

Press Releases

Sen. Brown Joins Colleague in Announcing Bill to Ensure that Workers Receive Protection and Benefits They Have Earned

Brown Introduces Legislation that Would Reduce the Number of Worker Misclassification Violations and Ensure Fairness to Workers and Businesses

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WASHINGTON D.C. - U.S. Sen. Sherrod Brown (D-OH) today introduced legislation that would prevent workers from being misclassified as independent contractors and would provide for the protection and benefits which they have earned. The Employee Misclassification Prevention Act would ensure access to safeguards like fair labor standards, health and safety protections, and unemployment and workers' compensation benefits. U.S. Rep. Lynn Woolsey (D-CA) introduced companion legislation in the house.

"For too long, workers have been denied vital worker safeguards - like fair labor standards, health and safety protections, and UI or workers' compensation benefits," Brown said. "With still fragile economic recovery with significant job loss - workers are too often taken advantage of and lose out on the benefits they rightfully earned. Meanwhile, employers who do right by their employees are placed at a disadvantage when competitors are cutting corners."

Tens of thousands of employers misclassify their employees as independent contractors, and as a result, these workers are not eligible for benefits such as minimum wage and overtime, unemployment insurance, and workers' compensation. Misclassified workers are also not protected by anti-discrimination and health and safety laws.

"Misclassification cheats workers out of important labor protections, like the right to overtime pay and workers' compensation, and robs federal and state governments of desperately needed tax revenues," Chairman Harkin said. "This important legislation will address this growing problem by giving workers the information they need to protect their rights and leveling the playing field for responsible employers who play by the rules."

Misclassification also undermines the budgets of state and local governments - resulting in increased costs for taxpayers or reduced services. According to a study by Ohio Attorney General Rich Cordray, Ohio loses at least \$160 million a year to each year from worker misclassification. This does not account for further losses to local government and school budgets. The Obama Administration estimates that better record-keeping could raise \$7 billion over the next ten years.

EMPA would reduce the number of misclassification violations by:

- Ensuring that employers keep records that reflect the accurate status of each worker as an employee or non-employee and clarifying that employers violate the Fair Labor Standards Act when they misclassify workers.
- Increasing penalties on employers who misclassify their employees and are found to have violated employees' overtime or minimum wage rights.
- Requiring employers to notify workers of their classification as an employee or non-employee
- Creating an "employee rights web site" to inform workers about their federal and state wage and hour rights.
- Providing protections to workers who are discriminated against because they have sought to be accurately classified.

EMPA would improve federal and state efforts to detect and stop misclassification by:

- Mandating that states conduct audits to identify employers who misclassify workers and by requiring that DOL monitor states' efforts to identify misclassification.
- Directing states to strengthen their own penalties for worker misclassification.
- Permitting DOL and IRS to refer incidents of misclassification to one another.
- Directing DOL to perform targeted audits focusing on employers in industries that frequently misclassify employees.

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