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WORKPLACE JUSTICE LAB POLICY BRIEF
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THE ENFORCEMENT GAP: WHY WORKERS STILL DON'T GET PAID WHAT THEY'RE OWED

New evidence on why strong wage laws alone aren't enough—and what enforcement agencies can do about it.

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BACKGROUND

Wage theft—when employers fail to pay workers what they are legally owed—remains a pervasive problem in the United States.

~17%

About 17% of low-wage workers experience minimum wage violations each year, losing on average 20% of the income owed (~$3,000/year).

11 million+

Between 2021–2023, over 11 million workers lost on average 24% of wages owed.

5 states

Five states (AL, FL, GA, LA, MS) have no state-level wage enforcement agency.

Workers at significantly elevated risk of minimum wage violation include:

- Women, noncitizens, and workers without a high school diploma
- Black, Hispanic, Asian, and Native American workers
- Young workers (ages 15–24) and older workers (65+)
- Non-hourly and part-time workers
- Workers in food preparation, personal care, farming, and building maintenance

Worker advocates have responded by pushing for stronger state and local laws, operating under the assumption that enforcement agencies will translate those powers into vigorous enforcement. This paper tests that assumption directly.

Drawing on a novel 50-state survey of state labor departments, original coding of all state minimum wage and wage payment statutes, and state-level estimates of minimum wage violations using CPS-MORG data, we find that the assumption is wrong: **many agencies do not use the full extent of their legal authority to enforce the minimum wage.** And the consequences are real—for workers who can least afford it.

Strategic enforcement—proactive investigations, industry mapping, company-wide investigations, triage, and vigorous penalty assessment—is a critical alternative tool. *This paper provides the first systematic, multi-state evidence that strategic enforcement is associated with a lower probability of minimum wage violation, under the right conditions.*

KEY FINDING #1: WIDESPREAD FAILURE TO USE ENFORCEMENT POWERS

Across U.S. states, *statutory* enforcement powers (what agencies are allowed to do) and *actual* enforcement practices are only moderately correlated. In practice, many agencies leave significant authority on the table:

42%

of states with authority to conduct **proactive investigations** (going from a single complaint to a company-wide investigation or targeting high violation sectors) actually do so regularly.

26%

of states with authority to **investigate retaliation**, which discourages workers from coming forward to report violations, do so.

33%

of states with authority to assess **liquidated damages** do so at the high end of what's permitted by law. Even though there is strong evidence that they have a strong deterrence effect on employers.

25%

of states with authority to assess **civil penalties** do so at the high end of what's permitted by law.

KEY FINDING #2: WHEN STRONG LAWS + STRATEGIC ENFORCEMENT ARE COMBINED THERE IS A DRAMATIC REDUCTION IN THE PROBABILITY OF A VIOLATION

Moving from a state with strong laws but minimal enforcement to one with strong laws and a full suite of strategic enforcement practices reduces the predicted probability of violation from 5.6% to 3.4%. Critically, this effect holds above and beyond staff capacity: it's not about more "cops on the beat," but about *how* agencies wield their authority.

40%

Reduction in wage theft when strong laws + strategic enforcement are combined.

IMPACT REQUIRES POWERS AND PRACTICES TOGETHER

Neither strong laws nor vigorous enforcement practices, *on their own*, are statistically associated with lower minimum wage violation rates. Only when strong statutory powers and strategic enforcement practices are **paired together** do we see a significant, meaningful reduction in violations.

IMPLICATIONS FOR ADVOCATES AND POLICYMAKERS

This study shows that states that had adopted strategic enforcement laws and practices—California, Minnesota, New Jersey and Massachusetts (the list has continued to grow since this research was conducted)—are better positioned to protect their workers. States with strong laws but weak practices are leaving the benefits of those laws unrealized.

Most U.S. states rely on a **reactive** approach to enforcement: agencies wait for worker complaints before acting. This leaves millions unprotected. Workers most at risk—immigrants, informal economy workers, tipped workers—are the least likely to file complaints due to fear of retaliation, language barriers, or lack of knowledge about their rights.

Even when complaints are filed and violations confirmed, collection is often abysmal. For example, in Texas, 80% of wages ordered paid (2010–2020) had yet to reach workers as of 2022.

The misalignment between statutory powers and enforcement practices can take three forms:

- Agencies fail to carry out legally **mandated** practices.
- Agencies fail to use **expressly authorized** practices.
- Agencies fail to pursue **implicitly permitted** strategic practices due to lack of awareness, expertise, or interest.

WHAT STATES SHOULD DO

- States should move from reactive (complaint-driven) to proactive enforcement: industry mapping, company-wide investigations, complaint triage, and vigorous penalty assessment.
- Communities of learning and practice across state agencies are essential for spreading strategic enforcement know-how.

Advocates pushing for stronger wage theft laws should pair that work with demands for enforcement infrastructure: investigator training, pilot programs, and co-enforcement partnerships with worker organizations. Laws without strategic enforcement practices are, for too many workers, paper rights.

About the Research

METHODOLOGY

This study draws on four novel datasets:

- **Statutory Powers:** Hand-coded minimum wage and wage payment statutes for all 50 states and D.C. (2018–2022), covering 32 statutory provisions organized around probability of detection and costs of noncompliance.
- **Enforcement Practices:** Original survey of state labor departments in all 50 states and D.C. (91% response rate), measuring proactive and company-wide investigations, complaint triage, retaliation investigation, and penalty assessment practices.
- **Agency Staffing:** Public records requests on full-time wage and hour investigators by state.
- **Minimum Wage Violations:** State-level estimates using Current Population Survey Merged Outgoing Rotation Groups (CPS-MORG) data.

The primary analysis uses individual-level logit models with controls for demographics, industry, occupation, macroeconomic conditions, wage structure, union density, and political environment. The key independent variables are state enforcement powers and practices scores and their interaction. Sensitivity tests and robustness checks assess scope conditions of findings.

AN IMPORTANT LIMIT

The powerful interaction between strong laws and strategic enforcement is not associated with a reduced likelihood of violation for two of the most vulnerable groups: non-hourly workers and tipped or commission-based workers. Even robust strategic enforcement practices are not reaching these workers through conventional means.

This points to the need for more innovative, complementary enforcement strategies, including:

- Co-enforcement models and proactive worker education campaigns
- Private rights of action
- Worker-driven social responsibility models
- Sector-specific hotlines and complaint mobilization strategies
- Compliance support for under-resourced small businesses

CITATION AND DATA

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