



Amy Gellatly, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, MD 21201
(410) 400-6943
gellatlya@publicjustice.org

SB 938: Fraud Prevention and Worker Protections – Prohibitions, Penalties, and Enforcement

Hearing of the Finance Committee, March 5, 2025, 1pm

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 SB 938, which supports workers, equips the state to combat workplace fraud, and levels the playing field for law-abiding businesses.**

SB 938 sets a common standard for all industries.

- Maryland's current Workplace Fraud Act sets a presumption that all workers in the landscaping and construction industries are "employees" rather than "independent contractors" unless certain criteria are met. SB 938 extends this rule to all industries to give workers and employers a clear understanding of the law, regardless of the industry in which they work.

SB 938 does not affect the rights of actual independent contractors.

- SB 938 uses the same "ABC" test to distinguish contractors from employees that exists under current law.
- If a person is actually in business for themselves as a contractor, their rights and freedoms will not be altered by this bill.

SB 938 supports responsible businesses who are already following the law.

- Law-abiding employers will not be affected by SB 938. This bill just allows them to compete on a more fair playing field by making it less likely that unscrupulous employers who misclassify their workers will be able to undercut them.

Misclassification shifts costs and risks to workers.

- Opponents of this bill fret that certain business owners aren't equipped to know the difference between employees and independent contractors. But if this isn't the employer's responsibility, the burden falls to the employee. This doesn't make sense.
- Workers who are misclassified lose out on important rights like the state minimum wage and paid sick leave – laws that Maryland voters and legislators supported and passed with all employees in mind.
- SB 938 gives the state the enforcement tools it needs to support a robust and fair economy in Maryland – one that works for both workers and employers.

SB 938 makes general contractors liable for workplace fraud.

- Under current law, the general contractor of a construction project is legally liable if their subcontractors don't pay the correct wages to their employees.¹
- SB 938 makes the common-sense proposal that the general contractor should also be responsible for ensuring that all employees on a project have been properly classified as such.
- Recent reports show that misclassification is rife in industries beyond just construction and landscaping.²
- At the PJC, we regularly encounter cases outside the construction industry where the general contractor has attempted to distance itself from the treatment of workers by outsourcing hiring and/or payroll to a labor broker or an app platform. **SB 938 eliminates these loopholes by placing ultimate responsibility with the general contractor**, which will incentivize the general contractor to ensure the law is being followed at all levels of the project.

For the foregoing reasons, the PJC **SUPPORTS SB 938** and urges a **FAVORABLE** report. Should you have any questions, please contact Amy Gellatly at gellatly@publicjustice.org or (410) 400-6943.

¹ Md. Labor and Employment Code Ann. § 3-507.2.

² Maryland Department of Labor, Joint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, February 2025.