

# **Public Justice Center FAV SB 119**

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Position: FAV



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**SB 119 -Labor and Employment – Wage Payment and Collection – Order to Pay Wages  
Hearing before the Senate Finance Committee, January 23, 2020**

**Position: SUPPORT**

**The Wage Theft Epidemic Robs Low Wage Workers of an Honest Day’s Pay.** Wage theft – when a business fails to pay its employees all their earned wages – is a serious epidemic. Recent estimates suggest that workers lose more than \$50 billion to wage theft each year nationally.<sup>1</sup> Making matters worse, wage theft primarily hurts those who can least afford it: low wage workers who are already struggling to make ends meet.<sup>2</sup> Women, Black workers, Latinx workers, and workers with less education are particularly hard hit.<sup>3</sup> Too often, these workers are nickel-and-dimed by businesses that steal relatively modest amounts, such as refusing to pay for time spent prepping a work station or cleaning cart before clocking in, or time spent working instead of a meal break, or travel time between work sites during the workday. However, for a minimum wage worker, this theft hurts: shaving just thirty minutes a day may rob them of nearly ten percent of their annual earnings.<sup>4</sup> In fact, a recent study focused solely on failures to pay minimum wage found that some 17% of low wage workers lost an average of \$64 per week to wage theft, representing a whopping 25% of their annual wages.<sup>5</sup> Similarly, the U.S. Department of Labor found that wage theft decreases the weekly income of a minimum wage worker by an average of 39-47%.<sup>6</sup>

**Wage Theft Impoverishes Families, Undermines Fair Competition, and Burdens State Coffers.** Even workers who are properly paid Maryland’s current minimum wage of \$11 per hour often seek overtime or are forced to work several jobs because the cost of living in many areas of the state requires a wage

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<sup>1</sup> Brady Meixell & Ross Eisenbrey, *An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year*, ECONOMIC POLICY INST. (Sept. 11, 2014), <https://www.epi.org/files/2014/wage-theft.pdf>.

<sup>2</sup> See David Cooper & Theresa Kroeger, *Employers Steal Billions from Workers’ Paychecks Each Year*, ECONOMIC POLICY INST. 8 (MAY 10, 2017) (“Victims of wage theft are already struggling to make ends meet,” citing research).

<sup>3</sup> *Id.*

<sup>4</sup> Meixell & Eisenbrey, *supra* n. 1.

<sup>5</sup> Cooper & Kroeger, *supra* n. 2 at 9.

<sup>6</sup> Eastern Research Group, *The Social and Economic Effects of Wage Violations Estimates for California and New York, Final Report*, U.S. DEP’T OF LABOR (2014), <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/WageViolationsReportDecember2014.pdf>.

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well above \$11. A living wage for a single individual in Calvert, Charles, and Prince Georges Counties, for example, is \$17.54 per hour, while Talbot and Wicomico County's living wage are \$12.01 and \$12.96 per hour respectively.<sup>7</sup> Any form of wage theft – from denial of minimum wage or overtime, to off-the-clock work – “can mean the difference between making ends meet and falling into extreme poverty.”<sup>8</sup> Further, when businesses profit by pocketing some of their workers' wages, they create downward pressure on other businesses to reduce their labor costs; wage theft creates a race to the bottom and undermines fair competition.<sup>9</sup> Finally, wage theft “has second order effects such as increased spending on social programs, like food stamps, and possible adverse public health outcomes.”<sup>10</sup>

**Low Wage Workers Rely on the Maryland Department of Labor (DOL) to Recover Wages.** While low wage workers often suffer wage theft at amounts that, on first blush, may appear small, swift recovery of those amounts is critical given how little such workers earn in the first place. Litigation, while an effective enforcement tool in many cases, can take years and is often too time-consuming for individuals living paycheck to paycheck. Further, private attorneys frequently cannot afford to represent workers with small claims: although attorneys' fees are available when a worker prevails, courts' determinations of what constitutes a “reasonable fee” vary widely, and such uncertainty dissuades attorneys from taking even clear-cut small claims. Meanwhile, non-profit organizations like the Public Justice Center (PJC) have limited resources and cannot represent most individuals with valid claims. The PJC frequently refers victims of wage theft with smaller claims to the DOL.

**Raising the Threshold for an Order to Pay Wages is Overdue and Will Enable More Low Wage Workers to Recover Promptly.** The provision of the Wage Payment and Collection Law empowering the Commissioner to issue an Order to Pay Wages is critical to ensuring prompt recovery of lost wages for individuals with smaller claims; these individuals are the least able to withstand a loss of wages and have the most challenges in finding an attorney to represent them through private enforcement. Further, raising the threshold from \$3,000 to \$5,000 is long overdue: the current threshold is outdated, forcing those with claims just above \$3,000 to be ineligible for a relatively swift Order to Pay Wages. Indeed, many of the complaints that the PJC refers to DOL these days are for amounts above \$3,000. These individuals would also benefit from being eligible for a prompt Order to Pay Wages.

For the reasons indicated above, the Public Justice Center **SUPPORTS** SB 119 and requests a **FAVORABLE** report.

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<sup>7</sup> See MASSACHUSETTS INST. OF TECH, Living Wage Calculator for Counties and Metropolitan Statistical Areas in Maryland, <https://livingwage.mit.edu/counties/24009> (last visited Jan. 21, 2020).

<sup>8</sup> Nicole Hallett, *The Problem of Wage Theft*, 37 YALE L. & POL'Y REV. 101, 93-152 (2019), <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1731&context=ylpr>.

<sup>9</sup> Jennifer J. Lee & Annie Smith, *Regulating Wage Theft*, 94 WASH L. REV. 766, 759-822 (2019), <https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=5068&context=wlr>

<sup>10</sup> *Id.* (citing research on increased reliance on social programs).

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# **MDChamber\_FAV\_SB119**

Uploaded by: Griffin, Andrew

Position: FAV



**LEGISLATIVE POSITION:**

**Favorable**

**Senate Bill 119**

**Wage Payment and Collection - Order to Pay Wages**

**Senate Finance Committee**

**Thursday, January 23, 2020**

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 4,500 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees and families. Part of that work includes maintaining a balance in the relationship between employees and employers within the State through the establishment of policies that promote fairness and ease restrictive burdens.

Senate Bill 119 increases the threshold for which the Commissioner of Labor and Industry may issue a final order to pay unpaid wages. The bill increases that threshold from \$3,000 to \$5,000.

In the State of Maryland, employees presently have two options to recover unpaid wages: a civil suit, or a complaint to the Commissioner's office for amounts up to \$3,000. Should an employee choose to file a complaint, the Commissioner's Employment Standards Service (ESS) unit investigates whether work was performed without payment. If ESS determines that work was performed without payment, the Commissioner may issue a final order to the employer to pay the earned wages.

This process occurs at no cost to the involved parties, and the Maryland Department of Labor collects no fees, deductions or charges in determining whether work was performed without payment. In FY2019, ESS investigated 1,079 complaints and returned \$961,601 to unpaid workers.

The statute establishing this process was enacted in 2010 and did not set forth a mechanism for adjusting the threshold to consider rising wages and/or inflation. Increasing the threshold from \$3,000 to \$5,000 would allow the Department to keep pace with evolving economic and market conditions, and it will provide more employees with this option to recover unpaid wages.

For these reasons, the Maryland Chamber of Commerce respectfully requests a **Favorable Report** on Senate Bill 119.

# **MDDepartmentofLabor\_FAV\_SB119**

Uploaded by: Robinson, Tiffany

Position: FAV

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## Senate Bill 119

Date: January 23, 2020  
Committee: Senate Finance  
Bill Title: Senate Bill 119 - Wage Payment and Collection - Order to Pay Wages  
Re: **Letter of Support**

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Senate Bill 119 increases the threshold for which the Commissioner of Labor and Industry (Commissioner) may issue a final order to pay unpaid wages. Currently, the Commissioner may issue an order for unpaid wages up to \$3,000; Senate Bill 119 increases that threshold to \$5,000.

Maryland workers currently have two options to recover unpaid wages: a civil suit, or a complaint to the Commissioner's office for amounts up to \$3K. Upon receipt of a complaint for unpaid wages, the Commissioner's Employment Standards Service (ESS) unit conducts an investigation to determine whether work was performed without payment. Should ESS determine that work was performed without payment, the Commissioner may issue a final order to the employer to pay the earned wages.

Both the investigation and determination processes are conducted at **no cost** to the involved parties. All money collected as part of the Commissioner's order to pay wages are paid to the employee. No fees, deductions, or charges are taken by the Department. In FY2019, ESS expeditiously investigated 1,079 complaints and returned \$961,601 to unpaid workers.

The law that provides the Commissioner with authority to issue a final order to pay wages was enacted in 2010.<sup>1</sup> The Department is seeking to increase the threshold of the original law from \$3K to \$5K to account for inflation and increased wages. Moreover, a threshold change will provide more Marylanders with an expeditious option to recover unpaid wages.

**For the aforementioned reasons, the Maryland Department of Labor respectfully requests a favorable report on Senate Bill 119.**

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<sup>1</sup> MD Code, Labor and Employment, § 3-507.1(c)(1)