provided by law, any person who violates  
20 paragraph (1) of this subsection shall:

21 (A) Upon his or her first conviction, be punished as for a misdemeanor; provided,  
22 however, that any fine imposed shall be not less than \$500.00 nor more than \$1,000.00  
23 for each violation. In addition, such person shall be ineligible to bid on any state,  
24 county, or municipal contract and to do any business with any state, county, or  
25 municipal government from the date of such conviction until one year after the  
26 completion of the sentence imposed as a result of such conviction, including all periods  
27 of incarceration, probation, and parole resulting from such conviction;

28 (B) Upon his or her second conviction, be punished as for a misdemeanor of a high and  
29 aggravated nature; provided, however, that any fine imposed shall be not less than  
30 \$1,000.00 nor more than \$5,000.00 for each violation. In addition, such person shall  
31 be ineligible to bid on any state, county, or municipal contract and to do any business

1 with any state, county, or municipal government from the date of such conviction until  
2 two years after the completion of the sentence imposed as a result of such conviction,  
3 including all periods of incarceration, probation, and parole resulting from such  
4 conviction; or

5 (C) Upon his or her third or subsequent conviction, be punished as a felony by  
6 imprisonment for one to five years, a fine of not less than \$1,000.00 nor more than  
7 \$10,000.00 for each violation, or both. In addition, such person shall be ineligible to  
8 bid on any state, county, or municipal contract and to do any business with any state,  
9 county, or municipal government from the date of such conviction until three years  
10 after the completion of the sentence imposed as a result of such conviction, including  
11 all periods of incarceration, probation, and parole resulting from such conviction.

12 (3) For purposes of this subsection concerning ineligibility to bid on government  
13 contracts and to do business with governmental entities, a plea of nolo contendere shall  
14 be deemed to be a conviction."