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HB264: Business Occupational and Professional Licenses – Suspension and Revocation for Workplace Fraud

Hearing before the House Economic Matters Committee, January 22, 2025

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 supports workers' rights to fair compensation and dignity in the workplace. **The PJC supports HB264, which authorizes the Maryland Department of Labor to suspend and revoke the business licenses of employers who are found in violation of Maryland's Workplace Fraud Act.**

The problem:

- **Independent contractor misclassification is one of the most serious issues facing workers, employers, and the economy today.** Misclassification occurs when an employer incorrectly classifies its workers as independent contractors instead of employees. Misclassification deprives employees of access to critical benefits and legal protections to which they are entitled, puts law-abiding employers at a competitive disadvantage, and costs the State substantial tax revenues.
- **Although Maryland's Workplace Fraud Act prohibits misclassification in the construction and landscaping industries, misclassification remains a pervasive problem.** A 2023 study by The Century Foundation¹ estimates that approximately 10.9% of construction workers in Maryland are misclassified.

HB264's solution:

- **HB264 would establish that violations of Maryland's Workplace Fraud Act can serve as grounds for suspension and revocation of occupational and professional licenses.** Under this bill, when a employer is found by a final order of a court or administrative unit to have violated the Workplace Fraud Act and fails to pay the associated penalties, the Labor Commissioner must notify the applicable licensing authority. The licensing authority, in turn, must then suspend or revoke the employer's license.
- **The benefits of HB264 are common-sense and manifold.** Increasing the business consequences for violations of the Workplace Fraud Act is a simple change that deters non-compliance with the

¹ See The Century Foundation, Up to 2.1 Million U.S. Construction Workers Are Illegally Misclassified or Paid Off the Books (Nov. 13, 2023), <https://tcf.org/content/report/up-to-2-1-million-u-s-construction-workers-are-illegally-misclassified-or-paid-off-the-books/>.

Act, strengthens coordination of enforcement efforts within the Department of Labor, and helps mitigate the unfair competition effects when non-compliant employers are permitted to remain in business.

- **HB264 includes certain due process guardrails.** The bill requires that, before suspending or revoking a license, the licensing authority must send written notice of the proposed action to the licensee and also provide notice of the licensee's right to contest the action on grounds of mistaken identity. The bill also provides that a licensee may appeal a decision of a licensing authority when it believes the Labor Commissioner has mistaken the identity of the licensee.
- **Other states have adopted similar laws.** For example, New Jersey empowers its Department of Labor and Workforce Development to suspend or revoke an employer's license for violation of the state's wage, benefit, or tax laws in connection with the misclassification of employees.²

For the foregoing reasons, the PJC **SUPPORTS HB264** and urges a **FAVORABLE** report. If you have any questions, please call Lucy Zhou at 410-625-9409 ext. 245.

² See N.J. Admin. Code § 12:4-1.1.