

The Wage Theft Prevention and Wage Recovery Act

Protecting workers and cracking down on wage theft to boost economic security and help the economy grow from the middle out, not the top down

Today, across the country, many people are putting in long hours on the job and working hard for an honest day's pay, only to have their employers cheat them out of their wages. While many employers do the right thing and treat workers fairly, too many others force their workers to work off the clock, refuse to pay workers the minimum wage, deny workers overtime pay even after they work more than 40 hours a week, steal workers' tips, or knowingly misclassify workers to avoid paying fair wages.

The Wage Theft Prevention and Wage Recovery Act is comprehensive legislation to combat wage theft in America. This bill will strengthen fundamental protections to allow workers to get the money they have earned through hard work and it will crack down on the corporations that subject workers to these abuses. Taking these steps will help ensure our country can work for all Americans, not just the wealthiest few, so our economy grows from the middle out, not the top down.

The bill would achieve the following:

- 1) Require employers to pay *all* wages owed to an employee. Currently, workers can only recover wages at the minimum wage or, for overtime hours, 1.5 times their regular wage; for example, an employee may be hired at \$9.00 per hour, but would only have the right to recover \$7.25 of every \$9.00 she was owed. This bill would help workers recoup the full compensation that employers have taken from them.
- 2) Require employers to provide initial disclosures of the terms of their employment and regular paystubs to all employees and create a civil fine for noncompliance of \$50 for the first violation and \$100 for each subsequent violation.
- 3) Require employers to pay final paychecks within 14 days of separation or by the payday for the pay period, whichever is earlier; the employer will owe the employee in question her daily wage for each day beyond this period that the paycheck goes unpaid, for a maximum of 30 days.
- 4) Create a civil penalty of \$2,000 when employers violate minimum wage and overtime protections under the Fair Labor Standards Act (FLSA), and—for the first time—the protection guaranteeing workers their full compensation. The Act would also increase the existing civil penalty for willful or repeat violations to \$10,000. Currently, the Department of Labor (DOL) does not have the authority to assess civil penalties for violations of the FLSA's minimum wage or overtime requirements unless the employer is guilty of repeat or willful violations; even then, the penalty is set at just \$1,100 per violation.
- 5) Increase the damages that employees who are victims of wage theft are entitled to. The amount currently provided for by the FLSA is twice the owed wages. This bill would raise that amount to triple the owed wages amount, plus interest assessed on the original owed wages.
- 6) Strengthen protections for employees who are illegally fired by their employer as retaliation for filing a complaint concerning wage theft or cooperating with a DOL investigation. This bill would increase the

damages to which workers are entitled to quadruple the owed wages amount, plus interest assessed on the original owed wages.

- 7) Strengthen the FLSA's recordkeeping provision by creating a civil penalty of \$1,000 for an employer's first violation of the provision and \$5,000 for each subsequent violation. Additionally, the legislation would give employees a right to inspect their employer's records by requesting a copy of those records. Finally, if an employer violates the recordkeeping provision, the bill would allow an employee's reasonable evidence regarding their hours worked to be used to create a rebuttable presumption that the employer engaged in wage theft, and to establish the exact amount of that wage theft. Under this bill, the employer would be allowed to rebut this presumption only with clear and convincing evidence.
- 8) Increase the time that employees have to bring a claim for owed wages from two years to four years (and from three years to five years for willful violations) from the date of the violation and temporarily suspend this time limit during any DOL investigation.
- 9) Make it easier for employees to take collective action to recover their stolen wages. The bill would remove the current requirement that employees affirmatively "opt-in" to engage in a collective action under the FLSA. This will enable employees to pursue collective action cases in a manner similar to most class action cases, in which members of the "class" must affirmatively "opt-out" of the case in order to not be involved.
- 10) Direct DOL to refer to the Department of Justice for criminal prosecution those employers who comprehensively engage in wage theft by willfully stealing employees' wages, falsifying records to hide the truth, and retaliating against employees when they try to speak up for themselves or cooperate with a DOL investigation.
- 11) Create a grant program at DOL to assist DOL in its education, trainings, and enforcement of this Act through partnerships with organizations on the ground that fight wage theft.