

The Worker Flexibility and Choice Act
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Independent work has steadily increased in popularity in recent years, and independent workers prefer this style of work because of the freedom, flexibility, and entrepreneurial opportunity it provides – often as a source of supplemental income. In a 2021 survey of independent workers, 87% said they are happier and 78% said they are healthier working independently.¹ They value setting their own hours, working on projects they choose, and being their own boss.²

Problem – Under the current classification framework, there is no opportunity for workers to voluntarily assert their independence and no space for businesses and workers to develop modern work arrangements that blend elements of independent work with workplace benefits traditionally only available to employees. The classification of workers as employees or independent contractors is determined by various tests depending on the specific statute or federal agency, and is further complicated by a patchwork of state and local standards. Recent policies across the country have placed overly broad restrictions on independent work that further diminish the ability of workers to choose the type of work that best fits their needs. This status quo stifles individual freedom and prevents businesses from offering innovative benefits to equip workers in the 21st century workplace.

Solution – **The Worker Flexibility and Choice Act** empowers individuals with the choice to determine how they wish to engage in the modern economy, while providing legal certainty that will expand economic opportunities through independent work and allow businesses to offer workplace benefits without undermining the flexibility of the work arrangement.

Bill Summary: This legislation establishes a new work arrangement that combines the flexibility of independent work with certain workplace protections and opportunity for additional benefits. The relationship between the worker and the entity would be clearly defined through a “worker flexibility agreement” and voluntarily agreed to before work begins. Specifically, the agreement would:

- Ensure the worker retains the freedom and flexibility to accept or reject offers to provide their services, giving them control over when, where, and how much they wish to work.
- Promote worker freedom without infringing on certain workplace rights, including protections against discrimination, retaliation, and harassment.
- Allow the worker to engage with and provide services for multiple entities at any given time.
- Provide the worker a written summary of any health, pension, training, other benefits they may be eligible to receive.

Under a “worker flexibility agreement,” the worker would not be treated as an employee for federal tax purposes or under the Fair Labor Standards Act. Additionally, a worker’s choice to work flexibly under an agreement would be protected by superseding state and local laws wage/hour and tax laws that would otherwise force the individual to be treated as an employee.

For more information on the Worker Flexibility and Choice Act or to cosponsor this legislation, please contact Patrick O’Connor (patrick.oconnor2@mail.house.gov) with Rep. Cuellar or Marek Laco (marek.laco@mail.house.gov) with Rep. Stefanik.

¹ https://info.mbopartners.com/rs/mbo/images/MBO_2021_State_of_Independence_Research_Report.pdf

² <https://rilastagemedia.blob.core.windows.net/rila-web/rila.web/media/media/pdfs/letters%20to%20hill/hr/cwi-report-final.pdf>