

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

September 1, 2015

Executive Order #2010-3 dated September 3, 2010, issued by Governor John H. Lynch, established the Joint Agency Task Force on Employee Misclassification Enforcement. The Task Force is composed of eight commissioners and the attorney general, or their designees, from the departments of Labor, Insurance, Employment Security, Revenue Administration, Administrative Services, Transportation, Environmental Services, Information Technology and Justice.

The Task Force mission statement, consistent with the enabling Executive Order, states as follows:

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**

The Task Force has continued its efforts to prevent worker misclassification by educating employers and workers.

Every newly organized corporation in New Hampshire receives from the Secretary of State a welcoming packet that explains misclassification problems and how to avoid them.

Misclassified workers are harder to reach, of course, because they are not members of organizations through which communication can be directed to them. Accordingly, the Task Force has sought effective methods of spreading the word to such workers about how to seek help if necessary. We investigated at length the possibilities of social media, but we were stymied by the costs of commencing and continuing such an effort with no budget.

Since RSA 275:49 already requires workplace posters about classifying a worker as an employee or as an independent contractor, the Task Force is discussing with the Commissioner of Labor the most effective design of that poster, to alert misclassified workers.

The process to report suspicions about employers who may be misclassifying workers, including anonymous reporting, through the Task Force website ([www.nh.gov/nhworkers](http://www.nh.gov/nhworkers)) continues to be refined.

NH Employment Security kept track of its enforcement efforts concerning misclassified workers specifically. For the calendar year 2014, it performed 404 field audits, resulting in determinations that 877 workers had been misclassified. NHES ordered correction, including \$13,400,000 in additional reported wages, and \$294,700 in additional taxes.

## Future Efforts

The Task Force will continue to expand its education and outreach efforts to prevent employee misclassification from occurring.

We continue to watch closely the experience of Maine to see if its new laws help avoid misclassification or aid in enforcement. Similarly, we will monitor the effort of the Commonwealth of Massachusetts, which is attempting to prevent misclassification through the mechanism of bringing lawsuits against employers for unfair trade practices.

Similarly, the Task Force will continue to monitor New Hampshire's own ongoing legislative efforts that affect misclassification, including two current committees studying:

- The definition of "employee" and the application of that definition to persons who work exclusively at home via the Internet for online business activities (HB 361)
- The provision of services to the public by Uber and existing taxi services (SB 254)

Of course, the Task Force stands ready to assist each of these studies in any way we can.

The Task Force welcomes any ideas or suggestions for other approaches that could address the serious problems associated with employee misclassification.

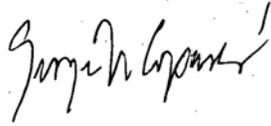
Respectfully submitted,



James W. Craig, Commissioner  
Department of Labor



Roger A. Sevigny, Commissioner  
Department of Insurance



George Copadis, Commissioner  
Department of Employment Security



John T Beardmore, Commissioner  
Department of Revenue Administration



Vicki Quiram, Commissioner  
Department of Administrative Services



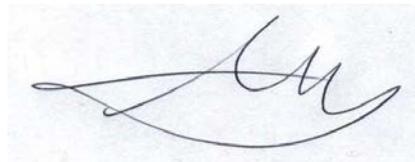
William Cass, Acting Commissioner  
Department of Transportation



Thomas S. Burack, Commissioner  
Department of Environmental Services



Denis C. Goulet, Commissioner  
Department of Information Technology



Joseph A. Foster, Attorney General  
Department of Justice