November 13, 2019

The Honorable Fred H. Madden Jr.
Chair, Senate Labor Committee
New Jersey Legislature
125 W. State Street
Trenton, NJ 08608

Dear Chairman Madden:

I am writing on behalf of the American Society of Travel Advisors (ASTA) and the more than 2,400 people who work at travel agencies in the State of New Jersey to urge you to amend Senate Bill (S.) 4204 to preserve the independent contractor (IC) model that has existed in our industry for decades and provides opportunities for thousands of small business owners.

Independent travel advisors – who are primarily women and are all small business owners – are an integral part of the travel industry. They are true entrepreneurs, with the freedom to set their own hours and schedules, set their own rates, select the customers with whom they will work and market their own brands.

Unlike many large corporate entities in the gig economy, the relationship between travel advisors and the host agencies with whom they work is a mutually beneficial and healthy one. According to our survey data, more that 85 percent of independent travel advisors report being very satisfied with their current employment situation. The “host” agencies engaging these ICs pay their fair share of taxes and independent travel advisors make a decent living – the majority of independent advisors work less than 40 hours per week, but two out of seven earn between $25,000 and $50,000 annually while three out of eight earn more than $50,000.

In its current form, S.4204 puts this system, beneficial to agencies and independent advisors alike, at great risk. According to a survey of our members, ASTA found that if a change in law would require them to become an employee, more than 60 percent of independent advisors would choose to leave the industry or leave the state for one that allows them the flexibility they currently have.
As you consider S.4204, it is critical that it be amended to clearly state that workers engaged to sell travel in our industry will be evaluated under the current “ABC” standard which has been in place in New Jersey for many years. When a similar bill (Assembly Bill 5) codifying a more stringent "ABC" test was passed in California, travel advisors received an exemption along with numerous other industries such as insurance agents, physicians, dentists, direct salespersons, real estate agents, barbers, architects and others.

Interestingly, in its current form, R.S. 43:21-19 (one of several statutes that S4204 would amend) already provides some relief for workers in our industry. Specifically, services performed by an “outside travel agent” under specified conditions are expressly excluded from the definition of “employment” (R.S. 43:21-19(i)(7)(Z)). However, that statutory provision only applies to the definition of employment for purposes of the state’s unemployment compensation law; it does not alter the definition of employment for any other purposes. As such, if not amended to exclude travel agent services more broadly, S4204 will indeed prevent advisors from continuing to render their services as independent businesses. We would be happy to work with your staff to provide amendment language to avoid this unintended disruption to workers in our industry.

Thank you for considering our views on this critical issue. If you or your staff have any questions on this or any issue related to the travel industry, please don’t hesitate to contact me at (703) 739-6842 or epeck@asta.org.

Sincerely,

Eben Peck
Executive Vice President, Advocacy
American Society of Travel Advisors