



# Worker Misclassification Advisory Task Force

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# Overview

## Objectives:

- *Promote compliance and improve enforcement efficacy*
- *Strengthen enforcement authority*
- *Enhance available remedies and penalties*
- *Provide for inter-agency information sharing and collaboration*

# Relevant Statutes:

- Minn. Stat. Sec. 181.723 (Construction Misclassification)
- Minn. Stat. Sec. 181.722 (General Misclassification)
- Minn. Stat. Sec. 177.27 (DLI Enforcement Authority)
- Minn. Stat. Sec. 181.171 (Private Civil Action)
- Minn. Stat. Sec. 326B.081-.082 (DLI Enforcement Authority)
- Minn. Stat. Sec. 326B.701 (Construction Contractor Registration)

# Construction Misclassification

# Minn. Stat. Sec. 181.723 - Construction Misclassification

## *Promote compliance and improve enforcement efficacy*

- Focus, update, and streamline IC multi-factor analysis for the construction industry.
- Clarify how employment status will be determined for individuals providing or performing construction services down a multi-layered “contract chain” and, if determined to be employees, how to identify the persons with whom their employment relationship attaches.
- Change the connection between the contractor registration system (326B.701) and the IC multi-factor analysis.

# Minn. Stat. Sec. 181.723 - Construction Misclassification

## *Strengthen enforcement authority*

- Add Chapters 181 and 326B to list of state laws to which provisions of section apply.
- Amend “prohibited activities” related to the misclassification of individuals as independent contractors or failure to treat individuals as employees.
- Provide for individual and successor entity liability for violations to address the issue of individuals avoiding liability by forming a new entity.
- Clarify DLI’s authority to investigate and enforce the section under its investigative and enforcement authority in Chapters 175, 177 and 326B.082.
- Authorize individuals to bring a private civil action under 181.171 for violations.

# Minn. Stat. Sec. 181.723 - Construction Misclassification

## *Enhance available remedies and penalties*

- Provide specific remedies and penalties for violations of the section provisions.
- Clarify the remedies and penalties for violations of the section provisions are in addition to other remedies and penalties provided by state law.
- Allow individuals who bring a private civil action under sec. 181.171 to seek and be paid both the remedies and penalties for violations of the section.

# General Misclassification

# Minn. Stat. Sec. 181.722 - General Misclassification

*Promote compliance and improve enforcement efficacy*

*Strengthen enforcement authority*

*Enhance available remedies and penalties*

Provide for the same enforcement and penalty authority in the general misclassification section as exists in the construction misclassification section.

The current IC analysis for Sec. 181.722 would remain unchanged.

# DLI Enforcement Authority

# Minn. Stat. Sec. 326B.081-.082 - DLI Enforcement Authority:

## *Strengthen enforcement authority*

- Add 181.722 to list of applicable laws.
- Authorize DLI to issue an administrative order and penalties for each day a person fails to correct a violation beyond the deadline set.
- Add to “prohibited activities” for which a permit, license, registration or certification could be suspended or revoked, violation of Chapters 176, 177, 181, 181A, 182, 268, 270A and for violation of a final order issued pursuant to one of those laws.

# Construction Contractor Registration

# Minn. Stat. Sec. 326B.701 - Construction Contractor Registration

*Promote compliance and improve enforcement efficacy*

*Strengthen Enforcement Authority*

- Change the connection between the contractor registration system (326B.701) and the IC multi-factor analysis in 181.723.
- Simplify and streamline registration application process by streamlining requirements and making them applicable to all persons required to register.
- Add to "prohibited activities", a person requiring an individual who is the person's employee to register in the contractor registration system.

# Misclassification Enforcement Partnership

# Create an Interagency Enforcement Partnership to Combat Employee Misclassification

Create a Misclassification Enforcement Partnership composed of the following members or their designees:

- the commissioner of labor and industry;
- the commissioner of revenue;
- the commissioner of employment and economic development;
- the commissioner of commerce; and
- the attorney general.

# Provide for Additional Communication Amongst Affected Entities

- Outline that it is the policy of the State of Minnesota to prevent employers from misclassifying their employees.
- Outline data sharing authority amongst the partner entities.
- Allow communication and collaboration amongst the partner entities to help them detect and investigate instances of employee misclassification.

# Partnership Duties

- Facilitate the detection and investigation of employee misclassification.
- Develop a “no-wrong-door” policy for workers and stakeholders—a process or procedure that provides a person with relevant information and connects them with relevant partner entities, regardless of which entity that person contacts for assistance.
- Identify best practices in investigating employee misclassification.
- Identify resources needed for better enforcement of employee misclassification.
- Inform and educate stakeholders on rights and responsibilities related to employee misclassification.
- Inform the public about enforcement actions taken by members of the partnership.

# Partnership Structure

- Will meet at least quarterly to discuss issues related to the enforcement of employee misclassification, including joint investigations and public outreach.
- Members of the partnership may select a designee to serve as the lead for the agency.
- Will develop a process for engagement with workers and affected stakeholders on the issue of misclassification.
- The partnership members will present annually to members of the MN House of Representatives and Senate committees with jurisdiction over labor on the work of the Partnership.

# Outreach

- The Department of Labor and Industry's website should maintain information about the misclassification partnership, including information about how to file a complaint related to employee misclassification.
- Each partner entity's website should maintain information about worker classification laws, including requirements for employers and employees; consequences for misclassifying workers; and contact information for other affected entities.

# Thank You!

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