**\*\*\* Call to Action!!! \*\*\***

**Wage Theft and Independent Contractor Misclassification Felony**

Last week the Chamber testified on H.5902, An Act Relating to Labor and Labor Relations – Payment of Wages. We believe this bill will be scheduled for a vote in some form before the end of the legislative session. The Chamber needs every business that operates as an independent contractor or hires independent contractors to contact their legislators now!

The Attorney General has requested a change in the law to increase the criminal consequences for failing to pay employees properly and for misclassifying individuals as independent contractors instead of employees.

***There was a strong movement from the unions attending the hearing to change the definition of an independent contractor to make it more difficult to operate in Rhode Island as an independent contractor.***

Under consideration is a definition that states individuals may only be independent contractors if their activities are outside the normal course of a business’s activities. If you have a bookkeeper on staff, you could not hire an independent contractor to complete payments or financial reports. If you are a nursing home with nurses on staff, per diem nurses could not be hired. If you have an IT person on staff, you could not hire an independent contractor to trouble shoot a particular problem. If your employee takes FMLA, you cannot hire an independent contractor to fill in during the absence.

A second test under consideration bases the decision on control over the employee and whether the occupation is one that is traditionally filled by independent contractors. To legally be an independent contractor under this alternate test, the person must meet both factors. The courts will have to decide which occupations fall into that category and how to handle emerging occupations going forward.

If H.5902 passes with the felony language in place, and the definition changes, businesses will have to cease hiring independent contractors that no longer fit the definition or face felony charges and prison time.

**We need you to contact your legislators now. If you operate your business as a sole proprietor or if you hire independent contractors, it is imperative that you tell your legislators not to change the definition of an independent contractor. Provide your name, the name and location of your business, an explanation of how you utilize independent contractors, and what will happen if you have to hire employees to replace your current independent contractors.**

Thank you for your help!

**Monday, May 15th**

The House Oversight Committee is meeting Monday at 3:00 to hear a presentation from the RI Department of Transportation concerning the progress and plans for meeting the greenhouse gas emission reductions required under the 2021 Act on Climate. Governor McKee announced that the Rhode Island Department of Environmental Management (DEM) is moving to adopt the California Advanced Clean Cars II Standards (ACCII). In its most simple form, McKee stated that ACCII requires a ramp-up of the sale of ZEVs in Rhode Island from 35% of all new vehicles sold in Rhode Island in 2026 to 100% ZEVS in 2035. Eligible ZEVs include battery electric vehicles, plug-in hybrid vehicles, and fuel cell electric vehicles. The Providence Journal reported an interim target of 68% of sales in 2030. Residents will still be able to purchase fossil fuel cars from other states, and will be able to purchase used fossil fuel vehicles. However, should the new sale targets not be met, the State will be forced to alter the rule in order to meet the 2021 Act on Climate.

The proposed regulation can be found at <https://dem.ri.gov/environmental-protection-bureau/air-resources/advanced-clean-cars-ii-advanced-clean-trucks> Comments must be submitted to DEM by May 18th by using the following form: <https://ri.commentinput.com/?id=PTBJi>

The Oversight Committee will likely hear more about this program as well as efforts underway to create electric vehicle charging stations along the interstate corridor.

**Tuesday, May 16th**

The Senate Commerce Committee is meeting Tuesday at the Rise (approximately 4:30) in Room 212. Scheduled for hearing is S.166, An Act Relating to Public Property and Works – The Green Buildings Act. The bill requires the Office of Energy Resources to establish building energy performance standards for large commercial and residential buildings. “Large building” includes residential and commercial buildings with 25,000 sq. ft or more starting January 1, 2023. Beginning January 1, 2026, the definition includes buildings with more than 20,000 sq. ft. and it brings in buildings with over 15,000 sq. ft. starting January 1, 2029. Owners of large buildings would be required to fill out annual reports disclosing energy use. Should buildings not meet the required energy performance standards adopted by the state, the bill outlines pathways to gradually decrease energy use and emissions until the building comes into compliance. The ten-page bill can be found, in its entirety at <http://webserver.rilegislature.gov/BillText/BillText23/SenateText23/S0166.pdf> If you wish to submit comments on the bill, email testimony to slegislation@rilegislature.gov

**Wednesday, May 17th**

The Senate Labor Committee is meeting at 4:00 pm in Room 212. Two bills scheduled for hearing are S.427 and S.425.

S.427, An Act Relating to Labor and Labor Relations – Workers Compensation – General Provisions, requires independent contractors to file an annual declaration to the Workers’ Compensation Court along with a $50 filing fee. The fee is to be filed once, regardless of how many forms are filed; and it appears the independent contractor would be required to file a form for each client relationship. The Department of Labor and Training would provide a report to the Department of Revenue listing all independent contractors filing with the court.

S.425, An Act Relating to Criminal Offenses – Identity Theft Protection Act of 2015, amends notification requirements when a company experiences a security breach. Under current law, businesses that use or store personal information – including account numbers and credit card numbers, among other items – must notify consumers of a breach within 45 days of the breach event. This timeframe was meant to provide businesses with the time needed to close off any unauthorized access and stop bad actors from doing more harm before the breach becomes public. S.425 shortens the notification deadline to 15 calendar days; and the State Police must be notified within 24 hours of the detection of the breach. The legislation also awkwardly refers to employees of a local bargaining unit, and the requirement to notify the union leadership of the breach if employees are unionized. This language makes sense, if the business affected is a state or local government, but does not make sense if the breach takes place in a private company with affected customers. Any business that fails to comply with the notification rules is subject to a civil penalty of $100 per record for a reckless violation, and $200 per record for a knowing and willful violation. The language in the bill calls for an effective date upon passage.

Testimony on either of these bills may be submitted to the committee by 3:00 pm at: SLegislation@rilegislature.gov

The Senate Committee on Special Legislation & Veterans Affairs is meeting Wednesday at 4:30 pm in Room 211. The committee will be voting to pass S.444, An Act Relating to Holidays and Days of Special Observance, seeks to establish June 19th (or the Monday following the 19th if the day falls on a Saturday or Sunday) as Juneteenth National Freedom Day. This day would become a mandated holiday for businesses at the time and a half requirement unless exempt under another state law.

There were no new bills of particular interest to the business community filed last week.