

117TH CONGRESS
2D SESSION

S. 4174

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 SENATE OF THE UNITED STATES

MAY 10, 2022

Mrs. MURRAY (for herself, Mr. SCHATZ, Mr. MARKEY, Mr. WYDEN, Ms. CANTWELL, Mr. CASEY, Mr. BOOKER, Mr. PADILLA, Ms. WARREN, Ms. BALDWIN, Ms. SMITH, Mr. HICKENLOOPER, Mr. BROWN, Mr. SANDERS, Mr. CARDIN, Ms. STABENOW, Mr. VAN HOLLEN, Mr. MURPHY, Mr. MERKLEY, Mrs. GILLIBRAND, Ms. DUCKWORTH, Ms. KLOBUCHAR, Mr. DURBIN, Mrs. FEINSTEIN, Mr. BLUMENTHAL, Ms. HIRONO, Mr. REED, and Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Wage Theft Prevention
3 and Wage Recovery Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

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

17 (2) Wage theft poses a serious and growing
18 problem across industries for working individuals of
19 the United States. Wage theft is widespread and is
20 estimated to cost workers more than
21 \$15,000,000,000 per year. In certain industries,
22 compliance with Federal wage and hour laws is less
23 than 50 percent.

24 (3) Wage theft is closely associated with em-
25 ployment discrimination, with women, immigrants,
26 and racial and ethnic minorities being disproportion-

1 ately affected. Women are significantly more likely
2 to experience minimum wage violations than men,
3 foreign-born workers are nearly 2 times as likely to
4 experience minimum wage violations as their coun-
5 terparts born in the United States, and African
6 Americans are 3 times more likely to experience
7 minimum wage violations than their White counter-
8 parts.

9 (4) Wage theft is closely associated with unsafe
10 working conditions.

11 (5) Wage theft—

12 (A) depresses the wages of working fami-
13 lies who are already struggling to make ends
14 meet;

15 (B) strains social services funds;

16 (C) diminishes consumer spending power
17 and hurts local economies;

18 (D) reduces vital State and Federal tax
19 revenues;

20 (E) places law-abiding employers at a com-
21 petitive disadvantage with noncompliant em-
22 ployers;

23 (F) burdens commerce and the free flow of
24 goods; and

1 (G) lowers labor standards throughout
2 labor markets.

3 (6) Low-wage workers are at the greatest risk
4 of suffering from wage theft. A survey of 4,387 low-
5 wage workers in New York, Los Angeles, and Chi-
6 cago found that 68 percent of the workers surveyed
7 had experienced some form of wage theft in the
8 workweek immediately before the survey was con-
9 ducted. These workers experienced a range of wage
10 and hour violations: 26 percent of such workers were
11 not paid minimum wage; 76 percent of such workers
12 who worked more than 40 hours in the workweek
13 immediately before the survey was conducted were
14 not paid at the overtime rate; and, in the year before
15 the survey was conducted, 43 percent of the workers
16 who attempted to address such issues by filing a
17 complaint with their employer or who attempted to
18 form a labor organization experienced retaliation by
19 their employers, including by being fired, suspended,
20 or receiving threats of reductions in their hours or
21 pay.

22 (7) In 2012, State and Federal authorities as
23 well as private attorneys recovered at least
24 \$933,000,000 in wage theft enforcement actions,
25 which was nearly 3 times the value of all bank rob-

1 beries, residential robberies, convenience store and
2 gas station robberies, and street robberies in the
3 United States during that year.

4 (8) A Department of Labor study of wage theft
5 in California and New York found that wage theft
6 deprived workers of 37 percent to 49 percent of
7 their income, pushing at least 15,000 families below
8 the poverty line and driving another 50,000 to
9 100,000 families deeper into poverty.

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

16 (10) A Department of Labor study of wage vio-
17 lations in California and New York found that wage
18 theft deprived families of \$5,600,000 in possible
19 earned income tax credits and resulted in a
20 \$22,000,000 loss in State tax revenue, a
21 \$238,000,000 loss in payroll tax revenue, and a
22 \$113,000,000 loss in Federal income tax revenue.

23 (11) Barriers to addressing wage theft continue
24 to exist decades after the enactment of the Fair
25 Labor Standards Act of 1938 (29 U.S.C. 201 et

1 seq.). These barriers have resulted, in significant
2 part, because enforcement of such Act has not
3 worked as Congress originally intended and because
4 many of the provisions of such Act do not include
5 sufficient penalties to discourage violations. Improve-
6 ments to enforcement and amendments to such Act
7 are necessary to ensure that such Act provides effec-
8 tive protection to individuals subject to wage theft.

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

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

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

1 (15) While the Fair Labor Standards Act of
2 1938, and regulations promulgated by the Secretary
3 of Labor, as in effect on the day before the date of
4 enactment of this Act, require employers to com-
5 pensate employees at the minimum wage rate and to
6 provide overtime compensation when appropriate,
7 the lack of civil penalties for most violations of these
8 requirements has dampened their effectiveness.

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

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

1 (18) While the Fair Labor Standards Act of
2 1938 and regulations promulgated by the Secretary
3 of Labor, as in effect on the day before the date of
4 enactment of this Act, provide for limited criminal
5 penalties when employers violate the provisions of
6 such Act, the Secretary of Labor rarely resorts to
7 these penalties, causing them to serve as a hollow
8 threat.

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

24 (20) Section 16(b) of the Fair Labor Standards
25 Act of 1938 (29 U.S.C. 216(b)), as in effect on the

1 day before the date of enactment of this Act, re-
2 quires employees to affirmatively “opt-in” in order
3 to be a party plaintiff in a collective action brought
4 by another aggrieved employee seeking to recover
5 stolen wages in court. This provision limits the abil-
6 ity of employees to unite and pursue private lawsuits
7 against employers.

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

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

22 (23) States that have enacted legislation to ad-
23 dress wage theft by increasing the damages to which
24 employees are entitled following violations of wage
25 and hour laws have positively impacted the workers

1 in such States. However, many States have not en-
2 acted such legislation and, worse still, some States
3 do not have any laws protecting workers from wage
4 theft or even agencies to enforce workers' rights to
5 compensation for work. This discrepancy in State
6 laws has resulted in a fragmentation of workers'
7 rights across the United States, with some workers
8 having a measure of protection from wage theft and
9 other workers being left extremely vulnerable to
10 wage theft.

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

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

22 (26) Partnerships between regulators, workers,
23 nonprofit organizations, and businesses can increase
24 compliance by educating workers about their rights,
25 collecting evidence, reporting violations, identifying

1 noncompliant employers, and modeling good prac-
2 tices.

3 (27) Partnerships between regulators, workers,
4 nonprofit organizations, and businesses have been
5 successful in combating wage theft. In 2006, the Di-
6 vision of Labor Standards Enforcement of the State
7 of California created a janitorial enforcement team
8 to work closely with a local janitorial watchdog orga-
9 nization. As of 2015, the partnership had resulted in
10 countless administrative, civil, and criminal actions
11 against employers and in the collection of more than
12 \$68,000,000 in back pay for janitorial workers.

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

18 **SEC. 3. PURPOSES.**

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

21 (1) strengthening the penalties for engaging in
22 wage theft;

23 (2) giving workers the right to receive, in a
24 timely manner, full compensation for the work they

1 perform, certain disclosures, regular paystubs, and
2 final payments;

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

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

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

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

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

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

1 (E) facilitating the collection of evidence to
2 assist enforcement efforts.

3 **TITLE I—AMENDMENTS TO THE**
4 **FAIR LABOR STANDARDS ACT**
5 **OF 1938**

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

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

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

14 “(a) DISCLOSURES.—

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

1 “(A) provided as a written statement or, if
2 the employee so chooses, as a digital document
3 provided through electronic communication; and

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

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

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

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

21 “(B)(i) an indication of whether the em-
22 ployee is being classified by the employer as an
23 employee subject to the minimum wage require-
24 ments of section 6 or as an employee that is ex-
25 empt from (or otherwise not subject to) such

1 requirements as provided under section
2 3(m)(2), 6, 13, or 14; and

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

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

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

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

22 “(E) the physical address of and telephone
23 number for the employer’s main office or prin-
24 cipal place of business, and a mailing address
25 for such office or place of business if the mail-

1 ing address is different than the physical ad-
2 dress.

3 “(b) PAYSTUBS.—

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

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

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

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

24 “(C) As a digital document provided
25 through electronic communication, subject to

1 the employee affirmatively consenting to receive
2 the paystubs in this form.

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

5 “(A) The name of the employee.

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

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

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

21 “(E) In the case of an employee employed
22 at piece rates, the number of piece rate units
23 earned, the applicable piece rates, and the total
24 amount paid to the employee per workweek for

1 the applicable pay period in accordance with
2 such piece rates.

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

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

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

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

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

1 “(K) The name of the employer and any
2 other name used by the employer to conduct
3 business.

4 “(L) The name and phone number of a
5 representative of the employer for contact pur-
6 poses.

7 “(M) Any additional information that the
8 Secretary reasonably requires to be included
9 through notice and comment rulemaking.

10 “(c) FINAL PAYMENTS.—

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

24 “(2) CONTINUING WAGES.—An employer who
25 violates the requirement under paragraph (1) shall,

1 for each day, not to exceed 30 days, of such violation
2 provide the individual described in paragraph (4)
3 with compensation at a rate that is equal to the reg-
4 ular rate of compensation, as determined under this
5 Act, to which such individual was entitled when such
6 individual was an employee of such employer.

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

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

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

2 (a) IN GENERAL.—The Fair Labor Standards Act of
3 1938 is amended by inserting after section 7 (29 U.S.C.
4 207) the following:

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

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

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

20 (b) CONFORMING AMENDMENT.—The Fair Labor
21 Standards Act of 1938 is amended by repealing section
22 10 (29 U.S.C. 210).

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

24 (a) PROHIBITED ACTS.—Section 15(a) of the Fair
25 Labor Standards Act of 1938 (29 U.S.C. 215(a)) is
26 amended—

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

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

5 (b) DAMAGES.—The Fair Labor Standards Act of
6 1938 (29 U.S.C. 201 et seq.) is amended—

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

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

15 (3) in section 16 (29 U.S.C. 216)—

16 (A) in subsection (b)—

17 (i) by striking “section 6 or section 7”
18 each place it appears and inserting “sec-
19 tion 6, 7, or 8”;

20 (ii) by striking “minimum” each place
21 it appears;

22 (iii) in the first sentence, by striking
23 “and in an additional equal amount as liq-
24 uidated damages” and inserting “, the
25 amount of any interest on such unpaid

1 wages or unpaid overtime compensation ac-
2 crued at the prevailing rate, and an addi-
3 tional amount as liquidated damages that
4 is equal to (subject to the second sentence
5 of this subsection) 2 times such amount of
6 unpaid wages or unpaid overtime com-
7 pensation”;

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

18 (v) by striking the fifth sentence; and

19 (vi) by adding at the end the fol-
20 lowing: “Notwithstanding chapter 1 of title
21 9, United States Code (commonly known
22 as the ‘Federal Arbitration Act’), or any
23 other law, the right to bring an action, in-
24 cluding a joint, class, or collective claim, in
25 court under this section cannot be waived

1 by an employee as a condition of employ-
2 ment or in a pre-dispute arbitration agree-
3 ment.”; and

4 (B) in subsection (c)—

5 (i) by striking “minimum” each place
6 the term appears;

7 (ii) in the first sentence—

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

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

21 (iii) in the second sentence, by strik-
22 ing “and an equal amount as liquidated
23 damages.” and inserting “, any interest on
24 such unpaid wages or unpaid overtime
25 compensation accrued at the prevailing

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

17 (iv) in the fourth sentence, by striking
18 “sections 6 and 7” and inserting “section
19 6, 7, or 8”; and

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

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

24 (1) by striking paragraph (2) and inserting the
25 following:

1 “(2)(A) Subject to subparagraph (B), any per-
2 son who violates section 6, 7, or 8, relating to wages,
3 shall be subject to a civil fine that is not to exceed
4 \$22,030 per each employee affected for each initial
5 violation of such section.

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

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

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

22 (3) by inserting after paragraph (2) the fol-
23 lowing:

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

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

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

8 “(4) Any person who violates section 11(c)
9 shall—

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

13 “(B) for each repeated or willful violation,
14 be subject to a civil fine that is not to exceed
15 \$5,000 per each employee affected.”.

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

19 (1) by striking “Any person” and inserting “(1)
20 Any person”;

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

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

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

2 “(2)(A) Notwithstanding any other provision of this
3 Act, the Secretary shall refer any case involving a covered
4 offender described in subparagraph (B) to the Department
5 of Justice for prosecution.

6 “(B) A covered offender described in this subpara-
7 graph is a person who willfully violates each of the fol-
8 lowing:

9 (i) Section 11(c) by falsifying any records de-
10 scribed in such section.

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

12 (iii) Section 15(a)(3).”

13 **SEC. 104. RECORDKEEPING.**

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

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

4 “(c) In the event that an employer violates section
 5 11(c) and any regulations issued pursuant to such section,
 6 resulting in a lack of a complete record of an employee’s
 7 hours worked or wages owed, the employee’s production
 8 of credible evidence and testimony regarding the amount
 9 or extent of the work for which the employee was not com-
 10 pensated in compliance with the requirements under this
 11 Act shall be sufficient to create a rebuttable presumption
 12 that the employee’s records are accurate. Such presump-
 13 tion shall be rebutted only if the employer produces evi-
 14 dence of the precise amount or extent of work performed
 15 or evidence to show that the inference drawn from the em-
 16 ployee’s evidence is not reasonable.”.

17 **TITLE II—AMENDMENTS TO THE**
 18 **PORTAL-TO-PORTAL ACT OF 1947**

19 **SEC. 201. INCREASING AND TOLLING STATUTE OF LIMITA-**
 20 **TIONS.**

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

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

25 (2) in subsection (a)—

1 (A) by striking “may be commenced within
2 two years” and inserting “may be commenced
3 within 4 years”;

4 (B) by striking “unless commenced within
5 two years” and inserting “unless commenced
6 within 4 years”; and

7 (C) by striking “may be commenced within
8 three years” and inserting “may be commenced
9 within 5 years”;

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

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

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

21 **TITLE III—WAGE THEFT PRE-**
22 **VENTION AND WAGE RECOV-**
23 **ERY GRANT PROGRAM**

24 **SEC. 301. DEFINITIONS.**

25 In this title:

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

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

8 (A) State department of labor;

9 (B) attorney general of a State, or other
10 similar authorized official of a political subdivi-
11 sion thereof;

12 (C) law enforcement agency;

13 (D) consulate;

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

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

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

1 (3) COMMUNITY PARTNERSHIP.—The term
2 “community partnership” means a partnership be-
3 tween—

4 (A) a working group consisting of commu-
5 nity partners; and

6 (B) the Department of Labor.

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

9 (A) A nonprofit organization, including
10 such an organization that is a community-based
11 organization, faith-based organization, or labor
12 organization, that provides services and support
13 to employees, including assisting such employ-
14 ees in recovering unpaid wages.

15 (B) An employer.

16 (C) A business association.

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

20 (E) A partnership between any of the enti-
21 ties described in subparagraphs (A) through
22 (D).

23 (5) EMPLOY; EMPLOYEE; EMPLOYER.—The
24 terms “employ”, “employee”, and “employer” have

1 the meanings given such terms in section 3 of the
2 Fair Labor Standards Act of 1938 (29 U.S.C. 203).

3 (6) SECRETARY.—The term “Secretary” means
4 the Secretary of Labor.

5 (7) STRATEGIC ENFORCEMENT.—The term
6 “strategic enforcement” means the process by which
7 the Secretary—

8 (A) targets highly noncompliant industries,
9 as identified by the Secretary, using industry-
10 specific structures to influence, and ultimately
11 reform, networks of interconnected employers;

12 (B) analyzes regulatory regimes under
13 which specific industries operate; and

14 (C) modifies the enforcement approach of
15 such regulatory regimes in order to ensure the
16 greatest impact.

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

22 (9) WAGE AND HOUR VIOLATION.—The term
23 “wage and hour violation” refers to any violation of
24 a Federal law enforced by the Wage and Hour Divi-

1 sion of the Department of Labor, including any pro-
2 vision of this Act enforced by such division.

3 **SEC. 302. WAGE THEFT PREVENTION AND WAGE RECOVERY**
4 **GRANT PROGRAM.**

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

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

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

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

18 (A) prevent and reduce wage and hour vio-
19 lations; and

20 (B) assist employees in recovering back
21 pay for any such violations.

22 (c) USE OF FUNDS.—

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

1 (A) disseminating information and con-
2 ducting outreach and training to educate em-
3 ployees about their rights under wage and hour
4 laws;

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

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

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

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

16 (F) monitoring compliance with wage and
17 hour laws;

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

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

1 (I) evaluating the effectiveness of pro-
2 grams designed to prevent wage and hour viola-
3 tions and enforce wage and hour laws;

4 (J) recruiting and hiring of staff and vol-
5 unteers;

6 (K) production and dissemination of out-
7 reach and training materials; and

8 (L) any other activities as the Secretary
9 may reasonably prescribe through notice and
10 comment rulemaking.

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

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

19 (e) APPLICATIONS.—

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

24 (2) PARTNERSHIPS.—In the case of an eligible
25 entity that is a partnership described in section

1 301(4)(E), the eligible entity may submit a joint ap-
2 plication that designates a single entity as the lead
3 entity for purposes of receiving and disbursing
4 funds.

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

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

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

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

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

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

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

3 (f) SELECTION.—

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

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

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

16 (B) demonstrate past and ongoing work to
17 prevent wage and hour violations or to recover
18 unpaid wages.

19 (3) OTHER CONSIDERATIONS.—In selecting
20 grant recipients under paragraph (1), the Secretary
21 shall also consider—

22 (A) the prevalence of ongoing community
23 support for each eligible entity, including finan-
24 cial and other contributions; and

1 (B) the eligible entity's past and ongoing
2 partnerships with other organizations.

3 (g) MEMORANDA OF UNDERSTANDING.—

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

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

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

22 (h) PERFORMANCE EVALUATIONS.—

23 (1) IN GENERAL.—Each grant recipient under
24 this section shall develop procedures for reporting,
25 monitoring, measuring, and evaluating the activities

1 of each program or project funded under this sec-
2 tion.

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

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

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

16 **SEC. 303. GAO STUDY.**

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

23 (b) REPORT.—Not later than 3 years after the date
24 of enactment of this Act, the Comptroller General of the
25 United States shall submit a report to the Secretary and

1 Congress containing the results of the study conducted
2 under subsection (a).

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

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

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

13 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

14 There is authorized to be appropriated \$50,000,000
15 for fiscal year 2023 and for each subsequent fiscal year
16 through fiscal year 2026, to remain available until ex-
17 pended, to carry out the grant program under section 302.

18 **TITLE IV—REGULATIONS AND**
19 **EFFECTIVE DATE**

20 **SEC. 401. REGULATIONS.**

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

1 **SEC. 402. EFFECTIVE DATE.**

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

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

7 (2) the date that is 18 months after the date
8 of enactment of this Act.

○