



549 Pompton Ave Suite 107, Cedar Grove, NJ 07009

December 14, 2019

The Honorable Philip Murphy
Governor of New Jersey
Trenton, NJ 08625

VIA ELECTRONIC MAIL – c/o George.Helmy@nj.gov, Kathleen.Frangione@nj.gov

The New Jersey Association of Women Business Owners (NJAWBO) strongly opposes S 4204 and A 5936.

Dear Governor Murphy:

I am writing to you concerning the recent employee misclassification bills introduced in the New Jersey Senate and Assembly in November. Bills S 4204 and A 5936 will have a detrimental impact on women-, minority-, and veteran-owned small businesses. Many of these businesses are independent service providers, including marketing and business strategists, trainers, freelance writers, consultants, graphic designers, and others.

Many of these businesses are certified as a women business enterprises (WBEs), minority business enterprises (MBEs), veteran business enterprises (VBEs), and/or small business enterprises (SBEs) by the State of New Jersey. Such certifications assure government and business entities that these businesses have been vetted by the Department of Treasury, Division of Revenue. Certified businesses often aim to increase revenues by teaming up with other project consultants in order to participate in larger contracts. The ABC test would classify many of these consultants as employees, which would put their growing businesses at risk.

According to the U.S. Small Business Administration Office of Advocacy's 2018 Small Business Profile, there are 861,373 total small businesses in the State of New Jersey, which is 99.6% of all New Jersey businesses. This includes 670,765 non-employer firms and 170,012 firms with 1 – 20 employees.

<https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-NJ.pdf>

Therefore, 78% of NJ small businesses are non-employer firms, and 20% have 20 employees or fewer. According to the bar chart in Figure 2, all NJ women owned businesses have an average of 7.5 employees, minority owned businesses have an average of 7 employees, and veteran owned firms employ an average of 15.

As stated on the website of New Jersey Office of Diversity and Inclusion, *Minority and Women Owned Business Enterprises comprise over half of the firms in state, with 237,242 minority owned firms and 252,944 women owned firms.*

<https://diversity.nj.gov/governor/diversity/welcome/>

The total number of women and minority owned firms in the State is 490,186 or approximately 57%. Based on the above statistics, one can derive that the majority of women, minority, and veteran owned firms are non-employer firms or employ fewer than 20 employees. The ABC test would classify many of the non-employer firms as well as firms that employ fewer than 20 as employees, which will have a destructive effect on women, minority, and veteran-owned businesses in New Jersey.

Many small businesses depend on larger companies awarding small contracts to work on or off company premises. This allows them to build their businesses and go after larger contracts over time. Many large companies encourage small businesses to subcontract with their Tier 1/Prime contractors in order to prove they can handle the work and to grow large enough to become a prime contractor. The ABC test will discourage Tier 1 contractors from awarding subcontracts to New Jersey-based women, minority, and veteran owned businesses.

Therefore, NJAWBO opposes S 4204 and A 5936. At the very least, NJAWBO would like the bill to exempt project-based consultants and those businesses certified by the State of New Jersey as WBE/MBE/VBE/SBE and be rewritten so that the unintended consequences the bill currently creates—including its effects so many professional service providers—are eliminated.

Sincerely,

Holly Kaplansky
President, New Jersey Association of Women Business Owners (NJAWBO)

Robin Tabakin
Public Policy Leader, Legislative Committee