

Worker Misclassification

Misclassification occurs when an employer improperly classifies a worker as an independent contractor.

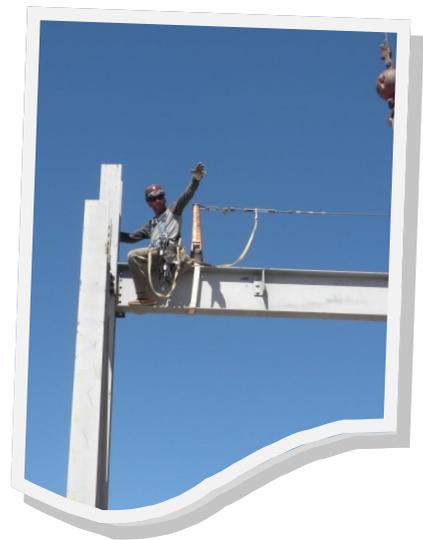


Worker Misclassification:

- Undermines businesses that follow the law
- Costs Virginia millions in tax revenue
- Denies workers legal protections and benefits

Misclassification of workers hurts Virginia's families, constitutes payroll fraud and denies Virginia workers basic legal protections such as workers' compensation coverage, family and medical leave and unemployment insurance benefits.

Employers that misclassify workers can improperly avoid payroll costs by up to 40%. Misclassification is a destructive practice that hurts honest employers by allowing unscrupulous employers to undercut the bids of those contractors who play by the rules.



New Policy

The Virginia Occupational Safety and Health (VOSH) Program conducts thousands of occupational safety and health workplace inspections on a yearly basis, and starting July 1, 2015, will implement the following policy where it has reasonable cause to believe that worker misclassification has occurred in a VOSH case:

- In the event that VOSH citations and penalties are proposed for the employer, penalty reductions for size and good faith will NOT be afforded to the employer.
- In construction multi-employer worksite situations, each contractor (e.g., general contractors, prime sub-contractors and lower tier sub-contractors) will be asked to provide proof of their Department of Professional and Occupational Regulation (DPOR) contractor's license

AND for proof of the DPOR license for any of its' sub-contractors.

- When it is determined that a construction employer has contracted with an unlicensed subcontractor, VOSH will make a written referral to DPOR for the contractor and its unlicensed subcontractor (DPOR sanctions for contracting with unlicensed subcontractors may include fines, probationary terms, suspension or license revocation).

A complete copy of the new policy, education materials and outreach materials can be located on our website at:

www.doli.virginia.gov

- In cases where the contract value for the specific sub-contractor's job is less than \$1,000.00, VOSH will make a written referral to the Virginia Employment Commission (VEC) and/or the Virginia Workers' Compensation Commission (VWCC) for potential audits of the employer's employment practices. Referrals may be made for contract values over \$1,000.00 as well.



DEPARTMENT OF LABOR AND INDUSTRY

600 East Main Street, Suite 207
Richmond, Virginia 23219
Phone: 804.371.2327