

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

September 1, 2011

Governor Lynch's Executive Order #2010-3 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 sought and received help from the Secretary of State, Department of Safety and Liquor Commission.

This is the first annual report of the work of the Task Force as of September 1, 2011.

The Task Force has met eight times as a full body, plus other smaller meetings of subsets of the Task Force to deal with narrow specific topics.

One of our first efforts was to draft and agree upon a **Mission Statement**, to guide our further work:

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.

Other Specific Actions Taken

A new **Memorandum of Understanding** was signed in early May, 2011, which allows the Departments of Labor and Employment Security to work more closely in sharing information each has on 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 legal compliance with laws administered by both.

Further, the Task Force is working to expand this **information-sharing** operation to other state agencies. For example, agencies that contract with NH employers (such as Administrative Services and Transportation) will be allowed to verify easily that the entities they deal with are in good standing with Labor and Employment Security.

The Task Force directed improvements to the online **website** (www.nh.gov/nhworkers) that allows citizens to report suspicions or blow the whistle on employers who may be misclassifying their workers. We identified circumstances that may frustrate the easy use of the website, and we worked with the Department of Information Technology to fix these problems. Also, we updated the information provided to visitors of the website. Moreover, this website is now featured as a prominent link on the opening page of nh.gov.

The Task Force has decided to concentrate its initial efforts on **educating the public** in order to avoid misclassification occurring in the first place. Labor and Employment Security, in their joint information sharing efforts mentioned above, identified a significant number of business entities that were in violation of at least one law simply because they did not understand what the law required. The Task Force believes that this demonstrates that education will be a fertile area to improve compliance. We will reach out to groups of workers and businesses in various ways—meetings, mailings, handouts, website, etc.—to spread the word about the harm misclassification causes.

We also met with a representative of the Secretary of State's office to learn how we might piggy back on their efforts to **reach out to newly formed businesses**. We learned that the Secretary of State mails an acknowledgement to these businesses, and that this mailing now includes a separate sheet from Revenue Administration as a primer on tax laws. Both Labor and Employment Security will draft similar inserts explaining the laws they administer and encouraging compliance with the laws on misclassification. The Secretary of State's office promised to cooperate to include those sheets in the mailings. In addition, the Task Force supports moving toward electronic communication, especially the **use of e-mail addresses** for these outreach efforts.

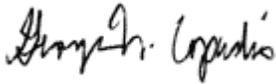
Other Future Actions

In the coming year, the Task Force intends to **track the most effective forms of education** outreach in order to focus our efforts efficiently. Also, we will be addressing what forms of inter-governmental cooperation are most efficient in combating misclassification, so we can focus on improving those efforts. For example, when the Task Force met with representatives of the Liquor Commission and the Department of Safety, one idea we discussed was whether they could help with enforcement actions against misclassification violators. That is, if an entity were found to be violating the law, might New Hampshire be able to withhold a license or registration until the entity corrected its violation, or paid an outstanding civil penalty? While both agencies indicated that such enforcement would not be possible under current statutes, the Task Force intends to consider this issue further, and to **decide whether to recommend legislative changes** to allow such coordinated enforcement activity.

Another form of inter-agency cooperation we will examine more closely is whether statutory changes seem 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.

As 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. We will encourage all state agencies to use electronic communication through e-mail and internet contact.

Respectfully submitted,



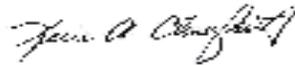
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Department of Labor



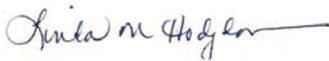
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