

City of Philadelphia



Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 220982)

RESOLUTION

Authorizing the Committee on Labor and Civil Service to hold hearings to examine the prevalence of workplace misclassification, also known as payroll fraud.

WHEREAS, Workplace misclassification, also known as payroll fraud, is a practice whereby employers deliberately miscategorize employees as independent contractors; and

WHEREAS, By engaging in workplace misclassification, employers avoid paying for overtime and employee benefits, leaving working families with little recourse. Employers are also able to skirt payroll and wage taxes under these circumstances, shifting the burden of those taxes to businesses and individuals that operate honestly and in compliance with the law. Misclassified workers end up paying 15.3% of their wages in Social Security and Medicare tax, double the 7.6% regular employees are supposed to pay; and

WHEREAS, Furthermore, because they are able to avoid a variety of taxes and other costs, businesses engaged in these practices have an unfair advantage over honest operators in bidding for contracts; and

WHEREAS, In 2010, the Commonwealth of Pennsylvania restricted this practice by enacting the Construction Workplace Misclassification Act, also known as Act 72. Act 72 created a definition for independent contractors and prohibits employers from classifying employees as such if they do not meet the approved criteria. The law's enforcement has been handled primarily by the Bureau of Labor Law Compliance (BLLC) at the Pennsylvania Department of Labor and Industry (DLI), but the Pennsylvania Attorney General and individual district attorneys maintain concurrent jurisdiction; and

WHEREAS, The BLLC's Philadelphia office, responsible for enforcing Act 72 along with 12 other laws aimed at preventing unfair labor practices, maintains only nine dedicated staff to cover the entire City, according to DLI's 2017 report on Act 72; and

WHEREAS, After a four-year period during which only 111 cases of potential misclassification were investigated across the Commonwealth, BLLC stepped up enforcement in 2015 and

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investigated nearly 300 for the year. In 2016, 50 cases were investigated in Philadelphia alone; and

WHEREAS, Accordingly, the fines collected by the Commonwealth for violations of Act 72 have grown from \$12,700 in 2014 to over half a million in 2019. More than a quarter of the fines, \$137,960, were a result of violations in the five-county greater Philadelphia area; and

WHEREAS, The BLLC's recent efforts to crack down on this misclassification are laudable, but the practice's adverse impact on working families in Philadelphia demands further scrutiny and a more robust response; now, therefore, be it

RESOLVED, THAT THE COUNCIL OF THE CITY OF PHILADELPHIA, Hereby authorizes the Committee on Labor and Civil Service to hold hearings to examine the prevalence of workplace misclassification, also known as payroll fraud.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the eight day of December 2022.

Darrell L. Clarke
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers Johnson and Gilmore Richardson

Sponsored by: Councilmembers Johnson, Gilmore Richardson, Driscoll, Squilla, Oh, Vaughn, Gauthier, Brooks, Thomas and O'Neill