

NEWS

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Legislature may tackle employee misclassification

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Georgia lawmakers on both sides of the Gold Dome are considering a crackdown on businesses that misclassify employees as independent contractors.

A bill before the state **House of Representatives** would codify into state law a 2012 **Georgia Supreme Court** ruling that spells out when a worker should be considered an employee.

A similar measure could be

forthcoming in the Georgia Senate following hearings on the issue a subcommittee held last year.

Businesses misclassify employees as independent contractors in order to avoid paying minimum wage and overtime and providing health benefits. But while those companies save money, the state loses revenue from unemployment and other payroll taxes, and business competitors who aren't cheating the system are put at a competitive disadvantage.

"There are a number of people being

hurt by employee misclassification," said Sen. **Josh McKoon**, R-Columbus, the subcommittee's chairman.

McKoon said some steps to address the problem could be taken without legislation. He said he'd like to see a study into how much employee misclassification is costing the state.

He said he also plans to ask Senate budget writers for money to hire more auditors to ferret out offenders.

Mark Woodall, director of government affairs for **Associated General**



Mark Woodall

Contractors of Georgia, which represents the construction industry, said stepped-up enforcement would be a good place to start.

"Regardless of the standard we adopt, if we do not provide resources to enforce it, you're never going to achieve compliance," he said.

McKoon said he also may introduce a bill to codify the standards set by the state Supreme Court into law.

Under the court ruling, a worker should be considered an independent contractor if:

- There are no territorial or geographic restrictions on the worker
- The worker is allowed to work for other companies or hold other employment
- The worker has no prescribed minimum hours to work
- The worker is free to accept or reject work without consequence
- The worker has discretion to set his or her own schedule

Ed Crowell, president of the **Georgia Motor Trucking Association**, said his group would support legislation adopting those standards. But he said the House bill would go beyond the court ruling by adding more circumstances that must be met before a worker could be deemed an independent contractor.

"Legislation would have to be pretty tightly crafted," he said.

McKoon said the bill he is considering would be narrower than the House bill.



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