

## MASSACHUSETTS ABC TEST

(Extracted from The General Laws of Massachusetts  
PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE XXI. LABOR AND INDUSTRIES  
CHAPTER 151A. UNEMPLOYMENT INSURANCE, DEFINITIONS, and PENALTIES)

### Chapter 151A: Section 2. Service deemed “employment”; exclusions

Section 2. Service performed by an individual, except in such cases as the context of this chapter otherwise requires, shall be deemed to be employment subject to this chapter irrespective of whether the common-law relationship of master and servant exists, unless and until it is shown to the satisfaction of the commissioner that—

- (a) such individual has been and will continue to be free from control and direction in connection with the performance of such services, both under his contract for the performance of service and in fact; and
- (b) such service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and
- (c) such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed.

The failure to withhold federal or state income taxes or to pay workers compensation premiums with respect to an individual’s wages shall not be used for the purposes of making a determination under this section. An individual’s exercise of the option to purchase insurance as permitted by subsection (4) of section 1 of chapter 152 shall not be used for purposes of making a determination under this section.

Whoever fails to treat an individual as an employee according to this chapter shall be punished as provided in section 47. Nothing in this section shall limit the availability of other remedies at law or in equity.

### Chapter 151A: Section 47. False statements or misrepresentations; punishment; evidence; restitution

Any employing unit which or any officer or agent of an employing unit who willfully attempts in any manner to evade or defeat any contribution or payment in lieu of contribution or who knowingly makes a false statement or misrepresentation to avoid or reduce any contribution, payment in lieu of contribution, interest charge or benefit payment required of such employing unit under any provision of this chapter shall be guilty of a felony and upon conviction thereof, shall be punished by a fine of not less than ten thousand nor more than fifty thousand dollars, or by imprisonment for not more than five years, or both such fine and imprisonment. Each such attempt to evade or defeat and each such false statement or misrepresentation shall constitute a separate and distinct offense.