

Independent Contractors: Delaware

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Status: Law stated as of 18 Jul 2024 | Jurisdiction: Delaware, United States

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A Q&A guide to state law on independent contractor status for private employers in Delaware. This Q&A addresses how independent contractors are classified under state law, including the various tests to evaluate worker status, penalties for misclassification, and practices to avoid misclassification. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Independent Contractors: State Q&A Tool).

Independent Contractor Basics

1. Summarize how the issue of independent contractors is analyzed under state law.

There is no single, established definition of independent contractor under Delaware law. Instead, various tests are applied to determine whether an individual or entity is properly classified as an independent contractor under:

- Common law.
- Unemployment insurance.
- Workers' compensation.
- Anti-discrimination laws.
- Wage and hour laws.

2. Is the term independent contractor defined by statute, regulation, or case law (not including any required elements)? If so, what is the definition? Please cite the appropriate authority.

Common Law

Delaware common law does not define the term independent contractor but does provide factors to determine whether an individual is an independent contractor (see Question 4: Common Law).

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

For an individual to be considered an independent contractor under Delaware's Unemployment Compensation Law, the company must demonstrate to the Delaware Department of Labor's (DDOL's) [Division of Unemployment Insurance](#) that the worker is and will continue to be:

- Free from control and direction by the company in connection with the performance of a service, both under the individual's contract and for the performance of services in fact.
- Performing the service either outside:
 - the usual course of the company's business; or
 - all the company's places of business.
- Customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.

(19 Del. C. § 3302(14)(K).)

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The Delaware Department of Labor's [Industrial Accident Board](#) follows the Restatement (Second) of Agency analysis (see Question 4: Common Law).

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The definition of an independent contractor under the Delaware Discrimination in Employment Act has the same meaning as in the Workplace Fraud Act (Del. C. 19, § 711A(b)(9)); see Question 4: Delaware Discrimination in Employment Act).

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

Delaware's Wage Payment and Collection Act does not define the term independent contractor. For information on how the Delaware courts have defined an independent contractor under this law, see Question 4: Wage Payment and Collection Act.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

Delaware's Workplace Fraud Act applies only to the construction services industry and defines an independent contractor in the construction services industry as an individual who:

- Performs work free from the employer's control and direction over the performance of the service.
- Engages in an independently established trade, occupation, profession, or business.
- Performs work that is either:
 - outside the usual course of the employer's business; or
 - performed by registered contractor under the Delaware Contractor Registration Act outside the place of business of the employer for whom the work is performed.

(19 Del. C. § 3501(a)(9).)

3. For each type of independent contractor, please describe the benefits of using an independent contractor over an employee to perform work.

Under Delaware law, the major advantages of using an independent contractor instead of an employee generally are financial. For example:

- Independent contractors are not entitled to employer-sponsored benefits.

- An employer generally does not have to provide office space or equipment to an independent contractor.

Independent contractors are also less likely to bring a successful vicarious liability claim against the company. In most instances, a company cannot be held vicariously liable for the tortious act of an independent contractor that causes injury to another party.

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

Because Delaware's Unemployment Compensation Law does not cover independent contractors:

- A company is not required to pay unemployment insurance taxes for independent contractors.
- Independent contractors are not eligible for unemployment benefits.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

Because the Delaware Workers' Compensation Act does not cover independent contractors:

- A company does not need to obtain workers' compensation coverage for independent contractors.
- Independent contractors are not eligible to file workers' compensation claims.

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

To establish a claim under the Delaware Discrimination in Employment Act (DDEA), the individual must be an employee (*Scott v. UPS Supply Chain Sols.*, 2012 WL 2016820, at *4 (D. Del. June 5, 2012)). Protections under the DDEA are not available to independent contractors.

The DDEA prohibits employment discrimination in terms almost identical to Title VII of the Civil Rights Act of 1964 (*Schuster v. Derocili*, 775 A.2d 1029, 1033 (Del. 2001)). The statute empowers the Delaware Department of Labor's [Office of Anti-Discrimination](#) to:

- Investigate allegations of discrimination.
- Conciliate disputes between employers and employees.
- Issue remedial orders on a finding of discrimination.

(19 Del. C. § 712(b).)

Title VII and the DDEA, by their terms, apply only to employees (19 Del. C. § 710(6); 42 U.S.C. § 2000e(f)). For more information on anti-discrimination in Delaware, see [State Q&A, Anti-Discrimination Laws: Delaware](#).

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

Delaware's Wage Payment and Collection Act does not cover independent contractors. Independent contractors cannot file claims for:

- Payment of wages or benefits.
- Minimum wage.
- Overtime.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

There is no benefit to a company that uses an independent contractor instead of an employee under the Workplace Fraud Act. This law subjects a company to civil penalties for the misclassification of a worker as an independent contractor (19 Del. C. §§ 3503(a) and 3505(a)).

Independent Contractor Tests

4. What tests are used to evaluate whether a worker is an independent contractor? Please describe each test and explain when each is used.

Common Law

Delaware courts use the factors outlined in Section 220 of the Restatement (Second) of Agency to determine whether a person is an independent contractor (*Dayton v. Collison*, 2020 WL 3412701, at *8 (Del. Super. Ct. June 22, 2020), *aff'd*, 250 A.3d 763 (Del. 2021); *Falconi v. Coombs & Coombs, Inc.*, 902 A.2d 1094, 1099-1100 (Del. 2006); *Fisher v. Townsends, Inc.*, 695 A.2d 53, 59 (Del. 1997)).

These factors include:

- The extent of control that the employer exercises over the details of the work.
- Whether the worker is engaged in a distinct occupation or business.
- Whether the worker's occupation is usually performed without supervision in the relevant locality.

- The skill required in the particular occupation.
- Whether the worker supplies:
 - the instrumentalities;
 - tools; and
 - the place of work.
- How long the worker is employed.
- Whether the worker is paid by the time or by the job.
- Whether the work performed is part of the employer's regular business.
- Whether the parties believe they are creating an employer-employee relationship.
- Whether the employer is or is not in business.

(*Falconi*, 902 A.2d at 1099-1100; Restatement (Second) of Agency § 220.)

There is no single rule to determine whether a relationship is that of an employer and employee as distinguished from that of an independent contractor (*Fisher*, 695 A.2d at 59). The question of control is an issue for the trier of fact (*Williams v. Dann Marine Towing, LC*, 237 A.3d 820, 832 (Del. Super. Ct. 2020); *Fisher*, 695 A.2d at 59). Additionally, the legitimate economic interests of an employer in restricting the substantially similar activities of an independent contractor are more limited than they would be regarding an employee (*Edix Media Grp., Inc. v. Mahani*, 2006 WL 3742595, at *8 (Del. Ch. Dec. 12, 2006)).

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

An individual's status as an independent contractor under Delaware's Unemployment Compensation Law (DUCL) is based on three statutory factors. To be considered an independent contractor, the company must demonstrate to the Delaware Department of Labor's [Division of Unemployment Insurance](#) that the worker is and will continue to be:

- Free from the company's control and direction in connection with the performance of a service.
- Performing the service outside:
 - the usual course of the company's business; or
 - all the company's places of business.
- Customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that of the service performed.

(19 Del. C. § 3302(14)(K); *Spar Mktg. Servs., Inc. v. Unemp. Ins. Appeal Bd.*, 2013 WL 3788874, at *3 (Del. Super. Ct. July 9, 2013), *aff'd*, 74 A.3d 655 (Del. 2013).)

To avoid liability for unemployment insurance payments, the employer bears the burden of proving that the worker meets all three statutory conditions (*Spar Mktg. Servs., Inc. v. Unemp. Ins. Appeal Bd.*, 2012 WL 1414097, at *2 (Del. Super. Ct. Feb. 28, 2012)). In analyzing the requirements under the statute, the common law principles of master and servant do not apply. Delaware courts also apply a liberal interpretation of “control” in favor of the individual. (*State, Dep’t of Lab. v. Med. Placement Servs., Inc.*, 457 A.2d 382, 384-85 (Del. Super. Ct. 1982).)

If a company fails to demonstrate the worker’s relationship to even one of the statutory conditions, the worker is entitled to all the benefits under the DUCL (*Med. Placement Servs.*, 457 A.2d at 384; *Spar Mktg. Servs., Inc.*, 2012 WL 1414097, at *2).

When independent contractor status is in question, employers should ask if the worker has a federal identification number. Independent contractors must file business tax returns and have a federal identification number. ([Delaware Department of Labor: Division of Unemployment Insurance: FAQs.](#))

The DUCL specifically exempts these classes of employment from covered employment status if certain criteria are met:

- Barbers and beauticians.
- Taxicab drivers.
- Some maritime employment.
- Church employees.
- Clergy.
- Certain governmental employees.
- Railroad employment.
- Insurance sales for commission only.
- Real estate sales for commission only.
- Direct sellers.
- Foreign employment.
- Employment in other unemployment insurance programs.
- Work-relief and work-training programs.
- Family members in proprietorships.

- Hospital patients.
- Student nurses and interns.

(19 Del. C. § 3302(14), (15); [Del. Dep’t of Labor: Div. of Unemp. Ins.: FAQs.](#))

Workers’ Compensation Act: 19 Del. C. §§ 2301 to 2396

Delaware’s Workers’ Compensation Act follows the Restatement (Second) of Agency to decide whether an individual is an independent contractor (see Common Law). Whether a worker is an independent contractor or an employee for a workers’ compensation claim is determined by the facts and circumstances of each case. The most important factor is the right to control, but no single rule is determinative of whether the relationship at issue is that of an employee-employer or an independent contractor (*Falconi*, 902 A.2d at 1099; *Kulp v. Mann-Beebe*, 2008 WL 4120041, at *4 (Del. Super. Ct. July 10, 2008)).

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The common law of agency and the common elements of a master-servant relationship govern whether a plaintiff is considered an employee under Title VII and the Delaware Discrimination in Employment Act (*Shah v. Bank of Am.*, 598 F. Supp. 2d 596, 602 (D. Del. 2009) (applying Delaware law)).

To determine whether a hired party is an employee under the general common law of agency, the court considers the hiring party’s right to control the manner and means by which the work is performed using the following factors:

- The necessary skill.
- The source of the instrumentalities and tools.
- The location of the work.
- The duration of the relationship between the parties.
- Whether the hiring party has the right to assign additional projects to the hired party.
- The extent of the hired party’s discretion over when and how long to work.
- The method of payment.
- The hired party’s role in hiring and paying assistants.
- Whether the work is part of the regular business of the hiring party.

- Whether the hiring party is in business.
- The provision of employee benefits.
- The tax treatment of the hired party.

(*Shah*, 598 F. Supp. 2d at 602; *Scott v. UPS Supply Chain Sols.*, 2012 WL 2016820, at *4 (D. Del. June 5, 2012), *aff'd*, 523 F. App'x 911 (3d Cir. 2013).)

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

Delaware courts have adopted the *Albrecht* test to determine whether a person is an employee or an independent contractor under the Wage Payment and Collection Act (WPA). The *Albrecht* test considers six factors, of which no one is determinative:

- The degree of the alleged employer's right to control the manner in which the work is performed.
- The worker's opportunity for profit or loss, depending on their managerial skill.
- The worker's investment in equipment or materials needed for their task, or the employment of helpers.
- Whether the service performed requires a special skill.
- The degree of performance of the working relationship.
- Whether the service performed is an integral part of the employer's business.

Courts must consider whether the workers are dependent on the business they are servicing. (*Tekstrom, Inc. v. Savla*, 2007 WL 328836, at *4-5 (Del. 2007) (citing *Martin v. Albrecht*, 802 F. Supp. 1311, 1313 (W.D. Pa. 1992)).)

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

Delaware's Workplace Fraud Act applies only to independent contractors in the construction services industry. It defines an independent contractor in that industry as an individual who:

- Performs work free from the employer's control and direction over the performance of the service.
- Engages in an independently established trade, occupation, profession, or business.
- Performs work that is either:
 - outside the usual course of the employer's business; or
 - performed by registered contractor under the Delaware Contractor Registration Act outside the

place of business of the employer for whom the work is performed.

(19 Del. C., § 3501(a)(9).)

Administration and Enforcement

5. For each independent contractor type, what entity administers and enforces independent contractor classification?

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

The Delaware Department of Labor (DDOL) [Division of Unemployment Insurance](#) administers and enforces independent contractor classification for Delaware's Unemployment Compensation Law.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The DDOL [Office of Workers' Compensation](#) administers and enforces independent contractor classification for Delaware's Workers' Compensation Act.

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The DDOL [Office of Anti-Discrimination](#) administers and enforces independent contractor classification for Delaware's Discrimination in Employment Act.

Delaware Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

The DDOL [Office of Labor Law Enforcement](#) administers and enforces independent contractor classification for Delaware's Wage Payment and Collection Act.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

The DDOL Office of Labor Law Enforcement administers and enforces independent contractor classification for Delaware's Workplace Fraud Act.

6. How are independent contractor classifications selected for misclassification evaluation by each enforcement agency (for example, by random selection or by complaint by a worker or both)?

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

The Delaware Department of Labor (DDOL) [Division of Unemployment Insurance](#) evaluates a company's classification of employees under Delaware's Unemployment Compensation Law by responding to worker complaints or claims for benefits.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The DDOL [Office of Workers' Compensation](#) evaluates a company's classification of employees as part of the company's filing responsibilities under the Delaware Workers' Compensation Act and through the claims process.

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The DDOL [Office of Anti-Discrimination](#) evaluates a company's classification of employees under the Delaware Discrimination in Employment Act and Title VII independently, and by responding to issues raised by employers.

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

The DDOL [Office of Labor Law Enforcement](#) investigates possible worker misclassification in response to worker questions or claims under Delaware's Wage Payment and Collection Act.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

The DDOL Office of Labor Law Enforcement investigates misclassification of employees under the Workplace Fraud Act through random audits of employers and in response to worker complaints.

7. Please describe how aggressively independent contractor classification is enforced by each agency.

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

It is uncertain how aggressively the Delaware Department of Labor (DDOL) [Division of Unemployment Insurance](#) ensures the proper classification of workers under the law.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The DDOL [Office of Workers' Compensation](#) aggressively enforces proper worker classification under Delaware's Workers' Compensation Act. The burden of proof is on the moving party to show that an employment relationship exists (*Falconi*, 902 A.2d at 1097). Generally, the standard in workers' compensation cases is a preponderance of the evidence (*Histed v. E.I. Du Pont de Nemours & Co.*, 621 A.2d 340, 343 (Del. 1993)). An employer cannot avoid liability for workers' compensation simply by classifying an employee as an independent contractor (*Falconi*, 902 A.2d at 1099).

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

It is uncertain how aggressively the DDOL [Office of Anti-Discrimination](#) enforces proper worker classification under the Delaware Discrimination in Employment Act (DDEA). Under the DDEA, a party alleging a claim of discrimination must first prove that they are in fact an employee of the employer (see *Scott*, 2012 WL 2016820, at *4 (applying Delaware law)).

Delaware Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

It is uncertain how aggressively the DDOL [Office of Labor Law Enforcement](#) enforces proper worker classification under Delaware's Wage Payment and Collection Act. The individual has the burden of proving that they are an employee rather than an independent contractor.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

The DDOL Office of Labor Law Enforcement aggressively enforces proper worker classification under the Workplace Fraud Act. An employer-employee relationship is presumed to exist when work is performed by an individual for compensation paid by an employer, unless to the DDOL's satisfaction the employer demonstrates that the individual is an exempt person or an independent contractor (19 Del. C. § 3503(c)).

For at least three years, an employer must keep, in or about its place of business, records containing:

- The name, address, occupation, and classification of an individual as an employee or independent contractor.

- The rate of pay of each employee or method of payment for independent contractors.
- The amount paid each pay period to each employee.
- The hours that each employee works each day of each work week.
- For all individuals who are not classified as employees:
 - a copy of the written notice required by 19 Del. C. § 3511(c); and
 - any additional evidence that the employer believes is relevant in determining whether each individual is an exempt person, an independent contractor, or an employee.

(19 Del. C. § 3511(a).)

An employer must also provide each individual classified as an independent contractor or exempt person with written notice of the classification at the time of hire. The written notice must:

- Include an explanation of the implications of the individual's classification as an independent contractor or exempt person.
- Include contact information for the DDOL.
- Be provided in English and Spanish.
- Be signed by both:
 - the employer; and
 - the independent contractor or exempt person.

(19 Del. C. § 3511(b), (c).)

Avoiding Penalties for Misclassification

8. For each independent contractor type, is there a safe harbor available for employers that unintentionally misclassify workers as independent contractors? If so, please describe it.

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

No safe harbor provisions exist under Delaware's Unemployment Compensation Law for misclassification of employees as independent contractors.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

No safe harbor provisions exist under Delaware's Workers' Compensation Act for misclassification of employees as independent contractors.

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

No safe harbor provisions exist under the Delaware Discrimination in Employment Act for misclassification of employees as independent contractors.

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

No safe harbor provisions exist under Delaware's Wage Payment and Collection Act for misclassification of employees as independent contractors.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

Although violations of the Workplace Fraud Act include misclassifications by an employer that are both intentional and unintentional, an employer that complies with the written notice requirement is presumed to have acted in good faith in determining whether to classify an individual as an employee, independent contractor, or exempt person (Del. C. 19, §§ 3503 and 3511(e); see Question 7: Workplace Fraud Act).

9. For each independent contractor type, can employers request a determination of worker status to assist them in determining whether to classify particular workers as independent contractors? If so, please describe:

- How an employer would make the request.
- The process and timeframe for a response.
- The possible benefits and risks of making such a request.

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

The Delaware Unemployment Compensation Law does not have a formal process for requesting a determination of worker status.

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The Workers' Compensation Act does not have a formal process for requesting a determination of worker status.

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The Delaware Discrimination in Employment Act does not have a formal process for requesting a determination of worker status.

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

The Wage Payment and Collection Act does not have a formal process for requesting a determination of worker status.

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

The Workplace Fraud Act does not have a formal process for requesting a determination of worker status.

10. Please describe the penalties for improper classification for each independent contractor type.

Unemployment Compensation Law: 19 Del. C. §§ 3301 to 3392

The Delaware Department of Labor (DDOL) [Division of Unemployment Insurance](#) may impose civil and criminal penalties for willful violations of Delaware's Unemployment Compensation Law. Penalties for each offense include either or both:

- A fine between \$23 and \$230.
- Imprisonment for up to 60 days.

Each day the violation continues is treated as a separate offense. (19 Del. C. §§ 3382 and 3383.)

Workers' Compensation Act: 19 Del. C. §§ 2301 to 2396

The DDOL's [Industrial Accident Board](#) may impose fines for failing to comply with Delaware's Workers' Compensation Act (19 Del. C. § 2323(c)).

The failure of an employer to properly notify the Board or to timely pay compensation may result in a fine of between \$500 and \$2,500, payable to the Workers' Compensation Fund (19 Del. C. § 2362(e)).

Any insurer found in violation may face a fine of between \$100 and \$1,000, payable to the state treasurer (19 Del. C. § 2386).

Delaware Discrimination in Employment Act: 19 Del. C. §§ 710 to 719A

The DDOL [Office of Anti-Discrimination](#) does not impose penalties against an employer for the misclassification of an individual under the Delaware Discrimination in Employment Act (DDEA).

If following an investigation, the DDOL finds that an individual is an employee under the DDEA and the employer has violated the DDEA, the DDOL issues a determination of reasonable cause that a violation has occurred. The DDOL will then require the parties to appear for a mandatory conciliation. If the conciliation fails, the DDOL issues a Delaware Right to Sue Notice indicating the DDOL's termination of the administrative process. Afterwards, the individual can bring a civil action under the DDEA in a Delaware Superior Court directly against the employer. (19 Del. C. §§ 712 and 714.)

Wage Payment and Collection Act: 19 Del. C. §§ 1101 to 1115

Penalties for a violation of Delaware's Wage Payment and Collection Act may include:

- A civil penalty of between \$1,000 and \$5,000 for each violation (19 Del. C. § 1112).
- Unpaid wages and liquidated damages (19 Del. C. § 1113(a)).
- Costs and reasonable attorneys' fees (19 Del. C. § 1113(c)).

Workplace Fraud Act: 19 Del. C. §§ 3501 to 3515

Violations of the Workplace Fraud Act (DWFA) may result in:

- Civil penalties of between \$5,000 and \$20,000 for each violation (19 Del. C. § 3505(a)).
- A stop-work order and an administrative penalty of up to \$500 per day for each day that requested records

are not produced after the employer receives written request from the DDOL (19 Del. C. § 3505(b)).

- Payment of restitution (19 Del. C. § 3505(f), (g)(1)).
- For two or more violations in a two-year period:
 - an administrative penalty of \$20,000 for each misclassified employee; and
 - possible debarring for up to five years.

(19 Del. C. § 3505(h).)

- Inclusion in the DDOL's online [public listing of violators](#) (19 Del. C. § 3514).

Each employee who is misclassified in violation of the DWFA is considered a separate violation under the DWFA (19 Del. C. § 3505(a)).

Discriminating against or discharging a person for making a complaint or giving information to the DWFA can subject an employer to a civil penalty, for each violation, of:

- At least \$20,00.
- Not more than \$50,000.

(19 Del. C. § 3505(c).)

Other State-Specific Requirements

11. Must independent contractor agreements include any particular language that is not required under federal law? If so, please insert that language and explain the requirement.

There is no particular language that must be included in independent contractor agreements under Delaware law (see Questions 7 and 12).

12. Please describe any other variance in how independent contractors in your jurisdiction are treated compared to under federal law.

Delaware law is distinguishable from federal law in that Delaware's Workplace Fraud Act requires that independent contractors in the construction services industry receive written notice of their classification as an independent contractor upon being hired (see Question 7: Workplace Fraud Act).

13. Is there a state law specific to gig economies, including marketplace platforms and transportation network companies? If so, please summarize that law's requirements regarding the classification of gig economy workers.

In Delaware, a transportation network company (TNC) is a corporation, partnership, sole proprietorship, or other entity licensed and operating in Delaware that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. A TNC does not include a transportation broker arranging nonemergency medical transportation for Medicaid or Medicare members under a contract with Delaware or a managed care organization. (2 Del. C. § 1901(6).)

TNC drivers are independent contractors if all the following are true:

- The TNC does not:
 - set specific hours during which the driver must be logged in to the TNC's digital platform;
 - impose restrictions on the driver's ability to use other TNC's digital platforms;
 - assign the driver a territory to operate in; or
 - restrict the driver from engaging in any other occupation or business.
- The TNC and the driver agree in writing that the driver is an independent contractor of the TNC.

(2 Del. C. § 1911.)

TNCs must obtain a permit to operate in Delaware from the Delaware Transit Corporation (DTC), a division of the [Delaware Department of Transportation](#) (2 Del. C. § 1903). The DTC administers and enforces the TNC law (2 Del. C. §§ 1921 and 1922).

A TNC who does not comply with the TNC law, including but not limited to the independent contractor classification provision, may face a civil penalty of:

- Up to \$100 for the first violation.
- Up to \$500 for a second violation.
- Up to \$1,000 for a third or further violations.

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A TNC that takes corrective steps to remedy the violation within a reasonable time after notice of the violation by the DTC is not subject to the penalty. (2 Del. C. § 1921(b).)

The DTC may suspend or revoke a TNC permit if the TNC commits a pattern of violations that show the TNC's intentional disregard of public safety (2 Del. C. § 1921(c)).

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