

**34:1A-1.16**  
**LEGISLATIVE HISTORY CHECKLIST**  
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**LAWS OF:** 2019                    **CHAPTER:** 366

**NJSA:** 34:1A-1.16 (Permits Department of Labor and Workforce Development to post information of person who violates State wage, benefit and tax laws.)

**BILL NO:** S4226                    (Substituted for A5841)

**SPONSOR(S)** Fred H. Madden and others

**DATE INTRODUCED:** 11/14/2019

**COMMITTEE:**                    **ASSEMBLY:** ----

**SENATE:** Labor

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**                    **ASSEMBLY:** 1/13/2020

**SENATE:** 1/9/2020

**DATE OF APPROVAL:** 1/20/2020

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced bill enacted) Yes

**S4226**

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**A5841**

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** Yes

**SENATE:** No

(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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**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@nstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

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

RWH/JA

P.L. 2019, CHAPTER 366, *approved January 20, 2020*

Senate, No. 4226

1 AN ACT concerning State wage, benefit and tax laws and  
2 supplementing 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. a. As used in this section:

8 “Commissioner” means the Commissioner of the Department of  
9 Labor and Workforce Development or the Commissioner’s duly  
10 authorized representative.

11 “Contracting” means any arrangement giving rise to an  
12 obligation to supply any product or to perform any service for a  
13 public body, other than by virtue of State employment, or to supply  
14 any product to or perform any service for a private person where the  
15 State provides substantial financial assistance and retains the right  
16 to approve or disapprove the nature or quality of the goods or  
17 services or the persons who may supply or perform the same.

18 “Department” means the Department of Labor and Workforce  
19 Development.

20 “Final order” means either a final administrative determination  
21 of the commissioner or other appropriate agency officer issued  
22 following adjudication of a matter as a contested case pursuant to  
23 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
24 1 et seq.), or where the department or other appropriate agency has  
25 made a finding regarding a violation of any State wage, benefit and  
26 tax laws or regarding the levying of a penalty pursuant to any State  
27 wage, benefit and tax laws, has notified the violator of the finding,  
28 and the violator has expressly waived the right to a hearing by  
29 virtue of having failed to request a hearing within the appropriate  
30 time limit established by either law or rule.

31 “Person” means any natural person, company corporate officer or  
32 principal, firm, association, corporation, contractor, subcontractor  
33 or other entity engaged in contracting.

34 “Public body” means the State of New Jersey, any of its political  
35 subdivisions, any authority created by the Legislature of the State of  
36 New Jersey, and any instrumentality or agency for the State of New  
37 Jersey or of any of its political subdivisions.

38 “State wage, benefit and tax laws” has the same meaning as that  
39 term is defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

40 b. The department may post to a list on its website the name of  
41 any person found to be in violation of any State wage, benefit, or  
42 tax laws and against whom a final order has been issued by the

1 commissioner or other appropriate agency officer for any violation  
2 of State wage, benefit and tax laws.

3 c. In the event that either the person satisfies the entirety of the  
4 outstanding liability ordered by the court or the commissioner; or a  
5 settlement has been reached and all payments have been made  
6 pursuant to the settlement, prior to the anticipated date for posting  
7 of the name on the department's website, the posting shall not  
8 occur. The department shall update the website on a monthly basis,  
9 no later than the fifth day of each month. The department shall  
10 remove the name of a person from the website within 15 days after  
11 the department determines that the person has satisfied the entirety  
12 of the outstanding liability ordered by the court, the commissioner  
13 or other agency head, or made all payments pursuant to the  
14 settlement for a violation of any State wage, benefit and tax laws.

15 d. A person placed on the list pursuant to subsection b. of this  
16 section shall be prohibited from contracting with any public body  
17 until the liability for violations of State wage, benefit, and tax laws  
18 have been resolved to the satisfaction of the commissioner.

19 e. The department shall provide notice to the person of its  
20 intent to post the name of the person on the department's website 15  
21 business days prior to the posting. That notice shall include the  
22 following:

23 (1) The name, email address, and telephone number of a contact  
24 person at the department and description of the procedure for  
25 removal of the posting;

26 (2) The specific details concerning the violations and a copy of  
27 the unsatisfied court final judgment or final order for any violation  
28 of State wage, benefit and tax laws;

29 (3) Notification that the person shall be prohibited from  
30 contracting with a public body if the liability is not resolved; and

31 (4) Notification that the person can request a hearing in writing  
32 to the commissioner within 20 days of receipt of the notice of intent  
33 to place the person on the list.

34 f. A person who receives a notice of intent pursuant to  
35 subsection e. of this section shall have the right to request a hearing  
36 within 20 days. All hearings requested pursuant to this section shall  
37 be conducted in accordance with the provisions of the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
39 1 et seq.).

40 g. The commissioner shall consider the following factors as  
41 material in each decision to place a person on the list pursuant to  
42 subsection b. of this section:

43 (1) The record of previous violations;

44 (2) Previous placement on the list by the commissioner;

45 (3) The frequency of violations by the person discovered in  
46 previous or still pending cases;

47 (4) The significance or scale of the violations;

48 (5) The existence of failure to pay;

1 (6) Failure to cooperate or respond to a request to produce  
2 records, forms, documents, or proof of payments;

3 (7) Submission of falsified or altered records, forms, documents,  
4 or proof of payment;

5 (8) Failure to provide goods or services; and

6 (9) Failure to comply with contract specifications.  
7

8 2. This act shall take effect immediately and shall apply to final  
9 orders issued on and after that effective date.  
10

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12 STATEMENT

13

14 This bill permits, notwithstanding any federal or State law to the  
15 contrary, the Department of Labor and Workforce Development  
16 (DOLWD) to post to a list on its website the name for any person  
17 who is found to be violation of any State wage, benefit, or tax law,  
18 and against whom a final order has been issued by the  
19 Commissioner of the DOLWD or other appropriate agency head for  
20 any violation of State wage, benefit and tax laws.

21 The DOLWD is required to provide notice to the person of its  
22 intent to post the person's name on the DOLWD's website 15  
23 business days prior to the posting. A person who receives a notice  
24 of intent to be placed on the list is entitled to the right to request a  
25 hearing within 20 days.

26 The bill provides that a person placed on the list is prohibited  
27 from contracting with a public body until the liability for violations  
28 of State wage, benefit, and tax laws have been resolved to the  
29 satisfaction of the commissioner.

30 The bill enumerates several factors for the commissioner's  
31 consideration in determining whether to place a person on the  
32 website list.  
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38 Permits Department of Labor and Workforce Development to  
39 post information of person who violates State wage, benefit and tax  
laws.

# SENATE, No. 4226

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Assemblyman ANTHONY S. VERRELLI**

**District 15 (Hunterdon and Mercer)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman DeAngelo, Assemblywomen Murphy and Downey**

**SYNOPSIS**

Permits Department of Labor and Workforce Development to post information of person who violates State wage, benefit and tax laws.

**CURRENT VERSION OF TEXT**

As introduced.



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

1 AN ACT concerning State wage, benefit and tax laws and  
2 supplementing 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. a. As used in this section:

8 “Commissioner” means the Commissioner of the Department of  
9 Labor and Workforce Development or the Commissioner’s duly  
10 authorized representative.

11 “Contracting” means any arrangement giving rise to an  
12 obligation to supply any product or to perform any service for a  
13 public body, other than by virtue of State employment, or to supply  
14 any product to or perform any service for a private person where the  
15 State provides substantial financial assistance and retains the right  
16 to approve or disapprove the nature or quality of the goods or  
17 services or the persons who may supply or perform the same.

18 “Department” means the Department of Labor and Workforce  
19 Development.

20 “Final order” means either a final administrative determination  
21 of the commissioner or other appropriate agency officer issued  
22 following adjudication of a matter as a contested case pursuant to  
23 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
24 1 et seq.), or where the department or other appropriate agency has  
25 made a finding regarding a violation of any State wage, benefit and  
26 tax laws or regarding the levying of a penalty pursuant to any State  
27 wage, benefit and tax laws, has notified the violator of the finding,  
28 and the violator has expressly waived the right to a hearing by  
29 virtue of having failed to request a hearing within the appropriate  
30 time limit established by either law or rule.

31 “Person” means any natural person, company corporate officer or  
32 principal, firm, association, corporation, contractor, subcontractor  
33 or other entity engaged in contracting.

34 “Public body” means the State of New Jersey, any of its political  
35 subdivisions, any authority created by the Legislature of the State of  
36 New Jersey, and any instrumentality or agency for the State of New  
37 Jersey or of any of its political subdivisions.

38 “State wage, benefit and tax laws” has the same meaning as that  
39 term is defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11).

40 b. The department may post to a list on its website the name of  
41 any person found to be in violation of any State wage, benefit, or  
42 tax laws and against whom a final order has been issued by the  
43 commissioner or other appropriate agency officer for any violation  
44 of State wage, benefit and tax laws.

45 c. In the event that either the person satisfies the entirety of the  
46 outstanding liability ordered by the court or the commissioner; or a  
47 settlement has been reached and all payments have been made  
48 pursuant to the settlement, prior to the anticipated date for posting

1 of the name on the department's website, the posting shall not  
2 occur. The department shall update the website on a monthly basis,  
3 no later than the fifth day of each month. The department shall  
4 remove the name of a person from the website within 15 days after  
5 the department determines that the person has satisfied the entirety  
6 of the outstanding liability ordered by the court, the commissioner  
7 or other agency head, or made all payments pursuant to the  
8 settlement for a violation of any State wage, benefit and tax laws.

9 d. A person placed on the list pursuant to subsection b. of this  
10 section shall be prohibited from contracting with any public body  
11 until the liability for violations of State wage, benefit, and tax laws  
12 have been resolved to the satisfaction of the commissioner.

13 e. The department shall provide notice to the person of its  
14 intent to post the name of the person on the department's website 15  
15 business days prior to the posting. That notice shall include the  
16 following:

17 (1) The name, email address, and telephone number of a contact  
18 person at the department and description of the procedure for  
19 removal of the posting;

20 (2) The specific details concerning the violations and a copy of  
21 the unsatisfied court final judgment or final order for any violation  
22 of State wage, benefit and tax laws;

23 (3) Notification that the person shall be prohibited from  
24 contracting with a public body if the liability is not resolved; and

25 (4) Notification that the person can request a hearing in writing  
26 to the commissioner within 20 days of receipt of the notice of intent  
27 to place the person on the list.

28 f. A person who receives a notice of intent pursuant to  
29 subsection e. of this section shall have the right to request a hearing  
30 within 20 days. All hearings requested pursuant to this section shall  
31 be conducted in accordance with the provisions of the  
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
33 1 et seq.).

34 g. The commissioner shall consider the following factors as  
35 material in each decision to place a person on the list pursuant to  
36 subsection b. of this section:

37 (1) The record of previous violations;

38 (2) Previous placement on the list by the commissioner;

39 (3) The frequency of violations by the person discovered in  
40 previous or still pending cases;

41 (4) The significance or scale of the violations;

42 (5) The existence of failure to pay;

43 (6) Failure to cooperate or respond to a request to produce  
44 records, forms, documents, or proof of payments;

45 (7) Submission of falsified or altered records, forms, documents,  
46 or proof of payment;

47 (8) Failure to provide goods or services; and

48 (9) Failure to comply with contract specifications.



1       2. This act shall take effect immediately and shall apply to final  
2 orders issued on and after that effective date.

3

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STATEMENT

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7       This bill permits, notwithstanding any federal or State law to the  
8 contrary, the Department of Labor and Workforce Development  
9 (DOLWD) to post to a list on its website the name for any person  
10 who is found to be violation of any State wage, benefit, or tax law,  
11 and against whom a final order has been issued by the  
12 Commissioner of the DOLWD or other appropriate agency head for  
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19       The bill provides that a person placed on the list is prohibited  
20 from contracting with a public body until the liability for violations  
21 of State wage, benefit, and tax laws have been resolved to the  
22 satisfaction of the commissioner.

23       The bill enumerates several factors for the commissioner's  
24 consideration in determining whether to place a person on the  
25 website list.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### SENATE, No. 4226

# STATE OF NEW JERSEY

DATED: DECEMBER 5, 2019

The Senate Labor Committee reports favorably, Senate Bill No. 4226.

This bill permits, notwithstanding any federal or State law to the contrary, the Department of Labor and Workforce Development (DOLWD) to post to a list on its website the name for any person who is found to be violation of any State wage, benefit, or tax law, and against whom a final order has been issued by the Commissioner of the DOLWD or other appropriate agency head for any violation of State wage, benefit and tax laws.

The DOLWD is required to provide notice to the person of its intent to post the person's name on the DOLWD's website 15 business days prior to the posting. A person who receives a notice of intent to be placed on the list is entitled to the right to request a hearing within 20 days.

The bill provides that a person placed on the list is prohibited from contracting with a public body until the liability for violations of State wage, benefit, and tax laws have been resolved to the satisfaction of the commissioner.

The bill enumerates several factors for the commissioner's consideration in determining whether to place a person on the website list.

# ASSEMBLY, No. 5841

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED NOVEMBER 14, 2019

**Sponsored by:**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Assemblyman ANTHONY S. VERRELLI**

**District 15 (Hunterdon and Mercer)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman DeAngelo, Assemblywomen Murphy and Downey**

**SYNOPSIS**

Permits Department of Labor and Workforce Development to post information of person who violates State wage, benefit and tax laws.

**CURRENT VERSION OF TEXT**

As introduced.



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

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2 supplementing Title 34 of the Revised Statutes.

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17 services or the persons who may supply or perform the same.

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19 Development.

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24 et seq.), or where the department or other appropriate agency has  
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26 tax laws or regarding the levying of a penalty pursuant to any State  
27 wage, benefit and tax laws, has notified the violator of the finding,  
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46 outstanding liability ordered by the court or the commissioner; or a  
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24 contracting with a public body if the liability is not resolved; and

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40 previous or still pending cases;

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7       This bill permits, notwithstanding any federal or State law to the  
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9 (DOLWD) to post to a list on its website the name for any person  
10 who is found to be violation of any State wage, benefit, or tax law,  
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13 any violation of State wage, benefit and tax laws.

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15 intent to post the person's name on the DOLWD's website 15  
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17 of intent to be placed on the list is entitled to the right to request a  
18 hearing within 20 days.

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20 from contracting with a public body until the liability for violations  
21 of State wage, benefit, and tax laws have been resolved to the  
22 satisfaction of the commissioner.

23       The bill enumerates several factors for the commissioner's  
24 consideration in determining whether to place a person on the  
25 website list.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

**ASSEMBLY No. 5841**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 18, 2019

The Assembly Labor Committee reports favorably Assembly Bill No. 5841.

This bill permits the Department of Labor and Workforce Development (DOLWD) to post to a list on its website the name of any person who is found to be violation of any State wage, benefit, or tax law, and against whom a final order has been issued by the Commissioner of Labor and Workforce Development or other appropriate agency head for any violation of State wage, benefit and tax laws.

The DOLWD is required to provide notice to the person of its intent to post the person's name on the DOLWD's website 15 business days prior to the posting. A person who receives a notice of intent to be placed on the list is entitled to the right to request a hearing within 20 days.

The bill provides that a person placed on the list is prohibited from contracting with a public body until the liability for violations of State wage, benefit, and tax laws have been resolved to the satisfaction of the commissioner.

The bill enumerates several factors for the commissioner's consideration in determining whether to place a person on the website list.

# 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 Daniels, 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."