



Simplify Employee Classification

A complicated worker classification system harms businesses that pay proper employment taxes and support their employees. It is too easy to misclassify employees as independent contractors—either intentionally or unintentionally. This situation denies workers access to the social safety net, shifts costs to the rest of us, and creates an uneven playing field for responsible employers to compete. This practice is detrimental to businesses, weakens the middle class, and robs the state of much-needed revenue.

Incorrect worker classification strips hardworking Washingtonians of **earned wages**, creates an **uneven playing field** by putting responsible employers at a competitive disadvantage, and **costs the state** significant revenue.

When workers are misclassified as “independent contractors,” legitimate businesses are forced to pay more than their fair share in taxes, unemployment insurance, and workers’ compensation premiums. Businesses that profit—intentionally or unintentionally—from employee misclassification pay little or no taxes and underpay workers, which puts an additional tax burden on businesses that do pay unemployment and workers’ compensation premiums, and the minimum wage. This practice also shifts risk to workers who should otherwise be covered by these protections and denies them ac-

cess to Social Security retirement benefits, which exacerbates the retirement crisis our country faces.

But it doesn’t have to be this way.

By passing HB 1515/SB 5513, the Legislature will:

- **Get workers benefits.** Unemployment insurance, workers’ compensation, and prevailing and minimum wage coverage are important benefits that underpin the middle class. Improper classification of workers as independent contractors denies workers these benefits, and makes employees more expensive for everyone else.
- **Create clarity.** The current independent contractor tests can be confusing for some small business employers, and are different for each public program a person is considering. Passage of this legislation will create one test to apply across most areas of state government,

making it easy to understand who is, and who is not, an independent contractor.

■ **Promote fairness.** Loopholes and ambiguity in current law makes it far too easy to intentionally classify workers as independent contractors. That makes it harder for employers that pay employment taxes and do the right thing to compete. This legislation will level the playing field by ensuring that businesses aren't incentivised to seek profits by deliberately misclassifying workers and undermining employers that support the middle-class jobs.

■ **Raise revenue.** By making it harder to misclassify workers as independent contractors, ensures that more workers will be covered by the wage standards. Their increased purchasing power will generate more tax revenue. Their hours of work will also generate premiums for unemployment and workers' compensation, which lowers costs for the system as a whole, saving money for employers.

What does HB 1515/SB 5513 actually do?

This legislation creates one clear test for independent contractors, so that the rules are the same for the minimum wage, prevailing wage, workers' compensation, and for unemployment insurance. It also creates enforcement provisions so workers can more easily correct their status.

What does the test entail?

To be an independent contractor, the worker must:

1. Be free from direction and control over the work or services they perform.
2. Perform work outside the usual course of business for the contracting employer.
3. Be in an independently established trade or occupation, and set their own prices.
4. Have an account with the Department of Revenue.
5. File taxes with the IRS.
6. Have a separate set of books or records that reflect income and expenses.
7. Be licensed and registered as a contractor if performing construction work.



Will this eliminate independent contractors?

No. This bill simply clarifies that to classify workers as independent contractors, that contractor must truly be independent. This bill would not affect cosmetologists, barbers, hair stylists, and other booth renters.

Does this bill end Network Marketing, Multi-Level Marketing, or Referral Marketing jobs?

No. People who work independently selling products from Mary Kay, Avon, Vector, Rodan+Fields and network marketing companies will continue to be able to do so.

How much revenue will it generate?

While it is hard to tell exactly how much revenue this legislation will generate, we can look to examples in other states and extrapolate. A 2007 Unregistered Business Study estimates that unpaid social insurance premiums and state taxes in Washington cost the state \$274 million. New York passed the Wage Theft Prevention Act in 2011 and estimated nearly \$427 million per year would be recovered by clamping down on illegal classification and underpayment of wages.



In addition to Simplifying Employee Classification, the Washington State Labor Council, AFL-CIO is supporting a range of issues that address economic opportunity and justice. Learn more at www.wslc.org or www.TheStand.org.

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