

LOST

Representatives Abrams of the 89th, McClain of the 100th, and Hugley of the 136th offer the following amendment:

1 *Amend SB 277 (LC 36 2943S) by deleting lines 1 through 6 and inserting in lieu thereof the*
2 *following:*

3 To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial
4 relations, so as to change certain provisions relating to employees; to provide that neither a
5 franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisor
6 for any purpose; to provide for applicability; to provide for a short title; to change certain
7 provisions of a definition in order to provide that services performed by an individual for
8 wages shall be deemed to be employment unless certain factors demonstrate that such
9 individual has been and will continue to be free from control or direction over the
10 performance of such services; to provide that the Department of Labor shall maintain a web
11 based system of notifying the department of employment that is improperly reported; to
12 provide for investigation of reports of misclassification; to provide for effective dates; to
13 provide for related matters; to repeal conflicting laws; and for other purposes.

14 *By inserting between lines 7 and 8 the following:*

15 **PART I**

16 *By replacing "Act" on line 9 with "part".*

17 *By redesignating Section 1 and Section 2 as Section 1-1 and Section 1-2, respectively.*

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

19 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
20 is amended by adding a new Code section

21 *By deleting lines 22 through 24 and inserting in lieu thereof the following:*

22 **PART II**

23 **SECTION 2-1.**

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

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

28 (1)(A) Such individual has been and will continue to be free from control or direction
 29 over the performance of such services, both under the individual's contract of service
 30 and in fact, based upon the totality of the circumstances and taking into consideration
 31 whether the individual:

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

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

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

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

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

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

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

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

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

51 SECTION 2-2.

52 Said title is further amended by adding a new Code section to read as follows:

53 "34-8-257.

54 The department shall create a web based reporting system through which instances of
 55 improperly reported employment may be submitted to the department. The department
 56 shall investigate each credible report."

57 PART III

58 SECTION 3-1.

59 (a) Except as provided in subsection (b) of this Section, this Act shall become effective on
 60 July 1, 2016.

61 (b) Part I of this Act shall become effective on January 1, 2017.

SECTION 3-2.