

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

Other:

Report of Gov. Murphy's task force on employee misclassification.

Trenton, N.J. : New Jersey Misclassification Task Force, 2019.

Call number: 974.90 E54, 2019

Available online at <https://dspace.njstatelib.org/handle/10929/55642>

Letter from Governor's Office, "Governor Murphy Releases Report on Employee Misclassification," July 9, 2019

RWH/CL

P.L. 2019, CHAPTER 158, *approved July 9, 2019*
Senate, No. 2557 (*Third Reprint*)

1 AN ACT concerning the issuing of stop-work orders ¹for failure to
2 pay prevailing wage rates and ¹ amending P.L.1963, c.150 ¹,
3 and supplementing P.L.2007, c.114 (C.34:20-1 et seq.)¹.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to
9 read as follows:

10 11. (a) Any employer who willfully hinders or delays the
11 commissioner in the performance of his duties in the enforcement of
12 this act, or fails to make, keep, and preserve any records as required
13 under the provisions of this act, or falsifies any such record, or
14 refuses to make any such record accessible to the commissioner
15 upon demand, or refuses to furnish a sworn statement of such record
16 or any other information required for the proper enforcement of this
17 act to the commissioner upon demand, or pays or agrees to pay
18 wages at a rate less than the rate applicable under this act or
19 otherwise violates any provision of this act or of any regulation or
20 order issued under this act shall be guilty of a disorderly persons
21 offense and shall, upon conviction therefor, be fined not less than
22 \$100.00 nor more than \$1,000 or be imprisoned for not less than 10
23 nor more than 90 days, or by both such fine and imprisonment.
24 Each week, in any day of which a worker is paid less than the rate
25 applicable to him under this act and each worker so paid, shall
26 constitute a separate offense.

27 (b) As an alternative to or in addition to any other sanctions
28 provided by law for violations of any provision of P.L.1963,
29 c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and
30 Workforce Development finds that an employer has violated that
31 act, the commissioner is authorized to assess and collect
32 administrative penalties, up to a maximum of \$2,500 for a first
33 violation and up to a maximum of \$5,000 for each subsequent
34 violation, specified in a schedule of penalties to be promulgated as a
35 rule or regulation by the commissioner in accordance with the
36 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
37 seq.). When determining the amount of the penalty imposed because
38 of a violation, the commissioner shall consider factors which
39 include the history of previous violations by the employer, the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted December 10, 2018.

²Assembly floor amendments adopted January 31, 2019.

³Assembly floor amendments adopted February 25, 2019.

1 seriousness of the violation, the good faith of the employer and the
2 size of the employer's business. No administrative penalty shall be
3 levied pursuant to this section unless the Commissioner of Labor
4 and Workforce Development provides the alleged violator with
5 notification of the violation and of the amount of the penalty by
6 certified mail and an opportunity to request a hearing before the
7 commissioner or his designee within 15 days following the receipt
8 of the notice. If a hearing is requested, the commissioner shall issue
9 a final order upon such hearing and a finding that a violation has
10 occurred. If no hearing is requested, the notice shall become a final
11 order upon expiration of the 15-day period. Payment of the penalty
12 is due when a final order is issued or when the notice becomes a
13 final order. Any penalty imposed pursuant to this section may be
14 recovered with costs in a summary proceeding commenced by the
15 commissioner pursuant to the "Penalty Enforcement Law of 1999,"
16 P.L.1999, c.274 (C.2A:58-10 et seq.). Any sum collected as a fine
17 or penalty pursuant to this section shall be applied toward
18 enforcement and administration costs of the Division of Workplace
19 Standards in the Department of Labor and Workforce Development.

20 (c) When the Commissioner of Labor and Workforce
21 Development finds that the employer has violated provisions of
22 P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
23 refer the matter to the Attorney General or his designee for
24 investigation and prosecution. Nothing in this subsection shall be
25 deemed to limit the authority of the Attorney General to investigate
26 and prosecute violations of the New Jersey Code of Criminal
27 Justice, nor to limit the commissioner's ability to refer any matter
28 for criminal investigation or prosecution.

29 (d) If ¹[an employer continues to violate] the commissioner
30 makes an initial determination that an employer has violated¹ the
31 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying
32 wages at rates less than the rates applicable under that act ¹[after a
33 final order assessing a penalty for the violation is issued pursuant to
34 subsection (b) of this section] ,whether or not the commissioner
35 refers the matter to the Attorney General or other appropriate
36 prosecutorial authority for investigation or prosecution pursuant to
37 subsection (c) of this section¹ , the commissioner may immediately
38 issue a stop-work order to cease all business operations at every site
39 where the violation has ¹[continued] occurred¹. ²The stop-work
40 order may be issued only against the employer found to be in
41 violation or non-compliance. If a stop-work order has been issued
42 against a subcontractor pursuant to this subsection, the general
43 contractor shall retain the right to terminate the subcontractor from
44 the project.² The stop-work order shall remain in effect until the
45 commissioner issues an order releasing the stop-work order upon
46 finding that the employer has agreed to pay wages at the required
47 rate and has paid any wages due and any penalty ¹[assessed under

1 this section] deemed satisfactory to the commissioner¹. As a
2 condition for release from a stop-work order, the commissioner may
3 require the employer to file with the department periodic reports for
4 a probationary period that shall not exceed two years that
5 demonstrate the employer's continued compliance with the
6 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). The
7 commissioner may assess a civil penalty of \$5,000 per day against
8 an employer for each day that it conducts business operations that
9 are in violation of the stop-work order. That penalty shall be
10 collected by the commissioner in a summary proceeding in
11 accordance with the "Penalty Enforcement Law of 1999,"
12 P.L.1999, c.274 (C.2A:58-10 et seq.).
13 (cf: P.L.2003, c.276, s.1)

14
15 ¹2. (New section) a. ³[With respect to any individual
16 regarded as an employee under the provisions of section 4 of
17 P.L.2007, c.114 (C.34:20-4), the] The³ Commissioner of Labor and
18 Workforce Development and any agent of the commissioner, upon
19 receipt of a complaint or through a routine investigation for a
20 violation of any wage and hour law or R.S.34:15-79, or a failure to
21 meet obligations as provided in R.S.43:21-7 and R.S.43:21-14, is
22 authorized to enter, during usual business hours, the place of
23 business or employment of any employer of the individual to
24 determine compliance with the wage and hour laws, R.S.34:15-79,
25 R.S.43:21-7, or R.S.43:21-14, and for that purpose may examine
26 payroll and other records and interview employees, call hearings,
27 administer oaths, take testimony under oath and take depositions.

28 b. The commissioner may issue subpoenas for the attendance
29 of witnesses and the production of books and records. Any
30 employer or agent of the employer who willfully fails to furnish
31 time and wage records as required by law to the commissioner or
32 agent of the commissioner upon request, or who refuses to admit the
33 commissioner or agent to the place of employment of the employer,
34 or who hinders or delays the commissioner or agent in the
35 performance of duties in the enforcement of this section, may be
36 fined not less than \$1,000 and shall be guilty of a disorderly persons
37 offense. Each day of the failure to furnish the time and wage
38 records to the commissioner or agent shall constitute a separate
39 offense, and each day of refusal to admit, of hindering, or of
40 delaying the commissioner or agent shall constitute a separate
41 offense.

42 c. (1) If the commissioner determines, after either an initial
43 determination as a result of an audit of a business or an
44 investigation pursuant to subsection a. of this section, that an
45 employer is in violation of any wage and hour law or of R.S.34:15-
46 79, or has failed to meet obligations as provided in R.S.43:21-7 or
47 R.S.43:21-14, the commissioner may issue a stop-work order
48 against the employer requiring cessation of all business operations

1 of the employer at the specific place of business or employment in
2 which the violation exists. The stop-work order may be issued only
3 against the employer found to be in violation or non-compliance. ²If
4 a stop-work order has been issued against a subcontractor pursuant
5 to this subsection, the general contractor shall retain the right to
6 terminate the subcontractor from the project. ² The order shall be
7 effective when served upon the employer at the place of business
8 or, for a particular employer worksite, when served at that worksite.
9 The order shall remain in effect until the commissioner issues an
10 order releasing the stop-work order upon finding that the employer
11 has come into compliance and has paid any penalty deemed to be
12 satisfactory to the commissioner, or after the commissioner
13 determines, in a hearing held pursuant to paragraph (2) of this
14 subsection, that the employer did not commit the act on which the
15 order was based. The stop-work order shall be effective against any
16 successor entity engaged in the same or equivalent trade or activity
17 that has one or more of the same principals or officers as the
18 corporation, partnership or sole proprietorship against which the
19 stop-work order was issued.

20 (2) An employer who is subject to a stop-work order shall have
21 the right to appeal to the commissioner. The contractor may notify
22 the Director of the Division of Wage and Hour Compliance of its
23 request for an opportunity to be heard and contest the stop work
24 order in writing within 72 hours of its receipt of the notification.

25 Within seven business days of receipt of the notification from the
26 contractor, the director shall ³[grant the contractor] hold ³a hearing
27 ³to allow the contractor ³to contest the issuance of a stop work
28 order. The director shall permit the contractor to present evidence at
29 the hearing. ³If the director fails to hold a hearing within seven
30 business days of receipt of the notification from the contractor, an
31 administrative law judge shall have the authority to release the stop-
32 work order. ³

33 The director shall issue a written decision within five business
34 days of the hearing either upholding or reversing the contractor's
35 stop work order. The decision shall include the grounds for
36 upholding or reversing the contractor's stop work order.

37 If the contractor disagrees with the written decision, the
38 contractor may appeal the decision to the commissioner, in
39 accordance with the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.).

41 (3) As an alternative to issuing a stop-work order in accordance
42 with paragraph (1) of this subsection, if the commissioner
43 determines, after an investigation pursuant to subsection a. of this
44 section, that an employer is in violation of R.S.34:15-79, the
45 commissioner may provide and transfer all details and materials
46 related to the investigation under this section to the Director of the
47 Division of Workers' Compensation for any enforcement of

1 penalties or stop-work orders the director determines are
2 appropriate.¹

3

4 ¹~~[2.]~~ 3.¹ This act shall take effect immediately.

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9 Concerns stop-work orders related to prevailing wage and
10 construction worker employment.

SENATE, No. 2557

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MAY 14, 2018

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Allows issuing of stop-work orders for failure to pay prevailing wage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2018)

S2557 SINGLETON, OROHO

2

1 AN ACT concerning the issuing of stop-work orders for failure to
2 pay prevailing wage rates and amending P.L.1963, c.150.

3

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

6

7 1. Section 11 of P.L.1963, c.150 (C.34:11-56.35) is amended to
8 read as follows:

9 11. (a) Any employer who willfully hinders or delays the
10 commissioner in the performance of his duties in the enforcement of
11 this act, or fails to make, keep, and preserve any records as required
12 under the provisions of this act, or falsifies any such record, or
13 refuses to make any such record accessible to the commissioner
14 upon demand, or refuses to furnish a sworn statement of such record
15 or any other information required for the proper enforcement of this
16 act to the commissioner upon demand, or pays or agrees to pay
17 wages at a rate less than the rate applicable under this act or
18 otherwise violates any provision of this act or of any regulation or
19 order issued under this act shall be guilty of a disorderly persons
20 offense and shall, upon conviction therefor, be fined not less than
21 \$100.00 nor more than \$1,000 or be imprisoned for not less than 10
22 nor more than 90 days, or by both such fine and imprisonment.
23 Each week, in any day of which a worker is paid less than the rate
24 applicable to him under this act and each worker so paid, shall
25 constitute a separate offense.

26 (b) As an alternative to or in addition to any other sanctions
27 provided by law for violations of any provision of P.L.1963,
28 c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and
29 Workforce Development finds that an employer has violated that
30 act, the commissioner is authorized to assess and collect
31 administrative penalties, up to a maximum of \$2,500 for a first
32 violation and up to a maximum of \$5,000 for each subsequent
33 violation, specified in a schedule of penalties to be promulgated as a
34 rule or regulation by the commissioner in accordance with the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). When determining the amount of the penalty imposed
37 because of a violation, the commissioner shall consider factors
38 which include the history of previous violations by the employer,
39 the seriousness of the violation, the good faith of the employer and
40 the size of the employer's business. No administrative penalty shall
41 be levied pursuant to this section unless the Commissioner of Labor
42 and Workforce Development provides the alleged violator with
43 notification of the violation and of the amount of the penalty by
44 certified mail and an opportunity to request a hearing before the
45 commissioner or his designee within 15 days following the receipt

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of the notice. If a hearing is requested, the commissioner shall
2 issue a final order upon such hearing and a finding that a violation
3 has occurred. If no hearing is requested, the notice shall become a
4 final order upon expiration of the 15-day period. Payment of the
5 penalty is due when a final order is issued or when the notice
6 becomes a final order. Any penalty imposed pursuant to this
7 section may be recovered with costs in a summary proceeding
8 commenced by the commissioner pursuant to the "Penalty
9 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
10 Any sum collected as a fine or penalty pursuant to this section shall
11 be applied toward enforcement and administration costs of the
12 Division of Workplace Standards in the Department of Labor and
13 Workforce Development.

14 (c) When the Commissioner of Labor and Workforce
15 Development finds that the employer has violated provisions of
16 P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
17 refer the matter to the Attorney General or his designee for
18 investigation and prosecution. Nothing in this subsection shall be
19 deemed to limit the authority of the Attorney General to investigate
20 and prosecute violations of the New Jersey Code of Criminal
21 Justice, nor to limit the commissioner's ability to refer any matter
22 for criminal investigation or prosecution.

23 (d) If an employer continues to violate the provisions of
24 P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying wages at rates
25 less than the rates applicable under that act after a final order
26 assessing a penalty for the violation is issued pursuant to subsection
27 (b) of this section, the commissioner may immediately issue a stop-
28 work order to cease all business operations at every site where the
29 violation has continued. The stop-work order shall remain in effect
30 until the commissioner issues an order releasing the stop-work order
31 upon finding that the employer has agreed to pay wages at the
32 required rate and has paid any wages due and any penalty assessed
33 under this section. As a condition for release from a stop-work
34 order, the commissioner may require the employer to file with the
35 department periodic reports for a probationary period that shall not
36 exceed two years that demonstrate the employer's continued
37 compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25
38 et seq.). The commissioner may assess a civil penalty of \$5,000 per
39 day against an employer for each day that it conducts business
40 operations that are in violation of the stop-work order. That penalty
41 shall be collected by the commissioner in a summary proceeding in
42 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
43 c.274 (C.2A:58-10 et seq.).

44 (cf: P.L.2003, c.276, s.1)

45

46 2. This act shall take effect immediately.

STATEMENT

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This bill permits the Commissioner of Labor and Workforce Development to issue a stop-work order against any employer who continues to pay less than prevailing wage rates in violation of P.L.1963, c.150 (C.34:11-56.25 et seq.) after the commissioner has issued a final order assessing a penalty for the violation.

A stop-work order issued under the bill would require the cessation of all business operations at every site where the violation has continued and remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has agreed to pay the required wages and has paid any wages or penalty owed. As a condition of release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period of up to two years. The commissioner may assess a civil penalty of \$5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 2557

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2557, with committee amendments.

Senate Bill No. 2557 permits the Commissioner of Labor and Workforce Development to issue a stop-work order against any employer that pays less than prevailing wage rates in violation of the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.). The bill also provides for the issuance of stop work orders for wage payment violations for non-prevailing wage matters, and the procedure for issuance of those stop work orders

A stop-work order issued under the bill requires the cessation of all business operations at every site where the violation occurs, and is to remain in effect until the commissioner issues an order releasing the stop-work order upon a finding that the employer has agreed to pay the required wages and has paid any wages or penalty owed. As a condition of release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period of up to two years. The commissioner may assess a civil penalty of \$5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order.

COMMITTEE AMENDMENTS:

The amendments allow the commissioner to issue a stop work order after an initial determination of a wage payment violation, not just after a final order has been issued; and add a section to provide for the issuance of stop work orders for wage payment violations for non-prevailing wage matters, and the procedure for the issuance of those stop work orders.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.

STATEMENT TO
[First Reprint]
SENATE, No. 2557

with Assembly Floor Amendments
(Proposed by Assemblyman DEANGELO)

ADOPTED: JANUARY 31, 2019

These floor amendments clarify that if a stop-work order has been issued against a subcontractor pursuant to the bill, the general contractor will retain the right to terminate the subcontractor from the project.

STATEMENT TO
[Second Reprint]
SENATE, No. 2557

with Assembly Floor Amendments
(Proposed by Assemblyman DEANGELO)

ADOPTED: FEBRUARY 25, 2019

These amendments:

(1) clarify that the Commissioner of Labor and Workforce Development, upon receipt of any complaint or through a routine investigation for a violation of any wage and hour law or a failure to meet obligations, may enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with the wage and hour laws or other laws, as appropriate, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take depositions;

(2) clarify that the director is required to hold a hearing within seven days of receipt of notification from a contractor, not simply grant a hearing within that timeframe; and

(3) provide that an administrative law judge has the authority to release the stop work order if the director fails to hold the hearing in that timeframe.

ASSEMBLY, No. 108

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

SYNOPSIS

Allows issuing of stop-work orders for failure to pay prevailing wage.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the issuing of stop-work orders for failure to
2 pay prevailing wage rates and amending P.L.1963, c.150.

3

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

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10 commissioner in the performance of his duties in the enforcement of
11 this act, or fails to make, keep, and preserve any records as required
12 under the provisions of this act, or falsifies any such record, or
13 refuses to make any such record accessible to the commissioner
14 upon demand, or refuses to furnish a sworn statement of such record
15 or any other information required for the proper enforcement of this
16 act to the commissioner upon demand, or pays or agrees to pay
17 wages at a rate less than the rate applicable under this act or
18 otherwise violates any provision of this act or of any regulation or
19 order issued under this act shall be guilty of a disorderly persons
20 offense and shall, upon conviction therefor, be fined not less than
21 \$100.00 nor more than \$1,000 or be imprisoned for not less than 10
22 nor more than 90 days, or by both such fine and imprisonment.
23 Each week, in any day of which a worker is paid less than the rate
24 applicable to him under this act and each worker so paid, shall
25 constitute a separate offense.

26 (b) As an alternative to or in addition to any other sanctions
27 provided by law for violations of any provision of P.L.1963,
28 c.150 (C.34:11-56.25 et seq.), when the Commissioner of Labor and
29 Workforce Development finds that an employer has violated that
30 act, the commissioner is authorized to assess and collect
31 administrative penalties, up to a maximum of \$2,500 for a first
32 violation and up to a maximum of \$5,000 for each subsequent
33 violation, specified in a schedule of penalties to be promulgated as a
34 rule or regulation by the commissioner in accordance with the
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
36 seq.). When determining the amount of the penalty imposed
37 because of a violation, the commissioner shall consider factors
38 which include the history of previous violations by the employer,
39 the seriousness of the violation, the good faith of the employer and
40 the size of the employer's business. No administrative penalty shall
41 be levied pursuant to this section unless the Commissioner of Labor
42 and Workforce Development provides the alleged violator with
43 notification of the violation and of the amount of the penalty by
44 certified mail and an opportunity to request a hearing before the
45 commissioner or his designee within 15 days following the receipt

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Matter underlined thus is new matter.

1 of the notice. If a hearing is requested, the commissioner shall
2 issue a final order upon such hearing and a finding that a violation
3 has occurred. If no hearing is requested, the notice shall become a
4 final order upon expiration of the 15-day period. Payment of the
5 penalty is due when a final order is issued or when the notice
6 becomes a final order. Any penalty imposed pursuant to this
7 section may be recovered with costs in a summary proceeding
8 commenced by the commissioner pursuant to the "Penalty
9 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
10 Any sum collected as a fine or penalty pursuant to this section shall
11 be applied toward enforcement and administration costs of the
12 Division of Workplace Standards in the Department of Labor and
13 Workforce Development.

14 (c) When the Commissioner of Labor and Workforce
15 Development finds that the employer has violated provisions of
16 P.L.1963, c.150 (C.34:11-56.25 et seq.), the commissioner may
17 refer the matter to the Attorney General or his designee for
18 investigation and prosecution. Nothing in this subsection shall be
19 deemed to limit the authority of the Attorney General to investigate
20 and prosecute violations of the New Jersey Code of Criminal
21 Justice, nor to limit the commissioner's ability to refer any matter
22 for criminal investigation or prosecution.

23 (d) If an employer continues to violate the provisions of
24 P.L.1963, c.150 (C.34:11-56.25 et seq.) by paying wages at rates
25 less than the rates applicable under that act after a final order
26 assessing a penalty for the violation is issued pursuant to subsection
27 (b) of this section, the commissioner may immediately issue a stop-
28 work order to cease all business operations at every site where the
29 violation has continued. The stop-work order shall remain in effect
30 until the commissioner issues an order releasing the stop-work order
31 upon finding that the employer has agreed to pay wages at the
32 required rate and has paid any wages due and any penalty assessed
33 under this section. As a condition for release from a stop-work
34 order, the commissioner may require the employer to file with the
35 department periodic reports for a probationary period that shall not
36 exceed two years that demonstrate the employer's continued
37 compliance with the provisions of P.L.1963, c.150 (C.34:11-56.25
38 et seq.). The commissioner may assess a civil penalty of \$5,000 per
39 day against an employer for each day that it conducts business
40 operations that are in violation of the stop-work order. That penalty
41 shall be collected by the commissioner in a summary proceeding in
42 accordance with the "Penalty Enforcement Law of 1999," P.L.1999,
43 c.274 (C.2A:58-10 et seq.).

44 (cf: P.L.2003, c.276, s.1)

45

46 2. This act shall take effect immediately.

1 STATEMENT

2

3 This bill permits the Commissioner of Labor and Workforce
4 Development to issue a stop-work order against any employer who
5 continues to pay less than prevailing wage rates in violation of
6 P.L.1963, c.150 (C.34:11-56.25 et seq.) after the commissioner has
7 issued a final order assessing a penalty for the violation.

8 A stop-work order issued under the bill would require the
9 cessation of all business operations at every site where the violation
10 has continued and remain in effect until the commissioner issues an
11 order releasing the stop-work order upon finding that the employer
12 has agreed to pay the required wages and has paid any wages or
13 penalty owed. As a condition of release from a stop-work order, the
14 commissioner may require the employer to file with the department
15 periodic reports for a probationary period of up to two years. The
16 commissioner may assess a civil penalty of \$5,000 per day against
17 an employer for each day that it conducts business operations that
18 are in violation of the stop-work order.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 108

STATE OF NEW JERSEY

DATED: MAY 10, 2018

The Assembly Labor Committee reports favorably Assembly Bill No. 108.

This bill permits the Commissioner of Labor and Workforce Development to issue a stop-work order against any employer who continues to pay less than prevailing wage rates in violation of P.L.1963, c.150 (C.34:11-56.25 et seq.) after the commissioner has issued a final order assessing a penalty for the violation.

A stop-work order issued under the bill would require the cessation of all business operations at every site where the violation has continued and remain in effect until the commissioner issues an order releasing the stop-work order upon finding that the employer has agreed to pay the required wages and has paid any wages or penalty owed. As a condition of release from a stop-work order, the commissioner may require the employer to file with the department periodic reports for a probationary period of up to two years. The commissioner may assess a civil penalty of \$5,000 per day against an employer for each day that it conducts business operations that are in violation of the stop-work order.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

STATEMENT TO
ASSEMBLY, No. 108

with Assembly Floor Amendments
(Proposed by Assemblyman DEANGELO)

ADOPTED: JANUARY 31, 2019

These floor amendments:

(1) allow the commissioner to issue a stop work order after an initial determination of a wage payment violation, not just after a final order has been issued; and add a new section of law to provide for the issuance of stop work orders for wage payment violations for non-prevailing wage matters, and the procedure for the issuance of those stop work orders; and

(2) clarify that if a stop-work order has been issued against a subcontractor pursuant to the bill, the general contractor will retain the right to terminate the subcontractor from the project.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 108

with Assembly Floor Amendments
(Proposed by Assemblyman DEANGELO)

ADOPTED: FEBRUARY 25, 2019

These amendments:

(1) clarify that the Commissioner of Labor and Workforce Development, upon receipt of any complaint or through a routine investigation for a violation of any wage and hour law or a failure to meet obligations, may enter, during usual business hours, the place of business or employment of any employer of the individual to determine compliance with the wage and hour laws or other laws, as appropriate, and for that purpose may examine payroll and other records and interview employees, call hearings, administer oaths, take testimony under oath and take depositions;

(2) clarify that the director is required to hold a hearing within seven days of receipt of notification from a contractor, not simply grant a hearing within that timeframe; and

(3) provide that an administrative law judge has the authority to release the stop work order if the director fails to hold the hearing in that timeframe.

Governor Murphy Takes Action on Legislation

07/09/2019

TRENTON - Today, Governor Phil Murphy signed the following bill into law:

S2557 (Singleton, Oroho/DeAngelo, Lampitt, Sumter) – Concerns stop-work orders related to prevailing wage and construction worker employment.



Governor Phil Murphy

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Newark, N.J.

Governor Murphy Releases Report on Employee Misclassification

07/09/2019

Announces Intent to Sign Law Giving the New Jersey Department of Labor & Workforce Development Authority to Shut Down Job Sites When Violations Are Found

ATLANTIC CITY – Governor Phil Murphy today released a comprehensive report from the Task Force on Employee Misclassification, vowing to intensify efforts to curtail the widespread and illegal practice of misclassifying workers as independent contractors instead of employees, which cheats some workers out of benefits and wages, hurts law-abiding business owners, and costs the state tens of millions of dollars a year in lost employment-related tax revenue.

The Governor has given the New Jersey Department of Labor and Workforce Development (NJDOL) new tools to help put an end to misclassification and noted that his administration has already acted on eight of the task force's 16 recommendations.

Additionally, while addressing the New Jersey State Building & Construction Trades Council's annual convention, the Governor announced his intent to sign a bill (A-108/S-2557) giving the NJDOL the power to issue stop-work orders whenever an initial work site investigation finds sufficient violations.

"Employee misclassification hurts hardworking New Jersey workers and prevents them from receiving the benefits and the pay they worked for and deserve," **said Governor Murphy**. "We know that we cannot build a stronger and fairer economy without strong worker protections. Our Administration has made cracking down on misclassification a top priority, and we will continue to root out contractors who exploit and cheat workers."

The Governor established the task force by Executive Order No. 25 in May 2018 in response to the widespread problem of employee misclassification. In an audit last year of one percent of New Jersey businesses, NJDOL found that 12,315 workers were misclassified, resulting in \$462 million in underreported wages and \$14 million in lost contributions to unemployment, disability, family leave and workforce programs, according to the report.

"Misclassifying workers as 1099 employees denies them benefits, robs the State Treasury of needed revenue, and makes it harder for law-abiding businesses to compete," **said Labor Commissioner Robert Asaro-Angelo**. "I want to thank Governor Murphy for his leadership on this issue, which is critical to his vision for a stronger, fairer economy." □ Back to top

Misclassification is especially prevalent in construction, janitorial services, home care, transportation, trucking and delivery services, and other labor-intensive, low-wage sectors.

Among the report's recommendations are expanding interagency cooperation through coordinated enforcement,

data sharing, and cooperation with neighboring states.

NJDOL already has in place a Memorandum of Understanding with the U.S. Department of Labor, enabling the two agencies to more easily share information and jointly develop misclassification cases. A similar Memorandum of Understanding among New Jersey, Pennsylvania, and Delaware was signed today. The reciprocal agreement maximizes the neighboring states' enforcement efforts through referrals, data sharing, and joint investigations.

The task force held public forums in Newark, New Brunswick, and Atlantic City, where it heard from scores of employees, employers, subject-matter experts, and others impacted by misclassification. Their experiences and comments informed the task force's report.

Link to report: <https://www.nj.gov/labor/assets/PDFs/Misclassification%20Report%202019.pdf>

Governor Phil Murphy

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