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Are You *Really* an Independent Contractor?

Education Effort to Help Honest Business Owners and Workers While Punishing Scofflaws Who Knowingly Break the Law

CHICAGO – A new initiative to level the playing field for businesses that lose work to lower-bidding companies that purposefully misidentify workers as independent contractors will protect workers and reward companies that follow the law, officials announced today. The education and enforcement effort is part of Gov. Pat Quinn’s plan to create jobs and rebuild the economy by assisting honest business owners and punishing those who break the law.

“Hiding a full-time employee as an independent contractor creates an unfair competitive advantage. It artificially lowers the costs for the business owner who breaks the law, undermining and out-bidding the honest business owner who follows the rules,” Gov. Quinn said. “Stopping this fraud means business owners will compete fairly, workers will be paid the wages and overtime they earn, and funds set aside to help someone when they are hurt or unemployed no longer will be short-changed. This initiative rewards those who do it right and punishes those who knowingly do it wrong.”

Misclassifying employers artificially lower their costs because they do not pay unemployment insurance and workers’ compensation for their employees. Law-abiding businesses that properly classify their workers subsidize the misclassifying scofflaws. As a result, the honest business owner pays higher unemployment insurance, workers’ compensation and general payroll taxes to make up for those breaking the law.

“This issue touches everyone right in the pocketbook. Misclassification robs workers of hard-earned wages and puts business owners who play by the rules at a competitive disadvantage by as much as 30 percent,” Department of Labor Director Joseph Costigan said. “By gaming the system, these predatory business owners harm our economic growth, tamp-down our wages, and poison the relationship between labor and management.”

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In 2010, the White House estimated increased enforcement nationally could yield in the next decade \$7 billion through proper payments and penalties.

Details on the educational and fraud-reporting components are available at www.illinoismisclassification.com. The Illinois Department of Labor, Illinois Department of Employment Security, Illinois Department of Revenue and Illinois Workers' Compensation Commission are working jointly to increase awareness, help responsible business owners, and punish fraud.

“Competitive advantages should come from hard work, not cheating,” Illinois Department of Employment Security Director Jay Rowell said. “This effort is not about those companies who make an honest mistake. Rather, it targets those who knowingly break the law.”

Generally speaking, to be considered an independent contractor, a worker must be free from direction or control. A worker is not an independent contractor just because an employer designates him or her as such – even if the worker agrees to the designation. Employers breaking the law could face fines of at least \$10,000 and up to 24 percent interest on failed payments.

“This misclassification hurts employers who are paying workers' compensation insurance to take care of injured workers and they are put at a competitive disadvantage by employers who fail to follow the law and provide coverage for their employees,” said Mitch Weisz, Chairman of the Illinois Workers' Compensation Commission. “We must hold accountable the business owners who knowingly misclassify workers.”

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