



July 22, 2025

The Honorable Tim Walberg  
Chair, Committee on Education  
& Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Robert Scott  
Ranking Member, Committee on  
Education & Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chair Walberg and Ranking Member Scott:

I am writing on behalf of the 3,000 specialty construction contracting employer members of the Mechanical Contractors Association of America (MCAA) to advise you of our strong opposition to H.R. 1319, the “Modern Worker Empowerment Act,” because of the damage it would inflict upon law-abiding small businesses in the nation’s construction and mechanical contracting industries. This legislation seeks to reduce the test under the Fair Labor Standards Act (FLSA) and National Labor Relations Act (NLRA) to a “significant control” test that would make it easier to classify more workers in the construction and mechanical contracting industries as independent contractors. This will place law-abiding employers at a competitive disadvantage as unscrupulous competitors use this narrow standard to evade their duty to confirm the employment authorization of workers and their obligations to pay employment taxes, workers compensation, overtime, and other expenses. This will also harm employees of law-abiding businesses in our industry as their companies are undercut, and American taxpayers left to make up shortfalls to public programs as even more workers in our industry are treated as being self-employed.

MCAA members adhere to the highest standards and provide industry-leading wages and benefits—including health insurance and retirement benefits. Our members also make industry-leading investments in worker training and safety critical to ensuring the future of America’s construction workforce. MCAA members pride themselves on providing the best value to project owners while creating value and security for our workers, their families, and their communities. The business model employed by MCAA member contractors stands in stark contrast to the one that has become increasingly pervasive in the construction industry and would grow exponentially if H.R. 1319 becomes law. This model is rooted in a decision to treat almost every worker on a job site as an independent contractor. H.R. 1319 would encourage this model by making it easier to label more workers in our industry as independent contractors.

In today’s economy, our members increasingly find themselves competing with companies that underbid them by dissociating themselves from the traditional obligations of being an employer. Over the past several years, our members have seen a growing reliance on business practices that shave costs and increase profits by structuring operations to evade paying minimum wage, overtime, unemployment insurance, and other significant expenses in the labor-intensive construction and mechanical contracting industries. This business model also makes possible the utilization of undocumented immigrant labor because treating workers as independent contractors eliminates the obligation to confirm an individual’s employment authorization. H.R. 1319 seeks to amend federal labor and employment law to enshrine this business model that allows every tier of a construction contracting chain to avoid responsibility for verifying the employment authorization of construction workers, paying overtime, providing workers’ compensation, setting aside employment taxes, and funding unemployment insurance.



Recent academic research confirms the costs this method of operating in the construction industry imposes on honest contractors, workers, and taxpayers.<sup>1</sup> Worker misclassification and other types of payroll fraud in construction allows employers to evade \$2.98 billion per year in Social Security and Medicare taxes for workers.<sup>2</sup> It causes an estimated \$1.74 billion annual shortfall in state workers compensation programs, and construction industry misclassification results in annual state unemployment insurance program shortfalls of over \$700 million.<sup>3</sup> Under the “most conservative” estimates, misclassified construction workers lose over \$800 million per year in overtime.<sup>4</sup> Undisputed testimony before the House Subcommittee on Workforce Protections confirmed that construction companies relying on the business model H.R. 1319 would fuel in the construction industry gives unscrupulous contractors an almost 50% advantage over companies that honor their obligations as employers.<sup>5</sup>

Simply put, H.R. 1319 accelerates a “race to the bottom” in the construction industry that has caused work in the skilled trades to no longer be family-sustaining work in a growing number of markets across our nation. This is making it harder to attract men and women to our industry at a time when we have an urgent need for workers to build the infrastructure required to reshore manufacturing and realize the promise of new technologies.

On behalf of the membership of the MCAA, thank you in advance for your attention to our concerns about this legislation and its impact on the nation’s construction and mechanical contracting industries.

Sincerely,

A handwritten signature in black ink, which appears to read "James Gaffney". The signature is written in a cursive, flowing style.

James Gaffney  
Chairman  
MCAA Government Affairs Committee

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<sup>1</sup> Russell Ormiston, Dale Belman and Mark Erlich, An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry (2020), available at <https://stoptaxfraud.net/wpcontent/uploads/2020/03/National-Carpenters-Study-Methodology-for-Wage-and-Tax-Fraud-Report-FINAL.pdf> (last visited July 21, 2025).

<sup>2</sup> Id. at 5

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Hearing on “Misclassification of Employees: Examining the Costs to Workers, Businesses, and the Economy” Before the Workforce Protections Subcommittee, House Education and Labor Committee, 116th Congress (Sept. 26, 2019) (Statement of Matt Townsend, President of the Signatory Wall and Ceiling Contractors Alliance) available <https://www.congress.gov/116/meeting/house/110019/witnesses/HHRG-116-ED10-Wstate-TownsendM-20190926.pdf> (last visited July 21, 2025).