

114TH CONGRESS  
2D SESSION

# S. 2697

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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 16, 2016

Mrs. MURRAY (for herself, Mr. BROWN, Mr. FRANKEN, Ms. MIKULSKI, Mr. DURBIN, Mr. MURPHY, Mr. MARKEY, Mr. MERKLEY, Mr. SANDERS, Mr. BLUMENTHAL, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wage Theft Prevention  
5       and Wage Recovery Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

14 (2) Wage theft poses a serious and growing  
15 problem across industries for working individuals of  
16 the United States. Wage theft is widespread and is  
17 estimated to cost workers more than \$8,600,000,000  
18 per year. In certain industries, compliance with Fed-  
19 eral wage and hour laws is less than 50 percent.

20 (3) Wage theft is closely associated with em-  
21 ployment discrimination, with women, immigrants,  
22 and minorities being disproportionately affected.  
23 Women are significantly more likely to experience  
24 minimum wage violations than men, foreign-born  
25 workers are nearly 2 times as likely to experience  
26 minimum wage violations as their counterparts born

1 in the United States, and African-Americans are 3  
 2 times more likely to experience minimum wage viola-  
 3 tions than their White counterparts.

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

6 (5) Wage theft—

7 (A) depresses the wages of working fami-  
 8 lies who are already struggling to make ends  
 9 meet;

10 (B) strains social services funds;

11 (C) diminishes consumer spending power  
 12 and hurts local economies;

13 (D) reduces vital State and Federal tax  
 14 revenues;

15 (E) places law-abiding employers at a com-  
 16 petitive disadvantage with noncompliant em-  
 17 ployers;

18 (F) burdens commerce and the free flow of  
 19 goods; and

20 (G) lowers labor standards throughout  
 21 labor markets.

22 (6) Low-wage workers are at the greatest risk  
 23 of suffering from wage theft. A survey of 4,387 low-  
 24 wage workers in New York, Los Angeles, and Chi-  
 25 cago found that 68 percent of the workers surveyed

1 had experienced some form of wage theft in the  
2 workweek immediately before the survey was con-  
3 ducted. These workers experienced a range of wage  
4 and hour violations: 26 percent of such workers were  
5 not paid minimum wage; 76 percent of such workers  
6 who worked more than 40 hours in the workweek  
7 immediately before the survey was conducted were  
8 not paid at the overtime rate; and, in the year before  
9 the survey was conducted, 43 percent of the workers  
10 who attempted to address such issues by filing a  
11 complaint with their employer or who attempted to  
12 form a labor organization experienced retaliation by  
13 their employers, including by being fired, suspended,  
14 or receiving threats of reductions in their hours or  
15 pay.

16 (7) In 2012, State and Federal authorities as  
17 well as private attorneys recovered at least  
18 \$933,000,000 in wage theft enforcement actions,  
19 which was nearly 3 times the value of all bank rob-  
20 beries, residential robberies, convenience store and  
21 gas station robberies, and street robberies in the  
22 United States during that year.

23 (8) A Department of Labor study of wage theft  
24 in California and New York found that wage theft  
25 deprived workers of 37 percent to 49 percent of

1       their income, pushing at least 15,000 families below  
2       the poverty line and driving another 50,000 to  
3       100,000 families deeper into poverty.

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

10          (10) A Department of Labor study of wage vio-  
11       lations in California and New York found that wage  
12       theft deprived families of \$5,600,000 in possible  
13       earned income tax credits and resulted in a  
14       \$22,000,000 loss in State tax revenue, a  
15       \$238,000,000 loss in payroll tax revenue, and a  
16       \$113,000,000 loss in Federal income tax revenue.

17          (11) Barriers to addressing wage theft continue  
18       to exist decades after the enactment of the Fair  
19       Labor Standards Act of 1938 (29 U.S.C. 201 et  
20       seq.). These barriers have resulted, in significant  
21       part, because enforcement of such Act has not  
22       worked as Congress originally intended and because  
23       many of the provisions of such Act do not include  
24       sufficient penalties to discourage violations. Improve-  
25       ments to enforcement and amendments to such Act

1 are necessary to ensure that such Act provides effective  
2 protection to individuals subject to wage theft.

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

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

14 (14) The lack of a Federal requirement to pay  
15 employees their final payments in a timely manner  
16 upon termination of the employment relationship be-  
17 tween the employer and employee has led to unrea-  
18 sonable, and sometimes indefinite, delays in com-  
19 pensation after an employment relationship ends.

20 (15) While the Fair Labor Standards Act of  
21 1938, and regulations promulgated by the Secretary  
22 of Labor, as in effect on the day before the date of  
23 enactment of this Act, require employers to com-  
24 pensate employees at the minimum wage rate and to  
25 provide overtime compensation when appropriate,

1 the lack of civil penalties for violations of these re-  
2 quirements has dampened their effectiveness.

3 (16) While the Fair Labor Standards Act of  
4 1938 and regulations promulgated by the Secretary  
5 of Labor, as in effect on the day before the date of  
6 enactment of this Act, provide employees who are  
7 subject to wage theft with the right to unpaid min-  
8 imum wages or unpaid overtime compensation plus  
9 an additional equal amount as liquidated damages,  
10 this low level of damages has proved insufficient to  
11 deter employers from stealing the wages of their em-  
12 ployees.

13 (17) While the Fair Labor Standards Act of  
14 1938 and regulations promulgated by the Secretary  
15 of Labor, as in effect on the day before the date of  
16 enactment of this Act, require employers to keep  
17 records of employees' pay, the lack of remedies for  
18 this requirement diminishes the effectiveness of the  
19 requirement.

20 (18) While the Fair Labor Standards Act of  
21 1938 and regulations promulgated by the Secretary  
22 of Labor, as in effect on the day before the date of  
23 enactment of this Act, provide for limited criminal  
24 penalties when employers violate the provisions of  
25 such Act, the Secretary of Labor rarely resorts to

1       these penalties, causing them to serve as a hollow  
2       threat.

3           (19) The statute of limitations under section 6  
4       of the Portal-to-Portal Act of 1947 (29 U.S.C. 255),  
5       in effect on the day before the date of enactment of  
6       this Act, precludes employees from bringing claims  
7       for wage theft 2 years after the cause of action ac-  
8       crued, or 3 years after the cause of action accrued  
9       if the claim is with respect to a willful or repeat vio-  
10      lation by the employer. Additionally, the statute of  
11      limitations is not suspended while the Secretary of  
12      Labor investigates a complaint. These strict confines  
13      of the statute of limitations sometimes result in em-  
14      ployees being deprived of their ability to institute a  
15      private lawsuit against their employer in order to re-  
16      cover their stolen wages.

17           (20) Section 16(b) of the Fair Labor Standards  
18      Act of 1938 (29 U.S.C. 216(b)), as in effect on the  
19      day before the date of enactment of this Act, re-  
20      quires employees to affirmatively “opt-in” in order  
21      to be a party plaintiff in a collective action brought  
22      by another aggrieved employee seeking to recover  
23      stolen wages in court. This provision limits the abil-  
24      ity of employees to unite and pursue private lawsuits  
25      against employers.



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

9           (22) The Government Accountability Office and  
10      the Department of Labor have recognized that when  
11      employers are assessed civil penalties, they are more  
12      likely to comply with the law in the future and other  
13      employers in the same region—regardless of indus-  
14      try—are also more likely to comply with the law.

15          (23) States that have enacted legislation to ad-  
16      dress wage theft by increasing the damages to which  
17      employees are entitled following violations of wage  
18      and hour laws have positively impacted the workers  
19      in such States. However, many States have not en-  
20      acted such legislation and, worse still, some States  
21      do not have any laws protecting workers from wage  
22      theft or even agencies to enforce workers' rights to  
23      compensation for work. This discrepancy in State  
24      laws has resulted in a fragmentation of workers'  
25      rights across the United States, with some workers

1       having a measure of protection from wage theft and  
2       other workers being left extremely vulnerable to  
3       wage theft.

4           (24) Effective enforcement of wage and hour  
5       laws is critical to increasing compliance. Given the  
6       limited resources available for enforcement, en-  
7       hanced strategic enforcement of Federal wage and  
8       hour laws is crucial.

9           (25) For enhanced strategic enforcement to be  
10      effective, government regulators must work with  
11      community stakeholders who have direct knowledge  
12      of ongoing violations of Federal wage and hour re-  
13      quirements and who are in a position to prevent  
14      such violations.

15          (26) Partnerships between regulators, workers,  
16      nonprofit organizations, and businesses can increase  
17      compliance by educating workers about their rights,  
18      collecting evidence, reporting violations, identifying  
19      noncompliant employers, and modeling good prac-  
20      tices.

21          (27) Partnerships between regulators, workers,  
22      nonprofit organizations, and businesses have been  
23      successful in combating wage theft. In 2006, the Di-  
24      vision of Labor Standards Enforcement of California  
25      created a janitorial enforcement team to work closely

1 with a local janitorial watchdog organization. As of  
2 2015, the partnership had resulted in countless ad-  
3 ministrative, civil, and criminal actions against em-  
4 ployers and in the collection of more than  
5 \$68,000,000 in back pay for janitorial workers.

6 (28) The Government Accountability Office has  
7 recommended that the Department of Labor identify  
8 ways to leverage its resources to better combat wage  
9 theft by improving services provided through part-  
10 nerships.

11 **SEC. 3. PURPOSES.**

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

14 (1) strengthening the penalties for engaging in  
15 wage theft;

16 (2) giving workers the right to receive, in a  
17 timely manner, full compensation for the work they  
18 perform, certain disclosures, regular paystubs, and  
19 final payments;

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

22 (4) making assistance available to enhance en-  
23 forcement of and compliance with Federal wage and  
24 hour laws through—

1           (A) supporting initiatives that address and  
2           prevent violations of such laws and assist work-  
3           ers in wage recovery;

4           (B) supporting individual entities and de-  
5           veloping community partnerships that expand  
6           and improve cooperative efforts between en-  
7           forcement agencies and community-based orga-  
8           nizations in the prevention of wage and hour  
9           violations and enforcement of wage and hour  
10          laws;

11          (C) expanding outreach to workers in in-  
12          dustries or geographic areas identified by the  
13          Secretary of Labor as highly noncompliant with  
14          Federal wage and hour laws;

15          (D) improving detection of employers who  
16          are not complying with such laws and aiding in  
17          the identification of violations of such laws; and

18          (E) facilitating the collection of evidence to  
19          assist enforcement efforts.

1 **TITLE I—AMENDMENTS TO THE**  
2 **FAIR LABOR STANDARDS ACT**  
3 **OF 1938**

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

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

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

12 “(a) DISCLOSURES.—

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

22 “(2) MODIFICATION DISCLOSURES.—Not later  
23 than 15 days after the date on which any of the in-  
24 formation described in paragraph (3) changes with  
25 respect to an employee described in paragraph (1),

1 the employer of such employee shall provide the em-  
2 ployee with a modification disclosure containing the  
3 information described in paragraph (3).

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

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

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

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

19 “(D) the physical address of and telephone  
20 number for the employer’s main office or prin-  
21 ciple place of business, and a mailing address  
22 for such office or place of business if the mail-  
23 ing address is different than the physical ad-  
24 dress.

25 “(b) PAYSTUBS.—

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

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

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

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

21           “(C) As a digital document provided  
22      through electronic communication, subject to  
23      the employee affirmatively consenting to receive  
24      the paystubs in this form.

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

3           “(A) The name of the employee.

4           “(B) In the case of an employee who is  
5 paid an hourly wage, an employee who is em-  
6 ployed at piece rates, or an employee who is  
7 paid a salary and is not exempt from the over-  
8 time requirements of section 7, the total num-  
9 ber of hours worked by the employee, including  
10 the number of hours worked per workweek, dur-  
11 ing the applicable pay period.

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

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

23           “(E) In the case of an employee employed  
24 at piece rates, the number of piece rate units  
25 earned, the applicable piece rates, and the total



1 amount paid to the employee for the applicable  
2 pay period in accordance with such piece rates.

3 “(F) The rate of pay of the employee dur-  
4 ing the applicable pay period and an expla-  
5 nation of the basis for such rate.

6 “(G) The number of overtime hours  
7 worked by the employee during the applicable  
8 pay period and the compensation required  
9 under section 7 that is provided to the employee  
10 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, by compensating such individual for any un-  
20           compensated hours worked or benefits incurred by  
21           the individual as an employee for the employer.

22           “(2) CONTINUING WAGES.—An employer who  
23           violates the requirement under paragraph (1) shall,  
24           for each day, not to exceed 30 days, of such violation  
25           provide the individual described in paragraph (4)

1 with compensation at a rate that is equal to the reg-  
2 ular rate of compensation to which such individual  
3 was entitled when such individual was an employee  
4 of such employer.

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

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

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

23 Section 6 of the Fair Labor Standards Act of 1938  
24 (29 U.S.C. 206) is amended by adding at the end the fol-  
25 lowing:

1 “(h) RIGHT TO FULL COMPENSATION.—

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

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

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

19 (a) DAMAGES.—The Fair Labor Standards Act of  
 20 1938 (29 U.S.C. 201 et seq.), as amended by section 102,  
 21 is further amended—

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

24 (A) by striking “minimum”; and

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

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

5 (3) in section 16 (29 U.S.C. 216)—

6 (A) in subsection (b)—

7 (i) by striking “minimum” each place  
8 it appears;

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

19 (iii) in the second sentence, by strik-  
20 ing “wages lost and an additional equal  
21 amount as liquidated damages” and insert-  
22 ing “wages lost, including any unpaid  
23 wages or any unpaid overtime compensa-  
24 tion, an additional amount as damages  
25 that is equal to 3 times the amount of

1 such wages lost, and the amount of any in-  
2 terest on such wages lost accrued at the  
3 prevailing rate”;

4 (iv) by striking the fourth sentence;  
5 and

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

15 (B) in subsection (c)—

16 (i) by striking “minimum” each place  
17 the term appears;

18 (ii) in the first sentence, by striking  
19 “and an additional equal amount as liq-  
20 uidated damages” and inserting “, an ad-  
21 ditional amount as damages that is equal  
22 to (subject to the third sentence of this  
23 subsection) 2 times such amount of unpaid  
24 wages or unpaid overtime compensation,  
25 and any interest on such unpaid wages or

1 unpaid overtime compensation accrued at  
2 the prevailing rate”;

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

23 (iv) in the fourth sentence, by striking  
24 “or liquidated”; and

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

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

5 (1) by striking paragraph (2) and inserting the  
6 following:

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

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

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

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

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

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

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



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

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

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

10           (1) by striking “Any person” and inserting “(1)  
11           Any person”;

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

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

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

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

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

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

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

4           “(iii) Section 15(a)(3).”.

5   **SEC. 104. RECORDKEEPING.**

6       Section 11(c) of the Fair Labor Standards Act of  
7   1938 (29 U.S.C. 211(c)) is amended by adding at the end  
8   the following: “In the event that an employee requests an  
9   inspection of the records described in this subsection that  
10   pertain to such employee, the employer shall provide the  
11   employee with a copy of the records for a period of up  
12   to 5 years prior to such request being made. Not later  
13   than 21 days after an employee requests such an inspec-  
14   tion, the employer shall comply with the request. In the  
15   event that an employer violates this subsection, resulting  
16   in a lack of a complete record of an employee’s hours  
17   worked or wages owed, notwithstanding whether the em-  
18   ployer or employee is responsible for maintaining the em-  
19   ployer’s official records, any evidence of the hours worked  
20   or wages owed set forth by the employee, including evi-  
21   dence of a documentary, testimonial, representative, or  
22   statistical nature, that is sufficient to establish to a finder  
23   of fact a just and reasonable inference that the employee  
24   was not fully compensated at the rate required by this Act,  
25   including under section 6(h) as applicable, for all of the

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

## 14 **TITLE II—AMENDMENTS TO THE** 15 **PORTAL-TO-PORTAL ACT OF 1947**

### 16 **SEC. 201. INCREASING AND TOLLING STATUTE OF LIMITA-** 17 **TIONS.**

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

20 (1) in the matter preceding subsection (a)—

21 (A) by striking “minimum”; and

22 (B) by striking “liquidated damages” and  
 23 inserting “other damages”;

24 (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 the statutory peri-  
 14 ods of limitation for such action, the running of such stat-  
 15 utory periods shall be deemed suspended during the period  
 16 beginning on the date on which the Secretary of Labor  
 17 notifies an employer of an initiation of an investigation  
 18 or enforcement action and ending on the date on which  
 19 the Secretary notifies the employer that the matter has  
 20 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; and

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 a  
10                  community-based organization, faith-based or-  
11                  ganization, or labor organization, that provides  
12                  services and support to employees, including as-  
13                  sisting such employees in recovering unpaid  
14                  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 of the Wage and Hour Division of the De-  
 7 partment of Labor, shall provide grants to eligible entities  
 8 to assist such entities in enhancing the enforcement of  
 9 wage and hour laws, in accordance with this section and  
 10 consistent with the purposes of this Act.

11 (b) GRANTS.—The grants provided under this section  
 12 shall be designed to—

13 (1) support individual eligible entities in estab-  
 14 lishing and supporting the activities described in  
 15 subsection (c)(1); and

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

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

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

23 (c) USE OF FUNDS.—



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

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

8           (B) conducting educational training for  
9       employers about their obligations under wage  
10      and hour laws;

11          (C) conducting orientations and trainings  
12      jointly with officials of the Wage and Hour Di-  
13      vision of the Department of Labor;

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

16          (E) assisting enforcement agencies in con-  
17      ducting investigations, including in the collec-  
18      tion of evidence and recovering back pay;

19          (F) monitoring compliance with wage and  
20      hour laws;

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

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

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

7 (J) recruiting and hiring of staff and vol-  
 8 unteers;

9 (K) production and dissemination of out-  
 10 reach and training materials; and

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

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

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

22 (e) APPLICATIONS.—

23 (1) IN GENERAL.—An eligible entity seeking a  
 24 grant under this section shall submit an application

1       for such grant to the Secretary in accordance with  
2       this subsection.

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

9           (3) CONTENTS.—An application under this sub-  
10      section shall include—

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

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

21           (C) information on any industry or geo-  
22      graphic area targeted by the plan for such pro-  
23      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 qualified  
13 eligible entities that have submitted an application  
14 under subsection (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 Adminis-  
13           trator a memorandum of understanding that sets  
14           forth specific goals, objectives, strategies, and activi-  
15           ties that will be carried out under the grant by such  
16           recipient 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 Administrator  
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 Administrator  
2 each 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.—The Secretary may use  
19 any division or agency of the Department of Labor in car-  
20 rying out this Act.

21 **SEC. 303. GAO STUDY.**

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

1 can be replicated by other programs carried out by grants  
2 under such section.

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

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

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

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

18 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

19 There is authorized to be appropriated \$50,000,000  
20 for fiscal year 2017 and for each subsequent fiscal year  
21 through fiscal year 2020, to remain available until ex-  
22 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.

○