

**HOUSE . . . . . No. 1039**

---

**The Commonwealth of Massachusetts**

PRESENTED BY:

*Jeffrey N. Roy*

*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 amending the independent contractor statute.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>

**HOUSE . . . . . No. 1039**

By Mr. Roy of Franklin, a petition (accompanied by bill, House, No. 1039) of Jeffrey N. Roy and Paul McMurtry relative to the independent contractor statute. Labor and Workforce Development.

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninetieth General Court  
(2017-2018)**

An Act amending the independent contractor statute.

*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 1. Section 148B of Chapter 149 of the General Laws is hereby amended by  
2 adding after subsection (d) the following:

3 (e) Notwithstanding the foregoing, an individual shall not be treated as an “employee” for  
4 purposes of this Chapter 149 and Chapter 151, provided that:

5 1. the individual is engaged to conduct store audits or perform mystery shopping  
6 services;

7 2. the service opportunities are offered to the individual on a project-by-project  
8 basis, which the individual can accept or decline at the individual’s discretion;

9 3. the remuneration for the services the individual performs is determined on a  
10 fixed-fee basis, regardless of the amount of time worked; and

11 4. the individual is not restricted from performing similar services for others.

12 SECTION 2. Section 6 of Chapter 151A of the General Laws is hereby amended by  
13 adding after subsection (x) the following:.

14 (y) Service performed by an individual engaged to conduct store audits or perform  
15 mystery shopping services, provided that the service opportunities are offered to the individual  
16 on a project-by-project basis, which the individual can accept or decline at the individual's  
17 discretion; the remuneration for the services the individual performs is determined on a fixed-fee  
18 basis, regardless of the amount of time worked; and the individual is not restricted from  
19 performing similar services for others.

20 SECTION 3. Section 1 of Chapter 152 of the General Laws is hereby amended by  
21 amending subsection (4) thereof by deleting "and" at the end of clause (f) thereof, replacing the  
22 period at the end of clause (g) thereof with ", and" and by adding after clause (g) the following:.

23 (h) a person engaged to conduct store audits or perform mystery shopping services,  
24 provided that the service opportunities are offered to the person on a project-by-project basis,  
25 which the person can accept or decline at the person's discretion, the remuneration for the  
26 services the person performs is determined on a fixed-fee basis, regardless of the amount of time  
27 worked, and the person is not restricted from performing similar services for others.