

44-503c. Employment status of an owner-operator of a motor vehicle; definitions. (a) (1) Any individual who is an owner-operator and the exclusive driver of a motor vehicle that is leased or contracted to a licensed motor carrier shall not be considered to be a contractor or an employee of the licensed motor carrier within the meaning of K.S.A. 44-503, and amendments thereto, or an employee of the licensed motor carrier within the meaning of subsection (b) of K.S.A. 44-508, and amendments thereto, and the licensed motor carrier shall not be considered to be a principal within the meaning of K.S.A. 44-503, and amendments thereto, or an employer of the owner-operator within the meaning of subsection (a) of K.S.A. 44-508, and amendments thereto, if the owner-operator is covered by an occupational accident insurance policy and is not treated under the terms of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq.

(2) As used in this subsection:

(A) "Motor vehicle" means any automobile, truck-trailer, semitrailer, tractor, motor bus or any other self-propelled or motor-driven vehicle used upon any of the public highways of Kansas for the purpose of transporting persons or property;

(B) "licensed motor carrier" means any person, firm, corporation or other business entity that holds a certificate of convenience and necessity, a certificate of public service, an interstate license as a common or exempt carrier from the state corporation commission or is required to register motor carrier equipment pursuant to 49 U.S.C. § 11506; and

(C) "owner-operator" means an individual who is the owner of a single motor vehicle that is driven exclusively by the owner under a lease agreement or contract with a licensed motor carrier.

(b) Notwithstanding any other provision of this act, a licensed motor carrier may by lease agreement or contract secure workers compensation insurance for an owner-operator, otherwise subject to the act by statute or election, and may charge-back to the owner-operator the premium for such workers compensation insurance, and by doing so does not create an employer-employee relationship between the licensed motor carrier and the owner-operator, or subject the licensed motor carrier to liability under subsection (d)(1) of K.S.A. 44-5,120, and amendments thereto.

(c) For purposes of subsection (b) of this section only, "owner-operator" means a person, firm, corporation or other business entity that is the owner of one or more motor vehicles that are driven exclusively by the owner or the owner's employees or agents under a lease agreement or contract with a licensed motor carrier; provided that neither the owner-operator nor the owner's employees are treated under the term of the lease agreement or contract with the licensed motor carrier as an employee for purposes of the federal insurance contribution act, 26 U.S.C. § 3101 et seq., the federal social security act, 42 U.S.C. § 301 et seq., the federal unemployment tax act, 26 U.S.C. § 3301 et seq., and the federal statutes prescribing income tax withholding at the source, 26 U.S.C. § 3401 et seq.

History: L. 1998, ch. 75, § 2; L. 2003, ch. 124, § 6; July 1.