



TRANSFORMATION TO COMPETITIVE INTEGRATED EMPLOYMENT ACT (H.R. 2373/S. 3238)

Promote competitive, integrated employment for people with disabilities.

Section 14(c) of the Fair Labor Standards Act allows employers to discriminate against people with disabilities.

Passed in 1938, Section 14(c)¹ authorizes employers to pay workers with disabilities subminimum wages while they perform mundane tasks that do not transfer into skills necessary to transition to other employment options. This law only reinforces stigmatic misconceptions of people with disabilities and creates an artificial barrier to future employment opportunities.

The misconception that the elimination of 14(c) will displace workers with disabilities is based on speculation and rhetoric.

A growing number of employers have already stopped relying on Section 14(c) and have voluntarily withdrawn their certificates. In 2011 420,000 people with disabilities were paid subminimum wages under the 14(c) program.² Today, only 39,386 people with disabilities continue to receive subminimum wages.³ During that same time period (2011-2017), the employment rate for people with disabilities has steadily increased every year from 33.4 percent to 37.3 percent.⁴ Additionally, ten states have passed legislation limiting or barring the payment of subminimum wages for people with disabilities.

Bipartisan consensus supports the phase out of Section 14(c). The Republican and Democratic parties' 2016 platforms both called for an end to subminimum wages for people with disabilities.⁵ In 2016 a committee tasked by Congress to increase employment opportunities for people with disabilities also recommended the phase-out of Section 14(c).⁶ In addition, in an October 2018 report, the National Council on Disability, an independent federal agency charged with advising Congress, recommended "the phase out of Section 14(c)."⁷ Furthermore, in September 2020, the US Commission on Civil Rights recommended that "Congress should repeal Section 14(c) with a planned phase-out period to allow transition among service providers and people with disabilities to alternative service models prioritizing competitive integrated employment."⁸

¹ 29 U.S.C. § 214(c)(1).

² National Council on Disability, "Report on Subminimum Wage and Supported Employment," (August 23, 2012), http://www.ncd.gov/sites/default/files/NCD_Sub%20Wage.pdf.

³ U.S. Department of Labor, Wage and Hour Division, Certificate Holders, (October 1, 2021), <https://www.dol.gov/whd/specialemloyment/>

⁴ United States Census Bureau, "The percentage of non-institutionalized, male or female, with a disability, ages 21-64, all races, regardless of ethnicity, with all education levels in the United States who were employed [2011-2017]." <http://www.disabilitystatistics.org/reports/acs.cfm?statistic=2>

⁵ The 2016 Republican Party platform stated, "Our TIME Act (Transition[ing] to Integrated and Meaningful Employment) will modernize the Fair Labor Standards Act." The 2016 Democratic Party platform stated, "We ... support ... ending the sub-minimum wage for ... people with disabilities."

⁶ Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities. "Final Report," (September 15, 2015), <http://www.dol.gov/odep/pdf/20150808.pdf>

⁷ National Council on Disability, "National Disability Employment Policy – From the New Deal to the Raw Deal: Joining the Industries of the Future," (October 11, 2018), https://ncd.gov/sites/default/files/Documents/NCD_Deal_Report_508.pdf

⁸ U.S. Commission on Civil Rights, Subminimum Wages: Impacts on the Civil Rights of People with Disabilities, (Washington, DC: 2020), 223. <https://www.usccr.gov/files/2020-09-17-Subminimum-Wages-Report.pdf>

The Transformation to Competitive Integrated Employment Act (H.R. 2373/S. 3238):

Discontinues the issuance of new Special Wage Certificates. The Secretary of Labor will no longer issue Special Wage Certificates to new applicants.

Creates a grant program for states and individual 14(c) certificate holders to assist with their transition to competitive, integrated employment. This grant program will be available to all states and individual 14(c) certificate holders who transition their business models to support competitive, integrated employment for people with disabilities. States that receive grants must establish an advisory committee that includes employers, organizations specializing in employment for people with disabilities, Medicaid agencies, AbilityOne contractors, people with disabilities, and vocational rehabilitation agencies.

Creates a technical assistance center to support all 14(c) holders in their transition to competitive integrated employment. Under the Department of Labor, the technical assistance center will disseminate information about best practices to facilitate transition of entities to competitive, integrated employment.

Requires reporting and evaluation of the progress of creating and expanding support for workers with disabilities. States and 14(c) certificate holders will be required to report on their grant activities, evaluate changes in employment for people with disabilities, report average wage information, and evaluate employer actions taken to comply with the phase out of 14(c).

Sunsets Section 14(c) of the Fair Labor Standards Act. Five years after enactment of the TCIEA, employers will no longer be permitted to pay workers with disabilities subminimum wages.

REMOVE ARTIFICIAL BARRIERS TO EMPLOYMENT OPPORTUNITIES.

Cosponsor the Transformation to Competitive Integrated Employment Act

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