



**Report to
The Vermont Legislature**

Annual Worker Misclassification Report

in Accordance with Act 85 (2020)

Submitted to: • House Commerce and Economic Development Committee
• House Ways and Means Committee
• Senate Economic Development, Housing, and General Affairs Committee
• Senate Finance Committee

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Introduction

The Vermont Attorney General's Office (AGO) submits this annual report pursuant to Act 85 (2020). Act 85 sought to broaden efforts to address complaints of "willful, substantial, or systemic" violations of Vermont's workers' compensation or unemployment insurance laws by employers who improperly (1) claim they are not covered by those laws or (2) misclassify their employees as workers not protected by those laws. Among other things, Act 85 granted the Vermont Department of Labor (VDOL) the authority to refer such misclassification cases to the AGO for enforcement. Act 85 also established a multi-agency Misclassification Task Force to enhance collaboration across agencies and facilitate joint AGO-VDOL enforcement.¹

Additionally, Act 85 requires the Vermont Attorney General to report annually to the above legislative committees regarding enforcement activities and the benefits realized pursuant to the Act.

This annual report outlines the efforts over the past year to identify and investigate employers that may have misclassified employees and failed to pay contributions to Vermont's unemployment insurance trust fund, failed to maintain workers' compensation insurance for their employees, or both. It also briefly discusses Act 85's sunset provisions, which go into effect July 1, 2026

I. Enforcement Activity

Enforcement efforts during the 12 months reviewed (Q4 2024 – Q3 2025), are summarized below:

A. Workers' Compensation Misclassification Enforcement.

VDOL's Workers' Compensation Division investigates potential workers' compensation misclassification cases by a variety of means, including: (1) complaints from the public; (2) referrals from other agencies or VDOL units; and (3) VDOL review of Vermont workers' compensation-related data maintained by the National Council of Compensation Insurance (NCCI).

In the year reviewed, the Division:

- Opened 105 misclassification investigations, comprising:
 - 87 investigations from the Division's review of over 4,000 NCCI reports.

¹ The Task Force consists of representatives from the AGO, VDOL, the Agency of Administration, the Agency of Transportation, the Agency of Human Services, the Department of Financial Regulation, the Department of Taxes, and the Commission of Liquor and Lottery.

- 7 investigations from complaints received from the public;
- 10 investigations from referrals from other VDOL units;
- 1 investigation from the list of employers newly liable for unemployment insurance violations; and
- 1 investigation from other pending or closed VDOL investigations.
- Issued 43 citations, comprising:
 - 2 citations from previously pending investigations;
 - 41 citations from newly opened investigations; and
 - Citation assessments totaling \$292,740.00.

B. Unemployment Insurance Misclassification Enforcement.

VDOL's Unemployment Insurance Division investigates potential violations of Vermont's unemployment insurance (UI) laws by misclassifying employees as non-covered workers. In the year reviewed, the Division:

- Completed 130 audits;
- Completed 313 investigations;
- Identified 86 separate instances of misclassification affecting 650 employees;
- Identified unpaid UI contributions in the amount of \$94,429.47; and
- Assessed interest and penalties for violations in the amount of \$155,227.06.

C. AGO Referrals; July 1, 2026 Sunset

During this reporting year, VDOL did not refer any misclassification cases to the AGO for separate enforcement action. In prior years, such referrals required AGO efforts to obtain financial records and other documents needed to complete VDOL misclassification investigations. The AGO's [2024 Annual Misclassification Report](#) details some of those efforts and their outcomes.

Sections 11 and 24 of Act 85 include various sunset provisions that repeal the AGO's authority to accept and act upon VDOL misclassification referrals effective July 1, 2026.

In the meantime, the AGO and VDOL remain committed to continuing their collaboration to ensure that employers support the State's vital Workers' Compensation Administration Fund and Unemployment Insurance Trust Fund, as required, and classify their workers as employees

when appropriate. Any business or individual believing that an employer or other business is avoiding legal requirements to gain an unfair advantage in the marketplace should report potential violations to the Department of Labor so it may pursue enforcement or refer a matter to the Attorney General's Office.

Should the AGO pursue any new enforcement actions prior to the repeal date, it will describe such actions in a final Act 85 report to be submitted on or before July 1, 2026.

II. Misclassification Task Force

During this review period, members of the Misclassification Task Force provided no recommendations for additional policy reforms or enforcement powers at this time.

Sections 11 and 24 of Act 85 include sunset provisions that repeal the statute establishing the Task Force effective July 1, 2026. Those sunset provisions also repeal the statutory requirement for the AGO to submit annual Act 85 reports.

The AGO anticipates that the Task Force will conduct at least one additional meeting before it dissolves on July 1. If the Task Force develops any new recommendations during this period, the AGO will describe them in a final Act 85 report to the Legislature to be submitted prior to July 1.