



March 23, 2016

RE: H.867, An act relating to classification of employees and independent contractors

Dear Representative Head and members of the House General, Housing and Military Affairs Committee,

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 participated in the conversations held by the House Commerce Committee regarding independent contractor reform and support the bill as passed by the Committee. When considering this issue, our main focus is to allow the entrepreneurial spirit to grow in Vermont by creating a path for these small business owners to participate in the marketplace as independent contractors.

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 are 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. We asked for the Commerce Committee to consider a path that is broadly and easily applicable to multiple industries. We believe the bill as drafted is a step in the right direction.

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 are 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 Vermont Chamber commends the Commerce Committee's work to:

- Soften the nature of the business test by allowing for like-work if an independent contractor is a registered business with the Secretary of State;
- Establish a common definition for independent contractor for both workers' compensation and unemployment insurance which adds clarity to the system for employers;
- Find a pathway that recognizes how truly “independent” the person actually is without having a standard for number of clients; and
- Recognize the nuances of work in various sectors by not limiting the number of independent contractors able to perform the same job function on a worksite.

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. They are responsible for their financial independence and are held accountable for their skills and products and want that responsibility and to take pride in it.

Best,



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