

FACT SHEET



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Prohibit retaliation against employees filing wage complaints

SUPPORT:

HB 337- Delegate Price

SB 48- Senator Spruill

Problem: Workers can be fired for filing a wage complaint. Workers cannot be fired based on race, gender, ethnicity or other protected classes, but they can be fired for filing a complaint about not receiving all their wages. It makes little sense to have laws ensuring that workers get paid all their wages, if they can be fired for seeking to recover those wages. Workers who believe they have been cheated of their wages can call the Department of Labor and Industry (DOLI) and file a complaint. DOLI will investigate and initially will contact the employer. Although many employers resolve the problems immediately, not all do. An employer can then fire the employee for filing the complaint. This means many workers do not receive their legally owed wages and good businesses are put at a competitive disadvantage.

Policy solution: This lack of protection completely undermines the value of the law for workers who are still employed. As a result, most workers will only file complaints after they leave a job and are not while they are still employed at the firm. Prohibiting discriminatory actions against employees filing wage complaints would benefit both working families and good employers.

Benefits: Prohibiting discriminatory actions against employees filing wage complaints:

Ensures that more workers get their legally owed wages. – If an employer is prohibited from firing a worker for filing a wage complaint, it is reasonably likely that they will pay the worker their legally owed wages. This allows workers to put food on the table

and a roof over their head, investing in our local economies with their hard-earned wages.

Creates a stronger deterrent against wage theft – If an employer routinely underpays workers and can simply any individuals who file complaints, non-payment of wages can become a “good” business model for an employer. To create meaningful deterrence against wage theft, widespread non-payment should have significant consequences.

Levels the playing field for responsible businesses – Good businesses are placed at a competitive disadvantage when their competitors don’t pay their workers their legally-owed wages and can simply fire employees who complain. Making sure that all workers are paid legally will level the playing field.

Federal wage law allows investigations. The Fair Labor Standards Act, the federal law that regulates minimum wage, overtime and child labor, protects workers against discriminatory actions when workers file complaints with the federal Department of Labor. **Other Virginia laws protect complainants against retaliation, but not in this instance.**

The **Virginia Employment Commission** can investigate on behalf of all workers.

The **Virginia Occupational Safety and Health Act (VOSH)** law prohibits retaliation. VOSH materials state, “It is illegal to retaliate against an employee for using any of their rights under the law, including raising a safety or health concern with the employer or VOSH, or reporting a work-related injury or illness.”

The **Virginia Workers Compensation** law makes it illegal to fire workers for filing for workers compensation.