

**CONFERENCE COMMITTEE REPORT**

**House Bill No. 705 by Representative Riser**

June 10, 2021

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 705 by Representative Riser, recommend the following concerning the Engrossed bill:

1. That Senate Committee Amendments Nos. 1, 3 through 11, and 13 by the Senate Committee on Labor and Industrial Relations (#3083) be adopted.
2. That Senate Committee Amendments Nos. 2 and 12 by the Senate Committee on Labor and Industrial Relations (#3083) be rejected.
3. That the set of amendments by the Legislative Bureau (#3238) be adopted.
4. That Senate Floor Amendments Nos. 1 and 3 through 7 by Senator Reese (#3396) be adopted.
5. That Senate Floor Amendment No. 2 by Senator Reese (#3396) be rejected.
6. That the set of Senate Floor Amendments by Senator Luneau (#3397) be adopted.
7. That the set of Senator Floor Amendments by Senator Luneau (#3284) be rejected.
8. That the following amendments to be adopted:

AMENDMENT NO. 1

In Senate Floor Amendment No. 7 by Senator Reese (#3396), on page 1, line 33, change "Section 2." to "Section 3."

AMENDMENT NO. 2

In Senate Floor Amendment No. 1 by Senator Luneau (#3397), on page 1, line 3, change "Section 2." to "Section 4." and change "Stevens" to "Stephens"

Respectfully submitted,

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Representative Neil Riser

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Senator W. Jay Luneau

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Representative Barbara W. Carpenter

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Senator Mike Reese

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Representative Gerald "Beau" Beaulieu IV

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Senator John C. "Jay" Morris, III

**CONFERENCE COMMITTEE REPORT DIGEST**

House Bill No. 705 by Representative Riser

**Keyword and onliner of the instrument as it left the House**

UNEMPLOYMENT COMP: Provides relative to the misclassification of employees and a criteria for the classification of employees

**Report adopts Senate amendments to:**

1. Provide that a citation imposed on an employer for the misclassification of an employee shall be waived for the first offense, if certain requirements are met.
2. Provide a rebuttable presumption for an independent contractor relationship if certain requirements and specified criteria are met.
3. Delete as a single criterion for independent contractor relationship provisions in proposed law that the contracting party does not direct or oversee the performance, methods, or processes the individual or entity used to perform the required services.
4. Delete provisions in proposed law that an independent contractor certification from the state is optional and not required to establish independent contractor status.
5. Provide that proposed law shall not apply to a motor carrier under certain circumstances.
6. Provide that proposed law shall not apply to any service excluded from the term "employment" provided for in present law.
7. Provide that proposed law shall not apply to any service performed in the employ of a state, political subdivision, or an Indian tribe, if the service is excluded from employment under certain federal unemployment tax provisions.
8. Provide that proposed law shall not apply to any service performed by an individual employed by a religious, charitable, educational, or other organization, if the service is excluded from employment under certain federal unemployment tax provisions.
9. Add provisions that proposed law shall not apply to specific people or organizations licensed by the Department of Insurance, registered with the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or licensed by the state.
10. Provide that proposed law shall be known and may be cited as "The Ernest C. Stephens Act".
11. Provide for technical changes.

**Report rejects Senate amendments which would have:**

1. Provided that proposed law shall not apply to a motor carrier under certain circumstances.
2. Provided that proposed law shall not apply to any service excluded from the term "employment" provided for in present law.
3. Provided that proposed law shall not apply to any service performed in the employ of a state, political subdivision, or an Indian tribe, if the service is excluded from employment under certain federal unemployment tax provisions.

4. Provided that proposed law shall not apply to any service performed by an individual employed by a religious, charitable, educational, or other organization, if the service is excluded from employment under certain federal unemployment tax provisions.
5. Provided that proposed law shall be known and may be cited as "The Ernest C. Stevens Act".
6. Added provisions that proposed law shall not apply to specific people or organizations licensed by the Department of Insurance, registered with the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or licensed by the state.

**Report amends the bill to:**

1. Provide for technical changes.

**Digest of the bill as proposed by the Conference Committee**

Present law provides that, after an investigation and determination by the administrator, if an employer or a person acting on behalf of the employer, misclassified an employee, the administrator may assess an administrative penalty against the employer for each employee misclassified.

Proposed law provides that if an employer becomes compliant and properly classifies an employee within 60 days of the citation, the penalty shall be waived for the first offense.

Proposed law provides that there shall be a rebuttable presumption of an independent contractor relationship with the contracting party for whom the independent contractor performs work, if an individual or entity controls the performance, methods, or processes used to perform services and meets certain criteria listed in proposed law.

Proposed law provides that proposed law shall not apply to a motor carrier who pursuant to a contract with an owner operator as defined in present law undertakes the performance of services as a motor carrier.

Proposed law provides that proposed law shall not apply to any service performed in the employ of state, any political subdivision, or an Indian tribe, if the service is excluded from employment as defined in the Federal Unemployment Tax Act.

Proposed law provides that proposed law shall not apply to any service performed by an individual in the employ of a religious, charitable, educational, or other organization, if the service is excluded from employment as defined in the Federal Unemployment Tax Act.

Proposed law provides that the provisions of proposed law shall not apply to any person or organization licensed by the Dept. of Insurance, any securities broker-dealer, or any investment adviser or their agents and representatives who are registered with the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or licensed by the state.

Proposed law provides for legislative findings.

Proposed law provides that proposed law shall be known and may be cited as "The Ernest C. Stephens Act".

(Amends R.S. 23:1711(G)(1); Adds R.S. 23:1711.1)