

# Deciding who's an Independent contractor

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Lawmakers are scrambling to fix a new law that critics say has caused widespread confusion and concern among employers over whom they can and can't hire as independent contractors.

Last summer, the Legislature amended the state's longstanding law defining what constitutes an "independent contractor" and when businesses must hire workers as "payroll employees." Businesses must withhold taxes and pay workers-compensation premiums for payroll employees.

The amendment was aimed at tightening statutes overseeing public construction projects. But it's been interpreted as also covering accountant, high-tech workers and nonconstruction employees in other industries.

"It's had unintended consequences." Said Robert Shea, a Waltham employment attorney.

Shea has worked with business groups concerned about the law and how it's been interpreted by Attorney General Tom Reilly. The Smaller Business Association of New England and groups representing other employers, including accounting firms, have contact lawmakers about changing the amendment.

"We have to clarify it," said Rep. Marty Walsh (D-Boston), who worked on the amendment last year as vice chairman of the Legislature's construction reform committee.

Lawmaker plan to file proposed changes to ease burdens on employers, Walsh said.

The amendment controversy comes at a sensitive time for businesses. Many are under increasing legal assault by workers and labor activists, who say employers are trying to get around labor laws by hiring more independent contractors.

Andrew Popler, vice president of PrO Unlimited, a Florida consulting and staffing firm, said many high-tech companies in particular are turning to companies like his to sort out the growing legal complexities of hiring independent contractors.