

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board

--in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Independent Contractor Definition Act

Did you know that global corporation Kraft Foods was the corporate co-chair in 2011?

Summary

Many workers often characterize themselves as independent contractors due to beneficial tax incentives, etc. However, when the worker is injured on the job, the worker may want to characterize him/herself as an employee in order to draw from the workers' compensation system, even though the worker may not have paid into the system. Confusion in the precise definition of an independent contractor has contributed to conflicting decisions by the courts on this matter. The Independent Contractor Definition Act simplifies the criteria used to define independent contractors with respect to private and public employees for the purpose of workers' compensation.

Model Legislation

Section 1. {Short Title.} This Act shall be known as the Independent Contractor Definition Act.

Section 2. {Legislative Declarations.}

(A) Simplifying the rules with respect to independent contractors was the top vote-getter at the 1995 White House Conference on Small Business. Conference delegates recommended that government needs to "recognize the legitimacy of an independent contractor." The Conference found that the current common law is "too subjective" and called upon the government to establish "realistic and consistent guidelines."

(B) It is in the best interests of business and government to have fair and objective rules for determining who is an employee and who is an independent contractor.

Section 3. {Definition Clarified; Private Employment.}

(A) "Employee," with respect to private employment, means any person in the service of an employer subject to the provisions of this chapter under any express or implied, oral or written contract of hire except a railroad engaged in interstate commerce whose rights are governed by the Federal Employers' Liability Act. If they elect to be personally covered by this chapter, "employee" includes persons who regularly operate businesses or practice their trades, profession, or occupations, whether individually, or in partnership, or association with other persons, whether or not they hire others as employees.

(B) (1) Subject to the preceding subparagraph, any person, other than a direct seller or qualified real estate broker or agent or real estate appraiser, who performs services for pay for an employer, is presumed to be an employee. This presumption may be rebutted by proof that an individual meets all of the following criteria:

(a) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(b) The person has control and discretion over the means and manner or performance of the work in achieving the result of the work.

(c) The person has control over the time when the work is performed, and the time performance is not dictated by the employer. However, this criterion does not prohibit the employer from reaching agreement with the person as to completion schedule, range of work hours and maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(d) The person holds himself or herself out to be in business for himself or herself.

(e) The person is not required to work exclusively for the employer, or, if not exempt from the definition of "employee" under subparagraph (B)(1) of this section, the person signs a written contract with the employer which:

(i) states the employer's intent to hire the person as an independent contractor; and

(ii) states that the person is presumed to be an employee unless all provisions specified in subparagraphs (B)(1)(a) through (B)(1)(d) of this section are met, in which case the person shall be classified as an independent contractor; and

(iii) explicitly and accurately details the provisions specified in subparagraphs (B)(1)(a) through (B)(1)(d) of this section in such a way that the criteria is clear and fully understandable without having to physically reference this section within state statutes.

(2) For the purpose of this subparagraph, "qualified real estate broker or agent" means a person who is a licensed real estate broker or licensed real estate salesman and whose remuneration as such is directly related to sales or other output including performance of services, rather than to the number of hours worked.

(3) For the purposes of this subparagraph, "direct seller" means a person:

(a) Engaged in selling or soliciting the sale of consumer products, services or intangibles to any buyer on a buy-sell basis, deposit-commission basis or any similar basis for resale by the buyer or any other person in the home or other than in a permanent retail establishment; or engaged in selling or soliciting the sale of consumer products, services or intangibles in the home or otherwise than in a permanent retail establishment; and

(b) Who receives substantially all remuneration as such in a direct relationship to sales or other output including the performance of services, rather than the number of hours worked; and

(c) Whose services are performed pursuant to a written contract with the person for whom the services are performed, which provide that the individual will not be treated as an employee for federal tax purposes.

(4) For the purposes of this subparagraph, "real estate appraiser" means a person who is a real estate appraiser and whose remuneration as such is by way of a fee and is directly related to services or other work product rather than to the number of hours worked.

Section 4. {Definition Clarified; Public Employment.}

(A) "Employee," with respect to public employment, means:

(1) Any person in the service of an employer, including member of the general court, under an express or implied contract of hire and every elected or appointed official or officer of the state or any political subdivision or agency thereof while performing official duties.

(2) Any person who is a call firefighter or special police officer, volunteer or auxiliary member of a fire or police department, ambulance or rescue service, or the state police, whether paid or not, for purposes of this title, shall be deemed to be an employee of the political subdivision in which the department is organized.

(3) Any person who is a regularly enrolled volunteer member or trainee of the emergency management corps of this state, for purposes of this title, shall be deemed to be an employee of the state.

(4) Any person who fights a forest or other type of fire and who is either voluntarily under the direction of those authorized to give direction in the fighting of fires or who is under statutory compulsion to fight fires, for purposes of this title, shall be deemed to be an employee of the state or municipality.

(5) Any person who assists in a search for or an attempted rescue of another, and who is voluntarily under the direction of those authorized to give direction in searching for or attempting to rescue or rescuing another, for purposes of this title only, shall be deemed to be an employee of the state with respect to such activity.

(B) "Employee," with respect to public employment shall not include any inmate of a correctional facility who is required to work or perform services for which no significant remuneration is provided or any volunteer not otherwise specified who performs services for which no significant remuneration is provided.

Section 5. {Severability Clause.}

Section 6. {Repealer Clause.}

Section 7. {Effective Date.}

Were your laws repealed?

1996 Sourcebook of American State Legislation

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