



# ***Wage Theft Prevention and Wage Recovery Act***

A Comprehensive Approach to Combatting Wage Theft

May 2022

**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 the wages they have earned.**

While many employers do the right thing and treat workers fairly, too many others force their employees 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 corporations that subject workers to these abuses.

**Taking these steps will help ensure our economy works better for all Americans, not just the wealthiest few—and grows from the middle out, not the top down.**

The bill would help combat wage theft and improve wage recovery by:

- 1) Strengthening workers' right to fair pay and improving employer accountability
- 2) Increasing deterrence of and penalties for wage theft violations
- 3) Bolstering recovery of workers' stolen wages

## **Strengthening Workers' Right to Fair Pay and Improving Employer Accountability**

*Too often, workers are unaware wage theft is occurring. Even when wage theft is prosecuted, workers are not able to recover the full amount owed. In response, the Wage Theft Prevention and Wage Recovery Act:*

- **Increases transparency in terms of employment and pay.** The bill would require employers to provide employees an initial disclosure of the terms of their employment and regular paystubs to all employees. It would also create a civil fine for noncompliance of \$50 for the initial violation and \$100 for each repeated or willful violation.
- **Requires employers to pay *all* wages owed to an employee.** Currently, workers can only recover wages at the minimum wage or for overtime worked; 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 allow workers to recoup the full compensation that employers have taken from them.
- **Ensures workers receive full final paychecks.** The bill would 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 their daily wage for each day beyond this period that the final paycheck goes unpaid, for a maximum of 30 days.

## **Deterring and Punishing Wage Theft Violations**

*Employers may avoid paying fair wages because the Fair Labor Standards Act (FLSA) contains insufficient and rarely-used penalties for wage theft violations. In response, the Wage Theft Prevention and Wage Recovery Act:*

- **Authorizes meaningful penalties for employers that commit wage theft.** The bill creates a civil penalty and increases the maximum penalty when employers violate minimum wage and overtime protections under the FLSA. The bill would also increase the maximum civil penalty for willful or repeat violations.
- **Increases the damages wage theft victims are entitled to.** The amount currently provided for by the FLSA is twice an employees' owed wages. This bill would raise that amount to triple the owed wages, plus interest assessed on the original owed wages.
- **Strengthens protections for workers who are illegally retaliated against.** Under this bill, workers fired by their employer as retaliation for filing a complaint concerning wage theft or cooperating with a DOL investigation would be entitled to increased damages: quadruple the owed wages, plus interest assessed on the original owed wages.
- **Enhances enforcement for egregious violations.** The bill would direct DOL to refer those employers—who 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—to the Department of Justice for criminal prosecution.

### **Bolstering Recovery of Stolen Wages**

*Workers who experience wage theft have insufficient tools or face other barriers to recover their stolen wages. In response, the Wage Theft Prevention and Wage Recovery Act:*

- **Enhances workers' right to take collective action to recover their stolen wages.** The bill will remove the current requirement that employees affirmatively “opt-in” to engage in a collective action under the FLSA, making it easier for employees to take collective action. 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. The bill would also 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.
- **Strengthens recordkeeping requirements.** The bill would create a civil penalty of \$1,000 for an employer's initial violation of the FLSA's recordkeeping provision and \$5,000 for each repeated or willful 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 own credible evidence and testimony regarding their hours worked and pay owed to be presumed to be accurate. Under this bill, the employer would be required to rebut this presumption with evidence of the precise amount of work performed or evidence to show that the inferences drawn from the employee's evidence is not reasonable.
- **Supports and expands cooperative efforts to prevent wage theft violations and enforce the law.** This bill will create a grant program at DOL to assist DOL in education and outreach through partnerships with organizations on the ground that help workers and fight wage theft.