

# All Employers Must Follow Labor Law

## Position Statement in Support of Senate Bill 938

*Given before the Finance Committee*

We should measure the health of our economy not simply by the number of dollars exchanged or the number of people who go to work each day, but by its ability to raise all families' standard of living. The Maryland General Assembly has taken important steps to make this vision a reality in recent years by raising the minimum wage, guaranteeing earned sick days, and guaranteeing paid family and medical leave. However, the too-common practice of independent contractor misclassification excludes many workers from these protections and unfairly shifts tax responsibilities from employers onto workers. Senate Bill 938 would extend the 2009 Workplace Fraud Act to ensure that all employers properly classify their workers as employees as required under Maryland labor law. **For these reasons, the Maryland Center on Economic Policy supports Senate Bill 938.**

Independent contractor classification has one legitimate purpose: people who are in business for themselves – who set their own prices, market to customers, make investment decisions, and so on. However, there is a growing trend of employers improperly calling their employees independent contractors in order to shift costs and shirk responsibilities, as documented by Maryland's Joint Enforcement Task Force on Workplace Fraud.<sup>i</sup>

When employers misclassify workers as independent contractors, they illegally deny these workers:

- Minimum wage and overtime pay
- Earned sick days
- Workplace safety and health protections
- Discrimination and harassment protections
- The right to organize and bargain collectively

Misclassification also illegally shifts the cost of social insurance contributions from employers onto workers:

- Medicare
- Social Security
- Workers' Compensation
- Paid family and medical leave

Employers also typically exclude misclassified workers from common employment benefits such as health insurance, retirement plans, and paid time off.

Independent contractor misclassification costs workers dearly. In Maryland, the annual loss for a misclassified worker can range from about \$8,000 (25% of total compensation) for a retail worker to \$21,000 (34% of total compensation) for a tractor trailer driver, according to the Economic Policy Institute.<sup>ii</sup>

Maryland took an important step to fight misclassification with the Workplace Fraud Act of 2009, and took further steps more recently, such as with the Homecare Worker Rights Act of 2024. However, misclassification is not limited to a few industries. The U.S. Department of Labor has documented widespread misclassification in industries such as agriculture, retail, food service, hotel, construction, janitorial, and beauty and nail salons.<sup>iii</sup> App-based “gig” businesses are especially notable violators.

Independent contractor misclassification further tilts the rules of our economy against workers of color. According to the National Employment Law Project, workers of color constitute 41% of Maryland’s overall workforce, but between 49% and 92% of industries with high rates of misclassification.<sup>iv</sup>

Senate Bill 938 takes a multipronged approach to strengthen workers’ right to be properly classified as employees. Two major provisions are especially notable:

- While the 2009 Workplace Fraud Act focuses on the construction industry, Senate Bill 938 extends these protections to all industries.
- Senate Bill 938 creates a Worker Protection Unit within the Office of the Attorney General, mirroring effective strategies used in other jurisdictions. Allowing an independent entity to enforce worker protections ensures that no single actor can undermine workers’ rights, such as Gov. Robert Ehrlich’s attempt to dismantle the state’s Employment Standards Service.<sup>v</sup>

**For these reasons, the Maryland Center on Economic Policy respectfully requests that the Finance Committee make a favorable report on Senate Bill 938.**

---

## **Equity Impact Analysis: Senate Bill 938**

### *Bill summary*

Senate Bill 938 takes a multipronged approach to strengthen protections against independent contractor misclassification, including:

- Extending the 2009 Workplace Fraud Act to cover all industries
- Worker Protection Unit within the Office of the Attorney General

### *Background*

While independent contractor classification is intended to apply to people who provide a service while in business for themselves, there is a documented trend of employers improperly classifying employees as independent contractors.

Independent contractors are excluded from many basic employment standards, such as minimum wage, earned sick days, and collective bargaining.

Independent contractor misclassification also enables employers to illegally shift the cost of social insurance contributions from themselves onto workers.

### *Equity Implications*

Independent contractor misclassification significantly harms affected workers. In Maryland, the annual loss for a misclassified worker can range from about \$8,000 (25% of total compensation) for a retail worker to \$21,000 (34% of total compensation) for a tractor trailer driver, according to the Economic Policy Institute.

These harms are not evenly distributed. According to the National Employment Law Project, workers of color constitute 41% of Maryland’s overall workforce, but between 49% and 92% of industries with high rates of misclassification.

### *Impact*

Senate Bill 938 would likely **improve racial, gender, and economic equity** in Maryland.

---

<sup>i</sup>Joint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, 2025, <https://labor.maryland.gov/workplacefraudtaskforce/wpftfannrep2024.pdf>

<sup>ii</sup>Adewale Maye, Daniel Perez, and Margaret Poydock, “Misclassifying Workers As Independent Contractors Is Costly for Workers and States,” Economic Policy Institute, 2025, <https://www.epi.org/publication/misclassifying-workers-2025-update/>

<sup>iii</sup> Joint Enforcement Task Force, 2025, p. 9

<sup>iv</sup> See Sally Dworak-Fisher, National Employment Law Project written testimony in support of HB 1096

<sup>v</sup> Christopher Meyer, “Budgeting for Opportunity: Maryland’s Workforce Development Policy Can Be a Tool to Remove Barriers and Expand Opportunity,” Maryland Center on Economic Policy, 2021, <https://mdeconomy.org/budgeting-for-opportunity-workforce/>