

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 564

Short Title: UI/Direct Sellers/Nonemployee Status. (Public)

Sponsors: Senator Tarte (Primary Sponsor).

Referred to: Rules and Operations of the Senate.

March 30, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT AMENDING THE UNEMPLOYMENT INSURANCE LAWS TO CLARIFY THAT  
3 A DIRECT SELLER IS NOT AN EMPLOYEE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 96-1(b)(12)b. reads as rewritten:

6 "(b) Definitions. – The following definitions apply in this Chapter:

7 ...

8 (12) Employment. – Defined in section 3306 of the Code, with the following  
9 additions and exclusions:

10 a. Additions. – The term includes service to a governmental unit, a  
11 nonprofit organization, or an Indian tribe as described in 3306(c)(7)  
12 and 3306(c)(8) of the Code.

13 b. Exclusions. – The term excludes all of the following:

14 1. Service performed by an independent contractor.

15 2. Service performed for a governmental entity or nonprofit  
16 organization under 3309(b) and 3309(c) of the Code.

17 3. Service by one or more of the following individuals if the  
18 individual is authorized to exercise independent judgment and  
19 control over the performance of the work and is compensated  
20 solely by way of commission:

21 A. A real estate broker, as defined in G.S. 93A-2.

22 B. A securities salesman, as defined in G.S. 78A-2.

23 4. Service performed by an individual engaged in the trade or  
24 business of selling or soliciting the sale of consumer products  
25 (including services or other intangibles) in the home or other  
26 than in a permanent retail establishment:

27 A. Pursuant to a written contract between the individual  
28 and the person for whom the services are performed  
29 and the contract expressly provides that the individual  
30 will not be treated as an employee for federal and  
31 State tax purposes; or

32 B. To any buyer on a buy-sell basis, a  
33 deposit-commission basis, or any similar basis for  
34 resale by the buyer or any other person in the home or  
35 other than in a permanent retail establishment, if  
36 substantially all the remuneration (whether or not paid



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1 in cash) for the performance of the services is (i)  
2 directly related to sales or other output, including the  
3 performance of services, rather than to the number of  
4 hours worked and (ii) pursuant to a written contract  
5 between the individual and the person for whom the  
6 services are performed and the contract expressly  
7 provides that the individual will not be treated as an  
8 employee for federal and State tax purposes.

9 5. Service performed by an individual engaged in the trade or  
10 business of selling or soliciting the sale of consumer products  
11 (including services or other intangibles) in a permanent retail  
12 establishment pursuant to a written contract between the  
13 individual and the owner of the retail establishment that the  
14 individual will not be treated as an employee for federal and  
15 State tax purposes if:

16 A. The individual receives no remuneration from the  
17 owner of the retail establishment;

18 B. The owner of the retail establishment has no control  
19 over the activities of the individual while the  
20 individual is at the establishment; and

21 C. The individual's activities at the retail establishment  
22 are for the sole purpose of selling to or soliciting sales  
23 from persons who frequent the retail establishment."

24 **SECTION 2.** This act is effective when it becomes law.