

116TH CONGRESS
1ST SESSION

S. 2101

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

JULY 11, 2019

Mrs. MURRAY (for herself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. CASEY, Ms. DUCKWORTH, Mr. DURBIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HIRONO, Mr. KAINE, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MERKLEY, Mr. MURPHY, Mr. PETERS, Mr. SANDERS, Mr. SCHATZ, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, and Mr. WYDEN) 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 minorities being disproportionately affected.

1 Women are significantly more likely to experience
2 minimum wage violations than men, foreign-born
3 workers are nearly 2 times as likely to experience
4 minimum wage violations as their counterparts born
5 in the United States, and African Americans are 3
6 times more likely to experience minimum wage viola-
7 tions than their White counterparts.

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

10 (5) Wage theft—

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

14 (B) strains social services funds;

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

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

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

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

24 (G) lowers labor standards throughout
25 labor markets.

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

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

1 gas station robberies, and street robberies in the
2 United States during that year.

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

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

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

22 (11) Barriers to addressing wage theft continue
23 to exist decades after the enactment of the Fair
24 Labor Standards Act of 1938 (29 U.S.C. 201 et
25 seq.). These barriers have resulted, in significant

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

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

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

19 (14) The lack of a Federal requirement to pay
20 employees their final payments in a timely manner
21 upon termination of the employment relationship be-
22 tween the employer and employee has led to unrea-
23 sonable, and sometimes indefinite, delays in com-
24 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 violations of these re-
8 quirements 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 for
24 this requirement diminishes the effectiveness of the
25 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 in effect on the day before the date of enactment of
12 this Act, precludes employees from bringing claims
13 for wage theft 2 years after the cause of action ac-
14 crued, or 3 years after the cause of action accrued
15 if the claim is with respect to a willful violation by
16 the employer. Additionally, the statute of limitations
17 is not suspended while the Secretary of Labor inves-
18 tigates a complaint. These strict confines of the stat-
19 ute of limitations sometimes result in employees
20 being deprived of their ability to institute a private
21 lawsuit against their employer in order to recover
22 their stolen wages.

23 (20) Section 16(b) of the Fair Labor Standards
24 Act of 1938 (29 U.S.C. 216(b)), as in effect on the
25 day before the date of enactment of this Act, re-

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

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

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

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

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

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

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

21 (26) Partnerships between regulators, workers,
22 nonprofit organizations, and businesses can increase
23 compliance by educating workers about their rights,
24 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).

24 “(2) MODIFICATION DISCLOSURES.—Not later
25 than 15 days after the date on which any of the in-

1 formation described in paragraph (3) changes with
2 respect to an employee described in paragraph (1),
3 the employer of such employee shall provide the em-
4 ployee with a modification disclosure containing all
5 the information described in paragraph (3).

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

8 “(A) the rate of pay and whether the em-
9 ployee is paid by the hour, shift, day, week, or
10 job, or by salary, piece rate, commission, or
11 other form of compensation;

12 “(B) an indication of whether the employee
13 is being classified by the employer as an em-
14 ployee subject to the maximum hours and over-
15 time compensation requirements of section 7 or
16 as an employee exempt from such requirements
17 as provided under section 13;

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

21 “(D) the physical address of and telephone
22 number for the employer’s main office or prin-
23 ciple place of business, and a mailing address
24 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) In the case of an employee who is
7 paid an hourly wage, an employee who is em-
8 ployed at piece rates, or an employee who is
9 paid a salary and is not exempt from the over-
10 time requirements of section 7, the total num-
11 ber of hours worked by the employee, including
12 the number of hours worked per workweek, dur-
13 ing the applicable pay period.

14 “(C) The total gross and net wages paid,
15 and, in the case of an employee who is paid an
16 hourly wage, an employee who is employed at
17 piece rates, or an employee who is paid a salary
18 and is not exempt from the overtime require-
19 ments of section 7, the rate of pay for each
20 hour worked during the applicable pay period.

21 “(D) In the case of an employee who is
22 paid a salary in lieu of an hourly wage, the
23 amount of salary paid during the applicable pay
24 period.

1 “(E) In the case of an employee employed
2 at piece rates, the number of piece rate units
3 earned, the applicable piece rates, and the total
4 amount paid to the employee for the applicable
5 pay period in accordance with such piece rates.

6 “(F) The rate of pay of the employee dur-
7 ing the applicable pay period and an expla-
8 nation of the basis for such rate.

9 “(G) The number of overtime hours
10 worked by the employee during the applicable
11 pay period and the compensation required
12 under section 7 that is provided to the employee
13 for such hours.

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

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

1 “(J) The date that is the beginning of the
2 applicable pay period and the date that is the
3 end of such applicable pay period.

4 “(K) The name of the employer and any
5 other name used by the employer to conduct
6 business.

7 “(L) The name and phone number of a
8 representative of the employer for contact pur-
9 poses.

10 “(M) Any additional information that the
11 Secretary reasonably requires to be included
12 through notice and comment rulemaking.

13 “(c) FINAL PAYMENTS.—

14 “(1) IN GENERAL.—Not later than 14 days
15 after an individual described in paragraph (4) termi-
16 nates employment with an employer (by action of
17 the employer or the individual), or on the date on
18 which such employer pays other employees for the
19 pay period during which the individual so terminates
20 such employment, whichever date is earlier, the em-
21 ployer shall provide the individual with a final pay-
22 ment, by compensating such individual for any un-
23 compensated hours worked or benefits incurred by
24 the individual as an employee for the employer.

1 “(2) CONTINUING WAGES.—An employer who
2 violates the requirement under paragraph (1) shall,
3 for each day, not to exceed 30 days, of such violation
4 provide the individual described in paragraph (4)
5 with compensation at a rate that is equal to the reg-
6 ular rate of compensation to which such individual
7 was entitled when such individual was an employee
8 of such employer.

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

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

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

2 Section 6 of the Fair Labor Standards Act of 1938
3 (29 U.S.C. 206) is amended by adding at the end the fol-
4 lowing:

5 “(h) **RIGHT TO FULL COMPENSATION.**—

6 “(1) **IN GENERAL.**—In the case of an employ-
7 ment contract or other employment agreement, in-
8 cluding a collective bargaining agreement, that speci-
9 fies that an employer shall compensate an employee
10 (who is described in paragraph (2)) at a rate that
11 is higher than the rate provided under subsection
12 (a), the employer shall compensate such employee at
13 the rate specified in such contract or other employ-
14 ment agreement.

15 “(2) **EMPLOYEE ENGAGED IN COMMERCE.**—The
16 requirement under paragraph (1) shall apply with
17 respect to any employee who in any workweek is en-
18 gaged in commerce or in the production of goods for
19 commerce, or is employed in an enterprise engaged
20 in commerce or in the production of goods for com-
21 merce.”.

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

23 (a) **DAMAGES.**—The Fair Labor Standards Act of
24 1938 (29 U.S.C. 201 et seq.), as amended by section 102,
25 is further amended—

1 (1) in section 4(f) (29 U.S.C. 204(f)), in the
2 third sentence—

3 (A) by striking “minimum”; and

4 (B) by striking “and liquidated damages”
5 and inserting “damages, and interest”;

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

8 (3) in section 16 (29 U.S.C. 216)—

9 (A) in subsection (b)—

10 (i) by striking “minimum” each place
11 it appears;

12 (ii) in the first sentence, by striking
13 “and in an additional equal amount as liq-
14 uidated damages” and inserting “, an ad-
15 ditional amount as damages that is equal
16 to (subject to the second sentence of this
17 subsection) 2 times such amount of unpaid
18 wages or unpaid overtime compensation,
19 and the amount of any interest on such
20 unpaid wages or unpaid overtime com-
21 pensation accrued at the prevailing rate”;

22 (iii) in the second sentence, by strik-
23 ing “wages lost and an additional equal
24 amount as liquidated damages” and insert-
25 ing “wages lost, including any unpaid

1 wages or any unpaid overtime compensa-
2 tion, an additional amount as damages
3 that is equal to 3 times the amount of
4 such wages lost, and the amount of any in-
5 terest on such wages lost accrued at the
6 prevailing rate”;

7 (iv) by striking the fourth sentence;

8 and

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

10 “Notwithstanding chapter 1 of title 9,
11 United States Code (commonly known as
12 the ‘Federal Arbitration Act’) or any other
13 law, the right to bring an action, including
14 a collective action, in court under this sec-
15 tion cannot be waived by an employee as a
16 condition of employment or in a pre-dis-
17 pute arbitration agreement.”; and

18 (B) in subsection (c)—

19 (i) by striking “minimum” each place
20 the term appears;

21 (ii) in the third sentence, by striking
22 “or liquidated”;

23 (iii) in the first sentence, by striking
24 “and an additional equal amount as liq-
25 uidated damages” and inserting “, an ad-

1 ditional amount as damages that is equal
2 to (subject to the third sentence of this
3 subsection) 2 times such amount of unpaid
4 wages or unpaid overtime compensation,
5 and any interest on such unpaid wages or
6 unpaid overtime compensation accrued at
7 the prevailing rate”; and

8 (iv) in the second sentence, by strik-
9 ing “and an equal amount as liquidated
10 damages.” and inserting “, an additional
11 amount as damages that is equal to (sub-
12 ject to the third sentence of this sub-
13 section) 2 times such amount of unpaid
14 wages or unpaid overtime compensation,
15 and any interest on such unpaid wages or
16 unpaid overtime compensation accrued at
17 the prevailing rate. In the event that the
18 employer violates section 15(a)(3), the Sec-
19 retary may bring an action in any court of
20 competent jurisdiction to recover the
21 amount of any wages lost, including any
22 unpaid wages or any unpaid overtime com-
23 pensation, an additional amount as dam-
24 ages that is equal to 3 times the amount
25 of such wages lost, and any interest on

1 such wages lost accrued at the prevailing
2 rate.”; and

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

5 (b) CIVIL FINES.—Section 16(e) of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

7 (1) by striking paragraph (2) and inserting the
8 following:

9 “(2)(A) Subject to subparagraph (B), any person
10 who violates section 6 or 7, relating to wages, shall be
11 subject to a civil fine that is not to exceed \$2,000 per
12 each employee affected for each initial violation of such
13 section.

14 “(B) Any person who repeatedly or willfully violates
15 section 6 or 7, relating to wages, shall be subject to a
16 civil fine that is not to exceed \$10,000 per each employee
17 affected for each such violation.”; and

18 (2) by adding at the end the following:

19 “(6) Any person who violates subsection (a) or (b)
20 of section 5 shall—

21 “(A) for the first violation of such subsection,
22 be subject to a civil fine that is not to exceed \$50
23 per each employee affected; and

1 “(B) for each subsequent violation of such sub-
2 section, be subject to a civil fine that is not to ex-
3 ceed \$100 per each employee affected.

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

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

8 “(B) for each subsequent violation, be subject
9 to a civil fine that is not to exceed \$5,000 per each
10 employee affected.”.

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

14 (1) by striking “Any person” and inserting “(1)
15 Any person”;

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

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

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

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

1 “(B) A covered offender described in this subpara-
2 graph is an offender who willfully violates each of the fol-
3 lowing:

4 “(i) Section 11(c) by falsifying any records de-
5 scribed in such section.

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

7 “(iii) Section 15(a)(3).”.

8 **SEC. 104. RECORDKEEPING.**

9 Section 11(c) of the Fair Labor Standards Act of
10 1938 (29 U.S.C. 211(c)) is amended by adding at the end
11 the following: “In the event that an employee requests an
12 inspection of the records described in this subsection that
13 pertain to such employee, the employer shall provide the
14 employee with a copy of the records for a period of up
15 to 5 years prior to such request being made. Not later
16 than 21 days after an employee requests such an inspec-
17 tion, the employer shall comply with the request. In the
18 event that an employer violates this subsection, resulting
19 in a lack of a complete record of an employee’s hours
20 worked or wages owed, notwithstanding whether the em-
21 ployer or employee is responsible for maintaining the em-
22 ployer’s official records, any evidence of the hours worked
23 or wages owed set forth by the employee, including evi-
24 dence of a documentary, testimonial, representative, or
25 statistical nature, that is sufficient to establish to a finder

1 of fact a just and reasonable inference that the employee
2 was not fully compensated at the rate required by this Act,
3 including under section 6(h) as applicable, for all of the
4 work that the employee performed for the employer shall
5 establish a rebuttable presumption that the employer vio-
6 lated section 6 or 7 by failing to fully compensate the em-
7 ployee at the required rate for all work performed by the
8 employee for the employer and a rebuttable presumption
9 that the evidence set forth by the employee regarding the
10 specific number of hours worked by the employee for the
11 employer for which the employee was not compensated and
12 the wage rate for each of those hours is accurate. The
13 employer may only overcome the rebuttable presumptions
14 described in this subsection by providing clear and con-
15 vincing evidence that the employee’s evidence is inac-
16 curate.”.

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)—

24 (A) by striking “minimum”; and

1 (B) by striking “liquidated damages” and
2 inserting “other damages”;

3 (2) in subsection (a)—

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

7 (B) by striking “unless commenced within
8 two years” and inserting “unless commenced
9 within 4 years”; and

10 (C) by striking “may be commenced within
11 three years” and inserting “may be commenced
12 within 5 years”;

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

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

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

1 **TITLE III—WAGE THEFT PRE-**
2 **VENTION AND WAGE RECOV-**
3 **ERY GRANT PROGRAM**

4 **SEC. 301. DEFINITIONS.**

5 In this title:

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

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

13 (A) State department of labor;

14 (B) attorney general of a State, or other
15 similar authorized official of a political subdivi-
16 sion thereof;

17 (C) law enforcement agency;

18 (D) consulate;

19 (E) employee or advocate of employees, in-
20 cluding a labor organization, community and
21 faith-based organization, business association,
22 or nonprofit legal aid organization;

23 (F) academic institution that plans, coordi-
24 nates, and implements programs and activities

1 to prevent wage and hour violations and recover
2 unpaid wages, damages, and penalties; or

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

5 (3) COMMUNITY PARTNERSHIP.—The term
6 “community partnership” means a partnership be-
7 tween—

8 (A) a working group consisting of commu-
9 nity partners; and

10 (B) the Department of Labor.

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

13 (A) A nonprofit organization, including a
14 community-based organization, faith-based or-
15 ganization, or labor organization, that provides
16 services and support to employees, including as-
17 sisting such employees in recovering unpaid
18 wages.

19 (B) An employer.

20 (C) A business association.

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

1 (E) A partnership between any of the enti-
2 ties described in subparagraphs (A) through
3 (D).

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

8 (6) SECRETARY.—The term “Secretary” means
9 the Secretary of Labor.

10 (7) STRATEGIC ENFORCEMENT.—The term
11 “strategic enforcement” means the process by which
12 the Secretary—

13 (A) targets highly noncompliant industries,
14 as identified by the Secretary, using industry-
15 specific structures to influence, and ultimately
16 reform, networks of interconnected employers;

17 (B) analyzes regulatory regimes under
18 which specific industries operate; and

19 (C) modifies the enforcement approach of
20 such regulatory regimes in order to ensure the
21 greatest impact.

22 (8) WAGE AND HOUR LAW.—The term “wage
23 and hour law” means any Federal law enforced by
24 the Wage and Hour Division of the Department of

1 Labor, including any provision of this Act enforced
2 by such division.

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

8 **SEC. 302. WAGE THEFT PREVENTION AND WAGE RECOVERY**
9 **GRANT PROGRAM.**

10 (a) IN GENERAL.—The Secretary, acting through the
11 Administrator, shall provide grants to eligible entities to
12 assist such entities in enhancing the enforcement of wage
13 and hour laws, in accordance with this section and con-
14 sistent with the purposes of this Act.

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

17 (1) support an eligible entity in establishing
18 and supporting the activities described in subsection
19 (c)(1); and

20 (2) develop community partnerships to expand
21 and improve cooperative efforts between enforcement
22 agencies and members of the community to—

23 (A) prevent and reduce wage and hour vio-
24 lations; and

1 (B) assist employees in recovering back
2 pay for any such violations.

3 (c) USE OF FUNDS.—

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

7 (A) disseminating information and con-
8 ducting outreach and training to educate em-
9 ployees about their rights under wage and hour
10 laws;

11 (B) conducting educational training for
12 employers about their obligations under wage
13 and hour laws;

14 (C) conducting orientations and trainings
15 jointly with officials of the Wage and Hour Di-
16 vision of the Department of Labor;

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

19 (E) assisting enforcement agencies in con-
20 ducting investigations, including in the collec-
21 tion of evidence and recovering back pay;

22 (F) monitoring compliance with wage and
23 hour laws;

24 (G) performing joint visitations to work-
25 sites that violate wage and hour laws with offi-

1 cials from the Wage and Hour Division of the
2 Department of Labor;

3 (H) establishing networks for education,
4 communication, and participation in the work-
5 place and community;

6 (I) evaluating the effectiveness of pro-
7 grams designed to prevent wage and hour viola-
8 tions and enforce wage and hour laws;

9 (J) recruiting and hiring of staff and vol-
10 unteers;

11 (K) production and dissemination of out-
12 reach and training materials; and

13 (L) any other activities as the Secretary
14 may reasonably prescribe through notice and
15 comment rulemaking.

16 (2) PROHIBITED ACTIVITIES.—Notwithstanding
17 paragraph (1), an eligible entity receiving a grant
18 under this section may not use the grant funds for
19 any purpose reasonably prohibited by the Secretary
20 through notice and comment rulemaking.

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

24 (e) APPLICATIONS.—

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

5 (2) PARTNERSHIPS.—In the case of an eligible
6 entity that is a partnership described in section
7 301(4)(E), the eligible entity may submit a joint ap-
8 plication that designates a single entity as the lead
9 entity for purposes of receiving and disbursing
10 funds.

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

13 (A) a description of a plan for the program
14 that the eligible entity proposes to carry out
15 with a grant under this section, including a
16 long-term strategy and detailed implementation
17 plan that reflects expected participation of, and
18 partnership with, community partners;

19 (B) information on the prevalence of wage
20 and hour violations in each community or State
21 of the eligible entity;

22 (C) information on any industry or geo-
23 graphic area targeted by the plan for such pro-
24 gram;

1 (D) information on the type of outreach
2 and relationship building that will be conducted
3 under such program;

4 (E) information on the training and edu-
5 cation that will be provided to employees and
6 employers under such program; and

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

9 (f) SELECTION.—

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

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

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

22 (B) demonstrate past and ongoing work to
23 prevent wage and hour violations or to recover
24 unpaid wages.

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

4 (A) the prevalence of ongoing community
5 support for each eligible entity, including finan-
6 cial and other contributions; and

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

9 (g) MEMORANDA OF UNDERSTANDING.—

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

17 (2) SIGNATURES.—A representative of the
18 grant recipient (or, in the case of a grant recipient
19 that is an eligible entity described in section
20 301(4)(E), a representative of each entity that
21 composes the grant recipient) and the Secretary
22 shall sign the memorandum of understanding under
23 this subsection.

24 (3) REVISIONS.—The memorandum of under-
25 standing under this subsection shall be reviewed and

1 revised by the grant recipient and the Secretary each
2 year of the duration of the grant.

3 (h) PERFORMANCE EVALUATIONS.—

4 (1) IN GENERAL.—Each grant recipient under
5 this section shall develop procedures for reporting,
6 monitoring, measuring, and evaluating the activities
7 of each program or project funded under this sec-
8 tion.

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

12 (i) REVOCATION OR SUSPENSION OF FUNDING.—If
13 the Secretary determines that a recipient of a grant under
14 this section is not in compliance with the terms and re-
15 quirements of the memorandum of understanding under
16 subsection (g), the Secretary may revoke or suspend (in
17 whole or in part) the funding of the grant.

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

22 **SEC. 303. GAO STUDY.**

23 (a) IN GENERAL.—The Comptroller General of the
24 United States shall conduct a study to identify successful
25 programs carried out by grants under section 302, and

1 the elements, policies, or procedures of such programs that
2 can be replicated by other programs carried out by grants
3 under such section.

4 (b) REPORT.—Not later than 3 years after the date
5 of enactment of this Act, the Comptroller General of the
6 United States shall submit a report to the Secretary and
7 Congress containing the results of the study conducted
8 under subsection (a).

9 (c) USE OF INFORMATION.—The Secretary shall use
10 information contained in the report submitted under sub-
11 section (b)—

12 (1) to improve the quality of community part-
13 nership programs assisted or carried out under this
14 title that are in existence as of the publication of the
15 report; and

16 (2) to develop models for new community part-
17 nership programs to be assisted or carried out under
18 this title.

19 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

20 There is authorized to be appropriated \$50,000,000
21 for fiscal year 2020 and for each subsequent fiscal year
22 through fiscal year 2023, to remain available until ex-
23 pended, to carry out the grant program under section 302.

1 **TITLE IV—REGULATIONS AND**
2 **EFFECTIVE DATE**

3 **SEC. 401. REGULATIONS.**

4 Not later than 1 year after the date of enactment
5 of this Act, the Secretary of Labor shall promulgate such
6 regulations as are necessary to carry out this Act, and
7 the amendments made by this Act.

8 **SEC. 402. EFFECTIVE DATE.**

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

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

14 (2) the date that is 18 months after the date
15 of enactment of this Act.

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