

House File 348 - Introduced

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BY B. MEYER

A BILL FOR

1 An Act prohibiting the misclassification of employees as
2 independent contractors, providing penalties, and including
3 applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 3, Code 2025, is
2 amended to read as follows:

3 3. The department of workforce development is responsible
4 for administration of unemployment compensation benefits
5 and collection of employer contributions under [chapter 96](#),
6 providing for the delivery of free public employment services
7 established pursuant to [chapter 96](#), other job placement and
8 training programs established pursuant to [section 84A.6](#),
9 employment agencies under [chapter 84I](#), enforcement of chapter
10 95 relating to misclassification, and the delivery of services
11 located throughout the state.

12 Sec. 2. NEW SECTION. 95.1 Definitions.

13 As used in this chapter, unless the context otherwise
14 requires:

15 1. "*Department*" means the department of workforce
16 development.

17 2. "*Employee*" means an individual who performs services in
18 this state for an employer in return for remuneration and who
19 is considered an employee under regulations or guidelines of
20 the federal internal revenue service in effect as of the date
21 of an alleged misclassification.

22 3. "*Employer*" means a person who employs an individual in
23 this state for wages.

24 4. "*Independent contractor*" means an individual who
25 performs services in this state for an employer in return for
26 remuneration and who is considered an independent contractor
27 under regulations or guidelines of the federal internal
28 revenue service in effect as of the date of an alleged
29 misclassification.

30 5. "*Misclassify*" or "*misclassification*" means to classify an
31 individual for employment purposes as an independent contractor
32 rather than an employee, contrary to regulations or guidelines
33 of the federal internal revenue service in effect as of the
34 date of an alleged misclassification, with the effect of
35 denying the individual eligibility for an employment benefit

1 provided by law or for a government program.

2 Sec. 3. NEW SECTION. 95.2 **Misclassification of employees**
3 **prohibited.**

4 An employer shall not willfully misclassify an individual.

5 Sec. 4. NEW SECTION. 95.3 **Civil penalty — procedures.**

6 1. An employer who violates section 95.2 shall be subject
7 to a civil penalty of up to five thousand dollars per
8 misclassified individual for a first offense, up to seven
9 thousand five hundred dollars per misclassified individual
10 for a second offense, and up to ten thousand dollars per
11 misclassified individual for each subsequent offense.

12 2. The department shall provide written notice to an
13 employer prior to imposition of a civil penalty under this
14 section. An employer may contest and seek judicial review of a
15 determination of the department under this chapter pursuant to
16 chapter 17A; however, for purposes of this section, an employer
17 shall bear the burden to demonstrate by a preponderance of the
18 evidence that the employer did not violate section 95.2.

19 3. Upon a final determination of the department that an
20 employer violated section 95.2 and the conclusion of the period
21 for any appeals, all of the following apply:

22 a. The department shall bring an action in district court to
23 collect the penalties provided in this section. The department
24 shall remit any penalties collected to the treasurer of state
25 for deposit in the general fund.

26 b. The department shall refer the violation to a county
27 attorney. A county attorney shall not be bound by any
28 determination of the department.

29 Sec. 5. NEW SECTION. 95.4 **Criminal penalty.**

30 In addition to the civil penalties provided in section 95.3,
31 an employer who violates section 95.2 commits a class "D"
32 felony.

33 Sec. 6. NEW SECTION. 95.5 **Enforcement — rules.**

34 1. The department shall enforce this chapter. The
35 department may establish additional procedures to implement

1 this chapter and may employ inspectors and any other personnel
2 deemed necessary to implement this chapter, subject to the
3 provisions of chapter 8A, subchapter IV.

4 2. The department shall adopt rules pursuant to chapter 17A
5 to administer this chapter.

6 Sec. 7. APPLICABILITY. This Act applies to
7 misclassification, as defined in section 95.1, as enacted by
8 this Act, of an individual by an employer occurring on or after
9 the effective date of this Act.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill prohibits an employer from willfully
14 misclassifying an individual who performs services for
15 the employer in return for remuneration as an independent
16 contractor rather than an employee with the effect of denying
17 the individual eligibility for an employment benefit provided
18 by law or for a government program. Whether an individual
19 performs services as an employee or independent contractor
20 is determined under regulations or guidelines of the federal
21 internal revenue service in effect as of the date of an alleged
22 misclassification. The bill is enforced by the department of
23 workforce development.

24 An employer who violates this prohibition shall be subject
25 to a civil penalty of up to \$5,000 per misclassified individual
26 for a first offense, up to \$7,500 per misclassified individual
27 for a second offense, and up to \$10,000 per misclassified
28 individual for each subsequent offense.

29 The department shall provide written notice to an employer
30 prior to imposition of a civil penalty. An employer may
31 contest and seek judicial review of a determination of
32 the department pursuant to Code chapter 17A. An employer
33 shall bear the burden of proving that the employer did not
34 misclassify an individual. Upon a final determination of the
35 department that a violation occurred and the conclusion of the

1 period for any appeals, the department shall bring an action in
2 district court to collect the civil penalties for deposit in
3 the general fund and refer the violation to a county attorney.
4 A county attorney shall not be bound by any determination of
5 the department.

6 An employer who misclassifies an individual in violation of
7 the bill commits a class "D" felony. A class "D" felony is
8 punishable by confinement for no more than five years and a
9 fine of at least \$1,025 but not more than \$10,245.

10 The bill applies to misclassification of an individual by an
11 employer occurring on or after the effective date of the bill.