



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1380/1
MIM:cjs

2021 ASSEMBLY BILL 691

November 12, 2021 - Introduced by Representatives SPIROS, ARMSTRONG, AUGUST, MACCO, STEFFEN and KNODL, cosponsored by Senators COWLES and BALLWEG. Referred to Committee on Labor and Integrated Employment.

1 **AN ACT** *to amend* 102.07 (8) (a); and *to create* 73.03 (75), 102.07 (8) (bs), 104.01
2 (5k), 104.013, 108.02 (12) (cm), 109.01 (2m) and 109.013 of the statutes;
3 **relating to:** classification of motor vehicle operators as independent
4 contractors or employees.

Analysis by the Legislative Reference Bureau

This bill provides that, for the purposes of the worker's compensation law, the unemployment insurance law, the minimum wage law, the administration of income and franchise taxes, and wage claims, the fact that the operator of a motor vehicle for a motor carrier deploys, implements, or uses a motor carrier safety improvement is not evidence that the operator is an employee rather than an independent contractor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 73.03 (75) of the statutes is created to read:
6 73.03 (75) To not consider the deployment, implementation, or use of a motor
7 carrier safety improvement, as defined in s. 102.07 (8) (bs) 1., in determining whether

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1 the operator of a motor vehicle is an employee for the administration of the income
2 and franchise taxes imposed under ch. 71, to the extent that such a determination
3 does not conflict with the federal Internal Revenue Code.

4 **SECTION 2.** 102.07 (8) (a) of the statutes is amended to read:

5 102.07 (8) (a) Except as provided in pars. (b) and ~~(bm)~~ (bs), every
6 independent contractor is, for the purpose of this chapter, an employee of any
7 employer under this chapter for whom he or she is performing service in the course
8 of the trade, business, profession or occupation of such employer at the time of the
9 injury.

10 **SECTION 3.** 102.07 (8) (bs) of the statutes is created to read:

11 102.07 (8) (bs) 1. In this paragraph, “motor carrier safety improvement” means
12 any device, equipment, software, technology, procedure, training, policy, program, or
13 practice intended and primarily used to improve or facilitate compliance with federal
14 or state laws that govern any of the following:

- 15 a. Traffic safety or motor carrier safety.
16 b. The safety of motor vehicles.
17 c. The safety of operators of motor vehicles.
18 d. The safety of other users of highways.

19 2. The deployment, implementation, or use of a motor carrier safety
20 improvement by or as required by a motor carrier or its related entity, as defined in
21 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
22 evidence that an operator of a motor vehicle does not meet the conditions of par. (b).

23 **SECTION 4.** 104.01 (5k) of the statutes is created to read:

24 104.01 (5k) “Motor carrier safety improvement” has the meaning given in s.
25 102.07 (8) (bs) 1.

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1 **SECTION 5.** 104.013 of the statutes is created to read:

2 **104.013 Certain motor vehicle operators excluded.** For purposes of this
3 chapter, the deployment, implementation, or use of a motor carrier safety
4 improvement by or as required by a motor carrier or its related entity, as defined in
5 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
6 evidence that an individual is an employee of a motor carrier.

7 **SECTION 6.** 108.02 (12) (cm) of the statutes is created to read:

8 108.02 (12) (cm) 1. In this paragraph, “motor carrier safety improvement” has
9 the meaning given in s. 102.07 (8) (bs) 1.

10 2. The deployment, implementation, or use of a motor carrier safety
11 improvement by or as required by a motor carrier or its related entity, as defined in
12 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
13 evidence of control or direction by an employing unit for purposes of pars. (bm) and
14 (c).

15 **SECTION 7.** 109.01 (2m) of the statutes is created to read:

16 109.01 (2m) “Motor carrier safety improvement” has the meaning given in s.
17 102.07 (8) (bs) 1.

18 **SECTION 8.** 109.013 of the statutes is created to read:

19 **109.013 Certain motor vehicle operators excluded.** For purposes of this
20 chapter, the deployment, implementation, or use of a motor carrier safety
21 improvement by or as required by a motor carrier or its related entity, as defined in
22 s. 71.22 (9am), including by contract, or by the operator of a motor vehicle is not
23 evidence that an individual is an employee of a motor carrier.

24

(END)