WORKER MISCLASSIFICATION

WHEREAS, worker misclassification is a deceptive effort by which employers illegally classify workers as independent contractors to avoid business costs associated with fulfilling employee rights guaranteed in federal and state labor, employment and tax laws; and

WHEREAS, employers that misclassify their workers avoid payroll taxes, minimum wage, paid sick leave, overtime pay, compliance with meal periods and rest breaks, workers compensation coverage, healthcare and retiree benefits, unionization, etc.; and

WHEREAS, by this unlawful activity, bad-acting employers save nearly 30% on worker-related expenses due to misclassification, forcing employers who play by the rules to compete at a disadvantage; and

WHEREAS, federal and state governments lose billions of dollars annually due to this egregious practice. The federal government loses nearly $4.7 billion annually while fifteen states which compiled dollar amounts fixed to worker misclassification lose more than $3.2 billion collectively each year; and

WHEREAS, statistics suggest the misclassification practice is increasing in frequency, especially in the economy's growth industries, including home care, janitorial, trucking, warehouse and logistics, construction, personal services, hospitality and restaurants and especially in the growing market of app-dispatched jobs forcing federal and state governments to take unprecedented steps to crack down on bad-acting employers; and

WHEREAS, worker misclassification fundamentally challenges much-needed protections for workers and compromises state government. For example, many misclassified workers are essential workers who are forced to work during the covid-19 pandemic without PPE and proper safety protocols to keep them safe; and

WHEREAS, it is increasingly clear that misclassification is an issue of racial justice, as many poor workers of color and immigrant workers make up heavily misclassified jobs are, therefore, stuck in a separate and unequal economy; and

NOW, THEREFORE, BE IT RESOLVED, the federal and state governments protect ALL essential workers in our communities and demand that companies provide protective gear, paid sick leave and proper safety training to prevent further spread of covid-19, regardless of workers' misclassified status.

BE IT FURTHER RESOLVED, the federal and state governments should take all necessary steps to eliminate this egregious practice under wage-and-hour, fair labor standards, workers' compensation, and unemployment insurance laws.

BE IT FURTHER RESOLVED, states and the federal government adopt a presumption that all workers are employees, entitled to all legal protections listed above, unless rebutted by the employer through a fair "ABC" test to consider employee versus independent contractor status.

BE IT FURTHER RESOLVED, lawmakers should use great intention and thought when considering any exemptions to an "ABC" test or any other employee vs. independent contractor test due to employers' proven attempts to circumvent the intent of misclassification laws.

FINALLY, BE IT RESOLVED, strong financial penalties exist to recoup lost revenues to the federal and state governments while discouraging other bad-acting employers from using this egregious practice.