

HOUSE No. 1672

The Commonwealth of Massachusetts

PRESENTED BY:

Shaunna L. O'Connell

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 self-employed individuals.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>1/18/2019</i>

HOUSE No. 1672

By Mrs. O'Connell of Taunton, a petition (accompanied by bill, House, No. 1672) of Shaunna L. O'Connell relative to individual or business entities who contract to perform work or provide services for the benefit of others. Labor and Workforce Development.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to self-employed individuals.

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

1 Section 148B of Chapter 149 of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by inserting after the paragraph designation “(a)”, the following
3 numeral:- “(1)”.

4 Said Section 148B of Chapter 149 is hereby further amended by inserting after the word
5 and punctuation “performed.” the following:-

6 (a)(2) An individual or business entity who contracts to perform work or provide a
7 service for the benefit of another shall be considered to have satisfied test (2) in (a)(1) above if:

8 (1) The individual or business entity has pre-registered as a payroll-taxpaying entity with
9 the department of revenue and attested that said registration is being provided “voluntarily and
10 free from coercion by any person or entity” and satisfies at least 6 of the following 11
11 requirements:

12 (i) chooses when and how to do the work, chooses the tool and techniques, and uses
13 additional individuals or not at his or her discretion; exercises discretion and independent
14 judgment with respect to matters of significance;

15 (ii) already possesses the skills required for the specific work or service;

16 (iii) possesses fixed ongoing costs that are incurred regardless of whether work is
17 currently being performed or incurs unreimbursed expenses in connection with the work or
18 services provided;

19 (iv) has significant investment in the facilities, tools, equipment or site where the work is
20 performed;

21 (v) is generally free to seek other business opportunities, advertise and promote the
22 services, and be available to others;

23 (vi) is paid a flat rate or fixed fee for the project;

24 (vii) can make a profit or suffer a loss on the project,

25 (viii) possesses a written contract describing the relationship;

26 (ix) is not provided with employee-type benefits such as insurance, a pension plan,
27 vacation pay, or sick pay;

28 (x) is expected to work for a limited period of time;

29 and (xi) is able to represent the work as his or her own or retain rights to the work
30 product; or

31 (2) the individual or business entity is conducting business in a franchise relationship
32 subject to the rules and regulations of the Federal Trade Commission, and the relationship
33 complies with those rules and regulations; or

34 (3) a court has determined that the application of test (2) in (a)(1) for that individual or
35 business entity's industry is preempted by federal law.

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