



# **Intergovernmental Misclassification Enforcement and Education Partnership**

# 2024 misclassification legislation



Created Intergovernmental Misclassification Enforcement and Education Partnership – OLA recommendation

Strengthened the independent contractor test for construction industry – OLA recommendation

Created a private right of action for misclassified workers – OLA recommendation

Increased penalties to provide meaningful deterrence

Clarified prohibited activities

Established independent and successor liability

Expanded stop work order authority

# Intergovernmental Misclassification Enforcement and Education Partnership members



# Coordination, collaboration and information sharing

## Partnership members:

1. shall communicate with other entities to help detect and investigate employee misclassification;
2. may request from, provide to, or receive data necessary for detecting and investigating misclassification; and
3. may collaborate with one another when investigating misclassification, including referrals, strategic enforcement and joint investigations.



# Duties of the Partnership

## Set goals

Set goals to maximize efforts to detect, investigate and deter employee misclassification

## Share

Share information to support detection and investigation of employee misclassification

## Develop

Develop a process or procedure to give an individual relevant information and connection to a relevant partnership entity

## Identify

Identify best practices in investigations  
  
Identify resources needed for better enforcement

## Educate

Inform and educate stakeholders on rights and responsibilities

## Serve

Serve as a unified point of contact for workers, businesses and the public

## Inform

Inform the public on enforcement actions taken

## Perform

Perform other duties necessary to increase the effectiveness of detection, investigation, enforcement and deterrence and carry out the purposes of the partnership

# Misclassification Enforcement and Education Partnership

The Partnership established four workgroups with stated objectives:

- **Investigation and enforcement:** Identify best practices in investigations; identify resources needed for effective enforcement; increase the effectiveness of detection, investigation, enforcement and deterrence; and collaborate with other Partnership entities when investigating misclassification including referrals, strategic enforcement and joint investigations.
- **Outreach and education:** Develop a process or procedure to give individuals relevant information and connection to a relevant Partnership entity; inform and educate stakeholders about rights and responsibilities; serve as a unified point of contact for workers, businesses and the public; inform the public about enforcement actions; and coordinate public outreach about worker classification laws across the Partnership entities.

# Misclassification Enforcement and Education Partnership

- **Data sharing:** Ensure that the Partnership entities have all the necessary data sharing pieces in place to allow for collaborative work.
- **Data collection, reporting and analytics:** Set goals to maximize efforts to detect, investigate and deter employee misclassification and propose a metric or plan for monitoring and assessing the number and severity of employee misclassification violations and the adequacy and effectiveness of the partnership's duties including the efforts on education, outreach, detection, investigation, deterrence, and enforcement of employee misclassification.

# Presentation about 2024 misclassification legislation

Minnesota Statutes Section 181.725, subd. 4a requires: “By March 1, 2025, the Intergovernmental Misclassification Enforcement and Education Partnership shall make its first presentation to members of the house of representatives and senate committees with jurisdiction over labor.”

- Staffing recommendations to carry out duties and responsibilities
- Summary of industries and employers with high numbers of misclassification violations
- Recommendations for proactive review and enforcement
- Proposed cross referral system
- Identify training needs
- Plan for monitoring and assessing violations and the partnership
- Adequacy and effectiveness of the partnership’s duties related to misclassification

# Commonly misclassified occupations and costs

- Misclassification creates economic costs and deprives workers of labor protections. Commonly misclassified occupations include:
  - Construction workers
  - Truck drivers
  - Janitor and cleaners
  - Home health/personal care aides
  - Retail sales workers
  - Housekeeping cleaners
  - Landscaping workers
  - Customer service/call center workers
  - Security guards
  - Light truck delivery drivers
  - Manicurists and pedicurists
- Cost to workers are estimated as low as \$4,558 to as high as \$18,053 per year depending on wages and model assumptions.
- Costs to social insurance programs are estimated to be \$585 to \$3,031 per year.

# Misclassification in Minnesota

- In 2019, an estimated 316,000 or 9.4% of Minnesota's private sector workers were misclassified.
- Workers lost an estimated \$2.9 to 6.2 billion in compensation such as paid leave, overtime pay, health insurance and retirement benefits.
- The state lost an estimated \$505 million to \$1.3 billion in tax revenue from state income tax, workers' compensation premiums, and unemployment insurance contributions.
- Industries with the highest misclassification include:
  - Agriculture, forestry, fishing, hunting
  - Real estate and rental and leasing
  - Finance and insurance
  - Retail trade
  - Professional, scientific and technical services
  - Construction

# Misclassification in Minnesota

- The 2024 OLA report stated, “The effects of worker misclassification are wide-reaching, impacting workers, employers, and the government.”
- While the overall rate of misclassification in Minnesota is unknown, an estimated 22% of employers subject to an unemployment insurance audit misclassified at least one worker in 2018.
- Misclassification occurred in many industries including:
  - Transportation and warehousing
  - Administrative, support, waste management
  - Accommodation and food services
  - Agriculture, forestry, fishing, hunting
  - Healthcare and social assistance
  - Construction
  - Retail trade
  - Manufacturing

# Misclassification in Construction

- The Midwest Economic Policy Institute estimated construction workers misclassification in Minnesota by comparing construction employment statistics from the US Census Current Population Survey and payroll data from the Quarterly Census of Employment and Wages.
- An estimated 23% of construction workers in Minnesota were misclassified as independent contractors or paid in cash/not reported.
- Misclassified construction workers earned an average of 29% to 36% less in total compensation than their properly reported peers, resulting in a pay gap of \$23,500 per year in Minnesota.
- Construction worker misclassification and off-the-books employment cost Minnesota \$136 million in state income taxes, unemployment insurance contributions and workers' compensation premiums.

# Work of the Partnership

- All agency webpages have been updated.
- Example:  
[DLI Intergovernmental Misclassification Enforcement and Education Partnership webpage](#)

The screenshot shows the Minnesota Department of Labor and Industry website. The header includes the logo and navigation links: DIRECTIONS, CONTACT US, CHECK A LICENSE, GET A PERMIT, RENEW A LICENSE, MAKE A PAYMENT, and a search bar. Below the header are links for ABOUT THE DEPARTMENT, FOR BUSINESS, and FOR WORKERS. The main content area is titled "INTERGOVERNMENTAL MISCLASSIFICATION ENFORCEMENT AND EDUCATION PARTNERSHIP" and includes a breadcrumb trail: For business > Employment practices > Worker misclassification. The page text describes the partnership created during the 2024 legislative session, lists the five partnership entities (Department of Labor and Industry, Department of Revenue, Department of Employment and Economic Development, Department of Commerce, and the attorney general), and details coordination, collaboration, information sharing, and employee misclassification prevention. A sidebar on the left lists various labor standards topics.

**DEPARTMENT OF LABOR AND INDUSTRY**

DIRECTIONS CONTACT US CHECK A LICENSE GET A PERMIT RENEW A LICENSE MAKE A PAYMENT

ABOUT THE DEPARTMENT FOR BUSINESS FOR WORKERS

APPRENTICESHIP AND DUAL TRAINING

CODES AND LAWS

CONSTRUCTION CONTRACTOR REGISTRATION

ELECTRICAL CONTRACTORS

ELEVATOR CONTRACTORS

EMPLOYMENT PRACTICES

Age, hours restrictions

Brochures and fact sheets about labor standards

Child labor laws

Contact Labor Standards

Employment termination

FAQs about labor standards

Guidance for employees on Minnesota's wage theft law

Labor Standards videos

Making a demand for final wages

Meat and poultry processing industry

Minimum wage in Minnesota

Minimum wage, overtime exemptions

Overtime laws

Paycheck deductions

Payment for hours worked

Pregnancy and parental leave, FMLA

Prevailing wage information

Skilled and trained contractor

For business > Employment practices > Worker misclassification

## INTERGOVERNMENTAL MISCLASSIFICATION ENFORCEMENT AND EDUCATION PARTNERSHIP

During the 2024 legislative session, a new Intergovernmental Misclassification Enforcement and Education Partnership was created to allow the five Minnesota government agencies tasked with investigating misclassification fraud to share reported worker violations of the law and related data to better coordinate investigations. The partnership was signed into law May 24, 2024.

[Employee misclassification](#) is the practice by an employer of not properly classifying workers as employees.

### Partnership entities

These Intergovernmental Misclassification Enforcement and Education Partnership entities, which have jurisdiction over employee misclassification in Minnesota, are the:

1. Department of Labor and Industry;
2. Department of Revenue;
3. Department of Employment and Economic Development;
4. Department of Commerce; and
5. attorney general in the attorney general's enforcement capacity under Minnesota Statutes 177.45 and 181.1721.

### Coordination, collaboration and information sharing

Each of the five partnership entities:

- shall communicate with other entities to help detect and investigate instances of employee misclassification;
- may request from, provide to or receive from the other partnership entities data necessary for the purpose of detecting and investigating employee misclassification, unless prohibited by federal law; and
- may collaborate with one another when investigating employee misclassification, unless prohibited by federal law.

Collaboration includes, but is not limited to, referrals, strategic enforcement and joint investigations by two or more partnership entities.

### Employee misclassification prevention

The Intergovernmental Misclassification Enforcement and Education Partnership will work to prevent employers from misclassifying workers, because employee misclassification allows an employer to illegally evade obligations under state labor, employment and tax laws, including, but not limited to, the laws governing minimum wage, overtime, unemployment insurance, paid family medical leave, earned sick and safe time, workers' compensation insurance, temporary disability insurance, the payment of wages and payroll taxes.

### Filing a complaint

To file a complaint about employee misclassification with the Minnesota Department of Labor and Industry, contact the Labor Standards Division at 651-284-5075 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).

# Outreach and education efforts

Agency	Total events	Individuals engaged
DLI	53	9,224
AGO	15	1,061+
DEED	12	279
Revenue	8	736
<b>Total</b>	<b>88</b>	<b>11,300</b>

The Partnership entities reached many stakeholders in CY 2024.

**Event audiences**

- Employers, agents, workers, enforcers, trade unions, new business owners, payroll professionals, tax preparers and school districts

**Event types**

- In-person presentations, online presentations, seminars and expo tabling

# Cross-training needs and proposed plan

- The Intergovernmental Misclassification Enforcement and Education Partnership will coordinate and provide cross-training for staff members to ensure that outreach and education activities are aligned.
- Identified need and plan:
  - All partnership entities understand what the others do and associated classification tests
  - Cross training completed within the partnership meetings and in outreach and education workgroup

# System for cross referrals and data sharing

- DLI has existing data-sharing agreements in place with AGO and DEED.
- DLI and Revenue are developing and drafting a data-sharing agreement
- DLI has an official referral protocol for when misclassification cases are referred to partnership agencies.
- Regular, ongoing, bi-weekly meetings of the Enforcement workgroup, with at least one participant from each partnership entity to coordinate misclassification-related information sharing, response to misclassification complaints and updates on misclassification investigations.
- Information sharing should be both reactive (complaints received) as well as proactive (trends noticed, opportunities for proactive enforcement).

# Effectiveness of efforts to address misclass - Partnership

- Efforts to address misclassification and ongoing misclassification investigative updates will be evaluated and shared at regular, ongoing, bi-weekly meetings.
- Baseline data on the partnership's effectiveness will be reviewed after the first year. Metrics for assessing effectiveness and timeline for ongoing monitoring will be established.

# Effectiveness of efforts to address misclass - DLI

CY 2023	July 1, 2024 – Jan. 31, 2025 <i>after law changes</i>
<b>Misclass-related intakes</b>	
23 Construction-related	20 Construction-related
76 all other industries	105 all other industries
<b>99 total</b>	<b>125 total</b>
<b>Outcomes</b>	
12 wage claims (10 construction, 2 other)	25 wage claims (4 construction, 21 other)
3 inform and educate (2 construction, 1 other)	17 inform and educate (2 construction, 19 other)
6 investigations (4 construction, 2 other)	8 investigations (2 construction, 6 other)
78 educate, self-help and/or referrals	77 educate, self-help and/or referrals

# Effectiveness of efforts to address misclass - DLI

- DLI hired a misclassification-focused investigative team and have cross-trained with outreach and engagement staff members
- 26 more intakes in past seven months than in all of 2023
- Increase in DLI intakes potentially due to:
  - Law changes
  - Public awareness
  - Increased outreach
  - Improved internal training
  - Investigative team focused on misclassification
- Intakes from an increased variety of industries: mental health and substance abuse centers, health care, construction, transportation, restaurants, food service

# Effectiveness of efforts to address misclass - DLI

DLI emphasis on efficient resolution of misclassification intakes, including increased use of wage claim process and inform and educate (I and E) letters.

CY 2023	After law changes
12% of intakes resulted in wage claim	20% of intakes resulted in wage claim
3% of intakes resulted in I and E	13% of intakes resulted in I and E

# Effectiveness of efforts to address misclass - DLI

- Wage claim process and I and E letters are often effective methods to resolve misclassification intakes
  - Less time and resources than full investigation and audit
  - Educate employers on laws and responsibilities
    - Employers can agree to compliance without need for DLI to make formal findings
    - Avoid fines and penalties
  - Employees benefit by having issues resolved more quickly at workplace

# Effectiveness of efforts to address misclass - DLI

- Misclassification common in conjunction with other violations
- Case example: Misclassification to avoid providing earned sick and safe time
  - Employer in food service abruptly changed employees to "independent contractors" around the time ESST became effective
  - Employer misclassified worker to avoid ESST obligations
  - DLI reached out via an I and E letter and educated about misclassification and ESST laws
  - Employer agreed to be compliant, agreed to pay affected worker 14 hours of ESST

# Effectiveness of efforts to address misclass - DLI

- DLI continues to pursue investigations of misclassification
- Case example: Misclassification in transportation industry
  - Mid-2024: Two transportation drivers contact DLI alleging misclassification
  - DLI opens investigation, sends demand for records
    - Employer immediately responds and communicates with investigator
    - Acknowledges potential misclassification due to lack of knowledge of the law
    - Employer cooperates fully with investigator, provides documentation
    - Employer proactively contacts other agencies (MN DEED, MN DOR) to rectify error
    - Employer evaluates all staff (approx. 130 workers) to ensure proper classification
  - Early 2025: DLI closes file, no need for formal findings or order

# Effectiveness of efforts to address misclass - DEED

- Increased staffing levels of full-time auditors by five and will increase by another five by the end of SFY 2025.
- Completed 1,384 random audits of employers as we move closer to 1,500 audits per year as required by the USDOL audit penetration rate.
- On average, about one misclassified worker was found per audit.
- Improved business processes, USDOL granting permission to perform virtual audits, and increased staffing levels will allow DEED to more industry-focused audits while still meeting USDOL penetration standards in the coming year.

# Effectiveness of efforts to address misclass - DEED

- Conducted 27 employer seminars over the course of SFY 2025, with 12 having heavy emphasis on misclassification.
- Implemented Paid Leave employer registration and wage detail providing broader base of employer and worker records.
- UI partnered with Paid Leave in 17 employer outreach efforts, reaching thousands of employers in in-person and virtual seminars that strongly addressed worker classification.

# Effectiveness of efforts to address misclass - Revenue

- Since 2022, the Department of Revenue has audited the worker classifications of 242 businesses.
  - These audits are very complex and take time as many classifications may be reviewed at each business.
  - Of those businesses audited, some type of worker misclassification was identified 70% of the time

# Effectiveness of efforts to address misclass - AGO

- In 2024, AGO received 696 wage theft related complaints, compared to 299 in 2023\*
  - This includes violations related to:
    - misclassification
    - minimum wage
    - overtime
    - working off the clock
    - unpaid final paychecks
    - unauthorized deductions
    - retaliation

\* 2023 data begins on March 30, 2023.

# Effectiveness of efforts to address misclass - AGO

- Approximately 22% of 2024 complaints involved misclassification.
- Complaints come from wide range of industries across the state including construction, gig-economy, healthcare, transportation, nonprofit, education, food service and more.
- Of these approximately 67% of these complaints came from three industries: Construction, gig-economy and healthcare

# Effectiveness of efforts to address misclass - AGO

- Between active litigation, investigations, intake, and MEEP, AGO spent nearly 47% of our time in 2024 working on misclassification cases
  - Large misclassification investigations take significant resources.
  - Some investigations may involve a few workers, but others involve thousands of workers.
  - These investigations require many interviews, data collections and analysis.
  - Even complaints that we do not fully investigate need to be reviewed, analyzed and sometimes require follow up interviews with complainants.
  - When the AGO's investigation shows evidence of misclassification, we may attempt to seek enforcement through an assurance of discontinuance that requires a company to properly classify their employees.
  - If these attempts are unsuccessful, we may file a lawsuit in District Court.
  - Lawsuits can last years, require significant AGO resources (staff time, travel, expert expenses), court resources and worker time.

# Effectiveness of efforts to address misclass - AGO

- Increased coordination with the Partnership allows for more efficient use of resources
- Has helped to identify frequent bad actors and industries of concern
- Can help to establish best practices
- Has helped to identify areas of need/scope of the issue
- Has potential to increase outreach and intake efforts

# Effectiveness of efforts to address misclass - AGO

- Case example:
  - AGO received information that a gig work company was misclassifying its customer service workers
  - The MN AGO conducted an investigation which we believed showed that the company had misclassified approximately 300 workers as independent contractors based in Minnesota
  - Because workers were classified as independent contractors, they were not receiving minimum wage, overtime pay, or mandatory rest breaks required for employees
  - Following our investigation, we obtained a settlement for \$300,000 for Minnesota workers

# Proactive review and enforcement recommendations

- Continue efforts to identify upstream, proactive measures for preventing misclassification
- Regular bi-weekly Enforcement workgroup meetings with at least one participant from each partnership entity to coordinate proactive misclassification-related information sharing, including trends noticed, and coordinate opportunities for proactive enforcement
- Issue joint news releases relating to misclassification investigations and resolutions to demonstrate misclass is not a single agency issue and deter future violations; refer to each agency's role to investigate and enforce misclassification
- Incorporate misclassification-related information into all applicable training and presentations to stakeholders to deter violations and inform public about where and how to file complaints; pursue joint education and outreach opportunities where possible

# Staffing and budget recommendations

- The Governor's budget includes a recommendation of \$281,000 in FY26 and \$286,000 in FY27 from the general fund to DLI to increase funding for the enforcement of worker misclassification laws.
  - Would fund 2.5 FTEs in DLI's Division of Labor Standards