

**176.043 TRUCKING AND MESSENGER/COURIER INDUSTRIES; INDEPENDENT CONTRACTORS.**

In the trucking and messenger/courier industries, an operator of a car, van, truck, tractor, or truck-tractor that is licensed and registered by a governmental motor vehicle agency is an employee unless each of the following factors is present, and if each factor is present, the operator is an independent contractor:

- (1) the individual owns the equipment or holds it under a bona fide lease arrangement;
- (2) the individual is responsible for the maintenance of the equipment;
- (3) the individual is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses. The individual may be paid the carrier's fuel surcharge and incidental costs, including, but not limited to, tolls, permits, and lumper fees;
- (4) the individual is responsible for supplying the necessary personal services to operate the equipment;
- (5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended;
- (6) the individual substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper; and
- (7) the individual enters into a written contract that specifies the relationship to be that of an independent contractor and not that of an employee.

**History:** 2009 c 89 s 2