

Commercial Goods Transportation Industry Fair Play Act – Summary of Changes:

**Added language in green*

**Deleted language in red strike through*

862-a (Definitions): Unchanged

862-b (Presumption of Employment):

- Part 1 remains unchanged. This is the standard ABC test which we realize is problematic for the industry. However, the legislation provides that an independent contractor can meet either this test **or** the test to be defined as a business entity (see next bullet) to maintain their independent contractor status.
- Part 2 – changes outlined below:
 - 2a: the business entity is performing the service free from the direction or control over the means and manner of providing the service, subject only to the right of the commercial goods transportation contractor for whom the service is provided to specify the desired result or **federal rule or regulation**.
 - 2b: unchanged – original language: the business entity is not subject to cancellation or destruction upon severance of the relationship with the commercial goods transportation contractor.
 - 2c: the business entity has a substantial investment of capital in the business entity, **beyond including but not limited to** ordinary tools and equipment. ~~and a personal vehicle.~~
 - 2d: the business entity owns **or leases** the capital goods and gains the profits and bears the losses of the business entity.
 - 2e: the business entity **has an option to make**s its services available to the general public or the business community on a continuing basis.
 - 2f: unchanged – original language: the business entity includes services rendered on a Federal Income Tax Schedule as an independent business or profession.
 - 2g: the business entity performs services for the commercial goods transportation contractor **pursuant to a written contract**, under the business entity's name, **specifying their relationship to be as independent contractors or separate business entities**.
 - 2h: when the services being provided require a license or permit, the business entity ~~obtains and~~ pays for the license or permit in the business entity's name **or, where permitted by law, pays for the reasonable use of the commercial goods transportation contractor's license or permit**.
 - 2i: deleted
 - 2j: *Now 2(i)*: if necessary, the business entity hires its own employees, **subject to applicable qualification requirements or federal or state laws, rules or regulations**, ~~without the commercial goods transportation contractor's approval~~, pays the employees without reimbursement from the commercial goods transportation contractor and reports the employees' income to the Internal Revenue Service.
 - 2k: *Now 2(j)*: the commercial goods transportation contractor does not **require that represent** the business entity **be represented** as an employee of the commercial goods transportation contractor to its customers.
 - 2l: *Now 2(k)*: unchanged – original language: the business entity has the right to perform similar services for others on whatever basis and whenever it chooses.

862-c (Notice to persons receiving remuneration from commercial goods transportation contractors and commercial goods transportation subcontractors): Unchanged

862-d (Violations and Penalties): Unchanged

862-e (Retaliation): Unchanged