

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"'Gig' workers get protections under new laws," The Star-Ledger, January 21, 2020

[Le]gislation gives 'gig' workers," The Times, January 21, 2020

"Murphy signs bills to crack down on worker," NJBIZ (New Brunswick, NJ) - January 20, 2020

"Murphy signs bills to protect N.J.'s self," South Jersey Times, January 21, 2020

Rwh.cl

P.L. 2019, CHAPTER 375, *approved January 20, 2020*
Assembly, No. 5843

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

1 employment to the discharged employee and to correct any
2 discriminatory action, and to pay the employee all reasonable legal
3 costs of the action, all wages and benefits lost as a result of the
4 discharge or discriminatory action, plus punitive damages equal to
5 two times the lost wages and benefits, under penalty of contempt
6 proceedings for failure to comply with the requirement.

7
8 2. Information regarding worker misclassification. The
9 Department of Labor and Workforce Development shall maintain a
10 webpage that contains information regarding:

11 (a) The prohibition against employers misclassifying
12 employees;

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

16 (c) The benefits and legal protections to which an employee is
17 entitled under State wage, benefit and tax laws;

18 (d) The remedies under New Jersey law to which workers
19 affected by misclassification may be entitled; and

20 (e) Information on how a worker or a worker's authorized
21 representative may contact, by telephone, mail and e-mail, a
22 representative of the commissioner to provide information to, or file
23 a complaint with, the representative regarding possible worker
24 misclassification.

25
26 3. This act shall take effect on the first day of the third month
27 next following enactment, except that the Commissioner of Labor
28 and Workforce Development may take any anticipatory action in
29 advance as shall be necessary for the implementation of this act.

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32 STATEMENT

33
34 This bill requires employers to post a notice for their employees
35 regarding employee misclassification. Specifically, under the bill,
36 an employer is required to conspicuously post notification, in a
37 place or places accessible to all employees in each of the
38 employer's workplaces, in a form issued by the commissioner,
39 explaining:

40 1. The prohibition against employers misclassifying
41 employees;

42 2. The standard that is applied by the department to determine
43 whether one is an employee or an independent contractor;

44 3. The benefits and protections to which an employee is
45 entitled under State wage, benefit and tax laws;

46 4. The remedies under New Jersey law to which workers
47 affected by misclassification may be entitled; and

1 5. Information on how a worker or a worker's authorized
2 representative may contact, by telephone, mail and e-mail, a
3 representative of the commissioner to provide information to, or file
4 a complaint with, the representative regarding possible worker
5 misclassification.

6 The bill prohibits an employer from discharging or in any other
7 manner discriminating against an employee because the employee
8 has made an inquiry or complaint to his employer, to the
9 commissioner or to his authorized representative regarding possible
10 worker misclassification, or because the employee has caused to be
11 instituted or is about to cause to be instituted any proceeding
12 regarding worker misclassification under State wage, benefit and
13 tax laws, or because the employee has testified in the proceeding.

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

24 Finally, the bill requires the Department of Labor and Workforce
25 Development to maintain a webpage that contains information
26 regarding employee misclassification.

27

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29

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31 _____
32 Requires employers to post notice for employees on employee
misclassification.

ASSEMBLY, No. 5843

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

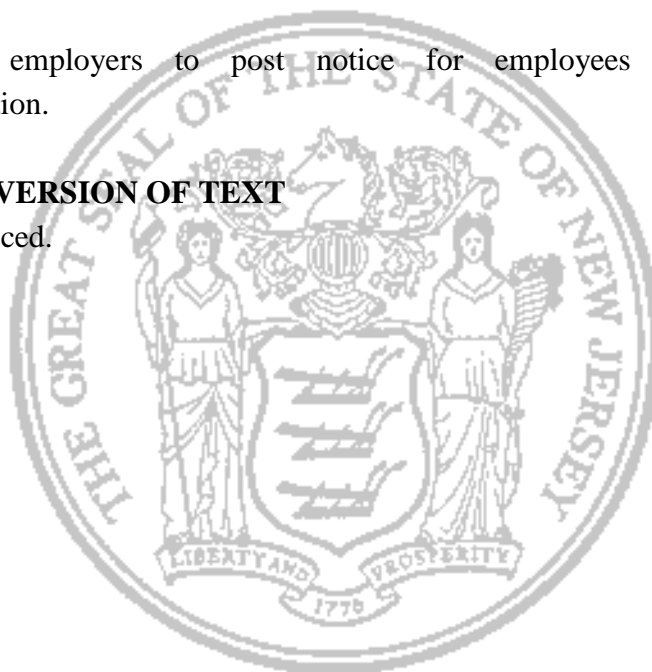
**Assemblymen Danielsen, DeAngelo, Assemblywomen Timberlake,
McKnight and Assemblyman Houghtaling**

SYNOPSIS

Requires employers to post notice for employees on employee misclassification.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2020)

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.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5843

STATE OF NEW JERSEY

DATED: NOVEMBER 18, 2019

The Assembly Labor Committee reports favorably Assembly Bill No. 5843.

This bill requires employers to post a notice for their employees regarding employee misclassification. Specifically, under the bill, an employer is required to conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

1. The prohibition against employers misclassifying employees;
2. The standard that is applied by the department to determine whether one is an employee or an independent contractor;
3. The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;
4. The remedies under New Jersey law to which workers affected by misclassification may be entitled; and
5. Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

The bill prohibits an employer from discharging or in any other manner discriminating against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

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

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

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5843

STATE OF NEW JERSEY

DATED: DECEMBER 12, 2019

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5843.

Assembly Bill No. 5843 requires employers to post a notice for their employees regarding employee misclassification. Specifically, under the bill, an employer is required to conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

1. The prohibition against employers misclassifying employees;
2. The standard that is applied by the department to determine whether one is an employee or an independent contractor;
3. The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;
4. The remedies under New Jersey law to which workers affected by misclassification may be entitled; and
5. Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

The bill prohibits an employer from discharging or in any other manner discriminating against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

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

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

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill. The OLS also notes that the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase, to maintain a webpage that contains information regarding employee misclassification and perform other duties as the bill specifies.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5843

STATE OF NEW JERSEY

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5843.

This bill requires employers to post a notice for their employees regarding employee misclassification. Specifically, under the bill, an employer is required to conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

1. The prohibition against employers misclassifying employees;
2. The standard that is applied by the department to determine whether one is an employee or an independent contractor;
3. The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;
4. The remedies under New Jersey law to which workers affected by misclassification may be entitled; and
5. Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

The bill prohibits an employer from discharging or in any other manner discriminating against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

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

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

As reported, this bill is identical to Senate Bill No. 4227, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill. The OLS also notes that the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase, to maintain a webpage that contains information regarding employee misclassification and perform other duties as the bill specifies.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5843
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 16, 2019

SUMMARY

Synopsis: Requires employers to post notice for employees on employee misclassification.

Type of Impact: State Revenue Increase. Potential State Expenditure Increase.

Agencies Affected: Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue Increase		Indeterminate	
State Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.
- The OLS notes that the enactment of the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase to maintain a webpage that contains information regarding employee misclassification.

BILL DESCRIPTION

This bill requires employers to post a notice for their employees regarding employee misclassification.

An employer who violates any of the bill's provisions will be guilty of a disorderly persons offense and will, upon conviction, be subject to a fine. The bill requires the Department of Labor and Workforce Development to maintain a webpage that contains information regarding employee misclassification.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill. The OLS cannot forecast the number of employers from which penalties may be collected.

The OLS notes that the enactment of the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase to maintain a webpage that contains information regarding employee misclassification.

Section: *Commerce, Labor and Industry*
Analyst: *Juan C. Rodriguez*
 Associate Fiscal Analyst
Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

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
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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
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33 misclassification, or because the employee has caused to be
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36 tax laws, or because the employee has testified in the proceeding.

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46 two times the lost wages and benefits, under penalty of contempt
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2 worker misclassification, or because the employee has caused to be
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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
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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.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4227

STATE OF NEW JERSEY

DATED: JANUARY 6, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4227.

This bill requires employers to post a notice for their employees regarding employee misclassification. Specifically, under the bill, an employer is required to conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

1. The prohibition against employers misclassifying employees;
2. The standard that is applied by the department to determine whether one is an employee or an independent contractor;
3. The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;
4. The remedies under New Jersey law to which workers affected by misclassification may be entitled; and
5. Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

The bill prohibits an employer from discharging or in any other manner discriminating against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

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

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

As reported, this bill is identical to Assembly Bill No. 5843, as also reported by the committee.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill. The OLS also notes that the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase, to maintain a webpage that contains information regarding employee misclassification and perform other duties as the bill specifies.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 4227
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: JANUARY 3, 2020

SUMMARY

Synopsis: Requires employers to post notice for employees on employee misclassification.

Type of Impact: State Revenue Increase. Potential State Expenditure Increase.

Agencies Affected: Department of Labor and Workforce Development.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue Increase		Indeterminate	
State Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill.
- The OLS notes that the enactment of the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase to maintain a webpage that contains information regarding employee misclassification.

BILL DESCRIPTION

This bill requires employers to post a notice for their employees regarding employee misclassification.

An employer who violates any of the bill's provisions will be guilty of a disorderly persons offense and will, upon conviction, be subject to a fine. The bill requires the Department of Labor and Workforce Development to maintain a webpage that contains information regarding employee misclassification.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in an indeterminate annual State revenue increase, due to the collection of penalties resulting from violations of the provisions of the bill. The OLS cannot forecast the number of employers from which penalties may be collected.

The OLS notes that the enactment of the bill may result in an indeterminate, likely insignificant, State administrative expenditure increase to maintain a webpage that contains information regarding employee misclassification.

Section: *Commerce, Labor and Industry*
Analyst: *Juan C. Rodriguez*
 Senior Fiscal Analyst
Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Sweeping Legislative Package to Combat Worker Misclassification and Exploitation

01/20/2020

TRENTON – Acting on his commitment to support and uplift New Jersey workers, Governor Phil Murphy today signed a legislative package combatting worker misclassification and exploitation. The bills will crack down on employee misclassification in businesses by allowing stop-work orders against employers violating state wage, benefit, and tax law; providing assessment of penalties for violations in connection with misclassification of employees; and requiring employers to post a notice for their employees regarding employee misclassification, among others.

Since day one, taking on the practice of misclassification has been a top priority for the Murphy Administration. In May 2018, Governor Murphy signed Executive Order No. 25, which established the Task Force on Employee Misclassification. He later released a comprehensive report from the Task Force which included sixteen recommendations for both executive actions and relevant legislation. His administration has already made significant progress on responding to the Task Force's recommendations to curtail the widespread and illegal practice of misclassifying workers, including through improving cross-training between departments and cooperation with neighboring states.

"We cannot build a stronger and fairer economy without strong workplace protections that ensure fairness for employees," **said Governor Murphy**. "I am proud to sign these bills today to curb this unethical and illegal practice that hurts our working families and exploits New Jersey's workers."

"Gov. Murphy has positioned New Jersey to be a leader in the fight against illegal misclassification by giving the Labor Department powerful new compliance and enforcement tools," **said Labor Commissioner Robert Asaro-Angelo**. "These bills protect employees who are misclassified as independent contractors as well as independent contractors improperly treated as employees, and provide critical support for employers who play by the rules. These bills contain important work rights and protections for both our state's employees and their employers. Thank you to the dedicated leadership of my colleagues on the Misclassification Task Force, which formulated the recommendations for this package of legislation."

The Governor signed the following bills into law:

A5838 (DeAngelo, Danielsen, Houghtaling/Madden, Singleton) - Concerns stop-work orders.

A5839 (Moriarty, Verrelli, DeAngelo/Madden, Singleton) - Concerns penalties for misclassification of employees.

A5840 (Carter, Moriarty/Greenstein, Madden)- Concerns joint liability for payment of employer tax law.

A5843 (Speight, Verrelli, Moriarty/Lagana, Greenstein) - Requires employers to post notice for employees on employee misclassification.

S4226 (Madden, Singleton/Calabrese, Verrelli, Moriarty) - Permits Department of Labor and Workforce Development to post information of person who violates State wage, benefit and tax laws.

S4228 (Lagana, Madden/Chiaravalloti, Moriarty) - Concerns tax data sharing between State Treasury and DOLWD.

"Workers' rights enhance the quality of life of all New Jersey residents. They are vital to the livelihoods for those employed in our state and for the families they support," **said Senator Joseph Lagana**. "These rights often come under attack, but in New Jersey we are committed to standing up for employees and their families. With this bill package in place, we honor that commitment and make our state a greater place to earn a living."

"When the rights of our workers are threatened, we need to take action to ensure that they are protected," **said Senator Troy Singleton**. "We can protect our workers' rights by punishing those unscrupulous contractors and companies who commit wage theft and ultimately take advantage of their hard work."

"Today marks a victory for workers all across the state of New Jersey," **said Senator Fred Madden**. "For far too long, unscrupulous contractors have cheated their workers out of hard-earned wages and benefits in order to undercut the competition and increase personal profits. This has created untold social and economic costs for our middle class families, but today we say no more. These increased protections underscore our commitment to fighting for the rights of our working class."

"When employers misclassify their employees as independent contractors, the impact is not only felt in the homes of hardworking families throughout the state but in our entire state's economy," **said Senator Linda Greenstein**. "Contractors need to understand the severity of their actions; this is not simply the theft of wages, it is the theft of financial security, opportunities and health benefits. I am proud of New Jersey for taking a stand for its workers and for sending a message that these selfish and criminal actions will be met with consequences."

Assemblymembers Wayne DeAngelo, Joe Danielsen, Eric Houghtaling, Paul Moriarty, Shanique Speight, Anthony Verrelli, Linda Carter, Clinton Calabrese, and Nicholas Chiaravalloti issued the following joint statement on the new laws regarding misclassification concerns:

"Classifying workers as independent contractors as an alternative to full or part-time employment has been a grossly misused practice of misclassification.

"It hurts employees and their families who do not have access to critical benefits and protections they are entitled to by law, including minimum wage, overtime compensation, family and medical leave and unemployment insurance. It also hurts each of the taxpayers and businesses paying their fair share while others avoid their tax duties.

"These new mandates will work in concert to stem the practice of misclassification together with expanding stop work orders beyond those for construction trades and prevailing wage, and requiring tax data to be shared between the state Department of Treasury and Labor to support more comprehensive investigations."

"The cost of misclassification is hundreds of millions of dollars. When an employee is wrongfully tagged an independent contractor - when they are actually an employee - they are not paid workers' compensation, social security and overtime," **said William Mullen, President of the New Jersey Building and Construction Trades Council**. "Not only is the worker being exploited, but the State is not getting its fair share of payroll taxes. In addition, worker misclassification creates an unfair playing field for the contractors that are actually doing the right thing. I commended Governor Murphy for signing into law such an important package of bills to protect working men and women of New Jersey."

"Under Governor Murphy's leadership, New Jersey has aggressively taken action to protect workers who've been cheated out of hard-earned pay and benefits," **said Charles Wowkanech, President of the New Jersey State AFL-CIO**. "I applaud the Governor for his unwavering commitment to our workers and for always standing with working families in the Garden State."