

House Bill Summary

BILL NUMBER: House Bill 1844

TITLE: An Act Relative to Independent Contractors

LEAD SPONSOR: Representative Michael J. Rodrigues

COMMITTEE: Labor and Workforce Development

HEARING DATE: January 27, 2010

LEGISLATIVE HISTORY: Filed as House Bill 311 of 2007
01/11/07 H Referred to the committee on Consumer Protection and Professional Licensure
01/11/07 S Senate concurred
05/08/08 H Bill reported favorably by committee and referred to the committee on House Steering, Policy and Scheduling -HJ 1459
06/10/08 H Committee reported that the matter be placed in the Orders of the Day for the next sitting for a second reading -HJ 1567
06/11/08 H Read second and ordered to a third reading -HJ 1573

SUMMARY OF EXISTING LAWS AFFECTED: M.G.L c.149, § 148B regulates who are considered employees under c.149 (governing labor and industries) and c.151 (the minimum wage statute). Under this section, a person is considered an employee unless: 1) the individual is free from control and direction in connection with the performance of the service and; 2) the service is performed outside of the usual course of the business of the employer and; 3) the individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

Individuals meeting all three parts of this test are deemed independent contractors rather than “employees,” which potentially affects determinations of tax liability, workers’ compensation and unemployment insurance contributions, Wage Act requirements (including overtime), and employer FICA contributions.

SUMMARY OF THE PROPOSED LAW: House Bill 1844 would amend M.G.L c.149, § 148B to remove the word “and” at the end of the second part of the three part test currently existing in the statute and replace it with “or”.