HOUSE DOCKET, NO. 3295 FILED ON: 1/21/2011

# HOUSE . . . . . No. 3091

The Commonwealth of Massachusetts

PRESENTED BY:

***Joseph F. Wagner***

*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 Sustainability of the Trucking Industry.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Joseph F. Wagner* | *8th Hampden* |

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# HOUSE . . . . . No. 3091

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 3091) of Wagner relative to the trucking and messenger/courier industries Joint Committee on Transportation.

## The Commonwealth of Massachusetts

**In the Year Two Thousand Eleven**

An Act Relative to the Sustainability of the Trucking Industry.

*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. Section 148B of Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following new section:-

(f) In the trucking and messenger/courier industries, an operator of a car, van, truck, tractor, or truck-tractor that is licensed and registered by a governmental motor vehicle agency is an employee unless each of the following factors is present, and if each factor is present, the operator is an independent contractor:

(1) the individual owns the equipment or holds it under a bona fide lease arrangement;

(2) the individual is responsible for the maintenance of the equipment;

(3) the individual is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses. The individual may be paid the carrier's fuel surcharge and incidental costs, including, but not limited to, tolls, permits, and lumper fees;

12 (4) the individual is responsible for supplying the necessary personal services to operate
13 the equipment;

14 (5) the individual's compensation is based on factors related to the work performed, such
15 as a percentage of any schedule of rates, and not on the basis of the hours or time expended;

16 (6) the individual substantially controls the means and manner of performing the services,
17 in conformance with regulatory requirements and specifications of the shipper; and

18 (7) the individual enters into a written contract that specifies the relationship to be that of
19 an independent contractor and not that of an employee.