



WAGE THEFT: A Labor Day Message from Kim Bobo
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Stop and Deter Wage Theft in Virginia

Almost every week I hear a new wage theft story about a worker who didn't get paid minimum wage, didn't get paid for overtime hours, didn't get paid for all the hours worked, had tips stolen or was called an "independent contractor" when the worker was really an employee – all victims of wage theft.

This week's story was typical. A friend has a nephew who struggled to find a job and finally found work in a restaurant. He worked there for three months, but the employer routinely didn't pay him for all the hours worked, cheating him of hundreds of dollars.

If the young man had called the Department of Labor and Industries (DOLI) to complain, DOLI staff would have told him he could get fired for filing a complaint. Virginia law has no protection against retaliation for filing a complaint. Had DOLI investigated, it would only have been able to recover unpaid wages for this young man and not for other employees of the restaurant who probably had been cheated too.

Although there are many honorable restaurant employers who pay workers fairly, restaurants, as a sector, are notorious for wage theft. Many dishwashers and cooks are paid as independent contractors, which is illegal, or paid a flat amount, such as \$200 for 50 hours of work, which is illegal. Many restaurants cheat wait staff of their tips or refuse

to pay the tipped minimum wage. Restaurant workers would be hard pressed to understand how their wages are being shorted because they don't get paystubs. Virginia has no requirement that workers get a paystub, even though every employer must calculate the information in order to pay the worker and employer taxes (social security, Medicare, unemployment and workers compensation).

Virginia's wage laws do not adequately protect workers, like this young man, nor do they protect law-abiding businesses that play by the rules and are undercut by unethical employers who cheat workers. During the last General Assembly, Senator Wagner (R-Virginia Beach), Delegate Habeeb (R-Salem) and Delegate Krizek (D-Alexandria) worked with my organization, the Virginia Interfaith Center for Public Policy, to introduce modest reforms to strengthen Virginia's enforcement against wage theft, because they wanted to protect workers and also level the playing field for businesses. Senator Wagner himself had experience being an employer who paid workers fairly and had to compete in bids against employers who weren't paying workers their legally owed wages.

Virginia prides itself on being a great environment for business. It must also be a great environment for workers, and it's not. So far this year, more than 16,000 workers have reached out to DOLI about wage problems; Many who call DOLI don't pursue claims because they fear retaliation. And, DOLI is woefully understaffed, with only three wage investigators for the entire state.

Labor Day is a time to celebrate the dignity of all workers. Workers deserve to earn all their wages. Businesses deserve a level playing field. Virginia should strengthen enforcement against wage theft. The Virginia Interfaith Center for Public Policy is advocating for the General Assembly to:

- **Remove the Jim Crow exemptions from minimum wage.** Almost every category of job in Virginia that was historically held by African Americans is exempt from the state minimum wage.
- **Remove the piecework exemption from minimum wage.** Virginia's minimum wage law should mirror federal law, which allows employers to pay by the piece but requires that they still pay minimum wage.

- **Require employers to give workers a paystub.** Many workers don't understand how they are being cheated because they aren't given a paystub or record of their wages and deductions.
- **Protect workers who file complaints from retaliation.** What is the value of a complaint process if workers can be fired for filing a complaint?
- **Encourage reasonable investigations.** DOLI can only investigate and recover for individual complainants. When DOLI investigates, it should be able to protect and recover for all the workers in the workplace.
- **Allow private attorneys to take wage cases.** One of the simplest ways to get more enforcement activity is to create a private cause of action, enabling attorneys to take the wage cases to court, recover workers' wages and get paid reasonable fees.
- **Hire more enforcement staff.** Wage theft is widespread in Virginia. Three enforcement staff is not adequate.

This Labor Day, let's recognize that wage theft harms everyone. Let's figure out how to better protect workers and level the playing field for businesses. Let's make Virginia a place for workers as well as lovers.