

118TH CONGRESS
1ST SESSION

H. R. 5402

To amend the Fair Labor Standards Act of 1938 and the Portal-to-Portal Act of 1947 to prevent wage theft and assist in the recovery of stolen wages, to authorize the Secretary of Labor to administer grants to prevent wage and hour violations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2023

Ms. DELAURO (for herself, Mr. GRIJALVA, Mr. TAKANO, Ms. BONAMICI, Mr. BOWMAN, Mr. DESAULNIER, Ms. STEVENS, Ms. JAYAPAL, Mr. DELUZIO, and Mr. POCAN) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 and the Portal-to-Portal Act of 1947 to prevent wage theft and assist in the recovery of stolen wages, to authorize the Secretary of Labor to administer grants to prevent wage and hour violations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wage Theft Prevention
5 and Wage Recovery Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Wage theft occurs when an employer does
4 not pay an employee for work that the employee has
5 performed, depriving the worker of wages and earn-
6 ings to which the worker is legally entitled. This
7 theft occurs in many forms, including by employers
8 violating minimum wage requirements, failing to pay
9 overtime compensation, requiring off-the-clock work,
10 failing to provide final payments, misclassifying em-
11 ployees as being exempt from overtime compensation
12 or as independent contractors rather than as em-
13 ployees, and improperly withholding tips.

14 (2) Wage theft poses a serious and growing
15 problem across industries for working individuals of
16 the United States. Wage theft is widespread and is
17 estimated to cost workers more than
18 \$15,000,000,000 per year. In certain industries,
19 compliance with Federal wage and hour laws is less
20 than 50 percent.

21 (3) Wage theft is closely associated with em-
22 ployment discrimination, with women, immigrants,
23 and racial and ethnic minorities being disproportion-
24 ately affected. Women are significantly more likely
25 to experience minimum wage violations than men,
26 foreign-born workers are nearly 2 times as likely to

1 experience minimum wage violations as their coun-
2 terparts born in the United States, and African
3 Americans are 3 times more likely to experience
4 minimum wage violations than their White counter-
5 parts.

6 (4) Wage theft is closely associated with unsafe
7 working conditions.

8 (5) Wage theft—

9 (A) depresses the wages of working fami-
10 lies who are already struggling to make ends
11 meet;

12 (B) strains social services funds;

13 (C) diminishes consumer spending power
14 and hurts local economies;

15 (D) reduces vital State and Federal tax
16 revenues;

17 (E) places law-abiding employers at a com-
18 petitive disadvantage with noncompliant em-
19 ployers;

20 (F) burdens commerce and the free flow of
21 goods; and

22 (G) lowers labor standards throughout
23 labor markets.

24 (6) Low-wage workers are at the greatest risk
25 of suffering from wage theft. A survey of 4,387 low-

1 wage workers in New York, Los Angeles, and Chi-
2 cago found that 68 percent of the workers surveyed
3 had experienced some form of wage theft in the
4 workweek immediately before the survey was con-
5 ducted. These workers experienced a range of wage
6 and hour violations: 26 percent of such workers were
7 not paid minimum wage; 76 percent of such workers
8 who worked more than 40 hours in the workweek
9 immediately before the survey was conducted were
10 not paid at the overtime rate; and, in the year before
11 the survey was conducted, 43 percent of the workers
12 who attempted to address such issues by filing a
13 complaint with their employer or who attempted to
14 form a labor organization experienced retaliation by
15 their employers, including by being fired, suspended,
16 or receiving threats of reductions in their hours or
17 pay.

18 (7) In 2012, State and Federal authorities as
19 well as private attorneys recovered at least
20 \$933,000,000 in wage theft enforcement actions,
21 which was nearly 3 times the value of all bank rob-
22 beries, residential robberies, convenience store and
23 gas station robberies, and street robberies in the
24 United States during that year.

1 (8) A Department of Labor study of wage theft
2 in California and New York found that wage theft
3 deprived workers of 37 percent to 49 percent of
4 their income, pushing at least 15,000 families below
5 the poverty line and driving another 50,000 to
6 100,000 families deeper into poverty.

7 (9) A study analyzing wage theft claims in the
8 State of Washington from 2009 to 2013 estimated
9 that the total economic cost of wage theft to the
10 State totaled more than \$64,000,000 resulting from
11 the lower economic activity and spending of low-
12 wage workers due to their lost wages.

13 (10) A Department of Labor study of wage vio-
14 lations in California and New York found that wage
15 theft deprived families of \$5,600,000 in possible
16 earned income tax credits and resulted in a
17 \$22,000,000 loss in State tax revenue, a
18 \$238,000,000 loss in payroll tax revenue, and a
19 \$113,000,000 loss in Federal income tax revenue.

20 (11) Barriers to addressing wage theft continue
21 to exist decades after the enactment of the Fair
22 Labor Standards Act of 1938 (29 U.S.C. 201 et
23 seq.). These barriers have resulted, in significant
24 part, because enforcement of such Act has not
25 worked as Congress originally intended and because

1 many of the provisions of such Act do not include
2 sufficient penalties to discourage violations. Improve-
3 ments to enforcement and amendments to such Act
4 are necessary to ensure that such Act provides effec-
5 tive protection to individuals subject to wage theft.

6 (12) The lack of a Federal right for employees
7 to receive full compensation at the agreed upon wage
8 rate for all work performed by the employee has re-
9 sulted in workers being able to recover only the ap-
10 plicable minimum wage, or the overtime rate if ap-
11 plicable, when employers engage in wage theft.

12 (13) The lack of a Federal requirement to pro-
13 vide employees with paystubs indicating how their
14 pay is calculated or to allow employees to inspect
15 their employers' payroll records significantly impedes
16 efforts to identify and challenge wage theft.

17 (14) The lack of a Federal requirement to pay
18 employees their final payments in a timely manner
19 upon termination of the employment relationship be-
20 tween the employer and employee has led to unrea-
21 sonable, and sometimes indefinite, delays in com-
22 pensation after an employment relationship ends.

23 (15) While the Fair Labor Standards Act of
24 1938, and regulations promulgated by the Secretary
25 of Labor, as in effect on the day before the date of

1 enactment of this Act, require employers to com-
2 pensate employees at the minimum wage rate and to
3 provide overtime compensation when appropriate,
4 the lack of civil penalties for most violations of these
5 requirements has dampened their effectiveness.

6 (16) While the Fair Labor Standards Act of
7 1938 and regulations promulgated by the Secretary
8 of Labor, as in effect on the day before the date of
9 enactment of this Act, provide employees who are
10 subject to wage theft with the right to unpaid min-
11 imum wages or unpaid overtime compensation plus
12 an additional equal amount as liquidated damages,
13 this low level of damages has proved insufficient to
14 deter employers from stealing the wages of their em-
15 ployees.

16 (17) While the Fair Labor Standards Act of
17 1938 and regulations promulgated by the Secretary
18 of Labor, as in effect on the day before the date of
19 enactment of this Act, require employers to keep
20 records of employees' pay, the lack of remedies be-
21 yond injunctive relief for this requirement diminishes
22 the effectiveness of the requirement.

23 (18) While the Fair Labor Standards Act of
24 1938 and regulations promulgated by the Secretary
25 of Labor, as in effect on the day before the date of

1 enactment of this Act, provide for limited criminal
2 penalties when employers violate the provisions of
3 such Act, the Secretary of Labor rarely resorts to
4 these penalties, causing them to serve as a hollow
5 threat.

6 (19) The statute of limitations under section 6
7 of the Portal-to-Portal Act of 1947 (29 U.S.C. 255),
8 as in effect on the day before the date of enactment
9 of this Act, precludes employees from commencing a
10 claim for wage theft more than 2 years after the
11 cause of action accrued, or more than 3 years after
12 the cause of action accrued if the claim is with re-
13 spect to a willful violation by the employer. Addition-
14 ally, the statute of limitations is not automatically
15 suspended while the Secretary of Labor investigates
16 a complaint. These strict confines of the statute of
17 limitations sometimes result in employees being de-
18 prived of their ability to institute a private lawsuit
19 against their employer in order to recover their sto-
20 len wages.

21 (20) Section 16(b) of the Fair Labor Standards
22 Act of 1938 (29 U.S.C. 216(b)), as in effect on the
23 day before the date of enactment of this Act, re-
24 quires employees to affirmatively “opt-in” in order
25 to be a party plaintiff in a collective action brought

1 by another aggrieved employee seeking to recover
2 stolen wages in court. This provision limits the abil-
3 ity of employees to unite and pursue private lawsuits
4 against employers.

5 (21) Under the penalty structure of the Fair
6 Labor Standards Act of 1938, as in effect on the
7 day before the date of enactment of this Act, many
8 employers who are caught violating such Act con-
9 tinue to violate the Act. A Department of Labor in-
10 vestigation found that one-third of employers who
11 had previously engaged in wage theft continued to
12 do so.

13 (22) The Government Accountability Office and
14 the Department of Labor have recognized that when
15 employers are assessed civil penalties, they are more
16 likely to comply with the law in the future and other
17 employers in the same region—regardless of indus-
18 try—are also more likely to comply with the law.

19 (23) States that have enacted legislation to ad-
20 dress wage theft by increasing the damages to which
21 employees are entitled following violations of wage
22 and hour laws have positively impacted the workers
23 in such States. However, many States have not en-
24 acted such legislation and, worse still, some States
25 do not have any laws protecting workers from wage

1 theft or even agencies to enforce workers' rights to
2 compensation for work. This discrepancy in State
3 laws has resulted in a fragmentation of workers'
4 rights across the United States, with some workers
5 having a measure of protection from wage theft and
6 other workers being left extremely vulnerable to
7 wage theft.

8 (24) Effective enforcement of wage and hour
9 laws is critical to increasing compliance. Given the
10 limited resources available for enforcement, en-
11 hanced strategic enforcement of Federal wage and
12 hour laws is crucial.

13 (25) For enhanced strategic enforcement to be
14 effective, government regulators must work with
15 community stakeholders who have direct knowledge
16 of ongoing violations of Federal wage and hour re-
17 quirements and who are in a position to prevent
18 such violations.

19 (26) Partnerships between regulators, workers,
20 nonprofit organizations, and businesses can increase
21 compliance by educating workers about their rights,
22 collecting evidence, reporting violations, identifying
23 noncompliant employers, and modeling good prac-
24 tices.

1 (27) Partnerships between regulators, workers,
2 nonprofit organizations, and businesses have been
3 successful in combating wage theft. In 2006, the Di-
4 vision of Labor Standards Enforcement of the State
5 of California created a janitorial enforcement team
6 to work closely with a local janitorial watchdog orga-
7 nization. As of 2015, the partnership had resulted in
8 countless administrative, civil, and criminal actions
9 against employers and in the collection of more than
10 \$68,000,000 in back pay for janitorial workers.

11 (28) The Comptroller General of the United
12 States has recommended that the Department of
13 Labor identify ways to leverage its resources to bet-
14 ter combat wage theft by improving services pro-
15 vided through partnerships.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are to prevent wage theft
18 and facilitate the recovery of stolen wages by—

19 (1) strengthening the penalties for engaging in
20 wage theft;

21 (2) giving workers the right to receive, in a
22 timely manner, full compensation for the work they
23 perform, certain disclosures, regular paystubs, and
24 final payments;

1 (3) providing workers with improved tools to re-
2 cover their stolen wages in court; and

3 (4) making assistance available to enhance en-
4 forcement of and compliance with Federal wage and
5 hour laws through—

6 (A) supporting initiatives that address and
7 prevent violations of such laws and assist work-
8 ers in wage recovery;

9 (B) supporting individual entities and de-
10 veloping community partnerships that expand
11 and improve cooperative efforts between en-
12 forcement agencies and community-based orga-
13 nizations in the prevention of wage and hour
14 violations and enforcement of wage and hour
15 laws;

16 (C) expanding outreach to workers in in-
17 dustries or geographic areas identified by the
18 Secretary of Labor as highly noncompliant with
19 Federal wage and hour laws;

20 (D) improving detection of employers who
21 are not complying with such laws and aiding in
22 the identification of violations of such laws; and

23 (E) facilitating the collection of evidence to
24 assist enforcement efforts.

1 **TITLE I—AMENDMENTS TO THE**
2 **FAIR LABOR STANDARDS ACT**
3 **OF 1938**

4 **SEC. 101. REQUIREMENTS TO PROVIDE CERTAIN DISCLO-**
5 **SURES, REGULAR PAYSTUBS, AND FINAL PAY-**
6 **MENTS.**

7 The Fair Labor Standards Act of 1938 is amended
8 by inserting after section 4 (29 U.S.C. 204) the following:

9 **“SEC. 5. REQUIREMENTS TO PROVIDE CERTAIN DISCLO-**
10 **SURES, REGULAR PAYSTUBS, AND FINAL PAY-**
11 **MENTS.**

12 “(a) DISCLOSURES.—

13 “(1) INITIAL DISCLOSURES.—Not later than 15
14 days after the date on which an employer hires an
15 employee who in any workweek is engaged in com-
16 merce or in the production of goods for commerce,
17 or is employed in an enterprise engaged in commerce
18 or in the production of goods for commerce, the em-
19 ployer of such employee shall provide such employee
20 with an initial disclosure containing the information
21 described in paragraph (3). Such initial disclosure
22 shall be—

23 “(A) provided as a written statement or, if
24 the employee so chooses, as a digital document
25 provided through electronic communication; and

1 “(B) made available in the employee’s pri-
2 mary language.

3 “(2) MODIFICATION DISCLOSURES.—Not later
4 than the earlier of 5 days after the date on which
5 any of the information described in paragraph (3)
6 changes with respect to an employee described in
7 paragraph (1) or the date of the next paystub fol-
8 lowing the date on which such information changes,
9 the employer of such employee shall provide the em-
10 ployee with a modification disclosure containing all
11 the information described in paragraph (3).

12 “(3) INFORMATION.—The information de-
13 scribed in this paragraph shall include—

14 “(A) the rate of pay and whether the em-
15 ployee is paid by the hour, shift, day, week, or
16 job, or by salary, piece rate, commission, or
17 other form of compensation;

18 “(B)(i) an indication of whether the em-
19 ployee is being classified by the employer as an
20 employee subject to the minimum wage require-
21 ments of section 6 or as an employee that is ex-
22 empt from (or otherwise not subject to) such
23 requirements as provided under section
24 3(m)(2), 6, 13, or 14; and

1 “(ii) in the case that such employee is not
2 classified as being an employee subject to such
3 minimum wage requirements, an identification
4 of the section described in clause (i) providing
5 for such classification;

6 “(C)(i) an indication of whether the em-
7 ployee is being classified by the employer as an
8 employee subject to the overtime compensation
9 requirements of section 7 or as an employee ex-
10 empt from such requirements as provided under
11 section 7 or 13; and

12 “(ii) in the case that such employee is not
13 classified as being an employee subject to such
14 overtime compensation requirements, an identi-
15 fication of the section described in clause (i)
16 providing for such classification;

17 “(D) the name of the employer and any
18 other name used by the employer to conduct
19 business; and

20 “(E) the physical address of and telephone
21 number for the employer’s main office or prin-
22 cipal place of business, and a mailing address
23 for such office or place of business if the mail-
24 ing address is different than the physical ad-
25 dress.

1 “(b) PAYSTUBS.—

2 “(1) IN GENERAL.—Every employer shall pro-
3 vide each employee of such employer who in any
4 workweek is engaged in commerce or in the produc-
5 tion of goods for commerce, or is employed in an en-
6 terprise engaged in commerce or in the production
7 of goods for commerce, a paystub that corresponds
8 to work performed by the employee during the appli-
9 cable pay period and contains the information re-
10 quired under paragraph (3) in any form provided
11 under paragraph (2).

12 “(2) FORMS.—A paystub required under this
13 subsection shall be a written statement and may be
14 provided in any of the following forms:

15 “(A) As a separate document accom-
16 panying any payment to an employee for work
17 performed during the applicable pay period.

18 “(B) In the case of an employee who re-
19 ceives paychecks from the employer, as a de-
20 tachable statement accompanying each pay-
21 check.

22 “(C) As a digital document provided
23 through electronic communication, subject to
24 the employee affirmatively consenting to receive
25 the paystubs in this form.

1 “(3) CONTENTS.—Each paystub shall contain
2 all of the following information:

3 “(A) The name of the employee.

4 “(B) Except in the case of an employee
5 who is exclusively paid a salary and is exempt
6 from the overtime requirements of section 7,
7 the total number of hours worked by the em-
8 ployee, including the number of hours worked
9 per workweek, during the applicable pay period.

10 “(C) The total gross and net wages paid,
11 and, except in the case of an employee who is
12 exclusively paid a salary and is exempt from the
13 overtime requirements of section 7, the rate of
14 pay for each hour worked during the applicable
15 pay period.

16 “(D) In the case of an employee who is
17 paid any salary, the amount of any salary paid
18 during the applicable pay period.

19 “(E) In the case of an employee employed
20 at piece rates, the number of piece rate units
21 earned, the applicable piece rates, and the total
22 amount paid to the employee per workweek for
23 the applicable pay period in accordance with
24 such piece rates.

1 “(F) The rate of pay per workweek of the
2 employee during the applicable pay period and
3 an explanation of the basis for such rate.

4 “(G) The number of overtime hours per
5 workweek worked by the employee during the
6 applicable pay period and the compensation re-
7 quired under section 7 that is provided to the
8 employee for such hours.

9 “(H) Any additional compensation pro-
10 vided to the employee during the applicable pay
11 period, with an explanation of each type of com-
12 pensation, including any allowances or reim-
13 bursements such as amounts related to meals,
14 clothing, lodging, or any other item, and any
15 cost to the employee associated with such allow-
16 ance or reimbursements.

17 “(I) Itemized deductions from the gross in-
18 come of the employee during the applicable pay
19 period, and an explanation for each deduction.

20 “(J) The date that is the beginning of the
21 applicable pay period and the date that is the
22 end of such applicable pay period.

23 “(K) The name of the employer and any
24 other name used by the employer to conduct
25 business.

1 “(L) The name and phone number of a
2 representative of the employer for contact pur-
3 poses.

4 “(M) Any additional information that the
5 Secretary reasonably requires to be included
6 through notice and comment rulemaking.

7 “(c) FINAL PAYMENTS.—

8 “(1) IN GENERAL.—Not later than 14 days
9 after an individual described in paragraph (4) termi-
10 nates employment with an employer (by action of
11 the employer or the individual), or on the date on
12 which such employer pays other employees for the
13 pay period during which the individual so terminates
14 such employment, whichever date is earlier, the em-
15 ployer shall provide the individual with a final pay-
16 ment, which includes all compensation due to such
17 individual for all time worked and benefits incurred
18 (including retirement, health, leave, fringe, and
19 other benefits) by the individual as an employee for
20 the employer.

21 “(2) CONTINUING WAGES.—An employer who
22 violates the requirement under paragraph (1) shall,
23 for each day, not to exceed 30 days, of such violation
24 provide the individual described in paragraph (4)
25 with compensation at a rate that is equal to the reg-

1 ular rate of compensation, as determined under this
2 Act, to which such individual was entitled when such
3 individual was an employee of such employer.

4 “(3) LIMITATION.—Notwithstanding para-
5 graphs (1) and (2), any individual described in para-
6 graph (4) who intentionally avoids receiving a final
7 payment described in paragraph (1), or who refuses
8 to receive the final payment when fully tendered, re-
9 sulting in the employer violating the requirement
10 under such paragraph, shall not be entitled to the
11 compensation provided under paragraph (2) for the
12 time during which the individual so avoids final pay-
13 ment or refuses to receive the final payment.

14 “(4) INDIVIDUAL.—An individual described in
15 this paragraph is an individual who was employed by
16 the employer, and through such employment, in any
17 workweek, was engaged in commerce or in the pro-
18 duction of goods for commerce, or was employed in
19 an enterprise engaged in commerce or in the produc-
20 tion of goods for commerce.”

21 **SEC. 102. RIGHT TO FULL COMPENSATION.**

22 (a) IN GENERAL.—The Fair Labor Standards Act of
23 1938 is amended by inserting after section 7 (29 U.S.C.
24 207) the following:

1 **“SEC. 8. RIGHT TO FULL COMPENSATION.**

2 “(a) IN GENERAL.—In the case of an employment
3 contract or other employment agreement, including a col-
4 lective bargaining agreement, that specifies that an em-
5 ployer shall compensate an employee (who is described in
6 subsection (b)) at a rate that is higher than the rate other-
7 wise required under this Act, the employer shall com-
8 pensate such employee at the rate specified in such con-
9 tract or other employment agreement.

10 “(b) EMPLOYEE ENGAGED IN COMMERCE.—The re-
11 quirement under subsection (a) shall apply with respect
12 to any employee who in any workweek is engaged in com-
13 merce or in the production of goods for commerce, or is
14 employed in an enterprise engaged in commerce or in the
15 production of goods for commerce.”.

16 (b) CONFORMING AMENDMENT.—The Fair Labor
17 Standards Act of 1938 is amended by repealing section
18 10 (29 U.S.C. 210).

19 **SEC. 103. CIVIL AND CRIMINAL ENFORCEMENT.**

20 (a) PROHIBITED ACTS.—Section 15(a) of the Fair
21 Labor Standards Act of 1938 (29 U.S.C. 215(a)) is
22 amended—

23 (1) in paragraph (1), by striking “section 6 or
24 section 7” and inserting “section 6, 7, or 8”; and

25 (2) in paragraph (2), by striking “section 6 or
26 section 7” and inserting “section 5, 6, 7, or 8”.

1 (b) DAMAGES.—The Fair Labor Standards Act of
2 1938 (29 U.S.C. 201 et seq.) is amended—

3 (1) in section 4(f) (29 U.S.C. 204(f)), in the
4 third sentence, by striking “for unpaid minimum
5 wages, or unpaid overtime compensation, and liq-
6 uidated damages” and inserting “for unpaid wages,
7 or unpaid overtime compensation, as well as interest
8 and liquidated damages,”;

9 (2) in section 6(d)(3) (29 U.S.C. 206(d)(3)), by
10 striking “minimum”;

11 (3) in section 16 (29 U.S.C. 216)—

12 (A) in subsection (b)—

13 (i) by striking “section 6 or section 7”
14 each place it appears and inserting “sec-
15 tion 6, 7, or 8”;

16 (ii) by striking “minimum” each place
17 it appears;

18 (iii) in the first sentence, by striking
19 “and in an additional equal amount as liq-
20 uidated damages” and inserting “, the
21 amount of any interest on such unpaid
22 wages or unpaid overtime compensation ac-
23 crued at the prevailing rate, and an addi-
24 tional amount as liquidated damages that
25 is equal to (subject to the second sentence

1 of this subsection) 2 times such amount of
2 unpaid wages or unpaid overtime com-
3 pensation”;

4 (iv) in the second sentence, by strik-
5 ing “wages lost and an additional equal
6 amount as liquidated damages” and insert-
7 ing “wages lost, including any unpaid
8 wages or any unpaid overtime compensa-
9 tion, the amount of any interest on such
10 wages lost accrued at the prevailing rate,
11 and an additional amount as liquidated
12 damages that is equal to 3 times the
13 amount of such wages lost”;

14 (v) by striking the fifth sentence; and

15 (vi) by adding at the end the fol-
16 lowing: “Notwithstanding chapter 1 of title
17 9, United States Code (commonly known
18 as the ‘Federal Arbitration Act’), or any
19 other law, the right to bring an action, in-
20 cluding a joint, class, or collective claim, in
21 court under this section cannot be waived
22 by an employee as a condition of employ-
23 ment or in a predispute arbitration agree-
24 ment.”; and

25 (B) in subsection (c)—

1 (i) by striking “minimum” each place
2 the term appears;

3 (ii) in the first sentence—

4 (I) by striking “section 6 or 7”
5 and inserting “section 6, 7, or 8”; and

6 (II) by striking “and an addi-
7 tional equal amount as liquidated
8 damages” and inserting “, any inter-
9 est on such unpaid wages or unpaid
10 overtime compensation accrued at the
11 prevailing rate, and an additional
12 amount as liquidated damages that is
13 equal to (subject to the third sentence
14 of this subsection) 2 times such
15 amount of unpaid wages or unpaid
16 overtime compensation”;

17 (iii) in the second sentence, by strik-
18 ing “and an equal amount as liquidated
19 damages.” and inserting “, any interest on
20 such unpaid wages or unpaid overtime
21 compensation accrued at the prevailing
22 rate, and an additional amount as liq-
23 uidated damages that is equal to (subject
24 to the third sentence of this subsection) 2
25 times such amount of unpaid wages or un-

1 paid overtime compensation. In the event
2 that the employer violates section 15(a)(3),
3 the Secretary may bring an action in any
4 court of competent jurisdiction to recover
5 the amount of any wages lost, including
6 any unpaid wages or any unpaid overtime
7 compensation, any interest on such wages
8 lost accrued at the prevailing rate, an addi-
9 tional amount as liquidated damages that
10 is equal to 3 times the amount of such
11 wages lost, and any such legal or equitable
12 relief as may be appropriate.”; and

13 (iv) in the fourth sentence, by striking
14 “sections 6 and 7” and inserting “section
15 6, 7, or 8”; and

16 (4) in section 17 (29 U.S.C. 217), by striking
17 “minimum”.

18 (c) CIVIL FINES.—Section 16(e) of the Fair Labor
19 Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

20 (1) by striking paragraph (2) and inserting the
21 following:

22 “(2)(A) Subject to subparagraph (B), any per-
23 son who violates section 6, 7, or 8, relating to wages,
24 shall be subject to a civil fine that is not to exceed

1 \$22,030 per each employee affected for each initial
2 violation of such section.

3 “(B) Any person who repeatedly or willfully vio-
4 lates section 6, 7, or 8, relating to wages, shall be
5 subject to a civil fine that is not to exceed \$110,150
6 per each employee affected for each such violation.

7 “(C) Any person who violates section
8 3(m)(2)(B) shall be subject to a civil penalty not to
9 exceed \$12,340 for each such violation, as the Sec-
10 retary determines appropriate, in addition to being
11 liable to the employee or employees affected for all
12 tips unlawfully kept, any interest on such wages lost
13 accrued at the prevailing rate, and an additional
14 amount as liquidated damages that is equal to 2
15 times the amount of such wages lost, as described in
16 subsection (b).”;

17 (2) by redesignating paragraphs (3), (4), and
18 (5) as paragraphs (5), (6), and (7), respectively; and

19 (3) by inserting after paragraph (2) the fol-
20 lowing:

21 “(3) Any person who violates subsection (a) or
22 (b) of section 5 shall—

23 “(A) for the initial violation of such sub-
24 section, be subject to a civil fine that is not to
25 exceed \$50 per each employee affected; and

1 “(B) for each repeated or willful violation
2 of such subsection, be subject to a civil fine that
3 is not to exceed \$100 per each employee af-
4 fected.

5 “(4) Any person who violates section 11(c)
6 shall—

7 “(A) for the initial violation, be subject to
8 a civil fine that is not to exceed \$1,000 per
9 each employee affected; and

10 “(B) for each repeated or willful violation,
11 be subject to a civil fine that is not to exceed
12 \$5,000 per each employee affected.”.

13 (d) CRIMINAL PENALTIES.—Section 16(a) of the
14 Fair Labor Standards Act of 1938 (29 U.S.C. 216(a)) is
15 amended—

16 (1) by striking “Any person” and inserting “(1)
17 Any person”;

18 (2) in the first sentence, by striking “\$10,000”
19 and inserting “\$10,000 per each employee affected”;

20 (3) in the second sentence, by striking “No per-
21 son” and inserting “Subject to paragraph (2), no
22 person”; and

23 (4) by adding at the end the following:

24 “(2)(A) Notwithstanding any other provision of
25 this Act, the Secretary shall refer any case involving

1 a covered offender described in subparagraph (B) to
2 the Department of Justice for prosecution.

3 “(B) A covered offender described in this sub-
4 paragraph is a person who willfully violates each of
5 the following:

6 “(i) Section 11(c) by falsifying any records
7 described in such section.

8 “(ii) Section 6, 7, or 8, relating to wages.

9 “(iii) Section 15(a)(3).”.

10 **SEC. 104. RECORDKEEPING.**

11 (a) IN GENERAL.—Section 11(c) of the Fair Labor
12 Standards Act of 1938 (29 U.S.C. 211(c)) is amended by
13 adding at the end the following: “In the event that an em-
14 ployee requests an inspection of the records described in
15 this subsection that pertain to such employee from the em-
16 ployer, orally or in writing, the employer shall provide the
17 employee with a copy of the records for a period of up
18 to 5 years prior to such request being made. Not later
19 than 21 days after an employee requests such an inspec-
20 tion, the employer shall comply with the request.”.

21 (b) REBUTTABLE PRESUMPTION.—Section 15 of the
22 Fair Labor Standards Act of 1938 (29 U.S.C. 215) is
23 amended by adding at the end the following:

24 “(c) In the event that an employer violates section
25 11(c) and any regulations issued pursuant to such section,

1 resulting in a lack of a complete record of an employee’s
2 hours worked or wages owed, the employee’s production
3 of credible evidence and testimony regarding the amount
4 or extent of the work for which the employee was not com-
5 pensated in compliance with the requirements under this
6 Act shall be sufficient to create a rebuttable presumption
7 that the employee’s records are accurate. Such presump-
8 tion shall be rebutted only if the employer produces evi-
9 dence of the precise amount or extent of work performed
10 or evidence to show that the inference drawn from the em-
11 ployee’s evidence is not reasonable.”.

12 **TITLE II—AMENDMENTS TO THE**
13 **PORTAL-TO-PORTAL ACT OF 1947**

14 **SEC. 201. INCREASING AND TOLLING STATUTE OF LIMITA-**
15 **TIONS.**

16 Section 6 of the Portal-to-Portal Act of 1947 (29
17 U.S.C. 255) is amended—

18 (1) in the matter preceding subsection (a), by
19 striking “minimum”;

20 (2) in subsection (a)—

21 (A) by striking “may be commenced within
22 two years” and inserting “may be commenced
23 within 4 years”;

1 (B) by striking “unless commenced within
2 two years” and inserting “unless commenced
3 within 4 years”; and

4 (C) by striking “may be commenced within
5 three years” and inserting “may be commenced
6 within 5 years”;

7 (3) in subsection (d), by striking the period and
8 inserting “; and”; and

9 (4) by adding at the end the following:

10 “(e) with respect to the running of any statutory pe-
11 riod of limitation described in this section, the running
12 of such statutory period shall be deemed suspended during
13 the period beginning on the date on which the Secretary
14 of Labor notifies an employer of an initiation of an inves-
15 tigation or enforcement action and ending on the date on
16 which the Secretary notifies the employer that the matter
17 has been officially resolved by the Secretary.”.

18 **TITLE III—WAGE THEFT PRE-**
19 **VENTION AND WAGE RECOV-**
20 **ERY GRANT PROGRAM**

21 **SEC. 301. DEFINITIONS.**

22 In this title:

23 (1) ADMINISTRATOR.—The term “Adminis-
24 trator” means the Administrator of the Wage and
25 Hour Division of the Department of Labor.

1 (2) COMMUNITY PARTNER.—The term “com-
2 munity partner” means any stakeholder with a com-
3 mitment to enforcing wage and hour laws and pre-
4 venting abuses of such laws, including any—

5 (A) State department of labor;

6 (B) attorney general of a State, or other
7 similar authorized official of a political subdivi-
8 sion thereof;

9 (C) law enforcement agency;

10 (D) consulate;

11 (E) employee or advocate of employees, in-
12 cluding a labor organization, community- and
13 faith-based organization, business association,
14 or nonprofit legal aid organization;

15 (F) academic institution that plans, coordi-
16 nates, and implements programs and activities
17 to prevent wage and hour violations and recover
18 unpaid wages, damages, and penalties; or

19 (G) any municipal agency responsible for
20 the enforcement of local wage and hour laws.

21 (3) COMMUNITY PARTNERSHIP.—The term
22 “community partnership” means a partnership be-
23 tween—

24 (A) a working group consisting of commu-
25 nity partners; and

1 (B) the Department of Labor.

2 (4) ELIGIBLE ENTITY.—The term “eligible enti-
3 ty” means an entity that is any of the following:

4 (A) A nonprofit organization, including
5 such an organization that is a community-based
6 organization, faith-based organization, or labor
7 organization, that provides services and support
8 to employees, including assisting such employ-
9 ees in recovering unpaid wages.

10 (B) An employer.

11 (C) A business association.

12 (D) An institution of higher education, as
13 defined by section 101 of the Higher Education
14 Act of 1965 (20 U.S.C. 1001).

15 (E) A partnership between any of the enti-
16 ties described in subparagraphs (A) through
17 (D).

18 (5) EMPLOY; EMPLOYEE; EMPLOYER.—The
19 terms “employ”, “employee”, and “employer” have
20 the meanings given such terms in section 3 of the
21 Fair Labor Standards Act of 1938 (29 U.S.C. 203).

22 (6) SECRETARY.—The term “Secretary” means
23 the Secretary of Labor.

1 (7) STRATEGIC ENFORCEMENT.—The term
2 “strategic enforcement” means the process by which
3 the Secretary—

4 (A) targets highly noncompliant industries,
5 as identified by the Secretary, using industry-
6 specific structures to influence, and ultimately
7 reform, networks of interconnected employers;

8 (B) analyzes regulatory regimes under
9 which specific industries operate; and

10 (C) modifies the enforcement approach of
11 such regulatory regimes in order to ensure the
12 greatest impact.

13 (8) WAGE AND HOUR LAW.—The term “wage
14 and hour law” means any Federal law enforced by
15 the Wage and Hour Division of the Department of
16 Labor, including any provision of this Act enforced
17 by such division.

18 (9) WAGE AND HOUR VIOLATION.—The term
19 “wage and hour violation” refers to any violation of
20 a Federal law enforced by the Wage and Hour Divi-
21 sion of the Department of Labor, including any pro-
22 vision of this Act enforced by such division.

1 **SEC. 302. WAGE THEFT PREVENTION AND WAGE RECOVERY**
2 **GRANT PROGRAM.**

3 (a) IN GENERAL.—The Secretary, acting through the
4 Administrator, shall provide grants to eligible entities to
5 assist such entities in enhancing the enforcement of wage
6 and hour laws, in accordance with this section and con-
7 sistent with the purposes of this Act.

8 (b) GRANTS.—A grant provided under this section
9 shall be designed to—

10 (1) support an eligible entity in establishing
11 and supporting the activities described in subsection
12 (c)(1); and

13 (2) develop community partnerships to expand
14 and improve cooperative efforts between enforcement
15 agencies and members of the community to—

16 (A) prevent and reduce wage and hour vio-
17 lations; and

18 (B) assist employees in recovering back
19 pay for any such violations.

20 (c) USE OF FUNDS.—

21 (1) PERMISSIBLE ACTIVITIES.—The grants de-
22 scribed in this section shall assist eligible entities in
23 establishing and supporting activities that include—

24 (A) disseminating information and con-
25 ducting outreach and training to educate em-

1 employees about their rights under wage and hour
2 laws;

3 (B) conducting educational training for
4 employers about their obligations under wage
5 and hour laws;

6 (C) conducting orientations and trainings
7 jointly with officials of the Wage and Hour Di-
8 vision of the Department of Labor;

9 (D) providing assistance to employees in
10 filing claims of wage and hour violations;

11 (E) assisting enforcement agencies in con-
12 ducting investigations, including in the collec-
13 tion of evidence and recovering back pay;

14 (F) monitoring compliance with wage and
15 hour laws;

16 (G) performing joint visitations to work-
17 sites that violate wage and hour laws with offi-
18 cials from the Wage and Hour Division of the
19 Department of Labor;

20 (H) establishing networks for education,
21 communication, and participation in the work-
22 place and community;

23 (I) evaluating the effectiveness of pro-
24 grams designed to prevent wage and hour viola-
25 tions and enforce wage and hour laws;

1 (J) recruiting and hiring of staff and vol-
2 unteers;

3 (K) production and dissemination of out-
4 reach and training materials; and

5 (L) any other activities as the Secretary
6 may reasonably prescribe through notice and
7 comment rulemaking.

8 (2) PROHIBITED ACTIVITIES.—Notwithstanding
9 paragraph (1), an eligible entity receiving a grant
10 under this section may not use the grant funds for
11 any purpose reasonably prohibited by the Secretary
12 through notice and comment rulemaking.

13 (d) TERM OF GRANTS.—Each grant made under this
14 section shall be available for expenditure for a period that
15 is not to exceed 3 years.

16 (e) APPLICATIONS.—

17 (1) IN GENERAL.—An eligible entity seeking a
18 grant under this section shall submit an application
19 for such grant to the Secretary in accordance with
20 this subsection.

21 (2) PARTNERSHIPS.—In the case of an eligible
22 entity that is a partnership described in section
23 301(4)(E), the eligible entity may submit a joint ap-
24 plication that designates a single entity as the lead

1 entity for purposes of receiving and disbursing
2 funds.

3 (3) CONTENTS.—An application under this sub-
4 section shall include—

5 (A) a description of a plan for the program
6 that the eligible entity proposes to carry out
7 with a grant under this section, including a
8 long-term strategy and detailed implementation
9 plan that reflects expected participation of, and
10 partnership with, community partners;

11 (B) information on the prevalence of wage
12 and hour violations in each community or State
13 of the eligible entity;

14 (C) information on any industry or geo-
15 graphic area targeted by the plan for such pro-
16 gram;

17 (D) information on the type of outreach
18 and relationship building that will be conducted
19 under such program;

20 (E) information on the training and edu-
21 cation that will be provided to employees and
22 employers under such program; and

23 (F) the method by which the eligible entity
24 will measure results of such program.

25 (f) SELECTION.—

1 (1) COMPETITIVE BASIS.—In accordance with
2 this subsection, the Secretary shall, on a competitive
3 basis, select grant recipients from among eligible en-
4 tities that have submitted an application under sub-
5 section (e).

6 (2) PRIORITY.—In selecting grant recipients
7 under paragraph (1), the Secretary shall give pri-
8 ority to eligible entities that—

9 (A) serve employees in any industry or ge-
10 ographic area that is most highly at risk for
11 noncompliance with wage and hour violations,
12 as identified by the Secretary; and

13 (B) demonstrate past and ongoing work to
14 prevent wage and hour violations or to recover
15 unpaid wages.

16 (3) OTHER CONSIDERATIONS.—In selecting
17 grant recipients under paragraph (1), the Secretary
18 shall also consider—

19 (A) the prevalence of ongoing community
20 support for each eligible entity, including finan-
21 cial and other contributions; and

22 (B) the eligible entity’s past and ongoing
23 partnerships with other organizations.

24 (g) MEMORANDA OF UNDERSTANDING.—

1 (1) IN GENERAL.—Not later than 60 days after
2 receiving a grant under this section, the grant recipi-
3 ent shall negotiate and finalize with the Secretary a
4 memorandum of understanding that sets forth spe-
5 cific goals, objectives, strategies, and activities that
6 will be carried out under the grant by such recipient
7 through a community partnership.

8 (2) SIGNATURES.—A representative of the
9 grant recipient (or, in the case of a grant recipient
10 that is an eligible entity described in section
11 301(4)(E), a representative of each entity that
12 composes the grant recipient) and the Secretary
13 shall sign the memorandum of understanding under
14 this subsection.

15 (3) REVISIONS.—The memorandum of under-
16 standing under this subsection shall be reviewed and
17 revised by the grant recipient and the Secretary each
18 year of the duration of the grant.

19 (h) PERFORMANCE EVALUATIONS.—

20 (1) IN GENERAL.—Each grant recipient under
21 this section shall develop procedures for reporting,
22 monitoring, measuring, and evaluating the activities
23 of each program or project funded under this sec-
24 tion.

1 (2) GUIDELINES.—The procedures required
2 under paragraph (1) shall be in accordance with
3 guidelines established by the Secretary.

4 (i) REVOCATION OR SUSPENSION OF FUNDING.—If
5 the Secretary determines that a recipient of a grant under
6 this section is not in compliance with the terms and re-
7 quirements of the memorandum of understanding under
8 subsection (g), the Secretary may revoke or suspend (in
9 whole or in part) the funding of the grant.

10 (j) USE OF COMPONENTS.—In addition to the Wage
11 and Hour Division, the Secretary (acting through the Ad-
12 ministrators) may use any division or agency of the Depart-
13 ment of Labor in carrying out this title.

14 **SEC. 303. GAO STUDY.**

15 (a) IN GENERAL.—The Comptroller General of the
16 United States shall conduct a study to identify successful
17 programs carried out by grants under section 302, and
18 the elements, policies, or procedures of such programs that
19 can be replicated by other programs carried out by grants
20 under such section.

21 (b) REPORT.—Not later than 3 years after the date
22 of enactment of this Act, the Comptroller General of the
23 United States shall submit a report to the Secretary and
24 Congress containing the results of the study conducted
25 under subsection (a).

1 (c) USE OF INFORMATION.—The Secretary shall use
2 information contained in the report submitted under sub-
3 section (b)—

4 (1) to improve the quality of community part-
5 nership programs assisted or carried out under this
6 title that are in existence as of the publication of the
7 report; and

8 (2) to develop models for new community part-
9 nership programs to be assisted or carried out under
10 this title.

11 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated \$50,000,000
13 for fiscal year 2024 and for each subsequent fiscal year
14 through fiscal year 2027, to remain available until ex-
15 pended, to carry out the grant program under section 302.

16 **TITLE IV—REGULATIONS AND**
17 **EFFECTIVE DATE**

18 **SEC. 401. REGULATIONS.**

19 Not later than 18 months after the date of enactment
20 of this Act, the Secretary of Labor shall promulgate such
21 regulations as are necessary to carry out this Act, and
22 the amendments made by this Act.

23 **SEC. 402. EFFECTIVE DATE.**

24 The amendments made by titles I and II shall take
25 effect on the date that is the earlier of—

1 (1) the date that is 6 months after the date on
2 which the final regulations are promulgated by the
3 Secretary of Labor under section 401; and

4 (2) the date that is 18 months after the date
5 of enactment of this Act.

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