

FACT SHEET



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Prevent Wage Theft in Virginia

Problem: Employers in Virginia can legally steal wages from Virginia workers in many ways. The cost to workers and the economy is as much as \$50 Billion in lost wages each year! Lost wages and wage theft prevents workers from providing food for their family, fixing their car so they can keep working, getting kids to school and the doctor, and keeps Virginians from being able to worship. We need to install basic protections for workers, which are commonplace across the United States. There are numerous parts of the Virginia code that need to be updated in order to prevent wage theft in Virginia.

Legislation to Prevent Wage Theft:

Creating a Private Cause of Action for Non-Payment of Wages:

A “private cause of action” on non-payment of wages means that private individuals can take their non-payment of wages cases to court. Currently, workers cannot sue under the Virginia Payment of Wage Act, only DOLI can. Although workers can currently sue in court under a “breach of contract” theory, it makes more sense to allow private individuals and their attorneys to enforce the law that is already on the books. Virginia needs to pass legislation that clearly state that workers will get their owed back wages and reasonable attorney fees. Without getting paid, attorneys can’t afford to take the cases. And most workers, especially low-wage workers, cannot afford to pay attorney fees out of their unpaid wages. Most enforcement of the Fair Labor Standards Act, the main federal wage law, is done by the private bar and not by the federal Department of Labor, because attorneys can take cases to court on behalf of workers and can collect reasonable attorney fees.

Prohibiting Discriminatory Actions on Employees filing Wage Theft Claims:

Workers cannot be fired based on race, gender, ethnicity or other protected classes, but they can be fired for filing a complaint about not receiving all their wages. It makes little sense to have laws ensuring that workers get paid all their wages, if they can be fired for seeking to recover those wages. Workers who believe they have been cheated of their wages can call the Department of Labor and Industries (DOLI) and file a complaint. DOLI will investigate and initially will contact the employer. Although many employers resolve the problems immediately, not all do. An employer can then fire the employee for filing the complaint. This lack of protection completely undermines the value of the law for workers who are still employed. As a result, most workers will only file complaints after they leave a job and not while they are still employed at the firm. This means many workers do not receive their legally owed wages and good businesses are put at a competitive disadvantage. This harms workers, good employers, and community businesses.

Allowing DOLI to Investigate Non-Payment of Wages:

Virginia should authorize the Commissioner of Labor and Industry, if he acquires information during an investigation of a complaint of an employer's failure or refusal to pay wages that creates a reasonable belief that other employees of the same employer may not have been paid wages, to investigate whether the employer has failed or refused to make a required payment of wages to other employees.

Sources: Economic Policy Institute (2014)