



Testimony on Independent Contractors
House Commerce Committee
February 2, 2016

The Vermont Chamber of Commerce represents 1,500 businesses that employ approximately 45,000 Vermonters in all sectors of our economy. Our mission is focused on helping businesses thrive and encouraging economic growth so businesses can grow by adding jobs, increasing wages and making capital investments.

We are pleased that the Commerce Committee is considering this issue and our main focus is to allow the entrepreneurial spirit to grow in Vermont by creating a path for these small business owners to be independent contractors. We are also very excited about the net the Committee cast last year to look at the 21st century workforce and whether our laws need to be updated to keep pace with the changing marketplace.

The traditional workplace is changing and the next generation of workers is seeking increased flexibility and opportunity, and employers are beginning to be able to accommodate this shift. Additionally, in many instances, independent contractors better respond to the needs of employers.

The Vermont Chamber has a breadth of members in different sectors that are concerned about this issue – from construction, to software developers, to banner installation, to auto repair shops, to property managers. Whatever course of action the Committee chooses needs to be broadly and easily applicable to multiple industries.

When speaking with Vermont Chamber members, many are hesitant to hire an independent contractor, even when it would benefit their business, because the workers' compensation and unemployment insurance laws are currently unclear. Other concerns include having all employers on an equal playing field and clarifying the statutory employer relationship. Here is a flavoring of comments from Vermont Chamber members on this issue:

“Independent contractors provide specialty skills especially in the IT space and work from distant locations to provide their services. Vermont simply does not have the pool of available technical talent to meet the needs of my growing technical company. Any rules that increase the burden and cost of acquiring these skills will have a negative impact on my business.”

“We are a small business that COULD employ more people as independent contractors, but State rules prohibit it if they do anything related to our business. The result is we do NOT hire and our principle owners do more work than we want and have to turn down projects because of it. We are caught between not being large enough – and can't get larger without penalties for inconsistent availability of hours for employees. We should be encouraging small business and people should be allowed to take on clients and handle their own taxes and filing, without penalizing corporations. The current laws are discouraging entrepreneurs from going out on



their own and competitively earning customers. There should be no restriction to hiring subcontractors, AT LEAST for businesses under 10 employees.”

“We employ independent contractors who are truly independent with their own insurance. We would encourage establishing a database and license (small fee) for independent contractors. We were audited last year and our understanding is the reason why the State is pushing this is some independent contractors are filing for unemployment. If they were registered not only would we use contractors who are part of the database but would create clarity for the State as to the actual relationship between a business and contractors.”

“Until a system is implemented by the State to track independent contractors and to hold them responsible for their own workers’ compensation and unemployment insurance, there is little to no benefit to us to retain independent contractors. We will hire them directly and retain control over hours, quality and performance.”

The four bills currently in front of you H.378, H.773, H.216 and H.331 all soften the nature of the business test and are a good starting point for discussion. The Vermont Chamber specifically supports establishing a common definition, similar to H.378, for independent contractor for both workers’ compensation and unemployment insurance to add clarity to the system for employers. Additionally, we would like to see language clarifying statutory employer relationships.

Understanding that H.378 is based off of Maine’s law, I spoke with the Maine State Chamber of Commerce and they are very happy with how the law has been implemented and their member businesses have benefitted from it.

These independent contractors have established themselves as small business owners and have held themselves out for hire on their own terms, taking responsibility to grow their business, their clientele and their skills. As a public policy, we should embrace that spirit and support it. As you review this issue you will see that it is difficult to navigate but I urge you to keep in mind the entrepreneur in Vermont that takes pride in their work, knowing that their skills contributed to a bigger project or part of a larger company. They are responsible for their financial independence and are held accountable for their work skills and products and they want that responsibility and take pride in it.

Best,

A handwritten signature in blue ink that reads "Kendal Melvin".

Kendal Melvin
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