

**Second Report of the  
Joint Agency Task Force on  
Employee Misclassification Enforcement**

September 1, 2012

Governor Lynch's Executive Order #2101-3 of September 3, 2010, established the Joint Agency Task Force on Employee Misclassification Enforcement. This group is composed of representatives from the Departments of Labor, Insurance, Employment Security, Revenue Administration, Administrative Services, Transportation, Environmental Services, Information Technology, and Justice. In addition, the group has sought and received help from the Secretary of State, the Department of Safety and the Liquor Commission.

This is the group's **Mission Statement**:

The New Hampshire Joint Agency Task Force on Employee Misclassification Enforcement is committed to reducing the number of workers who are wrongly classified as independent contractors when their labor is truly employment.

Individuals and businesses who misclassify workers do so in violation of labor, employment, tax, insurance and occupational safety laws, by failing to pay required wages, carry workers' compensation insurance, comply with health, safety and licensing requirements, or pay income taxes and payroll taxes that fund unemployment insurance, disability insurance, and Medicare and Social Security benefits.

The Joint Task Force seeks ways to identify those situations where misclassification is occurring by sharing information each agency already has, and helping coordinate enforcement policies and procedures.

The Joint Task Force seeks to reduce the number of employers who fail to classify their workers properly and who fail to follow all legal steps to assure full legal protection for workers. The Joint Task Force will educate and encourage employers to learn how to treat workers appropriately. The Joint Task Force will recommend more effective mechanisms to sanction those employers who intentionally violate the law for their own unfair advantage over workers and business competitors.

## **Actions Taken During the Year**

Using a memorandum of understanding to share information, the Departments of Labor and Employment Security continue to work closely in **sharing information** that each has concerning registered employers. This allows each agency to learn about entities that have registered only with the other, to be sure that those employers are in compliance with laws administered by both. The Department of Labor has found hundreds of employers who lacked workers' compensation coverage as required by law, and has worked to get these employers into compliance.

The Task Force has concentrated its efforts to prevent worker misclassification from occurring in the first place. The Task Force believes that **education** is a fertile area in which to improve compliance. We reached out to businesses in various ways—meetings, mailings, handouts, website, etc.—to spread the word about the harm misclassification causes. Our message has been included in several widely read trade publications for insurance and construction groups. We cooperated with the Secretary of State's office to include material in the package the Secretary of State mails to all newly-registered businesses, several hundred each week.

The Task Force continues to provide information to the public through its online **website** ([www.nh.gov/nhworkers](http://www.nh.gov/nhworkers)). The website also allows citizens to report suspicions concerning employers who may be misclassifying their workers. We have posted a Spanish language

translation of our hand-out materials on the site. This website is now featured as a prominent link on the opening page of nh.gov.

Also, the Task Force has used **radio** talk/call-in shows to educate the public about worker misclassification problems and how to correct them. The Department of Labor has held dozens of **seminars** for employers, at which misclassification is addressed and included on the materials disc.

Several agencies on the Task Force have successfully used **electronic communication** to achieve fast and inexpensive communication between the government and private enterprise. For example, email bulletins have worked to broadcast information to employers about changes in statutes and regulations. Also, our on-line reporting system has collected many tips that led to successful field inspections. We encourage all state agencies to expand electronic communication through email and internet contact.

## **Future Efforts**

We will continue to expand our education and outreach efforts, to prevent misclassification from occurring. In addition to the efforts outlined above, we will explore other **media opportunities**, such as video public service announcements for broadcast television and internet. Beyond spreading the word to employers, the Task Force has also planned a series of **listening sessions** with community groups, with the help of organizations such as NH Coalition for Occupational Safety and Health. At these sessions we expect to hear the concerns of workers who may be currently misclassified.

One duty of the Task Force is to recommend legislative measures that might improve employee misclassification enforcement. We recommend legislation to allow different state

agencies to **coordinate sanction efforts**—to withhold the grant of government benefits such as liquor licenses or vehicle registrations to entities that are not in compliance with misclassification enforcement efforts of other agencies, such as the Departments of Labor and Employment Security. Although current law does not permit such cross-agency enforcement cooperation, we believe such unified efforts would help foster a business environment where proper worker classification is the norm and misclassification limited. This coordination might also be applied to enforcement actions beyond misclassification.

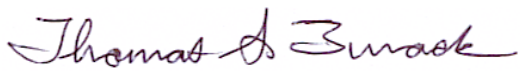
Another form of inter-agency cooperation we will examine more closely in the future is whether statutory changes would be appropriate to facilitate more widespread **sharing of information**. Right now, certain laws on privacy forbid some information from being revealed, especially that held by taxing authorities. The Task Force will examine whether to recommend changing those provisions or leaving them as is.

Some surrounding states in the Northeast have granted certain state agencies the ability to issue a **stop-work order** when ongoing infractions are noted at worksites. We intend to study the experience in these states as well as the recommendations of New Hampshire's own prior Task Force to Study Employee Misclassification. Then we hope to recommend specific legislation to incorporate the best practices in this area. Also, we will study the effectiveness of using **debarment lists** of sanctioned employers.

As another part of our future work, the Task Force plans to coordinate with business outreach activity of the Division of Economic Development and **Business One-Stop** website.

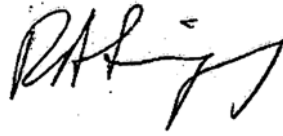
The Task Force requests your continued support in our work to prevent worker misclassification. When employers properly classify all their employees, then the workers receive the pay and protection they are entitled to receive, and the government can continue its mission to support public health and welfare.

Respectfully submitted,



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Thomas Burack, Commissioner  
Department of Environmental Services



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Roger Sevigny, Commissioner  
Department of Insurance



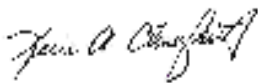
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Linda Hodgdon, Commissioner  
Administrative Services



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Stanley Rogers, Commissioner  
Department of Information Technology



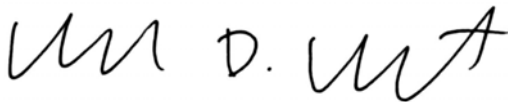
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Kevin Clougherty, Commissioner  
Department of Revenue



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Michael A. Delaney, Attorney General  
Department of Justice



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Christopher Clement, Commissioner  
Department of Transportation



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David Wihby, Acting Commissioner  
Department of Labor



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George N. Copadis, Interim Commissioner  
New Hampshire Employment Security