HOUSE DOCKET, NO. 1470 FILED ON: 1/15/2015

HOUSE . . . . . No. 1776

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the creative economy.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Chris Walsh	*6th Middlesex*	*1/15/2015*
Sarah K. Peake	*4th Barnstable*	*1/21/2015*
Bruce E. Tarr	*First Essex and Middlesex*	*10/1/2019*
Jonathan Hecht	*29th Middlesex*	*10/1/2019*
Tom Sannicandro	*7th Middlesex*	*10/1/2019*

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HOUSE . . . . . No. 1776

By Mr. Walsh of Framingham, a petition (accompanied by bill, House, No. 1776) of Chris Walsh and others relative to persons performing job-related services. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the creative economy.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Subsection (a) of section 148B of chapter 149 of the Massachusetts General Laws is hereby amended by inserting the following clause:-

(4) or if an individual who is engaged in a profession, trade, or occupation that creates intellectual property that is or is not protected under federal copyright law, federal patent law, federal licensing laws or any other applicable federal, state or international law or treaty governing intellectual property is exempt from section 148B of chapter 149 if they meet the following:

(i) The individual identifies, markets, or promotes themselves as a freelancer, as self-employed, as a sole proprietor or as an independent business.

(ii) The individual controls and regularly negotiates the use of their intellectual property.

(iii) The individual meets the federal standards on independent contractors such, as but not limited to, the Internal Revenue Service 20 Factor Test and any Internal Revenue Service or federal industry specific independent contractor test that may exist.

The exception shall not apply to an individual who has been coerced, threatened or intimidated into establishing an independent business.

SECTION 2. Notwithstanding any general or special law to the contrary, if an individual is a member or is affiliated with a union, guild, membership organization, or professional organization, the employer of the individual is required to abide by the work standards, contracts, pay rate and/or other work practices and agreements established by said union, membership organization, professional organization, or guild. Membership in a professional development organization, union, guild created by a specific employer for its employees and/or independent contractors shall not meet the definition of a union, guild, membership organization or professional organization.