

SENATE, No. 4227

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Madden

SYNOPSIS

Requires employers to post notice for employees on employee misclassification.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning employee misclassification and supplementing
2 Title 34 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Post notices about misclassification. a. Each employer
8 required to maintain and report records regarding wages, benefits,
9 taxes and other contributions and assessments pursuant to State
10 wage, benefit and tax laws, as defined in section 1 of P.L.2009,
11 c.194 (C.34:1A-1.11), shall conspicuously post notification, in a
12 place or places accessible to all employees in each of the
13 employer's workplaces, in a form issued by the commissioner,
14 explaining:

15 (1) The prohibition against employers misclassifying
16 employees;

17 (2) The standard delineated in paragraph (6) of subsection (i) of
18 R.S.43:21-19 that is applied by the department to determine
19 whether an individual is an employee or an independent contractor;

20 (3) The benefits and protections to which an employee is
21 entitled under State wage, benefit and tax laws;

22 (4) The remedies under New Jersey law to which workers
23 affected by misclassification may be entitled; and

24 (5) Information on how a worker or a worker's authorized
25 representative may contact, by telephone, mail and e-mail, a
26 representative of the commissioner to provide information to, or file
27 a complaint with, the representative regarding possible worker
28 misclassification.

29 b. No employer shall discharge or in any other manner
30 discriminate against an employee because the employee has made
31 an inquiry or complaint to his employer, to the commissioner or to
32 his authorized representative regarding possible worker
33 misclassification, or because the employee has caused to be
34 instituted or is about to cause to be instituted any proceeding
35 regarding worker misclassification under State wage, benefit and
36 tax laws, or because the employee has testified in the proceeding.

37 c. An employer who violates any provision of this section shall
38 be guilty of a disorderly persons offense and shall, upon conviction,
39 be fined not less than \$100 nor more than \$1,000. In the case of a
40 discharge or other discriminatory action in violation of this section,
41 the employer shall also be required to offer reinstatement in
42 employment to the discharged employee and to correct any
43 discriminatory action, and to pay the employee all reasonable legal
44 costs of the action, all wages and benefits lost as a result of the
45 discharge or discriminatory action, plus punitive damages equal to
46 two times the lost wages and benefits, under penalty of contempt
47 proceedings for failure to comply with the requirement.

1 commissioner or to his authorized representative regarding possible
2 worker misclassification, or because the employee has caused to be
3 instituted or is about to cause to be instituted any proceeding
4 regarding worker misclassification under State wage, benefit and
5 tax laws, or because the employee has testified in the proceeding.

6 Under the bill, an employer who violates any of those provisions
7 will be guilty of a disorderly persons offense and will, upon
8 conviction, be subject to a fine. An employer will also be required
9 to offer reinstatement in employment to a discharged employee and
10 to correct any discriminatory action, and to pay the employee all
11 reasonable legal costs of the action, all wages and benefits lost as a
12 result of the discharge or discriminatory action, plus punitive
13 damages equal to two times the lost wages and benefits, under
14 penalty of contempt proceedings for failure to comply with the
15 requirement.

16 Finally, the bill requires the Department of Labor and Workforce
17 Development to maintain a webpage that contains information
18 regarding employee misclassification.