

**Statement of Michael J. Riley  
President**

MICHAEL J. RILEY  
PRESIDENT

**Motor Transport Association of Connecticut  
Before  
The Joint Committee on Transportation  
March 12, 2012**

**Re: Raised Bill No. 385 AN ACT CONCERNING OWNER  
OPERATORS IN MOTOR CARRIER INDUSTRY.**

I am Michael J. Riley, President of Motor Transport Association of Connecticut (MTAC), a statewide trade association, which represents around 800 companies that operate commercial motor vehicles in and through the state of Connecticut. Our membership includes freight haulers, movers of household goods, construction companies, distributors, tank truck operators and hundreds of companies that use trucks in their business and firms that provide goods and services to truck owners.

**MTAC SUPPORTS THIS BILL**

This is the only bill that MTAC has requested this year. It is of such importance to our members that we intend to direct all of our energy and attention to its passage.

We are requesting this bill to address a problem which has recently arisen. The State Department of Labor, under the Direction of Commissioner Glen Marshall, has undertaken a project to deal with the unlawful and devious misclassification of persons, who are actually employees, as independent contractors. We agree that there have been abuses, particularly in the construction business, and we support the Department's effort to end what has become an abusive misuse of persons desperate for work in a very difficult time. By taking advantage of workers, employers can avoid paying income taxes, unemployment assessments and workers compensation premiums.

The Worker's Compensation Commission and the Department of Revenue Services are also involved in the effort to end misclassification. Both of these agencies evaluate the legitimacy of an independent contractor relationship utilizing a common law test, similar to the 20 question test used by the Internal Revenue Service. However, the Department of Labor uses a different three pronged test, called the ABC test, to determine whether or not a worker is an



employee or an independent contractor. This test is considered “conjunctive”, meaning that one must pass all three prongs to be classified as an independent contractor.

As the attached documents demonstrate, owner operators of trucks and motor carriers have employed the independent contractor model for many years. These owner operators are independent small businesses. They own their own vehicles, pay all the expenses associated with operating the vehicle and control the means and manner of performing services for motor carriers. Independent contractors are common in the freight hauling, household goods moving business and dump trucks operators in the construction industry.

Many of the trucks owned by independent contractors cost over \$100,000. An individual, willing to work hard, can gross over \$150,000 per year, and net more than \$50,000. Owning and operating a truck as a small business is an opportunity for persons without diplomas or degrees to become entrepreneurs and to grow a business from one truck to a fleet. Owner operators like the freedom which owning their own business provides. They like to be able to pick and choose the jobs they do. And, they realize that they have the opportunity to provide a good living for their families through their hard work.

While the Department of Labor concedes that the usual independent contractor/motor carrier relationship can pass regulatory scrutiny, one issue is problematic. The Department’s interpretation of the ABC Test prohibits independent contractors from working for only one motor carrier. While this arrangement may be indicative of excessive control in some relationships, this “one on one” relationship is common in the trucking industry. It is entered into voluntarily and engaged in on a mutually beneficial basis. Federal and State laws require a certain amount of control by motor carriers over contractors to ensure safety. These include certain requirements for vehicle inspections, drug and alcohol testing and driver qualifications. There is no duress or exploitation involved. The trucking business is different from many other businesses and the evaluation of the independent contractor relationship needs to accommodate those differences.

Therefore, MTAC has requested AN ACT DEFINING OWNER OPERATORS IN THE MOTOR CARRIER INDUSTRY. It clearly lays out the conditions under which an independent contractor relationship can exist. It is not an exemption. It follows the spirit of the ABC test but acknowledges the unique circumstances in the trucking industry. And, it permits that relationship to exist between one motor carrier and one owner operator.