

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 108 entitled “An act relating to employee  
4 misclassification” respectfully reports that it has considered the same and  
5 recommends that the bill be amended as follows:

6 First: In Sec. 1, 21 V.S.A. § 712, by striking out subsection (b) in its  
7 entirety and inserting in lieu thereof a new subsection (b) to read:

8 (b) The Attorney General may investigate the complaint and may enforce  
9 the provisions of this chapter by restraining prohibited acts, seeking civil  
10 penalties, obtaining assurances of discontinuance, and conducting civil  
11 investigations in accordance with the procedures established in 9 V.S.A.  
12 §§ 2458–2461 as though the misclassification of an employee and any related  
13 violations of the provisions of this chapter were unfair acts in commerce. Any  
14 employer, employment agency, or labor organization complained against shall  
15 have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The  
16 Superior Courts may impose the same civil penalties and investigation costs  
17 and order other relief to the State of Vermont or an aggrieved employee for the  
18 misclassification of an employee and any related violations of the provisions of  
19 this chapter as they are authorized to impose or order under the provisions of  
20 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the  
21 Superior Courts may order restitution of wages or other benefits on behalf of

1 an employee and may order reinstatement and other appropriate relief on  
2 behalf of an employee.

3 Second: In Sec. 2, 21 V.S.A. § 1379, by striking out subsection (b) in its  
4 entirety and inserting in lieu thereof a new subsection (b) to read:

5 (b) The Attorney General may investigate the complaint and may enforce  
6 the provisions of this chapter by restraining prohibited acts, seeking civil  
7 penalties, obtaining assurances of discontinuance, and conducting civil  
8 investigations in accordance with the procedures established in 9 V.S.A.  
9 §§ 2458–2461 as though the misclassification of an employee and any related  
10 violations of the provisions of this chapter were unfair acts in commerce. Any  
11 employer, employment agency, or labor organization complained against shall  
12 have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The  
13 Superior Courts may impose the same civil penalties and investigation costs  
14 and order other relief to the State of Vermont or an aggrieved employee for the  
15 misclassification of an employee and any related violations of the provisions of  
16 this chapter as they are authorized to impose or order under the provisions of  
17 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the  
18 Superior Courts may order restitution of wages or other benefits on behalf of  
19 an employee and may order reinstatement and other appropriate relief on  
20 behalf of an employee.

1        Third: By striking out Sec. 3, Effective Date, in its entirety and inserting in  
2        lieu thereof Secs. 3, 4, and 5 to read:

3        Sec. 3. 21 V.S.A. § 346 is added to read:

4        § 346. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

5                MISCLASSIFICATION

6        The Attorney General may investigate a complaint of a violation of section  
7        342, 343, 348, 482, or 483 of this chapter that is related to the misclassification  
8        of an employee as an independent contractor and may enforce those provisions  
9        by restraining prohibited acts, seeking civil penalties, obtaining assurances of  
10        discontinuance, and conducting civil investigations in accordance with the  
11        procedures established in 9 V.S.A. §§ 2458–2461 as though the  
12        misclassification of an employee and any related violations of the provisions of  
13        section 342, 343, 348, 482, or 483 of this chapter were unfair acts in  
14        commerce. Any employer complained against shall have the same rights and  
15        remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Courts may  
16        impose the same civil penalties and investigation costs and order other relief to  
17        the State of Vermont or an aggrieved employee for the misclassification of an  
18        employee and any related violations of the provisions of this chapter as they  
19        are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and  
20        2461 in an unfair act in commerce. In addition, the Superior Courts may order

1 restitution of wages or other benefits on behalf of an employee and may order  
2 reinstatement and other appropriate relief on behalf of an employee.

3 Sec. 4. 21 V.S.A. § 387 is added to read:

4 § 387. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE

5 MISCLASSIFICATION

6 The Attorney General may investigate a complaint of a violation of this  
7 subchapter that is related to the misclassification of an employee as an  
8 independent contractor and may enforce the provisions of this subchapter by  
9 restraining prohibited acts, seeking civil penalties, obtaining assurances of  
10 discontinuance, and conducting civil investigations in accordance with the  
11 procedures established in 9 V.S.A. §§ 2458–2461 as though the  
12 misclassification of an employee and any related violations of the provisions of  
13 this subchapter were unfair acts in commerce. Any employer complained  
14 against shall have the same rights and remedies as specified in 9 V.S.A.  
15 §§ 2458–2461. The Superior Courts may impose the same civil penalties and  
16 investigation costs and order other relief to the State of Vermont or an  
17 aggrieved employee for the misclassification of an employee and any related  
18 violations of the provisions of this chapter as they are authorized to impose or  
19 order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in  
20 commerce. In addition, the Superior Courts may order restitution of wages or

1 other benefits on behalf of an employee and may order reinstatement and other  
2 appropriate relief on behalf of an employee.

3 Sec. 5. EFFECTIVE DATE

4 This act shall take effect on July 1, 2019.

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8 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE