

# Nothing About Us, Without Us: Maryland Passes Legislation to Phase out Subminimum Wage for Workers with Disabilities

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## Background

- In 1938, section 14(c) of the Fair Labor Standards Act provided for a subminimum wage exemption where employers could legally pay less than the minimum wage to their employees with disabilities.
- 14(c) certificates allow certain employers to pay employees with disabilities based on their productivity, rather than a fixed hourly rate.
  - Productivity is measured by a time trial:
    - Employees with a disability are timed completing job-related tasks.
    - The employee with a disability's wage is set by comparing the time it took to complete a task against the average time of non-disabled workers.



## Defining the Problem

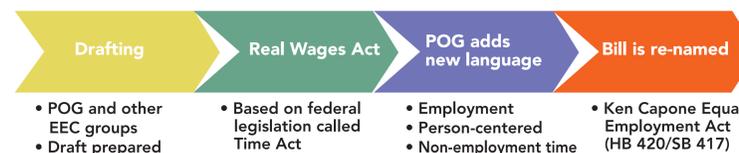
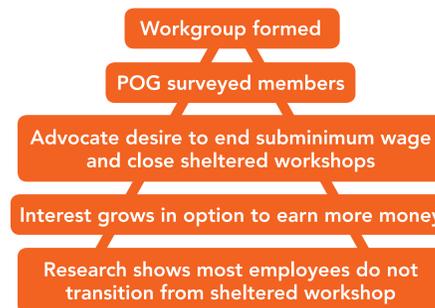
- As of July 1, 2016, there were approximately 3,200 Maryland residents with disabilities paid subminimum wages by 40 organizations (United States Department of Labor).
  - In 2016, 20 percent of individuals with developmental disabilities worked in facility-based settings where they were paid an average of \$3.88 per hour (National Federation of the Blind of Maryland).
  - Some individuals with disabilities were paid as little as pennies per hour.
- A 2001 study conducted by the government accountability office found that only approximately five percent of people in 14(c) placements transition into community-based jobs (United States Government Accounting Office).
- Subminimum wage is an unfair and discriminatory practice. Employees without disabilities do not have their pay measured based on their productivity.

## Vignette

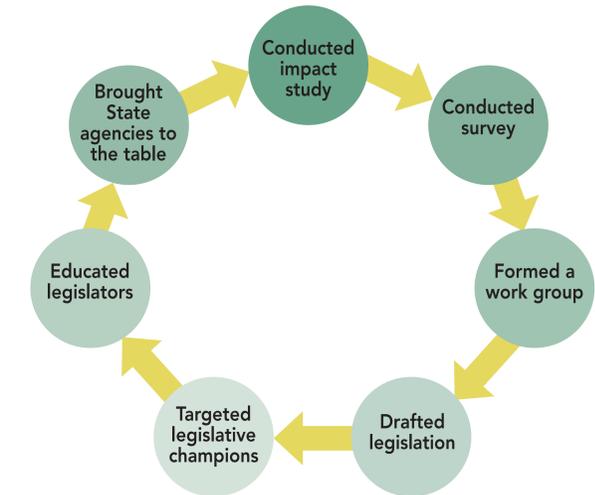
- Ken Capone, Public Policy Director of People On The Go (POG), spent time in a sheltered workshop shortly after graduation from rigorous computer programming courses.
- Ken wanted to work in the computer field; however, he was instead sent to a sheltered workshop where he did assembly work.
- Ken describes the experience as demeaning, especially after completing a difficult program.

## The Legislative Process

- The Equal Employment Coalition, led by People On The Go, included: Maryland Association of People Supporting EmploymentFirst, The Arc Maryland, Autistic Self Advocacy Network, Blind Industries and Services of Maryland, Disability Rights Maryland, The IMAGE Center for People with Disabilities, The Maryland Association of Community Services, Maryland Works, Inc., Melwood, and National Federation of the Blind of Maryland.
- POG worked with EEC groups to draft legislation that would eliminate the practice of paying people with intellectual and developmental disabilities subminimum wages in Maryland.



- POG and other EEC groups  
• Draft prepared
- Based on federal legislation called Time Act
- Employment  
• Person-centered  
• Non-employment time
- Ken Capone Equal Employment Act (HB 420/SB 417)



## Outcomes

- Phase-out of sheltered workshops.
- Beginning October 1, 2016, the Maryland Commissioner of Labor and Industry could no longer authorize no new organization certificates to pay their workers a subminimum wage.
- Allows companies that received a 14(c) certificate before October 1, 2016, to continue paying subminimum wages with a four-year phase-out.
- By October 1, 2017, the Maryland Developmental Disabilities Administration and the Maryland Department of Disabilities must submit a plan to the governor and the General Assembly outlining the transition away from subminimum wages.
  - Each individual currently paid under a 14(c) certificate will receive an individual plan.
- Transition away from subminimum wages becomes final on October 1, 2020.
- Maryland is the second state to eliminate subminimum wage.

People On The Go is a key partner of:



Maryland Center for Developmental Disabilities  
at Kennedy Krieger Institute  
*Building Partnerships. Changing Lives.*

## References

- National Federation of the Blind of Maryland, Ken Capone Equal Employment Act, retrieved October 18, 2016, from <http://www.nfbmd.org/node/118#sdfootnote4sym>.
- United States Government Accounting Office, Report to Congressional Requesters (2011). "Centers Offer Employment and Support Services to Workers with Disabilities, But Labor Should Improve Oversight," retrieved October 18, 2016, from <http://www.gao.gov/new.items/d01886.pdf>.
- United States Department of Labor, Wage and Hour Division, Community Rehabilitation Programs (CRPs) List, retrieved October 18, 2016, from <https://www.dol.gov/whd/specialemloyment/CRPlist.htm>.



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