

1 HB408
2 209861-2
3 By Representative Kitchens
4 RFD: State Government
5 First Read: 11-FEB-21

8 SYNOPSIS: This bill would require an employer to use
9 specified federal guidelines in order to determine
10 whether a worker is engaged in employment for
11 purposes of employment benefits and tax
12 liabilities.

13 This bill would require a state agency, when
14 applicable, to use those same specified guidelines
15 to determine whether a worker is to be considered
16 as an employee.

17 This bill would also provide that the
18 federal guidelines do not apply for purposes
19 relating to workers' compensation laws.

21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to employment; to require an employer to
26 use specified guidelines in order to determine whether a
27 worker is engaged in employment for purposes of employment

1 benefits and tax liabilities; to require a state agency, when
2 applicable, to use those same specified guidelines to
3 determine whether a worker is to be considered as an employee;
4 and to provide exemptions for workers' compensation purposes.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) For purposes of determining
7 eligibility for employee benefits and protections pursuant to
8 Title 25 of the Code of Alabama 1975, relating to employment
9 and unemployment, or determining tax liability for employees
10 and employers pursuant to Title 40 of the Code of Alabama
11 1975, relating to revenue and taxation, an employer or state
12 agency responsible for determining the employment status of an
13 individual shall do both of the following:

14 (1) Use the test enumerated by the Internal Revenue
15 Service in Rev. Rul. 87-41, 1987-1 C.B. 296, as amended or
16 replaced from time to time, in making its determination.

17 (2) Apply the safe harbor provided in Section 530 of
18 the Revenue Act of 1978, Public Law 95-600, as amended and
19 extended by subsequent acts of Congress.

20 (b) Notwithstanding subsection (a), this section
21 shall have no application to, nor shall it have any impact
22 upon, any determination of whether a worker is engaged in
23 employment, or is considered an employee, for purposes of the
24 workers' compensation laws of this state.

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

