



NEWS RELEASE

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FOR IMMEDIATE RELEASE

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SMACNA PRAISES INTRODUCTION OF EMPLOYEE MISCLASSIFICATION PREVENTION ACT

CHANTILLY, VA. – April 22, 2010 – “The use of independent contractors in construction has nothing to do with career enhancement or individual entrepreneurship, but rather everything to do with unfair low-wage competition,” explained Edward Hershon of Stromberg Metal Works of Beltsville, Md., during a recent press conference at the U.S. Capitol in Washington, D.C.

Representing the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA), Mr. Hershon expressed support of the Employee Misclassification Prevention Act (EMPA) introduced by Sen. Sherrod Brown (D-Ohio) and Rep. Lynn Woolsey (D-Calif.).

“Ethical contractors,” Mr. Hershon noted, “are increasingly forced to compete in the private and public market against unlawful, unethical companies that deliberately misclassify workers as independent contractors to gain an unfair competitive advantage.”

Mr. Hershon said that the problem of employee misclassification is increasing and hurts

three groups: lawfully compliant employers, workers and the taxpayers.

- **Compliant employers**, he said, are forced to compete in the marketplace against unlawful employers who unfairly cut their labor and administrative costs up to 30 percent. It creates a competitive market advantage that quality, safety and training cannot overcome.
- **Workers** are not protected with unemployment insurance or workers' compensation; are burdened with paying the full portion of Social Security and Medicare taxes; and are not eligible for overtime pay and workforce protections provided by federal and state laws. Workers who are misclassified as independent contractors are significantly less likely to have any type of health care or pension plans.
- **Taxpayers** take the hit when governments lose tens of billions of dollars in uncollected revenues as a direct result of misclassification. Governments lose Social Security taxes, unemployment insurance taxes, workers compensation premiums and income taxes. There are broader social consequences because less revenue means less money is available for vital federal, state and local services and programs. Various individual state studies have shown losses in some states to be in excess of \$1 billion in a single year.

"Misclassification results in a loss of more than \$20 million per year to the Maryland Unemployment Trust Fund alone," Mr. Hershon noted. "In 2009, I worked with then Maryland Secretary of Labor, Licensing and Regulation, Tom Perez, who is now assistant attorney general for civil rights in the U.S. Department of Justice, in drafting legislation to combat employee misclassification in the state of Maryland. We have had some success. Yet, the federal government must take the lead. The legislation introduced today will help the nation's responsible businesses, and we hope to see it as public law soon."

The problem is increasing, he warned, and Congressional action is needed now. Studies show an epidemic rise of worker misclassification suggesting that as many as 30 percent of businesses misclassify workers.

SMACNA, an international trade association representing 4,500 contributing contractor firms engaged in industrial, commercial, residential, architectural and specialty sheet metal construction markets, is dedicated to promoting quality and excellence in the sheet metal and air conditioning industry. SMACNA has national offices in Chantilly, Va., outside of Washington, D.C., as well as on Capitol Hill.

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