



March 27, 2024

The Honorable Arthur J. Corvese  
Chair, House Committee on Labor  
Rhode Island General Assembly

Via email: HouseLabor@rilegislature.gov

Re: Opposition to House Bill No. 7788  
*An Act Relating To Labor And Labor Relations – Minimum Wages*

Dear Chair Corvese and members of the Committee,

Thank you for the opportunity to submit written testimony on behalf of DoorDash, a technology company that connects consumers with their favorite local and national businesses. DoorDash partners with over 1,600 Rhode Island merchants,<sup>1</sup> and our mission is to grow and empower local economies, including Rhode Island's.

We offer the following comments in respectful opposition to House Bill No. 7787, *"An Act Relating To Labor and Labor Relations – Minimum Wages."*

**Last year, the Assembly thoughtfully clarified this part of state law. This bill would go backward, undoing last year's work and sowing confusion in the state's laws.**

Just last year, the Assembly carefully examined the very question this bill poses: what legal standard should the state use to determine whether a worker is an employee or an independent contractor? It's important to get that question right, because choosing the wrong standard would lead to confusion over who is allowed to work as an independent contractor. Worse still, it could force large numbers of workers who want to work independently to either become employees or give up their jobs.

The Assembly last year chose to carefully clarify state law in a way that made sense for the state's workers and the businesses with which they work. The Assembly decided – in House Bill 5902 – to align aspects of the state's laws with the approach used under the federal Fair Labor Standards Act. That brought clarity to state law and simplified – for both workers and businesses – how workers are classified.

Now, House Bill No. 7787 would undo last year's work and make a sweeping change to how workers in the state are allowed to work. Instead of helpfully clarifying and simplifying state law, like last year's bill did, this bill would create confusion over how workers are classified and – even worse – likely force many workers in the state to give up their ability to freelance or work independently.

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<sup>1</sup> Based on the number of stores on the DoorDash Marketplace in December 2023.

## **Adopting an “ABC” test – as this bill would do – would upend Rhode Island’s economy.**

Replacing Rhode Island’s existing approach to employment with an “ABC test” would have far-reaching and unpredictable effects on the state’s economy. When California did the same in 2019, the change affected “roughly a million California workers,” ranging from freelance writers, seasonal tax preparers, and speech therapists, to musicians, yoga instructors, and small nonprofit theaters.<sup>2</sup> The *New York Times* reported that, soon after the law was passed, one company alone had to cut over 200 freelance writers, because the new law prevented those workers from continuing to work independently, and the company could not offer them all employment.<sup>3</sup>

A recent study that examined how this change in law affected California’s workers found that California’s decision to adopt an “ABC test” – as House Bill No. 7787 would do in Rhode Island – has been “significantly associated with a decline in self-employment and overall employment” and “may have reduced overall employment and labor force participation.”<sup>4</sup>

Facing a wave of unintended consequences, the California legislature has passed a number of emergency measures to try to fix the law. That has resulted in a haphazard, multi-year effort to carve out more than 100 types of jobs from the law.<sup>5</sup>

A law that requires over a hundred exceptions is not a well-functioning law. The result in California is now a complicated, fractured regulatory approach that has rippled across the state’s economy.

## **House Bill No. 7787 could deprive Dashers of opportunities for flexible earnings.**

“Dashers” – those who use the DoorDash platform to work as independent contractors and earn extra money – choose that work over other types of work because of the independence they can have. They, not us, choose when, where, and how long to work, and the way they work looks nothing like employment:

- There are over 35,000 Dashers in Rhode Island, and they choose to deliver on average for only 2.6 hours per week. Almost all of them – 93% – spend on average less than 10 hours per week delivering.<sup>6</sup> That kind of widely available, supplemental work – which

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<sup>2</sup> Margot Roosevelt, *New California Labor Law AB 5 is Already Changing How Businesses Treat Workers*, L.A. Times (Feb. 14, 2020), <https://www.latimes.com/business/story/2020-02-14/la-fi-california-independent-contractor-small-business-ab5>.

<sup>3</sup> Marc Tracy and Kevin Draper, *Vox Media to Cut 200 Freelancers*, N.Y. Times (Dec. 16, 2019), <https://www.nytimes.com/2019/12/16/business/media/vox-media-california-job-cuts.html>.

<sup>4</sup> Liya Palagashvili et al., *Assessing the Impact of Worker Reclassification: Employment Outcomes Post-California AB5*, at 5–6 (2024), <https://www.mercatus.org/research/working-papers/assessing-impact-worker-reclassification-employment-outcomes-post>.

<sup>5</sup> Ogletree, Deakins, Nash, Smoak & Stewart, P.C., *AB 2257 Enacts Significant Changes to AB 5 on Classification of Workers as Independent Contractors*, Nat’l Law Review (Oct. 13, 2020), <https://www.natlawreview.com/article/ab-2257-enacts-significant-changes-to-ab-5-classification-workers-independent>.

<sup>6</sup> Both stats measured during the last quarter of 2023.

Dashers can tap into on their phone, when they choose, and fit in around their schedule – is fundamentally different from employment.

- Nationwide, the vast majority of Dashers (82%) already have a full- or part-time employment job or have other reasons they're not looking for the kind of commitment that employment requires, whether because they're students, self-employed, stay-at-home caregivers, or retired.<sup>7</sup>

If House Bill No. 7787 were to force Dashers to give up their independence and commit to employment, that would take away the main reason why so many Rhode Island Dashers dash. Shoehorning Dashers (along with many of the state's other independent workers) into employment would turn dashing into another, ordinary job and strip Dashers of the unique flexibility and control over their schedules they value.

Dashers consistently say they use the DoorDash platform precisely because they want something different from what employment offers:

- *Dashers want to work when they choose, not when an employer schedules them for a shift.* When we ask Dashers why they choose to dash (over other work that's available), the reasons they cite the most are their ability to create their own schedules, work as much or as little as they want, and supplement their income whenever they need<sup>8</sup> – all things they couldn't do if they were employees.
- *Dashers want the freedom to start and stop working when they choose.* Dashers never have to commit to shifts, which means they can stop working anytime they choose. That way, they can focus on other priorities, like picking up children from school, caring for a loved one, studying for classes, managing a chronic illness, or devoting time to other pursuits. 95% of Dashers with disabilities, for example, say this kind of flexibility is important to enable them to take care of their healthcare needs.<sup>9</sup>

Employment does not – and cannot – give workers this kind of flexibility and control. *That's why the overwhelming number of Dashers – 91% – say they prefer to be independent contractors, rather than be converted into employees.*<sup>10</sup>

## **DoorDash in Rhode Island**

As the pandemic proved, delivery services play a critical role in Rhode Island's economy and ensure that Rhode Islanders have access to food and small businesses feel supported. Post-pandemic, these services continue to be relied on by community groups and our neighbors in need in Rhode Island. Through our Project DASH initiative, DoorDash – and Dashers – delivered over 9,900 in-kind meals to Rhode Islanders in need on behalf of food-relief organizations.

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<sup>7</sup> DoorDash, *Delivering the Goods: The Impact of DoorDash in the United States in 2023*, at 12 (2024), [https://downloads.ctfassets.net/trvmqu12jq2l/6bOAI7WpAzdopxJJiTsfZT/698b01c813c6bd3c18e74399eebfbe24/DoorDash\\_2023\\_Community\\_Impact\\_Report.pdf](https://downloads.ctfassets.net/trvmqu12jq2l/6bOAI7WpAzdopxJJiTsfZT/698b01c813c6bd3c18e74399eebfbe24/DoorDash_2023_Community_Impact_Report.pdf)

<sup>8</sup> *Id.* at 14.

<sup>9</sup> *Id.* at 18.

<sup>10</sup> *Id.* at 17.

DoorDash is a proud partner of the Rhode Island Hospitality Association and donated \$250,000 in grants for over 50 small restaurants across the state to help these businesses weather pandemic-related closures.

We are two years into a thriving partnership with the City of Pawtucket as it relates to the 2022 White House Conference on Hunger, Nutrition, and Health. As part of the Conference, DoorDash committed to working with mayors across the country to help combat hunger by working with these cities to provide targeted support utilizing DoorDash Community Credits (gift cards). At this time, we are finalizing the second disbursement of \$17,500 in DoorDash gift cards for the City of Pawtucket to use to address food-insecurity needs.

### **Working together on policy**

An issue of this significance with wide-ranging ramifications should be carefully studied with stakeholder input before taking any legislative action. **We ask the Committee to refrain from reversing the well-thought-out legislation this Assembly passed last year. We remain available as a resource to the Committee as you navigate through the intricacies of independent workers like Dashers and their place in the Rhode Island workforce.**

Sincerely,

Christina Kennedy  
Sr. Government Relations Manager - New England