
MARYLAND DEPARTMENT OF LABOR TESTIMONY ON HOUSE BILL 299

TO: House Government, Labor, and Elections Committee
FROM: Maryland Department of Labor (MD Labor)
DATE: February 10, 2025
BILL: **HB 299: Fraud Prevention, Prevailing Wage, and Living Wage - Prohibitions, Penalties, and Enforcement**

MDL POSITION: FAVORABLE WITH AMENDMENTS

Summary

Maryland maintains strong workplace standards for its 3.1 million workers, including minimum wage and overtime protections, requirements to pay prevailing wages on State-funded construction projects, and living wage standards for service contracts. However, these standards only apply if individuals are classified as “employees.”

Worker misclassification, also known as workplace fraud, occurs when employees are wrongly classified as “independent contractors” or are paid off the books. The recent work of the Governor’s Joint Enforcement Task Force on Workplace Fraud (JETF) identifies workplace fraud as a serious problem that costs millions of dollars in lost wages and revenue each year. Workplace fraud (WPF) undermines worker protections, harms state infrastructure, and creates unfair competition for law-abiding businesses.

Addressing this problem requires tools that are equal to the seriousness of the problem, as well as effective cross-agency collaboration. That is why the Maryland Department of Labor is bringing **HB 299**.

The Scale of the Problem

Workplace fraud is a systemic “race to the bottom”. Research from the National Employment Law Project finds that, nationally, 10-30% of employers misclassify their workers.^{1 2} In 2025 alone, the JETF identified 7,767 misclassified workers in Maryland. This constitutes a 38.82% increase from 2024.³ Research from the Century

¹ National Employment Law Project (October 2020). *Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries*.

² Source: Economic Policy Institute analysis of data from the Bureau of Labor Statistics' (BLS) National Compensation Survey's Employer Costs for Employee Compensation data and the BLS' Occupational Employment and Wage Statistics data.

<https://www.epi.org/publication/misclassifying-workers-2025-update/>

³ Maryland Department of Labor (pending publication as of January 26, 2026). *Joint Enforcement Task Force On Workplace Fraud: 2025 Annual Report*.

Foundation also estimated that 1 in 10 construction workers in Maryland are misclassified.⁴ The experience of the Division of Labor and Industry (DLI) suggests the misclassification rate may be higher. In FY 2025, DLI investigators found 558 misclassified construction workers out of just over 3,000 construction workers interviewed.

Despite efforts to enforce the law, the JETF has identified structural challenges, including fragmented enforcement, limited deterrence mechanisms, and insufficient worker incentives to report violations. Such challenges continue to impede the State's ability to protect workers and ensure fair competition. HB 299 would address these issues through greater transparency, accountability, and interagency cooperation.

The Cost of the Worker Misclassification

The JETF's 2025 analysis of Maryland's construction industry conducted by The Century Foundation shows that worker misclassification results in public revenue losses, including:

- \$52 million in unreported taxable wages due to workplace fraud - a 44.44% increase from 2024.
- \$19.3 million in lost state income tax revenue annually;
- \$32.1 million in lost federal income tax revenue annually;
- \$82.3 million in lost FICA payments annually;
- \$79.1 million in lost Social Security and Medicare contributions annually;
- \$19.3 million in lost State income revenue annually;
- \$9.1 million in lost UI fund contributions; and
- \$59 million in lost Worker's Compensation premiums annually.⁵

In 2025, the Maryland Comptroller assessed \$3.6 million in tax, interest, and penalties on businesses for misclassifying workers, a 2.8% increase from the previous year.

⁴ Laura Valle-Gutierrez, New Estimates: Misclassification in the Maryland Construction Industry, The Century Foundation, January 2025, <https://production-tcf.imgix.net/app/uploads/2025/01/27111033/Misclassification-in-the-Maryland-Construction-Industry.pdf>

⁵ Ibid.

JETF Year Over Year WPF Stats - 2024 to 2025⁶

	2024	2025	% Change
Number of misclassified workers identified	5,595	7,767	38.8%
Unreported Taxable Wages	\$36,000,000	\$52,000,000	44.4%
Comptroller assessed tax, interest, and penalties on businesses	\$3,500,000	\$3,600,000	2.8%

State-specific analysis by the Economic Policy Institute reveals that worker misclassification costs a Maryland construction worker \$15,540 on average, annually - a 31.4% pay cut, and a Maryland landscaping worker \$10,797 on average, annually - a 27.6% pay cut.⁷

This bill targets enhanced accountability and intergovernmental cooperation to increase compliance with workplace standards by proposing the following changes.

General Contractor Liability

General contractors often set terms and select subcontractors, but only the direct employer of workers is held responsible for workplace fraud. Contractors at the top of the chain obtain the financial benefit of a lower-cost workforce when their subcontractors engage in workplace fraud, while bearing no responsibility. This lack of accountability, coupled with the existing incentives to bring in the low bid, means that businesses at the very lowest end of the contracting chain, who are often small, minority-owned, struggling – or all three – bear all of the responsibility for WPF compliance. Research shows law-abiding contractors face a 20–30% labor cost disadvantage.⁸

HB 299 calls for general contractors to be held responsible for violations of the Workplace Fraud Act occurring on their worksites. **This is not an unprecedented**

⁶ The 2025 Joint Enforcement Task Force Report utilizes data from State Fiscal Year 2025 (July 1, 2024–June 30, 2025). To ensure long-term consistency, Task Force agencies have transitioned from the calendar year format used in the 2024 report (January 1–December 31, 2024) to the state fiscal year. Consequently, the 2025 report contains six months of data (July–December 2024) that overlaps with the previous year’s publication. Unless otherwise noted, all data points adhere to the state fiscal year.

⁷ Source: EPI analysis of data from the Bureau of Labor Statistics’ Employer Cost for Employee Compensation 2024Q2 and Occupational Employment and Wage Statistics Research Estimates by State and Industry May 2023 data. <https://www.epi.org/publication/misclassifying-workers-2025-update/>

⁸ National Employment Law Project (2024). *Independent Contractor Misclassification Imposes Huge Costs on Workers and State Treasuries*. <https://www.nelp.org/insights-research/independent-contractor-misclassification-imposes-huge-costs-workers-federal-state-treasuries-update-october-2020/>

approach. D.C., Illinois, and New Jersey⁹ are among the jurisdictions that have similar accountability for workplace fraud specifically. Further, **Maryland law currently holds general contractors responsible for nonpayment or underpayment of wages by subcontractors on their projects.** The general contractor liability provision in this bill creates a strong incentive for general contractors to care about and actively monitor their subcontractors' classification of workers. General contractor liability for subcontractor Workplace Fraud Act violations means that those contractors who experience the highest financial benefit from the practice of misclassifying workers share responsibility for penalties as well.

Ensuring Meaningful Consequences for Violations

A core problem identified by the JETF is that Maryland's current enforcement regime imposes only limited consequences for even serious or repeated violations of labor standards. The law currently enables some employers to treat existing penalties as simply a cost of doing business, especially in industries where misclassification delivers a substantial financial advantage. For bad actors, the monetary fines associated with noncompliance with the law are often outweighed by the savings achieved through unpaid taxes, avoided benefits, and off-the-books payroll. Not only does this lead to law-abiding businesses being undercut, but it also means the state's own procurement dollars may flow to contractors with a proven record of violating labor laws.

HB 299 addresses this systemic weakness by ensuring that entities licensed to do business in Maryland—and critically, those that receive public contracts paid for by Maryland taxpayers—demonstrate basic compliance with Maryland's labor laws. The bill does so by proposing the following:

Workplace Fraud Act Violations, Repeated Labor Violations, and Uncontested Cases Can Be Considered Grounds for Debarment

Debarment imposes a meaningful consequence for violations. Currently, no violation of the Workplace Fraud Act can constitute grounds for debarment. Further, under current law, Maryland can consider debarment only after a willful or knowing violation has been found after full contest and adjudication, a threshold so high it almost never applies. But many contractors do not contest the violation at all. HB 299 addresses this gap by allowing debarment to be considered for repeated violations and uncontested violations.

Licensing Consequences for Workplace Fraud Act Violations

The Workplace Fraud Act imposes liability for both “non-knowing” and “knowing” violations, as well as for aiding, abetting, or conspiring to evade the law. However, currently, Maryland licensees are not subject to license

⁹ See D.C. Code § 32-1303(5), 820 ILCS 115/13.5, NJ Rev Stat § 34:11-58.2(c), respectively.
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revocation or suspension even if they ignore a final order to remedy a Workplace Fraud Act violation, or are found willfully noncompliant. This bill proposes to consider Workplace Fraud Act violations as grounds for revocation or suspension of licensure. As with debarment, the goal is to increase compliance by increasing the consequences for violation. Such provisions also protect law-abiding businesses from unfair competition by known labor law violators.

The licensing consequences outlined in the bill impact the Maryland Home Improvement Commission (MHIC), Maryland's mechanical boards¹⁰, Maryland Board of Public Accountancy, and Maryland Board of Individual Tax Preparers.

Please see *Appendix B* for a more detailed overview of the licensing provisions.

Addressing Current Underreporting and Noncooperation

Misclassified workers are often reluctant to report or cooperate with investigations, which hinders the State's ability to tackle the problem. Current incentives are misaligned: when enforcement actions succeed, the State's funds are often restored, but workers are not always fully made whole. This bill seeks to counterbalance those dynamics. HB 299 strengthens enforcement by providing a modest incentive to affected workers, increasing the likelihood that workers will report abuses and cooperate in investigations.

Specifically, the bill allows a share of the civil penalties to be directed to affected workers. Permitting affected workers to receive a share of the penalty gives them a tangible stake in reporting and assisting in the enforcement of the workplace fraud law that is currently absent from the statute. This approach has worked in other states. Several jurisdictions, including D.C., Illinois, and New Jersey¹¹, have laws that direct a payment to the affected workers that is separate from any restitution owed.

Strengthening the Maryland False Claims Act to Protect the UI Trust Fund

One of the key markers of wage fraud is failure to pay required unemployment insurance (UI) contributions, which shifts costs to law-abiding employers. In FY 2025 alone, the Division of Unemployment Insurance identified over **\$52 million in unreported taxable wages** attributable to misclassification.

¹⁰ These boards include the Elevator Safety Review Board, State Board Of Master Electricians, State Board Of Heating, Ventilation, Air-Conditioning, And Refrigeration (HVACR) Contractors, and State Board Of Plumbing.

¹¹ See D.C. Code § 32-1331.09 (construction industry), 820 ILCS 185/60(b) & 820 ILCS 185/45(b), N.J.S.A. 34:1A-1.18(a)(2), respectively.

HB 299 closes a critical loophole by allowing Maryland's False Claims Act to apply when employers knowingly file false records or statements that result in underpayment of UI premiums, or fraudulent receipt of UI benefits above \$15,000 per year.

This provision creates a powerful deterrent for high-risk actors and gives the State the tools it needs to protect the solvency of the trust fund.

Streamlined Process and Improved Interagency Cooperation

Fragmented enforcement and "government silos" make it difficult to effectively address labor violations. The bill allows multiple labor standard violations to be addressed in a single case, and codifies cooperation between the Maryland Department of Labor and the Office of the Attorney General to ensure merit cases are pursued.

The bill also creates a parallel avenue for the State to pursue civil litigation under the WPF, prevailing wage law, and living wage laws. Currently, enforcement of these laws by the State lies exclusively in administrative processes.

Additionally, the bill establishes durable mechanisms for the Division and the Attorney General's office to join forces in meaningful ways. In particular, the bill adds provisions requiring transparency on shared priorities and, importantly, a mandatory referral if the Division fails to act on a complaint or finds no merit. This provision creates a backstop to ensure that merit cases are pursued.

Amendments

The Department is working with stakeholders, JETF members, and the committees to amend this bill to include certain technical changes and refine the terms of DLI and OAG cooperation.

The Department respectfully requests that the Committee return a favorable report on HB 299 with amendments.

For questions, please contact Andrew Fulginiti at Andrew.Fulginiti@maryland.gov.

Appendix A: [2024 JETF Report](#)

Appendix B: Licensing Provision Overview

Summary:

- DLI’s Workplace Enhanced Accountability and Rights Act seeks to create licensing consequences for violations of the Workplace Fraud Act.
- The Workplace Fraud Act, L&E Title 3, subtitle 9, prohibits businesses from misclassifying employees as “independent contractors” or paying them off the books. The law imposes liability for both “non-knowing” and “knowing” violations, as well as for aiding, abetting, or conspiring to evade the law.
- The licensing provision in the bill applies to the following O&P Boards:
 - Elevator Safety Review Board
 - Maryland Home Improvement Commission (MHIC)
 - State Board Of Master Electricians
 - State Board Of Heating, Ventilation, Air–Conditioning, And Refrigeration (HVACR) Contractors
 - State Board Of Plumbing
 - Maryland Board Of Public Accountancy
 - Maryland Board Of Individual Tax Preparers

Licensure Consequences for Non-knowing Violation (L&E Article, Sec. 3-903)	
When may licensure consequences be imposed for a non-knowing violation of the Workplace Fraud Act?	A licensee has committed a non-knowing violation of the WPF, a court or administrative unit has issued a final order, and the licensee has failed to comply with the order .
How does the Board become aware of the licensee’s failure to comply?	The Commissioner of Labor and Industry notifies the Board of the non-compliance.

Licensure Consequences for Non-knowing Violation (L&E Article, Sec. 3-903)	
What role does the Board have once notified by the Commissioner of non-compliance?	The Board must issue the licensee written notification of suspension.
What rights does a licensee have to contest the suspension?	The licensee can contest the action only on the grounds of mistaken identity. As with any contest, the licensee is entitled to a hearing.
What must the licensee do to have their license reinstated?	The licensee must comply with the order in full.
How does the Board become aware that the licensee has satisfied the terms of the order?	The Commissioner must notify the Board within 10 days of receiving notice that a licensee has complied with the terms of the order.
What role does the Board have once notified of the licensee's compliance?	So long as the licensee otherwise qualifies for reinstatement, the Board must immediately reinstate the license.

“Knowing” or “Aiding and abetting” Violations (L&E, Sec. 3-904 & 3-915)	
(In general, a knowing violation occurs when there is proof that the licensee was aware that the workers should have been classified as “employees” and chose not to do so. Evidence may include, e.g., repeat violation, inconsistent treatment of other similar workers, lack of notice to workers, no investigation by licensee as to tax, unemployment comp, or workers’ comp status. The law also prohibits a licensee from assisting in the formation of a corporation or entity to evade the law, or conspiring to assist in evasion of the law).	
When may licensure consequences be imposed on a licensee for a knowing violation of the Workplace Fraud Act or for aiding/abetting/conspiring to violate the Workplace Fraud Act?	Once a court or administrative unit issues a final order finding a violation of 3-904 or 3-915. Note: <i>the bill provides for licensure consequences based on the violation, regardless of whether the licensee has complied with the order.</i>
How does the Board become aware of the order against the licensee?	The Commissioner must notify the relevant Board.

“Knowing” or “Aiding and abetting” Violations (L&E, Sec. 3-904 & 3-915)

(In general, a knowing violation occurs when there is proof that the licensee was aware that the workers should have been classified as “employees” and chose not to do so. Evidence may include, e.g., repeat violation, inconsistent treatment of other similar workers, lack of notice to workers, no investigation by licensee as to tax, unemployment comp, or workers’ comp status. The law also prohibits a licensee from assisting in the formation of a corporation or entity to evade the law, or conspiring to assist in evasion of the law).

<p>What role does the Board have once notified by the Commissioner of the order?</p>	<p>The Board must issue the licensee written notification of license suspension or revocation.</p>
<p>What rights does a licensee have to contest the suspension or revocation?</p>	<p>The licensee can contest the action only on the grounds of mistaken identity. As with any contest, the licensee is entitled to a hearing.</p>
<p>What must the licensee do to have their license reinstated?</p>	<p>Once license action is taken for a knowing or aiding/abetting violation, the license can only be reinstated if all of the following requirements are met:</p> <ol style="list-style-type: none"> 1. The licensee submits a written request to the Board for reinstatement; 2. The Board holds a hearing; 3. The majority of the Board determines by a preponderance of evidence that the licensee has fulfilled the conditions of the suspension or revocation; 4. A Board majority votes to reinstate the license; and 5. The licensee pays any reinstatement fees.