

## LOST

Senator McKoon of the 29th offers the following amendment:

1 *Amend the Senate Committee on Insurance and Labor substitute to HB 117 (LC 37 1996ERS)*  
 2 *by inserting between "security;" and "to" on line 2 the following:*

3 to change the definition of the term "employment"; to provide that the Department of Labor  
 4 shall maintain a web based system of notifying the department of employment that is  
 5 improperly reported; to provide for investigation of reports of misclassification;

6 *By deleting lines 11 and 12 and inserting in lieu thereof the following:*

7 security, is amended by revising subsection (f) of Code Section 34-8-35, relating to the  
 8 definition of employment applicable to the "Employment Security Law," as follows:

9 "(f) Services performed by an individual for wages shall be deemed to be employment  
 10 subject to this chapter unless and until it is shown that:

11 (1)(A) Such individual has been and will continue to be free from control or direction  
 12 over the performance of such services, both under the individual's contract of service  
 13 and in fact, as demonstrated by evidence timely submitted to the department upon  
 14 which the department determines by analyzing the totality of the circumstances on a  
 15 case-by-case basis that the individual:

16 (i) Is not prohibited from working for other companies or holding other employment  
 17 contemporaneously;

18 (ii) Is free to accept or reject work assignments without consequence;

19 (iii) Is not prescribed minimum hours to work or, in the case of sales, does not have  
 20 a minimum number of orders to be obtained;

21 (iv) Has the discretion to set his or her own work schedule;

22 (v) Receives only minimal instructions and no direct oversight or supervision  
 23 regarding the services to be performed, such as the location where the services are to  
 24 be performed and any requested deadlines;

25 (vi) When applicable, has no territorial or geographic restrictions; and

26 (vii) Is not required to perform, behave, or act or, alternatively, is compelled to  
 27 perform, behave, or act in a manner related to the performance of services for wages  
 28 which is determined by the Commissioner to demonstrate employment, in accordance  
 29 with this Code section and such rules and regulations as the Commissioner may  
 30 prescribe; and

31 (B) Such individual is customarily engaged in an independently established trade,  
 32 occupation, profession, or business; or

33 (2) Such individual and the services performed for wages are the subject of an SS-8  
34 determination by the Internal Revenue Service, which decided against employee status."

35 **SECTION 1A.**

36 Said chapter is further amended by adding a new Code section to read as follows:

37 "34-8-257.

38 The department shall create a web based reporting system by which instances of  
39 improperly reported employment may be submitted to the department. The department  
40 shall investigate each credible report."

41 **SECTION 1B.**

42 Said chapter is further amended by revising Code Section 34-8-43, relating to most recent  
43 employer, as