



Commonwealth of Virginia  
Office of the Governor

## Executive Order

**NUMBER SIXTEEN (2018)**

### **ESTABLISHING AN INTER-AGENCY TASK FORCE ON WORKER MISCLASSIFICATION AND PAYROLL FRAUD**

#### **Importance of the Issue**

The misclassification of employees as “independent contractors” undermines businesses that follow the law, deprives the Commonwealth of millions of dollars in tax revenues, and prevents workers from receiving legal protections and benefits.

A 2012 report of the Joint Legislative Audit and Review Commission (JLARC) found that one third of audited employers in certain industries misclassify their employees. By failing to purchase workers' compensation insurance, pay unemployment insurance and payroll taxes, or comply with minimum wage and overtime laws, employers lower their costs as much as 40%, placing other employers at a competitive disadvantage.

Based on state and national studies, JLARC estimated that worker misclassification lowers Virginia's state income tax collections as much as \$28 million a year. Agencies with relevant enforcement responsibilities, including the Virginia Employment Commission, the Department of Labor and Industry, the Department of Professional and Occupational Regulation, the State Corporation Commission's Bureau of Insurance, the Department of Taxation, and the Workers' Compensation Commission each address only one component of this practice and may not fully coordinate their efforts. In its study, JLARC recommended the establishment of a task force with representatives from the agencies listed above.

#### **Establishment of the Task Force**

Pursuant to the authority vested in me as Governor under Article V of the Constitution of Virginia, and the *Code of Virginia*, in order to examine the issue of worker misclassification and payroll fraud, I hereby create an Inter-Agency Taskforce on Worker Misclassification and Payroll Fraud (Taskforce).

## **Initiatives**

The purpose of the Taskforce is to develop and implement a comprehensive plan with measurable goals to reduce worker misclassification and payroll fraud in Virginia. The activities of the Taskforce should include, but not be limited to:

1. Reviewing statutes and regulations related to worker misclassification and payroll fraud;
2. Evaluating current enforcement practices of the agencies involved;
3. Developing procedures for more effective inter-agency cooperation and joint enforcement;
4. Developing educational materials and an outreach strategy for employers;
5. Advising on any technological or other improvements in worker misclassification and payroll fraud detection;
6. Recommending any appropriate changes to relevant legislation or administrative rules;
7. Identifying ways to involve external stakeholders in the Taskforce's work;
8. Identifying ways to hold companies working on state contracts who commit payroll fraud through misclassification of workers accountable; and
9. Identifying ways to deter such misconduct through incentives and enforcement mechanisms.

The Taskforce will be chaired by the Secretary of Commerce and Trade and will include representatives from the Virginia Employment Commission, the Department of General Services, the Department of Labor and Industry, the Department of Professional and Occupational Regulation, the State Corporation Commission's Bureau of Insurance, the Department of Taxation, the Workers' Compensation Commission, and the Office of the Attorney General.

The Taskforce shall develop a work plan by November 1, 2018. The Taskforce shall report to the Governor on its progress by August 1, 2019.

## **Staffing**

Staff necessary for the Task Force will be provided by the respective agencies participating with the Task Force.

**Effective Date of the Executive Order**

This Executive Order shall be effective upon its signing and, pursuant to §§ 2.2-134 and 2.2-135 of the *Code of Virginia*, shall remain in full force and effect for a year from its signing or until superseded or rescinded.

Given under my hand and under the Seal of the Commonwealth of Virginia this 10<sup>th</sup> day of August, 2018.



Handwritten signature of Ralph S. Northam in black ink.

Ralph S. Northam, Governor

Attest:

Handwritten signature of Kelly Thomasson in black ink.  
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Kelly Thomasson, Secretary of Commonwealth