

## S 3254

### Employee Misclassification Prevention Act

**Congress:** 111 (2009–2011, Ended)

**Chamber:** Senate

**Policy Area:** Labor and Employment

**Introduced:** Apr 22, 2010

**Current Status:** Committee on Health, Education, Labor, and Pensions. Hearings held. Hearings printed: S.Hrg. 111-114

**Latest Action:** Committee on Health, Education, Labor, and Pensions. Hearings held. Hearings printed: S.Hrg. 111-1146. (Jun 17, 2010)

**Official Text:** <https://www.congress.gov/bill/111th-congress/senate-bill/3254>

### Sponsor

**Name:** Sen. Brown, Sherrod [D-OH]

**Party:** Democratic • **State:** OH • **Chamber:** Senate

### Cosponsors (8 total)

| Cosponsor                         | Party / State | Role | Date Joined  |
|-----------------------------------|---------------|------|--------------|
| Sen. Casey, Robert P., Jr. [D-PA] | D · PA        |      | Apr 22, 2010 |
| Sen. Durbin, Richard J. [D-IL]    | D · IL        |      | Apr 22, 2010 |
| Sen. Harkin, Tom [D-IA]           | D · IA        |      | Apr 22, 2010 |
| Sen. Merkley, Jeff [D-OR]         | D · OR        |      | Apr 22, 2010 |
| Sen. Murray, Patty [D-WA]         | D · WA        |      | Apr 22, 2010 |
| Sen. Franken, Al [D-MN]           | D · MN        |      | Apr 26, 2010 |
| Sen. Mikulski, Barbara A. [D-MD]  | D · MD        |      | Apr 28, 2010 |
| Sen. Tester, Jon [D-MT]           | D · MT        |      | Jun 18, 2010 |

### Committee Activity

| Committee  | Chamber | Activity                     | Date         |
|--|---------|------------------------------|--------------|
| Health, Education, Labor, and Pensions Committee | Senate  | Hearings By (full committee) | Jun 17, 2010 |

### Subjects & Policy Tags

#### Policy Area:

Labor and Employment

### Related Bills

| Bill        | Relationship   | Last Action  |
|-------------|----------------|--|
| 111 HR 5107 | Identical bill | May 3, 2010: Referred to the Subcommittee on Income Security and Family Support. |

Employee Misclassification Prevention Act - Amends the Fair Labor Standards Act of 1938 (FLSA) to require every person to: (1) keep records of non-employees (contractors) who perform labor or services (except substitute work), including through an entity such as a trust, estate, partnership, association, company, or corporation, for remuneration; and (2) provide certain notice to each new employee and new non-employee, including their classification as an employee or non-employee and information concerning their rights under the law.

Makes it unlawful for any person to: (1) discharge or otherwise discriminate against an individual (including an employee) who has opposed any practice, or filed a complaint or instituted any proceeding related to this Act, including with respect to an individual's status as an employee or non-employee; and (2) fail to classify accurately an employee or non-employee.

Doubles the amount of liquidated damages for maximum hours, minimum wage, and notice of classification violations by an employer. Subjects a person who: (1) violates such requirements (including recordkeeping requirements) to a civil penalty of up to \$1,100; or (2) repeatedly or willfully violates such requirements to a civil penalty of up to \$5,000 for each violation.

Directs the Secretary of Labor to establish a webpage on the Department of Labor website that summarizes the rights of employees under this Act and other appropriate information.

Amends the Social Security Act to require, as a condition for a federal grant for the administration of state unemployment compensation, for the state's unemployment compensation law to include a provision for: (1) auditing programs that identify employers that have not registered under the state law or that are paying unreported compensation where the effect is to exclude employees from unemployment compensation coverage; and (2) establishing administrative penalties for misclassifying employees or paying unreported unemployment compensation to employees.

Requires any office, administration, or division of the Department of Labor to report any misclassification of an employee by a person subject to the FLSA that it discovers to the Department's Wage and Hour Division (WHD). Authorizes the WHD to report such information to the Internal Revenue Service (IRS).

## **Actions Timeline**

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- **Jun 17, 2010:** Committee on Health, Education, Labor, and Pensions. Hearings held. Hearings printed: S.Hrg. 111-1146.
- **Apr 22, 2010:** Introduced in Senate
- **Apr 22, 2010:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.