

Senator McKoon of the 29th offered the following amendment:

NOT GERMANE

1 *Amend HB 818 (LC 36 2862) by deleting lines 1 and 2 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 employment; to change certain
 5 provisions of a definition in order to provide that services performed by an individual for
 6 wages shall be deemed to be employment unless the Department of Labor makes a contrary
 7 determination based upon evidence submitted of certain factors demonstrating that such
 8 individual has been and will continue to be free from control or direction over the
 9 performance of such services; to provide that the Department of Labor shall maintain a web
 10 based system of notifying the department of employment that is improperly reported; to
 11 provide for investigation of reports of misclassification; to change certain provisions relating
 12 to workers' compensation

13 *By redesignating Sections 1 through 14 as Sections 3 through 16, respectively.*

14 *By inserting between lines 12 and 13 the following:*

SECTION 1.

16 Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations,
 17 is amended in Code Section 34-8-35, relating to the definition of employment applicable to
 18 the "Employment Security Law," by revising subsection (f) as follows:

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

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

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

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

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

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

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

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

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

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

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

45 **SECTION 2.**

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

47 "34-8-257.

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

51 *By deleting lines 14 and 15 and inserting in lieu thereof the following:*

52 Said title is further amended by revising subsection (c) of Code Section 34-9-47, relating to
 53 the

54 *By replacing "chapter" with "title" on lines 26, 56, 70, 80, 88, 96, 143, 193, 209, 277, 339,*
 55 *and 355.*