

# 34:15-79

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2009                    **CHAPTER:** 87

**NJSA:** 34:15-79                (Concerns stop-work orders and certain violations of workers' compensation requirements)

**BILL NO:** A3569                (Substituted for S2498)

**SPONSOR(S):** Egan and others

**DATE INTRODUCED:** January 13, 2009

**COMMITTEE:**                    **ASSEMBLY:** Labor

**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** March 16, 2009

**SENATE:** May 21, 2009

**DATE OF APPROVAL:** July 10, 2009

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Second reprint enacted)

**A3569**

**SPONSOR'S STATEMENT:** (Begins on page 4 of original 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:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2498**

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

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

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

(continued)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**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:** Yes

**NEWSPAPER ARTICLES:** No

Committee meeting of the Senate Labor Committee: examination of the worker's compensation system in New Jersey: [May 5, 2008, Trenton, New Jersey] / meeting recorded and transcribed by the Office of Legislative Services, Public Information Office, Hearing Unit.

<http://www.njstatelib.org/digit/e55/e552008.pdf>

LAW/IS 1/21/10

[Second Reprint]

**ASSEMBLY, No. 3569**

**STATE OF NEW JERSEY**

**213th LEGISLATURE**

INTRODUCED JANUARY 13, 2009

**Sponsored by:**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Co-Sponsored by:**

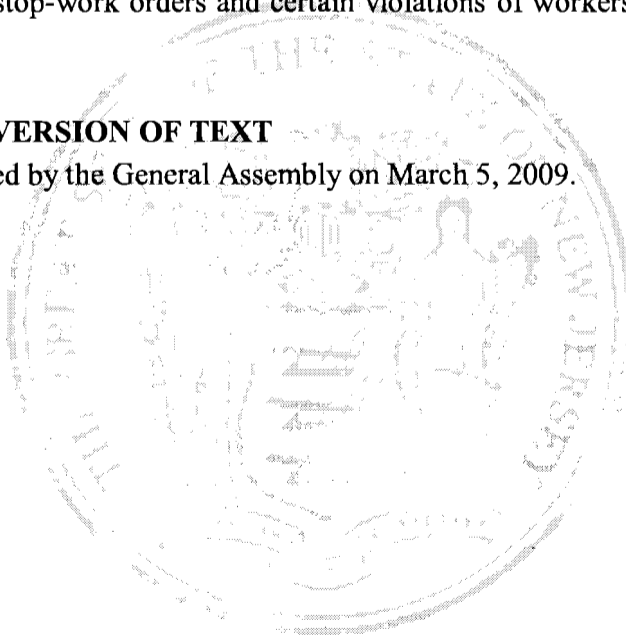
**Senators Madden, Cunningham and Baroni**

**SYNOPSIS**

Concerns stop-work orders and certain violations of workers' compensation requirements.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on March 5, 2009.



**(Sponsorship Updated As Of: 5/22/2009)**

1 AN ACT concerning certain violations of workers' compensation  
2 requirements and amending R.S.34:15-79.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S.34:15-79 is amended to read as follows:

8 34:15-79. a. An employer who fails to provide the protection  
9 prescribed in this article, who misrepresents one or more employees  
10 as independent contractors, or who provides false, incomplete or  
11 misleading information concerning the number of employees <sup>1</sup>[for  
12 the purpose of paying lower premiums]<sup>1</sup>, shall be guilty of a  
13 disorderly persons offense and, if the failure, misrepresentation or  
14 provision of false, incomplete or misleading information is  
15 knowing, shall be guilty of a crime of the fourth degree [if such  
16 failure is knowing], and shall be subject to a stop-work order issued  
17 by the Director of the Division of Workers' Compensation pursuant  
18 to subsection e. of this section. In cases where a workers'  
19 compensation award in the Division of Workers' Compensation of  
20 New Jersey against the defendant is not paid at the time of the  
21 sentence, the court may suspend sentence upon that defendant and  
22 place him on probation for any period with an order to pay the  
23 delinquent compensation award to the claimant through the  
24 probation office of the county. Where the employer is a  
25 corporation, any officer who is actively engaged in the corporate  
26 business, including, but not limited to, the president, vice-president,  
27 secretary, and the treasurer thereof shall be liable for failure to  
28 secure the protection prescribed by this article. Any contractor  
29 placing work with a subcontractor shall, in the event of the  
30 subcontractor's failing to carry workers' compensation insurance as  
31 required by this article, become liable for any compensation which  
32 may be due an employee or the dependents of a deceased employee  
33 of a subcontractor. The contractor shall then have a right of action  
34 against the subcontractor for reimbursement.

35 b. A rebuttable presumption that an employer has established a  
36 successor firm, corporation or partnership shall arise if the two  
37 share at least three of the following capacities or characteristics: (1)  
38 perform similar work; (2) occupy the same premises; (3) have the  
39 same telephone or fax number; (4) have the same email address or  
40 **[internet]** Internet website; (5) perform work in the same  
41 geographical area; (6) employ substantially the same work force;  
42 (7) utilize the same tools and equipment; (8) employ or engage the  
43 services of any person or persons involved in the direction or  
44 control of the other; or (9) list substantially the same work

**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:

<sup>1</sup>Assembly ALA committee amendments adopted January 26, 2009.

<sup>2</sup>Assembly floor amendments adopted March 5, 2009.

1 experience. If it is determined that an employer has established a  
2 successor firm, corporation or partnership, the "uninsured  
3 employer's fund" shall have a subrogation right against the  
4 successor firm, corporation or partnership for any benefits paid  
5 pursuant to R.S.34:15-1 et seq. by the "uninsured employer's fund,"  
6 the injured worker may seek benefits not otherwise paid or payable  
7 by the "uninsured employer's fund" from the successor firm,  
8 corporation or partnership, and the successor firm, corporation or  
9 partnership shall have all of the same responsibilities regarding  
10 workers' compensation required pursuant to R.S.34:15-1 et seq. as  
11 the original employer.

12 c. Failure to produce at the time of the trial or upon written  
13 request by the division proof of workers' compensation insurance  
14 coverage by a mutual association or stock company authorized to  
15 write coverage on such risks in this State or written authorization by  
16 the Commissioner of Banking and Insurance to self-insure for  
17 workers' compensation pursuant to R.S.34:15-77, which was in  
18 force for the time cited by the division, creates a rebuttable  
19 presumption that the employer was uninsured when charged with a  
20 violation of this section.

21 d. The Director of the Division of Workers' Compensation, or  
22 any officer or employee of the division designated by the director,  
23 upon finding that an employer has failed for a period of not less  
24 than 10 consecutive days to make the provisions for payment of  
25 compensation required by R.S.34:15-71 and R.S.34:15-72, shall  
26 impose upon that employer, in addition to all other penalties, fines  
27 or assessments provided for in chapter 15 of Title 34 of the Revised  
28 Statutes or in any supplement thereto, a penalty in the amount of up  
29 to \$5,000 and when the period exceeds 10 days, an additional  
30 penalty of up to \$5,000 for each period of 10 days thereafter. All  
31 penalties under this act shall be enforced and collected in  
32 accordance with section 12 of P.L.1966, c.126 (C.34:15-120.3).  
33 'Failure or refusal to comply with a stop work order issued by the  
34 Director of the Division of Workers' Compensation pursuant to  
35 subsection e. of this section shall, in addition to any other penalties  
36 provided by law, result in the assessment of a penalty of not less  
37 than \$1,000 and not more than \$5,000 for each day found not to be  
38 in compliance.' All penalties collected under this section shall be  
39 paid into the "uninsured employer's fund."

40 e. If the Director of the Division of Workers' Compensation  
41 determines, after investigation, that an employer knowingly failed  
42 to provide the protection prescribed in this article, 'knowingly'  
43 misrepresented one or more employees as independent contractors,  
44 or 'knowingly' provided false, incomplete or misleading  
45 information concerning the number of employees '【for the purpose  
46 of paying lower premiums】', the director shall issue, not later than  
47 72 hours after making the determination, a stop-work order

1 requiring the cessation of all business operations <sup>2</sup>of that employer<sup>2</sup>  
2 at every site at which the violation occurred. The order shall take  
3 effect when served upon the employer, or, for a particular employer  
4 worksite, when served at that worksite. The order shall remain in  
5 effect until the director issues an order releasing the stop-work  
6 order upon finding that the employer has come into compliance  
7 with the requirements of this section and has paid any penalty  
8 assessed under this section. A stop-work order issued pursuant to  
9 this section against an employer shall apply against any successor  
10 firm, corporation or partnership of the employer in the same manner  
11 that it applies to the employer. An employer who is subject to a  
12 stop-work order shall have the right to apply to the director, not  
13 more than 10 days after the order is issued, for a hearing to contest  
14 whether the employer committed the violation on which the order  
15 was based, and the hearing shall be afforded and a decision  
16 rendered within 48 hours of the application.

17 'f. The Commissioner of Labor and Workforce Development  
18 shall, pursuant to the "Administrative Procedure Act," P.L.1968,  
19 c.410 (C.52:14B-1 et seq.), promulgate rules and regulations  
20 necessary to implement the provisions of this section.'

21 (cf: P.L.2008, c.94, s.1)

22

23 2. This act shall take effect immediately.

1 issued pursuant to this section against an employer shall apply  
2 against any successor firm, corporation or partnership of the  
3 employer in the same manner that it applies to the employer. An  
4 employer who is subject to a stop-work order shall have the right to  
5 apply to the director, not more than 10 days after the order is issued,  
6 for a hearing to contest whether the employer committed the  
7 violation on which the order was based, and the hearing shall be  
8 afforded and a decision rendered within 48 hours of the application.  
9 (cf: P.L.2008, c.94, s.1)

10  
11 2. This act shall take effect immediately.  
12

13  
14 SPONSOR'S STATEMENT  
15

16 This bill provides for the issuance, by the Director of the  
17 Division of Workers' Compensation, of a stop-work order against an  
18 employer, upon a finding by the director that an employer has  
19 knowingly failed to provide workers' compensation coverage,  
20 misrepresented one or more employees as independent contractors,  
21 or provided false, incomplete or misleading information concerning  
22 the number of employees for the purpose of paying lower workers'  
23 compensation premiums. The director shall issue, not later than 72  
24 hours after the determination is made, a stop-work order requiring  
25 the cessation of all business operations at every site at which the  
26 violation occurred. The order shall remain in effect until the  
27 director issues an order releasing the stop-work order upon finding  
28 that the employer has ended its noncompliance and paid any penalty  
29 assessed. A stop-work order against an employer shall apply  
30 equally to any successor firm, corporation or partnership of the  
31 employer. An employer who is subject to a stop-work order has the  
32 right to apply, not more than 10 days after the order is issued, for a  
33 hearing to contest whether the employer committed the violation on  
34 which the order was based. The hearing shall be afforded and a  
35 decision rendered within 48 hours of the application.

36 The bill also provides that an employer who misrepresents one or  
37 more employees as independent contractors, or provides false,  
38 incomplete or misleading information concerning the number of  
39 employees for the purpose of paying lower premiums, is, like an  
40 employer who entirely fails to provide workers compensation  
41 coverage, guilty of a disorderly persons offense and, if the violation  
42 is knowing, guilty of a crime of the fourth degree.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3569**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 26, 2009

The Assembly Labor Committee reports favorably, and with committee amendments, Assembly Bill No. 3569.

As amended by the committee, this bill provides for the issuance by the Director of the Division of Workers' Compensation of a stop-work order against an employer upon a finding by the director that an employer has: knowingly failed to provide workers' compensation coverage; knowingly misrepresented one or more employees as independent contractors; or knowingly provided false, incomplete or misleading information concerning the number of employees. The director shall issue, not later than 72 hours after the determination is made, a stop-work order requiring the cessation of all business operations at every site at which the violation occurred. The order shall remain in effect until the director issues an order releasing the stop-work order upon finding that the employer has ended its noncompliance and paid any penalty assessed. A stop-work order issued against an employer shall apply equally to any successor firm, corporation or partnership of the employer. An employer who is subject to a stop-work order has the right to apply, not more than 10 days after the order is issued, for a hearing to contest whether the employer committed the violation on which the order was based. The hearing shall be afforded and a decision rendered within 48 hours of the application.

As amended, the bill provides that failure or refusal to comply with a stop work order issued pursuant to the bill will result in the assessment of a penalty of not less than \$1,000 and not more than \$5,000 for each day of non compliance.

The bill also provides that an employer who misrepresents one or more employees as independent contractors, or provides false, incomplete or misleading information concerning the number of employees, is, like an employer who entirely fails to provide workers compensation coverage, guilty of a disorderly persons offense and, if the violation is knowing, guilty of a crime of the fourth degree.



COMMITTEE AMENDMENTS

The amendments adopted by the committee:

1. Specify that failure or refusal to comply with a stop work order issued pursuant to the bill will result in the assessment of a penalty of not less than \$1,000 and not more than \$5,000 for each day of non compliance;
2. Remove the requirement that the violations must have been committed for the purpose of paying lower premiums;
3. Clarify that violations by the employer must be committed knowingly to result in a stop work order; and
4. Direct the Commissioner of Labor and Workforce Development to promulgate rules and regulations necessary to implement the provisions of the bill.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3569**

with Assembly Floor Amendments  
(Proposed By Assemblyman EGAN)

ADOPTED: MARCH 5, 2009

These Assembly amendments clarify that a stop work order would apply only to the employer who knowingly committed the violation and not to any other employer at the worksite.

1 issued pursuant to this section against an employer shall apply  
2 against any successor firm, corporation or partnership of the  
3 employer in the same manner that it applies to the employer. An  
4 employer who is subject to a stop-work order shall have the right to  
5 apply to the director, not more than 10 days after the order is issued,  
6 for a hearing to contest whether the employer committed the  
7 violation on which the order was based, and the hearing shall be  
8 afforded and a decision rendered within 48 hours of the application.  
9 (cf: P.L.2008, c.94, s.1)

10  
11 2. This act shall take effect immediately.

12  
13  
14 *SPONSOR'S* STATEMENT

15  
16 This bill provides for the issuance, by the Director of the  
17 Division of Workers' Compensation, of a stop-work order against an  
18 employer, upon a finding by the director that an employer has  
19 knowingly failed to provide workers' compensation coverage,  
20 misrepresented one or more employees as independent contractors,  
21 or provided false, incomplete or misleading information concerning  
22 the number of employees for the purpose of paying lower workers'  
23 compensation premiums. The director shall issue, not later than 72  
24 hours after the determination is made, a stop-work order requiring  
25 the cessation of all business operations at every site at which the  
26 violation occurred. The order shall remain in effect until the  
27 director issues an order releasing the stop-work order upon finding  
28 that the employer has ended its noncompliance and paid any penalty  
29 assessed. A stop-work order against an employer shall apply  
30 equally to any successor firm, corporation or partnership of the  
31 employer. An employer who is subject to a stop-work order has the  
32 right to apply, not more than 10 days after the order is issued, for a  
33 hearing to contest whether the employer committed the violation on  
34 which the order was based. The hearing shall be afforded and a  
35 decision rendered within 48 hours of the application.

36 The bill also provides that an employer who misrepresents one or  
37 more employees as independent contractors, or provides false,  
38 incomplete or misleading information concerning the number of  
39 employees for the purpose of paying lower premiums, is, like an  
40 employer who entirely fails to provide workers compensation  
41 coverage, guilty of a disorderly persons offense and, if the violation  
42 is knowing, guilty of a crime of the fourth degree.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### **SENATE, No. 2498**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 9, 2009

The Senate Labor Committee reports favorably, and with committee amendments, Senate Bill No. 2498.

As amended by the committee, this bill provides for the issuance by the Director of the Division of Workers' Compensation of a stop-work order against an employer determined by the director to have knowingly failed to provide workers' compensation coverage, knowingly misrepresented one or more employees as independent contractors, or knowingly provided false, incomplete or misleading information concerning the number of employees. The order would be issued not later than 72 hours after the determination, require the cessation of all business operations of the violator at every site at which the violation occurred, and remain in effect until the issuance of an order releasing the stop-work upon an end of noncompliance and payment of any assessed penalty. The employer may apply for a hearing to contest the order not more than 10 days after its issuance, and a hearing and a decision shall be rendered within 48 hours of the application. Failure to comply with the stop work order will result in the assessment of a penalty of not less than \$1,000 and not more than \$5,000 for each day of non compliance. The order would apply only to the employer who knowingly committed the violation and not to any other employer at the worksite.

The bill also provides that an employer who misrepresents one or more employees as independent contractors, or provides false, incomplete or misleading information concerning the number of employees, is, like an employer who entirely fails to provide workers' compensation coverage, guilty of a disorderly persons offense and, if the violation is knowing, guilty of a crime of the fourth degree.

The committee amendments:

1. Clarify that a stop work order would apply only to the employer who knowingly committed the violation and not to any other employer at the worksite;

2. Clarify that no violation of an employer will result in a stop work order under the bill unless the employer commits the violation knowingly;

3. Remove the requirement that a violation must have been committed for the purpose of paying lower workers' compensation insurance premiums.

4. Specify that failure or refusal to comply with a stop work order issued pursuant to the bill will result in the assessment of a penalty of not less than \$1,000 and not more than \$5,000 for each day of non compliance; and

5. Direct the Commissioner of Labor and Workforce Development to promulgate rules and regulations necessary to implement the provisions of the bill.