This page was exported from - The Rutgers Law Record
Export date: Sun Nov 8 16:17:44 2026 / +0000 GMT

New Data Needed: Improving New Jersey's Enforcement of Employee Misclassification Laws

50 Rutgers L. Rec. 248 (2023) | WestLaw | LexisNexis | PDF **Introduction**

In the United States, thousands of employees in the private sector are misclassified as independent contractors.1 Employers have used misclassification to withhold workers' benefits such as well-earned wages, benefits, and sick leave.2 This has a deleterious effect on working conditions and a cumulative effect on income inequality.3 The rise of employee misclassification has both federal and state governments scrambling to enforce employee misclassification statutes with mixed results.4 Although some states use a broader definition of what constitutes an employee to enforce employee misclassification, the number of misclassifications demonstrates effective enforcement is still an ongoing issue.5 Because of this lack of effective enforcement, employee misclassification persists in the workforce.6

1Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries, National Employment Law Project (October 2020), https://s27147.pcdn.co/wp-content/uploads/Independent-Contractor-Misclassification-Imposes-Huge-Costs-Indep2 Kerri Keohane and David Schap, Employee Misclassification and Related Damages Claims, 27 J. LEGAL ECON. 63, 64 (July 2021).3 See Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries NATIONAL EMPLOYMENT LAW PROJECT, https://www.nelp.org/publication/independent-contractor-misclassification-imposes-huge-costs-workers-federal-state-treasuries-update-october-2020/; See Eric Posner, How Antitrust Failed Workers, BOSTON REVIEW (Nov. 23, 2021) https://bostonreview.net/articles/competition-is-not-the- cure/.4 Rebecca Rainey and Ian Kullgren U.S. Labor Agencies Strike Deal to Share Enforcement Information, BLOOMBERG LAW (Jan. 6, 2022), https://news.bloomberglaw.com/daily-labor-report/u-s-labor-agencies-strike-deal- to-share-enforcement-information; Sean Golonka, State task force sets sights on multimillion-dollar problem of employee misclassification, The Nevada Independent (Apr. 12, 2021), https://thenevadaindependent.com/article/state-task-force-sets-sights-on-multimillion-dollar-problem-of-employ; Francoise Carre, (In)dependant Contractor Misclassification, ECONOMIC POLICY INSTITUTE (June 8, 2015), https://www.epi.org/publication/independent-contractor-misclassification/.

5 See Carre, supra at note 1.6 See Louise Esola, N.J. calls for wider employee misclassification enforcement, BUSINESS INSURANCE, (July 11, 2019), https://www.businessinsurance.com/article/20190711/NEWS08/912329545/NJ-calls-for-wider-employee-misclassification-enforcement.

View the Entire Article]