

EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

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Chairwoman Woolsey Statement at Subcommittee Hearing On “The Misclassification of Workers as Independent Contractors: What Policies and Practices Best Protect Workers?”

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. Lynn Woolsey(D-CA), chairwoman of the Subcommittee on Workforce Protections, for a subcommittee hearing on “The Misclassification of Workers as Independent Contractors: What Policies and Practices Best Protect Workers?”*

Thank you Chairman Andrews and welcome to all of the witnesses for joining us here today.

As you know, my Workforce Protections Subcommittee held a hearing on this very important issue of misclassification of workers as independent contractors in March.

And I am very glad that—through this Joint Subcommittee hearing—we are continuing to look at this issue.

Today we will have an opportunity to hear from the Administration and others about this serious problem, which hurts not only our workers, but also honest contractors and all of society as state and federal governments lose billions of dollars in lost revenues.

After the last hearing, Mr. Andrews and I wrote a letter to DOL asking for information about misclassification.

We got the Department’s response a little over a week ago. It was a late reply but in time for this hearing.

I am very pleased that Mr. DeCamp from DOL is present to answer questions about DOL’s response because I have serious reservations about whether the Department is dealing with this problem in an adequate manner.

At the outset let me say that there are true independent contractors out there—this is not about them.

This is about the countless other workers who are really employees but have been deliberately misclassified by employers because those employers want to avoid the costs associated with an employee, such as workers compensation insurance and payment into the Social Security and Medicare systems.

The number one reason that employers deliberately misclassify is to avoid paying worker comp premiums and otherwise avoid workplace injury and disability disputes.

So if a worker gets seriously injured—and make no mistake, this practice affects mostly low-income workers—there is no income when he can't work and likely no health insurance to help with medical expenses.

But the employer lowers its costs.

In fact, Mr. Wade Horn, a contractor who testified at the hearing in March said that when companies misclassify their employees, they expect to reduce their labor costs between 15 and 20 percent.

In March, our witnesses were principally from the building trades and they told us how widespread misclassification is in that industry.

But misclassification occurs across a wide range of industries.

For example, Representative Stupak, Chair of the Subcommittee on Oversight and Investigations on the Energy and Commerce Committee has been investigating the widespread misclassification of jockeys as independent contractors.

I am very glad that Mr. Williams is here to testify about his experiences with Fed-Ex.

My own state of California is waging a battle against Fed Ex's practice of misclassifying its couriers as independent contractors.

And in 2004, the California Employment Development Department issued a payroll tax assessment of \$7.8 million against the Company because it failed to pay payroll taxes on employees that they had misclassified as independent contractors.

In California, misclassification is an enormous problem.

The Insurance Commissioner has reported that 30% of employers in the State do not carry worker's compensation insurance---one of the sure signs that those employers' workers are being treated as independent contractors.

This problem has so concerned my State that there is a bill in the State Assembly, S.B. 622, which if passed will make willful misclassification illegal and assesses civil penalties of up to \$15,000 per violation and up to \$25,000 per violation for those employers have engaged in a pattern or practice of misclassification.

And our Attorney General has started a program to protect vulnerable workers from unscrupulous employers.

But unfortunately other states are having problems with misclassification and it is a national problem with far-reaching consequences

I am confident that this hearing will bring us closer to solutions to it.

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