

[Attention Vermont Employers: Required Safety Records Poster Available Here](#)

Attention Vermont Employers:

This is a reminder that as of July 1, 2014, Vermont employers are required under Vermont State law (21 VSA, 691 a), to post a notice advising their employees where they may access and review your company's safety records.

To assist you with compliance efforts, the Vermont Department of Labor has developed a form that will assist you. This poster is downloadable at [Posting of Safety Records \[PDF\]](#).

For all other required Workplace Posters and available to you please visit: [Publications](#).

[2014 Economic & Demographic Profile Report](#)

The Economic & Labor Market Information Division is pleased to announce the release of the 2014 Economic & Demographic Profile Report - a comprehensive data publication covering Vermont and sub-state Vermont areas.

[2014 Economic & Demographic Profile Report](#)

[Electronic Filing For Employers](#)

Attention Vermont Employers

ALL employers are required to file their quarterly Unemployment Insurance Wage and Contribution Reports electronically.

Employers reporting 0 to 250 employees:

- The electronic Vermont Internet Tax and Wage System (VITWS) can be accessed by selecting "Employer Online Services" on the home page, then selecting "File Your Quarterly Reports & Taxable Wage Base Information".
- New employers will be mailed a temporary password. When the temporary password is received, log onto the Vermont Internet Tax and Wage System (VITWS) to create your own custom password

for quarterly filing. Please retain your newly established password for safe keeping, as this will be your permanent password for all future filings.

- If you need to reset your password, please call the Employer Service Unit at 802-828-4344.

Employers reporting more than 250 employees:

- Must utilize the Large Employer Reporting System.
- If you are not registered, please find the [specifications and application \(C-29A\)](#) at www.labor.vermont.gov, under “Forms”, “Employer Forms”. Please complete the form and return to the Employer Services Unit at P.O. Box 488, Montpelier, VT 05601 or Labor-UIandWagesDivision@vermont.gov.

A penalty assessment of \$100.00 will be charged to employers who fail to file electronically.

Are you an employee or contractor?

Who is an Employee vs. an Independent Contractor?

Employee

If you hire an individual who does NOT have employees, 99% of the time, they are YOUR employee for the purposes of Workers’ Compensation (WC), and YOU are responsible for their insurance coverage.

If you’re an employer, who has one or more employees, and you hire another “individual,” most likely that individual is YOUR employee.

You’re considered an employer when an individual performs work for you that would otherwise have to be performed by yourself or an employee, the individual IS your employee.

If an employer has any doubt as to the proper classification of a worker, the Department recommends that workers’ compensation insurance be purchased. This coverage will minimize the risk to an employer.

Independent Contractor

The Department, and the Vermont court, narrowly interprets exceptions to workers’ compensation coverage requirements. Again, most individuals you hire, even when they consider themselves to be an independent contractor, will be considered your employee.

An independent contractor is someone you hire who:

- Performs a job that is not similar or connected to your business, and
- Whose work you have no direction or control over

The Department uses two tests to determine if a worker is an independent contractor or an employee.

“Right to control”

The “Right to Control” test demonstrates that an employer “controls” the worker.

This test does not require an employer to actually exercise control; it merely requires that an employer could, if it chose to do so, exercise control over the employee.

QUESTIONS:

The following list of sample questions can assist in the determination of an employer-employee relationship. This list of questions is not exclusive. In addition, no one question is determinative.

A. “RIGHT TO CONTROL” TEST

1. Who controls the means and methods of the work performance?
2. Does the worker hold his services out to the general public?
3. Does the worker perform the task without supervision?
4. Does the worker possess the required permits, licenses and certificates?
5. Is the worker doing business as a corporation or under an assumed business name?
6. Does the work require extensive skill, education or experience?
7. Who establishes the routine or schedule?
8. What is the duration of the relationship?
9. What is the method of payment, whether by time or by job?
10. Are taxes deducted or withheld from the workers’ check?
11. Who determines the hours of work?
12. Does the worker receive fringe benefits or bonuses?
13. Who provides the equipment necessary for completion of the work task?

If the totality of responses to these questions leads to the conclusion that an employer “controls” its worker, then the analysis concludes and the employee must be insured for workers’ compensation purposes.

However, if the cumulative results determine the individual should not be classified as an employee under the “right to control” test, then the next list of questions must be asked.

“Nature of Business Test”

If the “right to control” test fails to identify a worker as an employee for workers’ compensation purposes, then the “nature of the business” test must be applied.

Under the “nature of the business test,” two questions are asked to determine whether the work performed by the alleged independent contractor is work that would otherwise be performed by the employers, employees who would have workers’ compensation coverage.

Questions:

1. Is the work being performed of the type that normally could be carried out by an employee in the usual course of business?
2. Are the activities being performed by the workers an integral part of the employer’s regular business?

If the response to these questions is yes, then a statutory employee-employer relationship exists, and the employer must provide workers’ compensation coverage for that worker.

Real Life Examples

The following examples may prove helpful when determining whether a worker is properly classified as an employee or an independent contractor for workers’ compensation purposes.

1. Under the “right to control” test, a truck driver is an employee when the company/employer exerts the requisite amount of control over their drivers. Specifically, if the employer instructs the driver on maintaining, parking and loading the truck; provides specific travel routes to the driver; instructs him not to drive during inclement weather; pays all maintenance and fuel costs for the truck and handles all contracting with third parties; then the employer controls the truck-driving activities. Therefore, an employee-employer relationship exists between the parties and workers’ compensation is required. [1]
2. A manufacturer is a “statutory employer”, for workers’ compensation purposes, of a worker hired through a temporary agency, where the manufacturer owned the premises and carried on the business where the worker worked, supervised the work, and had the power to replace the worker if the work was unsatisfactory. [2]
3. A manufacturer that owned lumber to be shipped to its factory was in the business of hauling lumber, and thus was the statutory employer of a worker hired under contract to haul the lumber and load it on railcars at a specified price per thousand. If the work being performed pertains to the business, trade, or occupation carried on by the claimed employer for pecuniary gain, then the person performing the work is an employee, even if hired as an independent contractor. [3]
4. A landowner, who is not in the lumber or logging business, but hires a logger to cut and remove trees from the land is not the “statutory employer” of a worker hired by the logger to assist in cutting and removing the timber. [4] The logging work was not part of the landowner’s regular trade or business and the landowner did not direct the means or method the work was to be performed.

[1] *Falconer v. Richard and Janet Cameron, d/b/a R&J Cameron Leasing Company*, 151 Vt 530 (1989)

[2] *Candido v. Polymers, Inc.*, 166 Vt. 15 (1996) (Court rejected workers attempt to sue manufacturer in tort, concluding that exclusive remedy was workers' compensation.)

[3] *O'Boyle v. Parker-Young Co.*, 95 Vt. 58 (1921)

[4] *King v. Snide*, 144 Vt. 395 (1984).

Exploring Careers with the Vermont Department of Labor

Vermont WIA/W-P State Plan 2012 through 2017 (PDF)

[Vermont State WIA W-P 5 Year Strategic Plan](#)

First-of-its-kind program to stop tractor rollover deaths announced

Farmers join UVM Extension Associate Dean, government officials at Sept. 28 launch

MORRISVILLE, Vt.—For the first time, Vermont farmers have access to a program that makes tractor safety

equipment affordable and simple to order. The University of Vermont (UVM) Extension announces today the

Vermont Rebates for Roll Bars program, one of two programs of its kind in the United States. It reimburses farmers 70 percent of the cost of their rollover protection kit—a roll bar and seatbelt—up to a savings of \$765, and provides help to farmers with identifying and pricing the appropriate

rollover kits for their tractors.

According to U.S. Department of Labor statistics, a farmer is 800 percent more likely to die while working than individuals in other jobs. The leading cause of these deaths is tractor overturns. The Northeast has the highest rate of tractor overturns in the country. The most recent tractor rollover fatality in Vermont was Bruce Bakaian, who died in Wheelock on July 31.

To launch his program, farmers and administrators of Vermont Rebates for Roll Bars will gather at noon on Tuesday, Sept. 28 at Under Orion Farm at 1009 Ducharme Road in Marshfield. UVM Extension Associate

Dean Richard LeVitre, Secretary of Agriculture Roger Allbee and Department of Health Commissioner Wendy

Davis will speak in support of this new effort.

"I grew up on a dairy farm in southern Vermont and know how careful you have to be, especially on side hills," says Will Ameden, owner of Under Orion Farm in Marshfield, a 250-acre diversified organic farm. "I was also an EMT for 12 years, so I've seen first hand the result of not having proper rollover protection on your tractor."

Vermont's program is administered by the Northeast Center for Agricultural and Occupational Health (NEC), the organization behind a similar program in New York that has successfully accomplished a ten-fold increase in tractor rollover protection installation since the program's inception in 2007. Cost and difficulty ordering the appropriate equipment were identified by NEC as the two key barriers to getting rollover protection on tractors.

"The Vermont Rebates for Roll Bars program will save lives and reduce serious injuries in Vermont as farmers step forward to participate in the program," says Dean of UVM Extension Doug Lantagne. "Rollover protection devices on tractors are highly effective in protecting farmers if they take the steps to install and use them on their equipment." A roll bar and seatbelt are 99 percent effective in preventing death and serious injury in the event of a rollover.

"Our farmers are the backbone of our economy and communities," says Secretary Allbee. "The work they do

provides us with fresh, quality foods and milk and maintains our open, working landscape that we as Vermonters enjoy every day and that draws visitors to our state each year. But there are many inherent risks that our farmers face everyday. The Vermont Rebates for Roll Bars program helps to mitigate the risks of tractor rollovers and will certainly help to decrease injuries on the farm. Leading sponsor, Cooperative Insurance Companies, has committed \$45,000 to the program over the next three years. UVM Extension is seeking additional funding from other public and private sources.

Vermont tractor owners may call toll-free 877-ROPS-R4U (877-767-7748) for more information or to register for a rollover kit.

[Snow Plowing and Power Lines](#)

Snow storage under or near power lines creates a serious risk to employees and the general public. The Vermont Department of Labor, in conjunction with Vermont electric utilities provides the following precautions to prevent serious injury or death.

Typical overhead power lines in Vermont are not insulated and are between 7,200 and 69,000 volts. If you pile snow under or near the power line you create a potential electrical hazard that could seriously injure, burn or kill a person. Maintain a minimum 10 foot clear distance between the workers, their tools and equipment including snow removal equipment and overhead power lines up to 50,000 volts. Over 50,000 volts maintain a minimum clear distance of 10 feet plus 4 inches per every additional 10,000 volts.

Snow Removal near or under power lines should be a thought out planned process with Safety the #1 concern. For Specific Safe Snow Removal Practices Near or Under Utility Power Lines contact your local electric power company.

[OSHA Releases Respiratory Protection Video for Health Care Workers](#)
