

Winning Wage Justice

An Advocate's Guide to State and City Policies to Fight Wage Theft





+ The Problem

Wage Theft is a Defining Trend of 21st Century Labor Market

Broken Laws, Unprotected Workers

3-city survey of workers found:

26% had not been paid minimum wage

76% overtime workers not paid overtime wages


43% of workers who complained suffered retaliation

PLUS dozens of studies by organizing groups documenting violations in restaurants, day labor, domestic work

What are the roots of the crisis?



Everyone has a stake in the fight



**Cost to individual
workers and their
families:** \$56.4 million
per week in three cities
alone

**Cost to taxpayers and
local economies:**
\$427 million a year in lost
revenue in
New York state alone



+ How to Use This Guide

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How to Use This Guide

Raise the Cost to Employers for Violating the Law

Make Government Agencies Effective Enforcers of the Law

Better Protect Workers From Retaliation

End the Exclusions in Minimum Wage and Overtime Standards

Stop Independent Contractor Misclassification and Hold
Subcontracting Employers Accountable

Ensure Workers Are Paid for All Hours Worked

Guarantee that Workers Can Collect from their Employers

Question One:

What are the main problems in your community?

- **Which industries?**
- **What size employers?**
- **What kinds of issues?**
- **What are the barriers?**

Question Two:

What are the wage theft organizational priorities of your community?

- **Improve outcomes for individuals;**
- **Secure compliance;**
- **Build membership and leadership**

Question Three:

What does your state law already say about your priority needs?

- **State minimum wage law?**
- **State wage payment law?**
- **State overtime law, etc.**

Question Four:

Are state law remedies...

- good enough to address your issues and need to be enforced,
or
do they need changing?
- Ask NELP for help, or see whether there are already treatises, websites, legal mapping for your state

Question Five:

What resources does your state have?

- **Government enforcement**
 - Federal and state enforcement offices and staffing
- **Private enforcement**
 - Labor and employment lawyers
 - Legal services
- **Workplace monitoring**
 - Unions
 - Worker centers

State Campaigns v. City Campaigns

Alternative where state action is not feasible

Assess city's authority to set standards and/or enforce standards

Consider risk that state law may block an ordinance

Evaluate city's capacity to implement



NELP's Top picks

- **Raise the cost of violations**
 - Triple damages
 - Revoke business licenses
 - Attorneys fees
- **Make government agencies effective enforcers**
 - Community input for smart enforcement
 - Beef up agency resources
- **Protect complaining workers**
 - Presumption of retaliation



NELP's Top picks

- **End exclusions from minimum wage and overtime laws**
- **Stop independent contractor misclassification**
 - Broad definitions of employment
 - Written disclosure to workers of their status
- **Ensure workers are paid for all hours worked**
 - Disclosures and wage statements
- **Guarantee that workers can collect wages owed**
 - Wage bonds

A more in-depth look at the model policies

The Policy

How Does the Policy Work?

What are the Challenges to Achieving This Policy?

Which States have This Provision?

Recent Campaigns

Model Legislation

**+ Putting it all
together: recent
state campaigns**



Make the Road NY and community-labor coalition S8380

**Increases retaliation protection for workers who
speak up**

Adds tools for the Department of Labor and courts

DOL can require wage bonds

DOL can collect asset information

Increases penalties for violations



Washington State S3 I 45

Stops the clock on agency complaints

Mandates investigation of claims within 60 days

Successor liability

Increased penalties for repeat violators



Illinois Just Pay for All Coalition SB 3568

**New small claims division can oversee claims
of \$3,000 or less**

Repeat violations prosecuted as felonies

**Employers found guilty of wage theft must pay
higher penalties**

Additional protection from retaliation

How to get more information

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And download the report at:

www.nelp.org/winningwagejustice