



***An Act to Prevent Wage Theft, Promote Employer Accountability,
and Enhance Public Enforcement (S.1066, H.1610)***

Lead Sponsors: Senator Sal DiDomenico & Representative Dan Donahue

Wage theft has become business-as-usual. In our modern economy, where employers increasingly subcontract or outsource core parts of their business to other companies, the epidemic of wage theft has overwhelmed the capacity of our existing labor laws and enforcement mechanisms.

Nearly \$700 million in wages are stolen from about 350,000 low-wage workers each year in Massachusetts. *An Act to Prevent Wage Theft, Promote Employer Accountability, and Enhance Public Enforcement* addresses this growing crisis.

WHAT DOES THE BILL DO?

- **INCREASES RESPONSIBILITY:** Holds “lead contractors” accountable for the wage theft violations of their subcontractors, as long as there is a significant connection to their business activities or operations.
- **PROTECTS WAGE RIGHTS:** Protects workers from wage theft violations such as failure to make wage payments; failure to abide by minimum wage, prevailing wage and overtime laws; and independent contractor misclassification. Strengthens workers’ protection against retaliation.
- **LEVELS THE PLAYING FIELD:** Promotes fair competition by ensuring that all businesses, including lead contractors, play by the rules and give their workers an honest day’s pay for an honest day’s work.

HOW DOES THE BILL ACCOMPLISH THESE GOALS?

- **LEAD CONTRACTOR LIABILITY:** Provides “lead contractors” with notice when their subcontractors fail to obey the law. Allows them an opportunity to ensure that wage problems are corrected without enforcement action or establishment of lead contractor liability.
- **ENHANCED PUBLIC ENFORCEMENT:** Allows the Attorney General’s Office to bring civil wage theft cases directly to court. Clarifies that criminal penalties for wage theft violations do not apply to lead contractors, only to employers with respect to their own employees. Allows for aggrieved employees and other whistleblowers to bring public enforcement actions, while allowing the AG’s Office to intervene or object as it sees fit.
- **STOP WORK ORDER:** Allows the AG’s Office to issue a “stop work order” if it has determined that certain types of wage theft or unemployment insurance violations have occurred. Provides employers an opportunity to correct violations and resume work, or to request a hearing.

MASSACHUSETTS COALITION TO STOP WAGE THEFT

MA AFL-CIO, Immigrant Worker Ctr Collaborative, MA Bldg Trades Council, Chelsea Collaborative, NE Reg. Council of Carpenters, Brazilian Worker Ctr, Greater Boston Labor Council, Int’l Union of Painters & Allied Trades (DC 35), Community Labor United, Mass. Coal’n for Occupational Safety & Health, Metrowest Worker Ctr/Casa, Metro Boston Bldg Trades Council, Brazilian Women’s Group, Chinese Progressive Assoc. & others.

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Timely and Important Changes for the 2019-2020 Session: Whistleblower Enforcement and Stronger Protection from Retaliation

The 2019-2020 version of *An Act to Prevent Wage Theft, Promote Employer Accountability, and Enhance Public Enforcement*, like the 2017-2018 proposal, addresses the crisis of wage theft through:

- Establishing lead contractors' liability for their subcontractors' wage theft violations.
- Allowing the Attorney General's Office to bring civil wage theft cases directly to court.
- Providing for the use of a "stop work order" as a wage theft enforcement tool.

In addition, the 2019-2020 bill contains two new timely and important provisions to strengthen the fight against wage theft by expanding the enforcement resources and tools available to the Commonwealth, workers, and worker advocates.

WHISTLEBLOWER ENFORCEMENT

The 2019-2020 bill creates a whistleblower enforcement tool to allow workers and other whistleblowers to bring public enforcement actions on behalf of the Attorney General. These actions will:

- Generate new revenues for the Commonwealth by bringing in penalties for wage theft violations.
- Allow workers to take action to fight wage theft on behalf of the Commonwealth, and to address company-wide violations, even where the AG's Office does not have the resources to pursue a case.
- Allow workers to fight wage theft even when employers have forced workers to sign mandatory arbitration agreements as a condition of employment.
- Maintain the ability of the AG's Office to decide which wage theft complaints it will investigate and enforce itself, while also allowing the AG's Office to intervene in whistleblower actions as it sees fit and to object to whistleblower representation to ensure high-quality enforcement.

Most of the penalty revenue goes to the Commonwealth, while a portion rewards the whistleblowers. A small portion of penalties recovered will support a fund to allow the AG's Office to provide grants to non-profit organizations for outreach to educate workers about their wage rights.

STRONGER PROTECTION FROM RETALIATION

The 2019-2020 bill also strengthens the anti-retaliation provisions of the Commonwealth's wage laws by:

- Clarifying the scope of activities protected from retaliation under the wage laws.
- Creating a rebuttable presumption of retaliation when an adverse action takes place within a defined time period after a worker has asserted wage-related rights (similar to Massachusetts unemployment benefits and housing law).
- Ensuring that workers are able to obtain appropriate remedies and relief when an employer retaliates because they have asserted wage rights.

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