
SB38: Wage Payment & Collection - Pay Stubs & Pay Statements - Required Information

Hearing before the Senate Finance Committee, Feb. 1, 2024

Position: FAVORABLE

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization which seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project works to expand and enforce the right of low-wage workers to receive an honest day's pay for an honest day's work. **The PJC supports SB38, which will ensure that employee paystubs show the basic information—such as pay rates, hours worked, deductions, and dates of the pay period—that most employers already provide and that workers need to understand how their pay was calculated.**

The problem:

- **Workers can't get ahead if their paystubs don't allow them to understand if they were paid correctly.** Most employers follow the law. But wage theft holds back thousands of Maryland workers. Although it hurts workers across all races, Black, brown, and other workers of color are especially likely to face it. Unfortunately, some bad actors cheat employees out of their earned wages by masking their illegal conduct with confusing or insufficient paystubs—or by not providing *any* paystub at all. For example, an employer might lump together all compensation on a paystub, making it nearly impossible for an employee to figure out their wage rate or see whether they are paid correctly for overtime work.
- **Current Maryland law is failing Maryland's workers.** Right now, Maryland law requires only that paystubs include (1) gross earnings and (2) deductions. That does not give workers enough information to determine if they've been paid correctly. Moreover, the law does not provide any remedy if the employer fails to provide even that very basic information. Many other states—from Alaska to California to Texas to New Mexico and beyond—provide much stronger paystub transparency protections than Maryland.¹
- **The check to the right is a real-life example of the problem.** All it shows is \$1,000 for "work." No paystub was attached. Even though it does not show "gross earnings" or "deductions," current law does not give the worker any way to get even that limited information. Without more information, a worker cannot understand whether they've been paid correctly.



¹ Center for Popular Democracy, *Combatting Wage Theft*, 2016, at page 6, available at <https://populardemocracy.org/sites/default/files/MD%20Pay%20Stub-web.pdf>. More jurisdictions – including Virginia and Washington, D.C. – have bolstered their paystub transparency protections since this 2016 publication. A chart from the 2016 report is attached to this testimony.

- **The lack of paystub transparency fuels the misclassification of employees as independent contractors—also known as “workplace fraud”—and tackling that issue is a priority for Governor Moore, Comptroller Lierman, and Attorney General Brown.** Some employers confuse their employees by misclassifying them as independent contractors, paying them less than what they’re owed. Just weeks ago, Governor Moore issued an executive order establishing a task force to combat this harmful practice. As the Governor’s press release noted, “Workplace fraud deprives workers of basic protections such as rights to minimum wage and overtime pay, health insurance coverage, and access to unemployment benefits. Businesses may also be put at a disadvantage when competitors misclassify workers. As a result, required taxes may be unpaid, which lowers state revenue and impacts funding to pay for critical public services.”² As Gov. Moore noted, ending misclassification is “an important step toward a more equitable, competitive, and prosperous economy that lifts all Marylanders.” SB38 will help end misclassification by helping workers understand whether their employer has classified them as an employee or as an independent contractor.
- **SB38 would advance the recommendations in DLS’s just-released evaluation of Maryland’s Worker Classification Protection Unit (WCPU).** That evaluation³ makes clear that while the problem of workplace fraud persists, the WCPU has—until recently—not been an effective advocate for workers. SB38 would help workers better understand their employment classification and challenge it when they have been misclassified.

SB38’s solution:

- **The bill has two parts.**
 - **First, it sets out what must go on paystubs,** including the dates of work covered by the pay period, number of hours worked, rate of pay, and the amount and purpose of all deductions. The vast majority of law-abiding employers already provide this information on paystubs.
 - **Second, it creates a remedy when paystubs do not show the required information.** It allows workers to file a complaint with the Maryland Department of Labor, or in court, if paystubs do not meet the requirements, and receive a small amount of money as compensation. No one will get rich pursuing paystub violations; rather, the goal is to improve the conduct of employers that are hiding their wage theft.
- **SB38 is short and simple—and it won’t change anything for 95% of employers.** It is much shorter and simpler than bills introduced in previous sessions that included paystub transparency. For example, 2020’s SB641/HB1097 was 14 pages long and included provisions on retaliation, among other things. This year’s bill focuses just on what must go on the paystub and how to enforce those requirements.
- **The bill is very similar to legislation Virginia passed in 2020,** which is now law (see VA Code Ann. § 40.1-29.C).
- The provisions for reasonable attorneys’ fees—necessary to make sure the law is actually enforced—match Maryland’s wage laws, such as the Wage and Hour Law.
- The PJC supports the bill’s sponsor amendments.

For the foregoing reasons, the PJC **SUPPORTS SB38** and urges a **FAVORABLE** report. Should you have any questions, please call David Rodwin at 410-625-9409 ext. 249.

² <https://governor.maryland.gov/news/press/pages/governor-moore-issues-executive-order-establishing-crossgovernmental-task-force-to-combat-workplace-fraud.aspx> The press release is also attached to this testimony.

³ <https://dls.maryland.gov/pubs/prod/ProgEval/EvaloftheWorkerClassificationProtectionUnit.pdf>

The chart below is from 2016 -- since then, more states (including Virginia) have expanded paystub transparency requirements.

COMPARISON OF PAYSTUB REQUIREMENTS

Many states—including many states with weaker worker protections than Maryland—have paystub requirements that go beyond Maryland’s and more effectively encourage compliance and deter wage theft.

State	Gross wages	Deductions	Hours worked	Rate(s)of pay	Net pay	Employer information	Dates in pay period
Alaska	✓	✓	✓	✓	✓		✓
California	✓	✓	✓	✓	✓	✓	✓
Colorado	✓	✓			✓	✓	✓
Delaware	✓	✓	✓				✓
Hawaii	✓	✓	✓	✓	✓	✓	✓
Massachusetts		✓	✓	✓		✓	
Maryland	✓	✓					
Maine	✓	✓	✓				✓
Minnesota	✓	✓	✓	✓	✓	✓	✓
New Mexico	✓	✓	✓			✓	
Nevada	✓	✓	✓		✓		
New York	✓	✓	✓	✓	✓	✓	✓
Pennsylvania	✓	✓	✓	✓	✓		
Texas	✓	✓	✓	✓	✓		
Vermont	✓	✓	✓	✓			
Washington	✓	✓	✓	✓			✓

Sources: Alaska Admin. Code tit. 8, § 15.160, subd. (h)., Cal. Lab. Code § 226, subd. (a)., Colo. Rev. Stat. Ann. § 8-4-103, subd. (4)., Del. Code Ann. tit. 19, § 1108., Haw. Rev. Stat. Ann. § 387-6, subd. (c)., Mass. Gen. Laws Ann. ch. 149, § 148. Requires employer name but not address or phone number., Me. Rev. Stat. tit. 26, § 665., Minn. Stat. Ann. § 181.032, subd. (b). Requires employer’s legal name and operating name (if different) but not address or phone number., N.M. Stat. Ann. § 50-4-2, subd. (B). Requires paystubs to identify the employer; does not specify address and phone., Nev. Rev. Stat. Ann. § 608.115., N.Y. Lab. Law § 195, subd. (3)., Pa. Code § 231.36., Tex. Labor Code Ann. § 62.003, subd. (b)., Vt. Admin. Code 13-1-101:6., Wash. Admin. Code 296-126-040.



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Governor Moore Issues Executive Order Establishing Cross-Governmental Task Force to Combat Workplace Fraud

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ANNAPOLIS, MD — Governor Wes Moore this week signed an [executive order](#) to renew and expand a cross-governmental task force dedicated to strengthening investigations and enforcement of laws regarding workplace fraud. The nine-member Joint Enforcement Task Force on Workplace Fraud, chaired by Maryland Department of Labor Secretary Portia Wu, includes Maryland Attorney General Anthony G. Brown and Comptroller Brooke E. Lierman.

"We will never tolerate the exploitation of Maryland workers," **said Gov. Moore.** "This order will help ensure that employees receive the pay and benefits they've earned while driving fair competition in the private sector. Today, we take an important step toward a more equitable, competitive, and prosperous economy that lifts all Marylanders."

[Workplace fraud](#) deprives workers of basic protections such as rights to minimum wage and overtime pay, health insurance coverage, and access to unemployment benefits. Businesses may also be put at a disadvantage when competitors misclassify workers. As a result, required taxes may be unpaid, which lowers state revenue and impacts funding to pay for critical public services.

"Companies that hire workers and misclassify them to circumvent our tax and labor laws are committing serious fraud that erodes basic rights and benefits, saddles workers with an undue financial burden, and undermines the economic well-being of our state," **said Comptroller Brooke E. Lierman.** "This executive order expands our ability to share information, coordinate resources, and investigate suspected workplace fraud to protect Marylanders and their families. We should all stand against this form of egregious theft. I thank Governor Moore for prioritizing this issue and I look forward to working as a partner in this initiative to build a stronger and fairer Maryland."

As outlined in the executive order, the task force will collaborate to share information and data across agencies and drive strategic and effective enforcement. It will identify industries where workplace fraud is more prevalent and focus efforts to address the problem, including stronger outreach to businesses and workers. The task force will also make recommendations on where regulations and laws may be strengthened.

"I commend Governor Moore's work to combat workplace fraud and protect Maryland workers and their families," **said Attorney General Anthony G. Brown.** "The reestablishment of the Joint Enforcement Task Force on Workplace Fraud is an important effort, along with our work with the Department of Labor to improve and enhance the role of my office and our resources to advance this critical priority. I look forward to continuing our work with the administration to ensure the relationship between Maryland employers and their employees remains fair and equitable."

The task force will advance the Moore-Miller Administration's efforts to make Maryland a fair and equitable place to work and do business. [Studies have shown](#) that workers of color, immigrants, young workers and those in low-wage employment are most at risk for exploitation, including misclassification and wage theft.

"This is a win for both businesses and workers," **said Maryland Department of Labor Secretary Portia Wu.** "Employees need to be classified correctly and paid fairly, and this keeps our businesses on a level-playing field in the competitive