



MEMORANDUM

TO: Senate Labor Committee
FROM: Alida Kass, President and Chief Counsel
SUBJECT: S4204 - Proposed Amendment
DATE: December 5, 2019

PROPOSED AMENDMENT to S4204 to be included in both Title 34 and Title 43:

- a. The individual has been and will continue to be free from control or direction over the performance of the service, both under the individual's contract of service and in fact; and
- b. The individual's service is ¹either¹ outside the usual course of the business for which that service is performed¹, or the service is performed outside of all the places of business of the employer for which the service is performed¹ **unless an essential function of the service requires that it be performed on site;** and
- c. The individual is customarily engaged in an independently established ¹[trade, occupation, profession or]¹ business ¹or enterprise¹ of the same nature as that involved in the work performed, **which may be established by the formation of a partnership, limited liability company or corporation.**