HOUSE DOCKET, NO. 3198 FILED ON: 1/18/2013

HOUSE . . . . . No. 3164

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

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 passage of the accompanying:

An Act relative to the sustainability of the trucking industry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph F. Wagner	*8th Hampden*
Aaron Vega	*5th Hampden*
John W. Scibak	*2nd Hampshire*
Peter J. Durant	*6th Worcester*
Paul K. Frost	*7th Worcester*
James J. Lyons, Jr.	*18th Essex*

HOUSE DOCKET, NO. 3198 FILED ON: 1/18/2013

HOUSE . . . . . No. 3164

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 3164) of Joseph F. Wagner and others relative to the trucking and messenger/courier industries. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *3091* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to the sustainability of the trucking industry.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 148B of Chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following new section:-

(f) In the trucking and messenger/courier industries, an operator of a car, van, truck, tractor, or truck-tractor that is licensed and registered by a governmental motor vehicle agency is an employee unless each of the following factors is present, and if each factor is present, the operator is an independent contractor:

(1) the individual owns the equipment or holds it under a bona fide lease arrangement;

(2) the individual is responsible for the maintenance of the equipment;

(3) the individual is responsible for the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses. The individual may be paid the carrier's fuel surcharge and incidental costs, including, but not limited to, tolls, permits, and lumper fees;

(4) the individual is responsible for supplying the necessary personal services to operate the equipment;

(5) the individual's compensation is based on factors related to the work performed, such as a percentage of any schedule of rates, and not on the basis of the hours or time expended;

16 (6) the individual substantially controls the means and manner of performing the services,
17 in conformance with regulatory requirements and specifications of the shipper; and

18 (7) the individual enters into a written contract that specifies the relationship to be that of
19 an independent contractor and not that of an employee.