

FYI[®]

For Your Information[®]

New Jersey issues worker misclassification notice for posting

Earlier this year, New Jersey Governor Phil Murphy signed six bills into law targeting the improper use of independent contractors and imposing harsher penalties for misclassifying workers. On April 1, the new law's posting and anti-retaliation provisions took effect. On May 20, New Jersey's Department of Labor and Workforce Development issued the required notice for posting by employers.

Volume 43

Issue 33

June 11, 2020

Authors

Nancy Vary, JD

Abe Dubin, JD

Background

New Jersey law guarantees certain rights, protections, and benefits to employees under its unemployment compensation, wage, temporary disability, workers' compensation, family leave and earned sick leave laws. Workers who are improperly classified as independent contractors lack rights, protections and benefits that they would otherwise enjoy.

On January 20, 2020, New Jersey Governor Phil Murphy signed a legislative package of six bills targeting the improper use of independent contractors. The bills created greater potential liability and imposed harsher penalties for companies that misclassify employees as independent contractors. Five of the bills took effect immediately. (See our [February 6, 2020 FYI](#).)

The sixth bill ([A5843](#)), which took effect on April 1, 2020 provided broad protections for employees who complain or testify about worker misclassification and will require employers that violate its anti-retaliation provision to offer reinstatement and to pay for any lost wages and benefits to employees affected by misclassification. The new law required employers to notify employees of their rights by posting a notice to be issued by the New Jersey Department of Labor and Workforce Development (NJDOL).

Misclassification notice

On May 20, 2020 the NJDOL issued the required worker misclassification notice to be conspicuously posted in a place or places accessible to all employees in each of the employer's workplaces. The notice contains:

- An explanation of the prohibition against misclassifying employees as independent contractors
- The applicable standard to determine whether a worker is properly classified as an employee or as an independent contractor
- Benefits and protections for employees under state wage, benefit and tax laws
- Available remedies to misclassified workers under New Jersey law
- Employer penalties for misclassification
- Information on reporting, or filing a complaint about, worker misclassification
- Anti-retaliation protections

Employers will be subject to a fine of up to \$1,000 for violating this law.

In closing

New Jersey employers should immediately post the required misclassification notice in their workplaces and review their current classification practices in light of the new law.

Produced by the Compliance Consulting Practice

The Compliance Consulting Practice is responsible for national multi-practice compliance consulting, analysis and publications, government relations, research, training, and knowledge management. For more information, please contact your account executive.

You are welcome to distribute *FYI*® publications in their entirety. To manage your subscriptions, or to sign up to receive our mailings, visit our [Subscription Center](#).

This publication is for information only and does not constitute legal advice; consult with legal, tax and other advisors before applying this information to your specific situation.