



November 13, 2017

The Honorable Jason Lewis
Joint Committee on Labor and
Workforce Development
State House, Room 511-B
Boston, MA 02133

The Honorable Paul Brodeur
Joint Committee on Labor and
Workforce Development
State House, Room 472
Boston, MA 02133

Dear Honorable Chairman and Committee members:

We write today as a coalition of business groups and professional organizations to voice our concern over **M.G.L. c. 149 s. 148B** as it relates to the classification of independent contractors and respectfully request your support of **Senate Bill 1043**, *An Act to Enhance Employment Opportunities*, filed by Senator Michael Rodrigues. This important legislation is vital to maintaining and growing Massachusetts' economy, while preserving adequate protections for Massachusetts workers.

As you may know, "An Act Further Regulating Public Construction in the Commonwealth" was signed into law in 2004. The law included a change to the Commonwealth's independent contractor statute in an effort to address potential misclassification of employees by public contractors who might then underbid their union counterparts. The result was codification of an unworkable and overly restrictive three-part test for determining when a person is classified an independent contractor. As determined through two Attorneys' General Advisories in 2004 and 2008, the test inadvertently applies to almost all occupations and industries, making it virtually impossible for an individual in Massachusetts to legally qualify as an independent contractor. This has hindered opportunities for a sizeable portion of the Commonwealth's educated workforce who would otherwise choose to work as freelancers and contractors.

As organizations that represent thousands of workers from all sectors of our economy, we have seen the adverse impacts of this law. The current determination process has stifled job creation and the ability of employers to hire workers on an as-need basis to better control work flow and meet customer needs. This stifles entrepreneurial growth and the desire of cutting edge companies to choose Massachusetts to locate and grow. For many people, especially young parents looking to reenter the workforce, young professional and students looking to gain experience, older workers who want to scale back on their hours and others seeking a better

work-life balance, this law limits such flexible work arrangements by making it virtually impossible to be classified as an independent contractor.

As you examine ways to maintain Massachusetts' economy and adapt to the changing workforce, we urge you to consider this piece of legislation a priority. **Senate Bill 1043** aims to improve job growth and boost economic growth and opportunity by eliminating the Massachusetts-specific three-factor test and replacing it with the more reasonable 11-part test used by the Internal Revenue Service and the Massachusetts Department of Revenue. By aligning with the federal standard, Massachusetts will provide consistency and uniformity for the Commonwealth's employers and residents throughout the workforce. The proposed change will also eliminate complexity for multi-state employers, making the Commonwealth a more attractive place for doing business.

Ultimately, the point of this testimony is to express our direct interest in updating the law to reflect the changing dynamics of the current workforce. We are aware of other legislation pending before the committee and the legislature regarding this matter and are happy to work with you and your colleagues to address the concerns of all parties involved in the discussion.

Thank you for the opportunity to share our concerns and for your consideration of this legislation. In the meantime, if you or your staff has any questions or concerns, please do not hesitate to contact us.

Sincerely,



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President & CEO
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Christopher Carlozzi
Massachusetts State Director,
National Federation of Independent
Business



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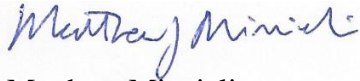
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