

Testimony of Sally Dworak-Fisher

National Employment Law Project

SB 60 – Fraud Prevention, Prevailing Wage, and Living Wage – Prohibitions, Penalties, and Enforcement

SUPPORT

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SB 60 fosters better compliance with several workplace laws.

The National Employment Law Project (NELP) is a nonprofit organization with more than fifty-five years of experience advocating for the labor and employment rights of low-wage workers. NELP works extensively at the federal, state and local levels to promote policies that expand worker protections and support a good jobs economy. Learn more at <https://www.nelp.org/>.¹

SB 60 will help to better ensure that the state's Workplace Fraud Act, Prevailing Wage, and Living Wage laws protect Maryland's workers as they were intended. It proposes modest but essential updates by adding common sense consequences for violations and incentivizing enforcement which, in turn, support greater accountability and compliance. NELP supports these improvements and **urges a favorable report**.

SB 60 will strengthen compliance with Maryland's Workplace Fraud Act.

Maryland's Workplace Fraud Act (WFA) is intended to combat the misclassification of employees as independent contractors in the landscaping and construction industries.² Nonetheless, as the state's Joint Enforcement Task Force on Workplace Fraud ("2024 JETF Report") noted in its last annual report, misclassification "remains an ongoing problem." Indeed, the JETF noted that more than 20,000 construction workers, or 11%, continue to suffer misclassification despite being covered by the WFA. To better foster compliance, SB 60 makes several modest but important improvements to the Act. Improvements that promote **accountability and compliance** include:

- 1. License revocation and debarment:** these new provisions will ensure that misclassifying employers may be subject to more than a modest monetary penalty. As the JETF noted, businesses that violate the law "often simply admit the violation and pay, but do not change their operating models and continue to misclassify workers."³ Provisions that prohibit violators from performing work—impacting their revenue stream—meaningfully encourage compliance.
- 2. General Contractor accountability:** the buck stops with the general contractor on any construction project. Yet general contractors can turn a blind eye to misclassification by subcontractors down the line—subcontractors with incentives to cut labor costs by misclassifying workers to bid low and win a contract, and who may be judgment proof. SB 60 would ensure that the contractors at the top are accountable to workers on their projects, and that misclassified workers aren't left without a remedy from fly-by-night subcontractors or labor brokers.
- 3. Monetary civil penalties to workers:** workers currently encounter various well-known barriers to reporting misclassification and participating in investigations, rendering enforcement more difficult and enabling businesses to misclassify with impunity. SB 60 would ensure that one-third of civil penalties are paid to the misclassified workers. This concrete monetary incentive will encourage more workers to blow the whistle on misclassification.

Independent contractor classification harms workers, law-abiding businesses, and Maryland social insurance programs. SB 60 is a modest, but important first step in the road to accountability and compliance.

SB 60 enhances interagency collaboration and enforcement.

SB 60 provides for increased referrals to the Attorney General and codifies regular meetings between Maryland's Division of Labor and Industry and Attorney General. Regular meetings on the status of complaints and investigations, and referrals to the Attorney General will improve communication and awareness of pending compliance issues involving Maryland's prevailing wage and living wage laws, as well as the WFA. Improved coordination and communication among agencies should foster more robust enforcement, and ultimately, compliance.

Indeed, Maryland could go further. In recent years, several states have granted explicit authority to their state attorney general to enforce wage laws, and some established dedicated units dedicated to enforcing worker rights in the Attorney General offices.⁴ Nonetheless, SB 60 would provide modest but important improvements to ensure Maryland's workers enjoy the rights and protections of its prevailing and living wage laws, and the Workplace Fraud Act for those in construction and landscaping.

NELP supports SB 60 and encourages a favorable report.

ENDNOTES

¹ We have particular expertise in independent contractor misclassification and the harms it poses to workers, to businesses that comply with the law, and to critical social insurance programs See NAT'L EMP. L. PROJECT, *End Independent Contractor Misclassification*, <https://www.nelp.org/explore-the-issues/contracted-workers/misclassified-workers/>. See also Catherine Ruckelshaus, *Independent Contractor v. Employee: Why Misclassification Matters and What we can do to Stop It*, NAT'L EMP. L. PROJECT (May 2016), <https://s27147.pcdn.co/wp-content/uploads/Policy-Brief-Independent-Contractor-vs-Employee.pdf>.

² The problem is not limited to construction or landscaping. It is particularly acute in occupations such as in agriculture, retail, food service, hotel, construction, janitorial, beauty and nail salons, call center work, security, trucking, and delivery—occupations that are often disproportionately comprised of Black and immigrant workers. See Joint Enforcement Task Force on Workplace Fraud: 2024 Annual Report, (Feb. 2024), <https://labor.maryland.gov/workplacefraudtaskforce/wpftfannrep2024.pdf> (“2024 JETF Report”); see also Adewale A. Maye, Daniel Perez, and Margaret Poydock, *Misclassifying Workers as Independent Contractors is Costly for Workers and States*, n.6, ECON. POL'Y INST (Jan. 22, 2025), available at <https://www.epi.org/publication/misclassifying-workers-2025-update/>. NELP encourages expanding the scope of Maryland's Workplace Fraud Act.

³ 2024 JETF Report, supra n. 2 at 24.

³ See e.g., Terri Gerstein, Director, NYU Wagner Labor Initiative, *Issue brief: 2025 State workers' rights roundup Policy opportunities from recent legislative sessions*, 6 (Oct. 30, 2025), <https://wagner.nyu.edu/files/laborinitiative/NYU%20Wagner%20Labor%20Initiative%202025%20State%20Workers%20Rights%20Roundup%2010%2030%202025.pdf>.

About NELP

Founded in 1969, the National Employment Law Project (NELP) is a nonprofit advocacy organization dedicated to building a just and inclusive economy where all workers have expansive rights and thrive in good jobs. Together with local, state, and national partners, NELP advances its mission through transformative legal and policy solutions, research, capacity-building, and communications. NELP is the leading national nonprofit working at the federal, state, and local levels to create a good-jobs economy. Learn more at www.nelp.org.