WEST VIRGINIA CODE: §21-5I-2

§21-5I-2. Findings.

The Legislature finds as follows:

(a) Recent developments in the workforce marketplace, and in particular with the advent of the so-called “gig”, “entrepreneurial”, or “sharing” economy, have highlighted the uncertainty that currently exists with determining the correct classification of workers as independent contractors or employees. The proper classification of workers as employees or independent contractors is a complex legal issue that vexes workers and businesses as well as lawyers and the courts.

(b) Not only are the legal standards used to differentiate employees from independent contractors generally subjective in nature, but those standards differ based on the particular law at issue. As a result, some workers may be found to be employees under one law but independent contractors under another law, leaving the same person classified as an employee for some purposes but as an independent contractor for other purposes.

(c) It is in the best interests of this state, workers, and businesses for there to be certainty regarding the legal status of workers concerning workers’ compensation as defined in Chapter 23 of this code, unemployment compensation in Chapter 21A of this code, Human Rights Act rights in §5-11-1 *et seq*. of this code, and wage payment and collection in §21-5-1 *et seq*. of this code, and their applicable rights and obligations. Clarity in a worker’s classification allows businesses to comply with applicable laws, provides workers with certainty as to their benefits and obligations, and minimizes unnecessary mistakes, litigation, risk, and legal exposure laws concerning workers’ compensation in Chapter 23 of this code, unemployment compensation in Chapter 21A of this code, Human Rights Act rights in §5-11-1 *et seq*. of this code, and wage payment and collection in §21-5-1 *et seq*. of this code.

(d) It is in the best interests of workers, business, and government to have clear, objective, and certain standards for determining who is an employee and who is an independent contractor concerning workers’ compensation as defined in Chapter 23 of this code, unemployment compensation in Chapter 21A of this code, Human Rights Act rights in §5-11-1 *et seq*. *of* this code, and wage payment and collection in §21-5-1 *et seq*. of this code.

(e) The purpose of this article is to bring certainty and consistency in the laws and clarity regarding the distinction between employees and independent contractors in laws concerning workers’ compensation as defined in Chapter 23 of this code, unemployment compensation as defined in Chapter 21A of this code, Human Rights Act rights as defined in §5-11-1 *et seq*. of this code, and wage payment and collection as defined in §21-5-1 *et seq*. of this code. By doing so, the state will ensure that workers who are indeed “employees” are properly classified as such and will be afforded the legal protections and obligations that apply to such status, and that workers who desire to be, and meet the standards of being,

WV Legislature

independent contractors will be entitled to the freedoms that such a relationship provides, which will reduce unnecessary and costly litigation and confusion in the workforce marketplace and in the courts.

WV Legislature