

SESSION OF 2006

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2772

As Amended by Senate Committee on
Commerce

Brief*

HB 2772 would amend current law dealing with the employment relationship between an owner-operator and a licensed motor carrier and the misclassification of employees. The bill would declare that an independent contractor relationship between an owner-operator and a licensed motor carrier may exist during the use of leased vehicles in the transportation of property, so long as the licensed motor carrier complies with all statutory and regulatory requirements. If the licensed motor carrier has a lease agreement with a driver, and the driver complies with all applicable rules and regulations of the Kansas Corporation Commission, Federal Motor Carrier Safety Administration, or other federal agencies having jurisdiction over motor carriers, then that agreement would not be considered as an exercise of control over the driver by the licensed motor carrier.

The bill would make the act of intentionally misclassifying an employee as an independent contractor for the sole or primary purpose of avoiding either state income tax withholding and reporting requirements or state unemployment insurance contributions reporting requirements subject to the Kansas Department of Revenue penalties and interest provided in KSA 79-3228. In addition, the bill would allow the Kansas Department of Revenue to share taxpayer information with the staff attorneys of the Kansas Department of Labor provided that the taxpayer information is for persons suspected of intentionally misclassifying an employee as an independent contractor for the sole or primary purpose of avoiding taxes.

Background

Tom Whitaker, Executive Director of the Kansas Motor Carriers Association, appeared in favor of the bill.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The House Committee inserted a technical amendment.

The House Committee of the Whole inserted the provisions regarding misclassification of employees. Some provisions of misclassifying employees came from HB 2372.

The Senate Committee amended the bill by removing: all references to the Attorney General and employment security law; the website requirements; and the responsibility of investigating alleged violations.

The fiscal note on the original bill indicated no fiscal effect.