



**EXECUTIVE ORDER #20**

**Relating to the Creation of the Joint Enforcement Task Force on Payroll Fraud and Worker Misclassification**

**WHEREAS**, a significant number of employers in Wisconsin and elsewhere are improperly classifying individuals they hire as "independent contractors" even when those workers should be classified as employees;

**WHEREAS**, in 2009 the Wisconsin Department of Workforce Development, Unemployment Insurance Division found that 44% of the workers investigated during employer audits had been misclassified as independent contractors;

**WHEREAS**, from January 2016 to April 2019, the Worker Misclassification Section of the Department of Workforce Development conducted 1,963 investigations, with 422 resulting in audits. The 422 audits found 5,841 workers misclassified, found under-reported gross wages of almost \$70 million, and assessed approximately \$1.8 million in unemployment insurance taxes, interest, and penalties;

**WHEREAS**, worker misclassification denies vulnerable workers legal protections and benefits;

**WHEREAS**, this fraudulent practice also results in millions of dollars of losses to state government and taxpayers due to underpayments of wages, unemployment insurance contributions, worker's compensation insurance, and payroll taxes;

**WHEREAS**, employers that misclassify workers as independent contractors gain an unlawful competitive advantage that allows them to under-bid and out-compete law-abiding employers;

**WHEREAS**, enforcement activities in this area have historically been divided among different agencies, which can reduce the efficiency and effectiveness of enforcement without intentional collaboration;

**WHEREAS**, research and experience in other states suggest that enforcement efforts to address the problem of misclassification can be enhanced and made more efficient through interagency cooperation, information-sharing, and joint enforcement efforts against serious violators; and

**WHEREAS**, research and experience in other states suggest that the creation of a joint task force has proven to be an effective mechanism for coordinating, enhancing, and streamlining enforcement in this area.

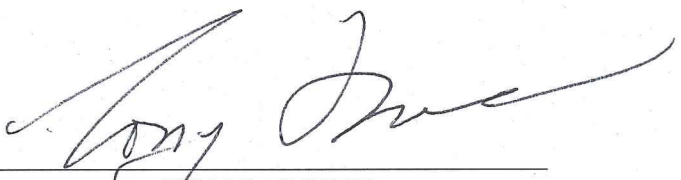
**NOW, THEREFORE, I, TONY EVERS**, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the Laws of the State, including Section 14.019 of the Wisconsin Statutes, do hereby create the Joint Enforcement Task Force on Worker Misclassification ("Task Force") and order the following:

1. The Task Force shall be staffed by the Department of Workforce Development with technical assistance provided by staff of other agencies as needed. The Task Force shall consist of:
  - a. The Secretary of Workforce Development or a designee, who shall serve as the chair;
  - b. The Attorney General or a designee;
  - c. The Secretary of the Department of Revenue or a designee;
  - d. The Commissioner of Insurance or a designee;
  - e. The Administrator of the Worker's Compensation Division of the Department of Workforce Development;
  - f. The Administrator of the Unemployment Insurance Division of the Department of Workforce Development;
  - g. The Administrator of the Equal Rights Division of the Department of Workforce Development;
  - h. Other individuals appointed by the Governor to serve at the pleasure of the Governor, including at least one individual representing workers and at least one individual from the business community in an industry affected by misclassification, such as construction.
  
2. The Task Force shall facilitate coordination of investigation and enforcement of worker misclassification matters by the Department of Workforce Development, Department of Revenue, Commissioner of Insurance, Department of Justice, and other relevant agencies. This includes, but is not limited to:
  - a. Reviewing the work of the Worker Misclassification Task Force established by the Department of Workforce Development in October 2008, including its final report of June 2009, and the recommendations contained therein;
  - b. Examining and evaluating existing misclassification enforcement by agencies and reviewing the subsequent work on this issue by the Department of Workforce Development Misclassification Section;
  - c. Facilitating the sharing among the Task Force members of information relating to suspected worker misclassification violations, in a timely manner and to the maximum extent permitted by law;
  - d. Developing recommendations for pooling, focusing, and targeting investigative and enforcement resources;
  - e. Assessing existing methods, both within Wisconsin and in other jurisdictions, of preventing, investigating, and taking enforcement action against worker misclassification violations, and to develop best practices for participating agencies to improve their prevention and enforcement efforts;
  - f. Facilitating the filing of complaints and identification of potential violators;
  - g. Facilitating cooperation and participation of local district attorneys and other relevant state and federal agencies;
  - h. Working cooperatively with business, labor, and community groups interested in reducing worker misclassification, including but not limited to:
    - i. Seeking ways to prevent worker misclassifications, such as through the further dissemination of educational materials regarding the legal differences between independent contractors and employees; and
    - ii. Enhancing mechanisms for identifying and reporting worker misclassification where it does occur;
  - i. Increasing public awareness of the illegal nature of and harms inflicted by worker misclassification;
  - j. Working cooperatively with federal, state, and local social services agencies to aid vulnerable populations that have been exploited by

- worker misclassification, including but not limited to immigrant workers; and
- k. Reviewing statutes and regulations related to worker misclassification and recommending any appropriate changes to relevant legislation or administrative rules.
3. The Task Force shall issue a report to the Governor on or before March of each year, which shall:
- a. Describe the accomplishments and recommendations of the Task Force;
  - b. Include the amounts of wages, premiums, taxes, and other payments or penalties collected with coordinated agency activities, as well as the number of employers cited for legal violations related to misclassification and the approximate number of workers affected;
  - c. Identify any administrative or legal barriers impeding the more effective agency coordination, including any barriers to information sharing or joint action;
  - d. Propose, after consultation with representatives of business and organized labor, members of the legislature and other agencies, appropriate administrative, legislative, or regulatory changes to:
    - i. Reduce or eliminate any barriers to coordinated agency investigations;
    - ii. Prevent worker misclassification from occurring;
    - iii. Investigate potential violations of the laws governing worker misclassification; and
    - iv. Improve enforcement where such violations are found to have occurred; and
  - e. Identify successful mechanisms for preventing worker misclassification, and thereby reducing the need for greater enforcement.
4. Every agency, department, office, division, or public authority of the State of Wisconsin shall cooperate with the Task Force and furnish such information and assistance as the Task Force determines is reasonably necessary to accomplish its purposes.



**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done in the City of Madison this fifteenth Day of April in the year of two thousand nineteen.

  
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TONY EVERS  
Governor

By the Governor:

  
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DOUGLAS LA FOLLETTE  
Secretary of State