

The Payroll Fraud Prevention Act

The **Payroll Fraud Prevention Act** protects workers from being misclassified as independent contractors, ensuring access to fair labor standards, health and safety protections, and unemployment and workers' compensation benefits. The Act would also prohibit employers from using misclassification to avoid paying their fair share of taxes.

SECTION 2

Requires Proper Classification and Notice to Workers

- Requires all workers be accurately classified as employees or non-employees.
- Requires workers be given written notice of their classification. Notice must include information directing workers to a Department of Labor (DOL) employee rights resources webpage.
- Requires that records kept pursuant to Fair Labor Standards Act (FLSA) include an accurate classification of the worker as either an employee or a non-employee.
- Creates a rebuttable presumption that, when an employer fails to provide proper written notice of classification to any employee or non-employee, the worker is considered an employee.

Makes Worker Misclassification FLSA Violation

- Makes it a violation of the FLSA to discharge or discriminate against a worker because he or she has opposed any practice concerning his or her classification.
- Extends a private right of action to misclassified employees to recover lost wages.
- Doubles liquidated damages when, in addition to violating minimum wage or overtime pay standards, an employer misclassifies a worker.
- Subjects employers to a civil penalty up to \$1,100 for each misclassification violation and up to \$5,000 when such violations are repeated or willful.

SECTION 3

- Directs DOL to establish a website summarizing the rights of workers under this Act.

SECTION 4

State Directives

- Makes unemployment compensation grants contingent on a state having auditing and investigative procedures in place to identify employers that exclude employees from unemployment compensation; filing quarterly reports describing the findings of such procedures; and establishing administrative penalties for misclassifying employees or paying unreported compensation. DOL is also required to audit states' performance in conducting unemployment compensation tax audits.

SECTION 5

Departmental Coordination

- Directs all divisions of DOL to report information obtained concerning misclassification to DOL's Wage and Hour Division, which may report such information to the IRS, as appropriate.

SECTION 6

Directed Audits

- Directs the DOL's Wage and Hour Division to conduct audits of industries with frequent incidents of misclassification.