

# SENATE BILL No. 1

January 16, 2013, Introduced by Senator RICHARDVILLE and referred to the Committee on Government Operations.

A bill to establish uniform criteria for determining an employee-employer relationship for purposes of the laws of this state; to prohibit misclassification of employees in reports required of employers by this state; to provide sanctions; and to create a cause of action.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "employee classification act".

3           Sec. 2. As used in this act, "misclassify" means to fail to  
4 properly identify an individual as performing services in  
5 employment in an employer-employee relationship with an employer,  
6 as determined using the 20-factor test announced by the internal  
7 revenue service of the United States department of treasury in  
8 revenue ruling 87-41, 1987-1 C.B. 296. An individual from whom an

1 employer is required to withhold federal income tax is prima facie  
2 considered to perform services in employment in an employment  
3 relationship for purposes of classification as an employee.

4       Sec. 3. An employer or an agent of an employer shall not  
5 misclassify an employee in a report required under the laws of this  
6 state. If the misclassification results in a lessening or avoidance  
7 of a legal obligation to the employee, another individual, or this  
8 state, the employer or agent is subject to the sanctions provided  
9 in the statute under which the misclassification occurred. In  
10 addition to any statutory sanction, any individual may bring an  
11 action against the employer or agent who misclassified the employee  
12 to recover any damages the individual suffers that result from the  
13 misclassification.