

NEWS RELEASE

For Immediate Release: Aug. 7, 2015

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State, Federal Agreement to Protect Misclassified Workers

Efforts to protect Idaho workers by preventing their misclassification as independent contractors or other nonemployee statuses took a step forward with a memorandum of understanding between the Idaho Department of Labor and the U.S. Department of Labor Wage and Hour Division. Under the agreement, both agencies will share information and coordinate law enforcement activities.

Idaho businesses often use independent contractors because they think it saves them money, but if these same businesses don't follow the rules, it will cost a whole lot more than they bargained for in severe monetary penalties and criminal charges at both state and federal levels.

"That's why we're here," explained Idaho Department of Labor Director Ken Edmunds. "We can help clarify when an employee is an employee or an independent contractor. If an Idaho business is considering the option of using independent contractors, the business should call us first so we can walk through the rules and make sure the workers and independent contractors are properly classified."

According to U.S. government figures 25-30 percent of all employees are misclassified as independent contractors.

"Misclassified workers are often denied access to critical benefits and protections, such as family and medical leave, overtime, minimum wage - to which they are entitled," said David Weil, U.S. Department of Wage and Hour division administrator. "Equally important, employers who follow the law cannot compete on a level playing field with employers that violate the law by misclassifying workers."

Employers, are your workers employees or independent contractors?

Differences employers need to consider when classifying their employees and independent contractors are as follows:

Employees:

- Perform service for the company for an extended period of time.
- Receive incentives from the company such as insurance, vacation pay and retirement benefits.
- Are paid hourly or are salaried, and pay is received at regular intervals such as monthly, weekly or bi-weekly.
- Work under direction from the company regarding how, when and where work will be completed.

Independent contractors:

- Can hire others to perform the work for the company.
- Have the possibility of profit or loss in the project.
- Are allowed to make their services available to others.
- Do not have set hours.
- Are responsible for their own tools, materials, equipment and travel or business expenses.
- Advertise their services including online, in the newspaper, with business cards and in the phone book.
- Are not required to work under a licensed individual while performing job duties.

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Idaho is the latest state to sign on to the US Department of Labor's effort to level the playing field. Alabama, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Hampshire, New York, Rhode Island, Texas, Utah, Washington, Wisconsin and Wyoming have signed similar agreements.

Two resources Edmunds referred can be downloaded from the department's website: [Independent Contractor or Employee](#) and [Construction and Independent Contractors](#).

A third, designed for independent contractors and employees can be found on the USDOL website: [Fact Sheet 13: Am I an Employee? Employment Relationship Under the Fair Labor Standards Act \(FLSA\)](#).

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