

Eighth Report of the Joint Agency Task Force on Employee Misclassification Enforcement

September 1, 2018

Executive Order #2010-3 dated September 3, 2010, and issued by Governor John H. Lynch, established the Joint Agency Task Force on Employee Misclassification Enforcement. The Task Force is comprised 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

NH Employment Security (NHES) kept track of its enforcement efforts concerning misclassified workers specifically. For the calendar year 2017, it performed 498 field audits, resulting in determinations that 1361 workers had been misclassified. The Department of Labor (DOL) took efforts to expand its misclassification inspections into areas outside of construction or other typically cited industries. Additionally, the DOL continued training and outreach efforts to employers through targeted training sessions with industry associations and employer focused labor attorney groups.

In terms of generalized outreach provided to businesses, every newly organized business entity in New Hampshire receives, from the Secretary of State, information that explains issues associated with misclassification and how employers can avoid such problems. The purpose of this information is to proactively provide notice of issues to be considered in aims of informing employers' decisions *in advance* of their engagement of workers.

We, as a collective, continue the process to refine the Task Force website (www.nh.gov/nhworkers) to report suspicions about employers who may be misclassifying workers, including anonymous reporting.

Future Efforts

The Task Force is actively reviewing the process for interagency referral of issues. The Task Force will continue to expand its outreach efforts to prevent employee misclassification from occurring and those agencies whose responsibilities include ensuring labor law compliance, shall continue to work collaboratively in such contexts.

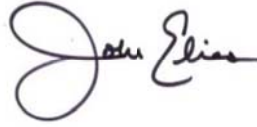
The group continues to monitor the experiences of surrounding states in order to discern if there are concepts or courses of action which should be investigated in New Hampshire for purposes of promoting improvements in this area.

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

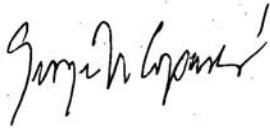
Respectfully submitted,



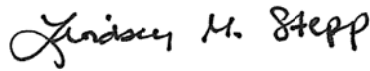
Ken Merrifield, Commissioner
Department of Labor



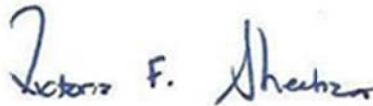
John R. Elias, Commissioner
Department of Insurance



George N. Copadis, Commissioner
Department of Employment Security



Lindsey M. Stepp, Commissioner
Department of Revenue Administration



Victoria F. Sheehan, Commissioner
Department of Transportation



Robert R. Scott, Commissioner
Department of Environmental Services



Denis C. Goulet, Commissioner
Department of Information Technology

Gordon MacDonald, Attorney General
Department of Justice