

Issue: PA Economy

Talking Points: Employee Misclassification in Pennsylvania

Misclassified workers are those who are falsely labeled as independent contractors instead of as employees.

Employee Misclassification Harms Workers

Independent contractors:

- Lose state and federal legal protections because most labor laws do not apply to the self-employed.
- Lose minimum wage and overtime pay guarantees, occupational safety, unemployment insurance, worker's compensation, family and medical leave.
- Have no safeguards against workplace discrimination.
- Are not eligible for employer-sponsored health coverage and pension plans.
- Lose their right to join a union, weakening their bargaining power for wages and safer working conditions.
- Are more likely to work for employers who circumvent OSHA requirements. Because these employers are not contributing to unemployment or workers' compensation funds, workplace safety requirements are less likely to be enforced.

Unfair Competition

Employers who properly classify their workers are undercut by competitors who misclassify. For example, misclassification in the construction industry enables companies to underbid responsible businesses by about 30%.

Loss of Revenue to the State

- Employers not paying minimum wage reduce state tax revenues.
- Reduction of payments into workers' compensation and unemployment insurance funds.

How Big is the Problem?

- It is extremely difficult to determine how many workers are affected; estimates of the percent of all workers who are misclassified vary from 9% to 30%.
- Misclassification is most prevalent in industries with low wages and many immigrants.

Solving Misclassification in Pennsylvania

- Increase number of audits conducted by state agencies.
- Streamline processes to implement stop work orders to force employers to comply.
- Increase penalties for misclassification; the current low penalties in the construction industry—\$1000 for first violation, \$2500 for subsequent violations—are not high enough to deter misclassification.
- In the construction industry, liability should reach to general contractor when sub-contractors are in violation.