



HOUSE BILL 707: WC/Independent Truckers.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	April 30, 2019
Introduced by:	Reps. Wray, Lewis, Stevens	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition H707-CSRN-30		Committee Co-Counsel

OVERVIEW: *House Bill 707 would amend the Workers' Compensation Act to make changes to the provisions applying to determining whether tractor trailer drivers are employees or independent contractors and, if they are independent contractors, how they may be covered by the employer's workers' compensation coverage. The Proposed Committee Substitute (PCS) provides that any occupational accident policy or workers' compensation policy must be purchased from a financially stable rated company by AM Best (was "must be purchased from an insurance company having an AM Best 'A' rating in the First Edition of the bill).*

CURRENT LAW: Under the Workers Compensation Act, an employer of three or more employees must provide workers compensation coverage for injuries or death to the employees that arise out of and in the course of the performance of work performed by the employees.

The Act does not generally require that coverage be provided for persons who are independent contractors rather than employees. An exception to this general rule applies to claims brought by independent contractors who operate trucks, tractors, or tractor trailers licensed by the United States Department of Transportation. If the independent contractor has not secured the payment of workers compensation for himself or for his employees and subcontractors, then any principal contractor, intermediate contractor, or subcontractor who contracts with that independent contractor is liable to pay any workers compensation benefits that are due in a claim for injury or death occurring to the independent contractor or his or her employees or subcontractors arising out of and in the course of performing the contract work. In that situation, the defendant is liable for payment of workers compensation benefits to the independent contractor regardless of whether the defendant regularly employs three or more employees.

G.S. 97-19.1 also permits a principal contractor, intermediate contractor, or subcontractor to include an independent contractor, its employees and subcontractors under a blanket workers compensation policy and to be reimbursed by the independent contractor for the cost of that coverage.

BILL ANALYSIS: House Bill 707 would relieve a principal contractor, intermediate contractor, or subcontractor who contracts with an independent contractor operating a truck, tractor, or truck tractor trailer for a motor carrier from liability as an employer under the Workers' Compensation Act if:

- The independent contractor owns or leases the vehicle providing service;
- The independent contractor is personally operating the vehicle or is responsible for hiring or engaging and paying the person who operates the vehicle; and
- The independent contractor is covered under an occupational accident policy issued to the independent contractor or motor carrier.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 707

Page 2

The motor carrier and independent contractor would be permitted to enter into a written contract under which the independent contractor and its employees would be covered by the motor carrier's workers' compensation policy, could be required to reimburse the motor carrier for the cost of the coverage, and would be deemed to be employees of the motor carrier only for purposes of workers' compensation.

The term "occupational accident policy" would be defined as the type of insurance policy obtained by independent contractor owners-operators in the trucking industry that is purchased from a financially stable rated company by AM Best and that includes all of the following benefit categories:

- Temporary total disability type wage replacement benefit;
- Permanent disability or impairment benefit;
- Medical expense payment benefit; and
- A death benefit.

Presently, this statute applies to contracts with persons who operate a truck, tractor, or truck tractor trailer licensed by the United States Department of Transportation. Section 1 would make the statute apply to contracts with persons who operate a truck, tractor, or truck tractor trailer for a "motor carrier," as statutorily defined.¹

EFFECTIVE DATE: The act would be effective when it becomes law.

Bill Patterson, Staff Attorney for the Legislative Analysis Division, contributed substantially to this summary.

¹ A "motor carrier" is defined as "[a] for hire motor carrier or a private motor carrier." G.S. 20-4.01(21b). A "for-hire motor carrier" is defined as "[a] person who transports passengers or property by motor vehicle for compensation." G.S. 20-4.01(11a). A "private motor carrier" is defined as "[a] person who transports passengers or property by motor vehicle in interstate commerce and is not a for-hire motor carrier." G.S. 20-4.01(29b).