

How To Protect Yourself Against Wage Theft

Slavery is a system under which people are treated as property to be bought and sold, and are forced to work. For many of us, as wage earners, our livelihoods depend (read: forced to work) on wages, especially when the dependence is immediate, meaning you live paycheck to paycheck. We are essentially at the will of the employer, for better and for worse; enslaved by the wage system in which employers use to exploit the working class. This is where the term 'wage slave' stems from.

So what can we do to protect ourselves from such exploitation?

One thing we must always remember — labor creates all wealth, and no boss should come between us and that wealth. It is the historic mission of the working class to do away with capitalism, to organize ourselves, not only for everyday struggle with capitalists, but to carrying on production when the capitalist system is abolished.

Exploitation takes on many shapes and sizes, but today we're going to talk about one of the most complex and growing problems for workers as employers try all they can to squeeze as much surplus/free labor out of their workers. That is the problem of "Wage Theft" — when employers illegally underpay their workers. The top two methods of wage theft are unpaid overtime and employee misclassification.

Here are some simple, tried and true ways to protect yourself and your fellow workers:

- **Track Your Hours**- The U.S. Department of Labor has created a smart phone app to help workers track their hours. If you don't have a smart phone, it is still important to keep your own records. Write down hours worked, break times, and any over time worked.
- **Keep A Work Journal**- A workplace journal is always a good idea. The more detailed your journal is, the better your chances will be when challenging your employers Unfair Labor Practices (ULP). Keep your journal in your car and write down times, dates, names of potential witnesses, and any other detail you think would be helpful later, not while working. If you would like a copy of a work journal template please get in touch and we will send you a copy.
- **Fill Out Tax Forms**- Being paid under the table sometimes can be really great, but it also means you are extremely vulnerable to being underpaid, or not paid at all. Without proof of employment, it's your word against theirs. Following the above practices will help you in your case, but you should demand to be placed officially on the books.
- **Know Your Rights** -Familiarize yourself with your rights and who you can call to file a complaint or ask for advice. If you want a pamphlet explaining your rights, get in touch and we'll mail you a copy.
- **Organize/Unionize**- We stress that an organized workplace is the safest workplace. Not only can you safe guard yourself from wage theft, but also demand other changes that make your workplace experience more tolerable. A union is defined by two or more workers acting in concert with one another, and is protected by the government. To act as a union does not require a large organization or external leadership, only organized solidarity among fellow workers.

If you would like to learn how to organize your place of work, get in touch with your local Industrial Workers of the World organizer.

Organize! Educate! Emancipate!

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What is wage theft and what laws does it break?

- Commonly, wage theft is a violation of the Federal Labor Standards Act (FLSA) which provides a **federal minimum wage (\$7.25/hour \$2.13 for tipped employees)** and requires employers to pay **time and a half for overtime** worked over 40 hours a week.
- Wage theft also occurs when employers make **illegal deductions** from your paycheck or **steal tips**, when they make you **work off the clock**, or withhold payment after being terminated.
- Wage theft can also include violation of tax laws, through the **misclassification** of employees as independent contractors, which **excludes employers from having to pay overtime or benefits**, as well as their share of payroll taxes, **passing on the burden to the worker**.
- In the most egregious cases, wage theft occurs when an employer **simply refuses to pay any wages** to a worker for any amount of hours worked.

How big is the scope of the wage theft problem?

- Wage theft is a **\$30 billion a year problem nationally**.
- According to the DOL's Wage and Hour Division, employers in the city of Houston had **19,798 wage and hour violations** since FY2008.
- **The industries** with the most violations have been **construction (17%)** and **full service restaurants (16%)**.
- Since FY 2008, employers have agreed to pay out **\$18,235,720.30 in back wages** to Houston workers and **\$1,661,630.50** more have been recovered through civil monetary penalties.
- Since 2007, HIWJ has documented **more than \$3.2 million in stolen wages** and has been able to **recover more than \$550,000** through negotiations, legal actions, and public campaigns.
- Although these figures are alarming, **still more cases exist** that are never reported due to **lack of information** about workers' rights or for **fear of retaliation**.

Some Facts About Tipped-Employees'

The Federal Minimum Wage was last raised in 2009 from \$6.55 an hour to \$7.25 an hour in July, 2009. Some states (not Virginia) have raised the minimum wage, however there hasn't been any legislation to raise the Federal Minimum Wage for tipped employee's since 1991.

Originally, the federal tipped worker minimum wage was 60% of the full minimum wage. However, it was frozen at just \$2.13 per hour in 1991. Because it has not been increased at all in the decades since then, it has plummeted in value to less than 30% of the minimum wage.

Many states provide stronger protections for tipped workers by requiring that tipped workers be paid above the federal rate. Illinois guarantees tipped workers 60% of the minimum wage. In New York and Connecticut it's approximately 70%. And Alaska, California, Minnesota, Montana, Nevada, Oregon and Washington guarantee tipped workers the full minimum wage – a best practice that has successfully reduced poverty among tipped workers in those states. **Why can't Virginia become one of those states?**

According to the National Restaurant Association, 1 in 10 working Americans nationally work in restaurants which collectively register sales exceeding \$600 billion. Virginia restaurants employ over 342,200 people, and were projected to register \$12.8 billion in sales. Restaurant jobs represent 9% of employment in Virginia.