



- FLOOR ALERT -

June 1, 2011

SB 459 (Corbett) – OPPOSE
File Item No. 153

Dear California Lawmaker:

Don't let your legacy be the destruction of more California jobs! Right now, Californians would rather have an independent contractor job, than no job at all because of your vote today.

On behalf of CalSmallBiz, representing small businesses which comprise California's economic backbone, I write in respectful opposition to SB 459, which seeks to penalize small businesses, **even those who act in good faith and on the advice of legal counsel**, who "willfully" misclassify an employee as an independent contractor, with severe fines that cut into their ability to keep their doors open and business running.

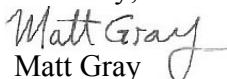
What does "willful" mean? Even the Internal Revenue Service allows exceptions to a violation, when the business has acted in good faith and upon the advice of legal counsel. But SB 459 is silent on what it means by willful, and by default it will end up meaning 100% of the time any violation occurs at all.

SB 459 seeks to create a feeding frenzy for attorneys, by this legislation creating ambiguity in the law and being the basis for needless litigation. Because of SB 459, the attorney will only need to prove "willful" misclassification, and hefty attorney fees will be owed by the small business. SB 459 will result in millions of dollars leaving the job market, lining the pockets of attorneys, and killing jobs in the private sector.

SB 459 has numerous other flaws, for example page 3, line 7, in Section 226.8 (a)(2), "Charging an individual ... a fee, or making any deductions from compensation, *for any purpose*, including for goods, materials, space rental, *services*...." Would this include deductions from compensation for health insurance, for personal use of a vehicle, for personal meals charged and eaten on site? SB 459 is fraught with ambiguity, and is reasonably expected to cause years of litigation and additional costs to the state in a time when every tax dollar is needed to continue public services.

CalSmallBiz offers candid communications on legislative matters with small businesses and constituent groups throughout California, including your district. For the reasons outlined above, the advancement of SB 459 in its current form is imprudent, and detrimental to the well-being of California small businesses as well as California's economy. Thank you for your consideration of our input, and if you have questions, then please feel free to contact me directly at (916) 444-5551.

Sincerely,


Matt Gray

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