

# Independent Contractor or Employee?

## ATTENTION ALL EMPLOYEES, EMPLOYERS, INDEPENDENT CONTRACTORS AND SUBCONTRACTORS:

The law says that you are an employee unless:

- A** → You are free from direction and control in performing your job, AND
- B** → You perform work that is not part of the usual work done by the business that hired you OR is not performed on the business's premises, AND
- C** → You are customarily engaged in an independently established trade, occupation, profession or business.

**Your employer cannot consider you to be an independent contractor unless all three of these facts apply to your work.**

**IT IS AGAINST THE LAW FOR  
AN EMPLOYER TO MISCLASSIFY EMPLOYEES  
AS INDEPENDENT CONTRACTORS OR  
PAY EMPLOYEES OFF THE BOOKS.**

**A+B+C = 1099!**

### Employee Rights:

If you are an employee, you are entitled to:

- Unemployment benefits, if unemployed through no fault of your own, able to work, and meet other eligibility requirements
- Workers' Compensation benefits for on-the-job injuries.

It is a violation of this law for employers to retaliate against anyone who asserts their rights under the law. Retaliation subjects an employer to civil penalties, a lawsuit or both. If you have questions about whether you are an employee or independent contractor, or you want to file a complaint, call the **Louisiana Workforce Commission Fraud Hotline** at 1-(800)-201-3362.

### Independent Contractors:

If you are an independent contractor, you must pay all taxes required by Louisiana and Federal Law.

### Employer Consequences:

Pursuant to Louisiana Employment Security Law R.S. 23:1711 (G): Penalties for misclassifying a worker as an independent contractor include:

- Fines of up to \$500 per worker per instance
- Imprisonment for up to 90 days
- Prohibited from contracting with any state agency or political subdivision of the state for three years.

This notice must be posted in a conspicuous place, setting forth information to effectuate this purpose.

R.S. 23:1711

September 2012



[www.laworks.net](http://www.laworks.net)

ADDITIONS IN ORANGE BY

GEAUX POLISH