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The Honorable Melissa Wells
Chair, Government, Labor, and Elections Committee
145 House Office Building
Annapolis, Maryland 21401

**Re: House Bill 299 – Fraud Prevention, Prevailing Wage, and Living Wage –
Favorable with Amendments**

Dear Chair Wells,

I write in support of House Bill 299, which represents meaningful progress in Maryland's fight against worker misclassification and wage theft. Wage theft costs Maryland workers millions of dollars annually while undermining honest employers who play by the rules. This legislation enhances enforcement mechanisms and accountability for employers who violate Maryland's wage and workplace fraud laws.

Why This Bill Matters

Worker misclassification and wage theft are not merely technical violations. They rob workers of earned wages, deny them critical protections like unemployment insurance and workers' compensation, and create an unfair competitive advantage for bad actors over law-abiding businesses. Worker misclassification and wage theft also deprive Maryland of critical tax revenue. When employers misclassify employees as independent contractors or pay workers off the books, they evade payroll taxes, unemployment insurance contributions, and workers' compensation premiums that fund essential state programs. These fraudulent practices not only harm workers but also cheat Maryland taxpayers and shift costs onto compliant employers who fund these systems properly. Effective enforcement of workplace fraud laws is therefore not only a matter of worker protection but also fiscal responsibility. House Bill 299 addresses these harms through three critical mechanisms:

First, the bill expands the Maryland False Claims Act to reach fraudulent underpayment of unemployment insurance contributions and fraudulent claims for unemployment benefits. By treating these violations with the seriousness they deserve, the bill creates real consequences for

employers who game the system at the expense of Maryland's Unemployment Insurance Trust Fund.

Second, the bill establishes a coordinated enforcement framework between the Commissioner of Labor and Industry and my office. Under current law, enforcement of the Workplace Fraud Act and prevailing wage violations too often falls through gaps between agencies. This bill requires the Commissioner to refer certain matters to OAG, grants my office investigative authority including subpoena power, and mandates cooperation on large or complex cases.

This enhanced role for OAG is critical. My office brings capabilities that complement MDOL's expertise: the resources to pursue complex, multi-defendant litigation; experience with sophisticated corporate structures that conceal liability; the ability to coordinate multi-jurisdictional investigations; and relationships with federal and local prosecutors for criminal referrals. This coordination will enable more effective pursuit of sophisticated violators who have previously evaded accountability.

Third, the bill strengthens penalties and remedies for workers. It ensures that one-third of civil penalties go directly to affected workers. It also makes general contractors jointly and severally liable for subcontractor violations. This closes a loophole that has allowed general contractors to insulate themselves from wage theft on their own projects. It requires occupational license suspension or revocation for electricians, plumbers, HVAC contractors, home improvement contractors, and other licensed trades who commit serious workplace fraud violations. And it expands debarment provisions under state procurement law to ensure that repeat violators cannot continue profiting from state contracts. These provisions recognize that deterrence requires meaningful consequences.

Critical Amendments

While I support this bill, three amendments are necessary to ensure effective implementation. Without these corrections, key provisions of the bill will be unworkable:

1. **Protection of Sealed False Claims Investigations:** The bill requires OAG to cooperate with the Labor Commissioner in False Claims Act investigations involving Workplace Fraud Act or wage violations (§ 8-109(b)(1)(II) of the General Provisions Article). However, when qui tam whistleblower complaints are filed under seal pursuant to § 8-104 of the General Provisions Article, federal and state confidentiality requirements strictly prohibit OAG from disclosing the existence or contents of sealed investigations. Violating these confidentiality requirements can result in dismissal of the case and sanctions. The bill must clarify that the cooperation requirement does not apply to sealed investigations, and this exception must be noted in the sections requiring information sharing about complaints and investigation status.

2. **Clarification of "Claim" Definition:** Section 8-101(b)(2) of the General Provisions Article currently excludes from its definition of a “claim” any request for compensation for employment or for income subsidies. Since this bill now allows actions for fraudulent unemployment benefits and restitution for unpaid prevailing wages, the current exclusionary language creates ambiguity about whether these new provisions are enforceable under the False Claims Act. We should add the phrase "except as provided in §§ 8-102(b)(9) and 8-109(c)(2) of this subtitle" to eliminate this confusion.
3. **Flexibility in Information Sharing:** Three sections of the bill require the Commissioner and Attorney General to meet "at least monthly" to share information. Regular information exchange is absolutely critical to effective coordination, and we commit to monthly communication. However, mandating monthly in-person meetings creates unnecessary inflexibility when written updates, phone calls, or other formats may be more efficient for routine matters while allowing us to meet more frequently on urgent cases. We recommend requiring monthly information sharing without mandating the specific format.

Maryland's Remaining Gaps

I urge a favorable report on House Bill 299 with the amendments outlined above. This legislation represents real progress and will strengthen Maryland's ability to hold wage thieves accountable and protect workers. The collaboration framework between MDOL and OAG will enable more effective enforcement than either agency could achieve alone.

However, it must be understood that this bill, while strong, still leaves Maryland behind jurisdictions that have made combating wage theft a top priority. Even with these improvements, Maryland will lack several enforcement tools that have proven effective in other states: criminal penalties that include jail time for willful violations, automatic monthly penalties on unpaid wages that compound without limitation until paid, personal liability for corporate officers who knowingly permit violations, and broader business license denial mechanisms that prevent repeat violators from operating across all industries. As you continue to refine Maryland's worker protection laws, I encourage the General Assembly to examine these more robust enforcement mechanisms.

My office is committed to using the expanded authority under this bill to aggressively pursue wage theft cases and protect Maryland workers. I look forward to working with the Committee and MDOL on the technical amendments and urge your favorable report.

Sincerely,



Anthony G. Brown