

# FACT SHEET



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## Your Rights as a Worker

**All workers have rights.** We all learned about the worker rights movements of the industrial revolution, and most of those protections are still in place for workers in Virginia

### What is worker misclassification?

Worker misclassification, also called payroll fraud, is when an employer improperly classifies a worker as an *independent contractor* instead of as an *employee*.

**Why does it matter?** If you are misclassified you:

- Pay double employment taxes – your share and the employer’s share.
- Cannot get unemployment if you lose your job, until you prove you were misclassified.
- Are not eligible for employee benefits like health insurance and retirement savings if offered by the employer.
- Are not covered by workers’ compensation, which means you could have trouble getting help if you are injured on the job.
- Will not get paid overtime (1.5 times your hourly rate) if you work more than 40 hours.

### What employer behavior should I be wary of?

As with most wage theft violations, the burden of proof often lies with the worker. Even as part-time or low-wage workers, students’ minor hourly losses have an additive effect. As a student worker in high-risk sectors, you should be checking to make sure:

- In service industries, you are paid for all tips earned
- You are being fully compensated for all hours worked, and avoiding “off-the-clock” unpaid labor
- Your paystub reports an hourly wage equal to or higher than the state minimum (\$2.13/hour for

Tipped Employees\*, \$12.00/hour for Non-Tipped Employees for the period between 2023 and 2025).

- From 1 January 2025 to 1 January 2026 the minimum wage will be \$13.50 per hour.
- From 1 January 2026 to 1 January 2027 the minimum wage will be \$15.00 per hour.
- Review your paystub for any strange deductions – employers cannot make certain deductions without your written consent
- You are properly classified – if your employer lists you as an independent contractor, you may be missing out on many part-time benefits while your employer evades taxes

### How can I help fight wage theft?

By signing up for our [e-mail list](#), posting [informational material](#), and even advocating through word-of-mouth, you can protect yourself and others from unethical and unlawful employers.

### Who should I contact if I suspect I am a victim of wage theft?

If you suspect you are a victim of unlawful employment practices, it is important to seek help for money that you are legally owed. You may fill out a wage/hour dispute form provided by the Virginia Department of Labor and Industry (DOLI) by clicking [here](#). To learn your rights or find a lawyer near you, visit our website [here](#).

### What should you do if you have been misclassified or your employer refuses to reclassify you?

- Call the VEC investigative unit at (804) 225-8328 or email [geoff.garner@vec.virginia.gov](mailto:geoff.garner@vec.virginia.gov)
- Talk with an attorney about filing a civil claim. Find a suitable attorney at [www.wagetheftva.org](http://www.wagetheftva.org).

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*The Virginia Interfaith Center for Public Policy advocates economic, racial, and social justice in Virginia’s policies and practices through education, prayer, and action.*

\*Employers are still required to subsidize their tipped workers to ensure they achieve minimum wage of \$12.00/hour.