

LEGISLATIVE HISTORY CHECKLIST

Compiled by the NJ State Law Library

LAWS of 1999

CHAPTER: 4

NJSA: 34:6-149

(Apparel Industry -- violation of workplace standards)

BILL NO:A1427 (Substituted for S1091)

SPONSOR(S): Garcia

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY: Labor

SENATE: Commerce

AMENDED DURING PASSAGE:No

DATE OF PASSAGE:

ASSEMBLY: June 18, 1998

SENATE: December 10, 1998

DATE OF APPROVAL: January 21, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: Original

(Amendments during passage denoted by superscript numbers)

A1427

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

S1091

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)
Bill and Sponsor's statement identical to A1427

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes*

Identical to Senate statement for A1427

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

GOVERNOR'S ACTIONS

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

*To check for circulating copies contact New Jersey State Government Publications at the State Library
(609) 278-2640 ext. 102 or refdesk@njstatelib.org*

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 4, *approved January 21, 1999*

Assembly, No. 1427

1 **AN ACT** increasing penalties for violations in the apparel industry of
2 certain laws regarding workplace standards and amending
3 P.L.1987, c.458.

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

7
8 1. Section 6 of P.L.1987, c.458 (C.34:6-149) is amended to read
9 as follows:

10 6. The apparel industry unit shall have the following powers:

11 a. To investigate and conduct inspections at locations where an
12 apparel industry manufacturer or contractor is operating to ensure
13 compliance with this act;

14 b. To inspect books, records and premises of manufacturers and
15 contractors, with respect to their production employees, to determine
16 compliance with the State's labor laws, including but not limited to,
17 laws concerning wages, overtime compensation, unemployment
18 compensation and temporary disability insurance, workers'
19 compensation coverage, child labor, and industrial homework laws,
20 and, if the apparel industry unit determines that a manufacturer or
21 contractor has violated a provision of any of those laws with respect
22 to its production employees, to assess and collect, on behalf of the
23 commissioner, any administrative penalty authorized by law. If the
24 violation is of a provision of a labor law for which the assessment and
25 collection of an administrative penalty is not otherwise authorized, the
26 apparel industry unit is hereby authorized to assess and collect an
27 administrative penalty **[, up to a maximum]** of not less than \$250 and
28 not more than \$500 for a first violation and **[up to a maximum of]** not
29 less than \$500 and not more than \$1,000 for each subsequent
30 violation, specified in a schedule of penalties promulgated by rule or
31 regulation of the commissioner in accordance with the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). No
33 administrative penalty shall be levied pursuant to this subsection unless
34 the commissioner or his designee provides the violator with
35 notification of the violation and of the amount of the penalty by
36 certified mail and an opportunity to request a hearing within 15 days
37 following the receipt of the notice. If a hearing is requested, the
38 commissioner, or his designee, may issue a final order upon such
39 hearing and a finding that a violation has occurred. If no hearing is
40 requested, the notice shall become a final order upon the expiration of
41 the 15-day period. Payment of the penalty is due when a final order

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

Matter underlined thus is new matter.

1 is issued or when the notice becomes a final order. Any penalty
2 imposed under this subsection may be recovered with costs in a
3 summary proceeding pursuant to "the penalty enforcement law"
4 (N.J.S.2A:58-1 et seq.). Any penalty imposed under this subsection
5 shall be paid to the Division of Workplace Standards and applied to
6 enforcement and administrative costs of the division; and

7 c. To serve as the designee of the commissioner for the purpose of
8 taking any action authorized by this act necessary to implement its
9 provisions.

10 (cf: P.L.1991, c.189, s.8)

11

12 2. Section 7 of P.L.1987, c.458 (C.34:6-150) is amended to read
13 as follows:

14 7. a. Any manufacturer or contractor who has failed to comply
15 with the registration requirements of section 3 of this act shall be
16 deemed to have violated this act.

17 b. Any manufacturer or contractor who has failed to comply, for
18 the second time within any three-year period, with an order issued by
19 the commissioner to comply with the registration requirements of
20 section 3 of this act shall be deemed to have violated this act.

21 c. Any manufacturer or contractor who contracts for the
22 performance of any apparel industry service, as identified in subsection
23 a. of section 2 of this act, with any other manufacturer or contractor
24 whom the manufacturer or contractor knows does not hold a valid
25 registration shall be deemed to have violated this act. A contractor or
26 manufacturer who knowingly violates this subsection c. within three
27 years after having been found liable for a civil or administrative penalty
28 for violating this subsection c. is guilty of a crime of the fourth degree.

29 d. No manufacturer or contractor shall perform services or hold
30 himself out as being able to perform services as a registered
31 manufacturer or contractor unless he holds a valid registration
32 pursuant to this act. A contractor or manufacturer who knowingly
33 violates this subsection d. within three years after having been found
34 liable for a civil or administrative penalty for violating this subsection
35 d. is guilty of a crime of the fourth degree.

36 e. If the commissioner or his designee determines that any
37 manufacturer or contractor commits a violation as provided in
38 subsection a., b., or c. of this section, or violates subsection d. of this
39 section, the commissioner or his designee may impose a civil penalty,
40 and such penalty shall be made with due consideration of the size and
41 past experience of the manufacturer or contractor and the seriousness
42 of the violation, upon the manufacturer or contractor **[up to**
43 **\$1,000.00]** of not less than \$1,000 and not more than \$2,000 for an
44 initial violation and **[up to \$2,000.00]** not less than \$2,000 and not
45 more than \$4,000 for each subsequent violation, and, as an alternative
46 or in addition to the civil penalty, the commissioner or his designee is

1 authorized to assess and collect an administrative penalty, [up to a
2 maximum] of not less than \$250 and not more than \$500 for a first
3 violation and [up to a maximum of] not less than \$500 and not more
4 than \$1,000 for each subsequent violation, specified in a schedule of
5 penalties to be promulgated by rule or regulation of the commissioner
6 in accordance with the "Administrative Procedure Act," P.L.1968,
7 c.410 (C.52:14B-1 et seq.). No administrative penalty shall be levied
8 pursuant to this subsection unless the commissioner or his designee
9 provides the violator with notification of the violation and of the
10 amount of the penalty by certified mail and an opportunity to request
11 a hearing within 15 days following the receipt of the notice. If a
12 hearing is requested, the commissioner, or his designee, may issue a
13 final order upon such hearing and a finding that a violation has
14 occurred. If no hearing is requested, the notice shall become a final
15 order upon the expiration of the 15-day period. Payment of the
16 penalty is due when a final order is issued or when the notice becomes
17 a final order. Any penalty imposed under this subsection may be
18 recovered with costs in a summary proceeding pursuant to "the penalty
19 enforcement law" (N.J.S.2A:58-1 et seq.). The civil or administrative
20 penalties shall be paid to the Division of Workplace Standards and
21 applied to enforcement and administrative costs of the division, except
22 as provided in subsection b. of section 11 of this act. Any civil penalty
23 imposed pursuant to this section shall be enforceable in a summary
24 manner pursuant to Rule 4:70 of the Rules Governing the Courts of
25 the State of New Jersey.

26 f. If any manufacturer or contractor fails to comply with an order
27 by the commissioner to register or renew registration, the
28 commissioner may seek and obtain in a summary action in Superior
29 Court an injunction prohibiting such unlawful activity.

30 g. An intentional failure to comply with the registration
31 requirements of section 3 of this act shall be a crime of the fourth
32 degree.

33 h. The commissioner or his designee may, after a hearing thereon,
34 and after due consideration of the size and past experience of the
35 manufacturer or contractor and the seriousness of the violation,
36 require as a condition of continued registration, the payment of a
37 surety bond or may revoke, by order, the registration of any
38 manufacturer or contractor for any period ranging from 30 days to one
39 year upon being found guilty of:

40 (1) A second violation of the same provision of this act within any
41 three-year period; or

42 (2) A second violation within any three-year period of the same
43 provision of any other labor law applicable to the employment of
44 production employees.

45 The surety bond shall be payable to the State and shall be for the
46 benefit of production employees damaged by any failure of the

1 manufacturer or contractor to pay wages or benefits or otherwise
2 comply with the provisions of law. The surety bond shall be in the
3 sum and form that the commissioner deems necessary for the
4 protection of the production employees, but shall not exceed \$2,500
5 per production employee.

6 i. Any manufacturer or contractor who contracts, for the second
7 time within any three-year period, for the performance of any apparel
8 industry service with any other manufacturer or contractor whom the
9 manufacturer or contractor knows has failed to comply with the
10 registration requirements of section 3 of this act, shall, if the other
11 manufacturer or contractor has failed to pay any civil penalty assessed
12 under subsection e. of this section, be liable to pay a civil penalty equal
13 to the civil penalty that the other manufacturer or contractor has been
14 assessed.

15 j. Nothing herein shall affect either the authority of the department
16 to enforce the industrial homework laws of this State or the right of
17 any manufacturer to possess or repossess any apparel, or sections or
18 components of apparel, that are located at any contractor with whom
19 it has contracted.

20 (cf: P.L.1991, c.189, s.9.)

21

22 3. This act shall take effect immediately.

23

24

25

26

27 _____
28 Increases penalties for violations of workplace standards in the apparel
industry.

ASSEMBLY, No. 1427

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman RAUL "RUDY" GARCIA

District 33 (Hudson)

SYNOPSIS

Increases penalties for violations of workplace standards in the apparel industry.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT increasing penalties for violations in the apparel industry of
2 certain laws regarding workplace standards and amending
3 P.L.1987, c.458.

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

7
8 1. Section 6 of P.L.1987, c.458 (C.34:6-149) is amended to read
9 as follows:

10 6. The apparel industry unit shall have the following powers:

11 a. To investigate and conduct inspections at locations where an
12 apparel industry manufacturer or contractor is operating to ensure
13 compliance with this act;

14 b. To inspect books, records and premises of manufacturers and
15 contractors, with respect to their production employees, to determine
16 compliance with the State's labor laws, including but not limited to,
17 laws concerning wages, overtime compensation, unemployment
18 compensation and temporary disability insurance, workers'
19 compensation coverage, child labor, and industrial homework laws,
20 and, if the apparel industry unit determines that a manufacturer or
21 contractor has violated a provision of any of those laws with respect
22 to its production employees, to assess and collect, on behalf of the
23 commissioner, any administrative penalty authorized by law. If the
24 violation is of a provision of a labor law for which the assessment and
25 collection of an administrative penalty is not otherwise authorized, the
26 apparel industry unit is hereby authorized to assess and collect an
27 administrative penalty **[, up to a maximum]** of not less than \$250 and
28 not more than \$500 for a first violation and **[up to a maximum of]** not
29 less than \$500 and not more than \$1,000 for each subsequent
30 violation, specified in a schedule of penalties promulgated by rule or
31 regulation of the commissioner in accordance with the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). No
33 administrative penalty shall be levied pursuant to this subsection unless
34 the commissioner or his designee provides the violator with
35 notification of the violation and of the amount of the penalty by
36 certified mail and an opportunity to request a hearing within 15 days
37 following the receipt of the notice. If a hearing is requested, the
38 commissioner, or his designee, may issue a final order upon such
39 hearing and a finding that a violation has occurred. If no hearing is
40 requested, the notice shall become a final order upon the expiration of
41 the 15-day period. Payment of the penalty is due when a final order
42 is issued or when the notice becomes a final order. Any penalty
43 imposed under this subsection may be recovered with costs in a

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

Matter underlined thus is new matter.

1 summary proceeding pursuant to "the penalty enforcement law"
2 (N.J.S.2A:58-1 et seq.). Any penalty imposed under this subsection
3 shall be paid to the Division of Workplace Standards and applied to
4 enforcement and administrative costs of the division; and

5 c. To serve as the designee of the commissioner for the purpose of
6 taking any action authorized by this act necessary to implement its
7 provisions.

8 (cf: P.L.1991, c.189, s.8)

9

10 2. Section 7 of P.L.1987, c.458 (C.34:6-150) is amended to read
11 as follows:

12 7. a. Any manufacturer or contractor who has failed to comply
13 with the registration requirements of section 3 of this act shall be
14 deemed to have violated this act.

15 b. Any manufacturer or contractor who has failed to comply, for
16 the second time within any three-year period, with an order issued by
17 the commissioner to comply with the registration requirements of
18 section 3 of this act shall be deemed to have violated this act.

19 c. Any manufacturer or contractor who contracts for the
20 performance of any apparel industry service, as identified in subsection
21 a. of section 2 of this act, with any other manufacturer or contractor
22 whom the manufacturer or contractor knows does not hold a valid
23 registration shall be deemed to have violated this act. A contractor or
24 manufacturer who knowingly violates this subsection c. within three
25 years after having been found liable for a civil or administrative penalty
26 for violating this subsection c. is guilty of a crime of the fourth degree.

27 d. No manufacturer or contractor shall perform services or hold
28 himself out as being able to perform services as a registered
29 manufacturer or contractor unless he holds a valid registration
30 pursuant to this act. A contractor or manufacturer who knowingly
31 violates this subsection d. within three years after having been found
32 liable for a civil or administrative penalty for violating this subsection
33 d. is guilty of a crime of the fourth degree.

34 e. If the commissioner or his designee determines that any
35 manufacturer or contractor commits a violation as provided in
36 subsection a., b., or c. of this section, or violates subsection d. of this
37 section, the commissioner or his designee may impose a civil penalty,
38 and such penalty shall be made with due consideration of the size and
39 past experience of the manufacturer or contractor and the seriousness
40 of the violation, upon the manufacturer or contractor **[up to**
41 **\$1,000.00]** of not less than \$1,000 and not more than \$2,000 for an
42 initial violation and **[up to \$2,000.00]** not less than \$2,000 and not
43 more than \$4,000 for each subsequent violation, and, as an alternative
44 or in addition to the civil penalty, the commissioner or his designee is
45 authorized to assess and collect an administrative penalty, **[up to a**
46 **maximum]** of not less than \$250 and not more than \$500 for a first

1 violation and **[up to a maximum of]** not less than \$500 and not more
2 than \$1,000 for each subsequent violation, specified in a schedule of
3 penalties to be promulgated by rule or regulation of the commissioner
4 in accordance with the "Administrative Procedure Act," P.L.1968,
5 c.410 (C.52:14B-1 et seq.). No administrative penalty shall be levied
6 pursuant to this subsection unless the commissioner or his designee
7 provides the violator with notification of the violation and of the
8 amount of the penalty by certified mail and an opportunity to request
9 a hearing within 15 days following the receipt of the notice. If a
10 hearing is requested, the commissioner, or his designee, may issue a
11 final order upon such hearing and a finding that a violation has
12 occurred. If no hearing is requested, the notice shall become a final
13 order upon the expiration of the 15-day period. Payment of the
14 penalty is due when a final order is issued or when the notice becomes
15 a final order. Any penalty imposed under this subsection may be
16 recovered with costs in a summary proceeding pursuant to "the penalty
17 enforcement law" (N.J.S.2A:58-1 et seq.). The civil or administrative
18 penalties shall be paid to the Division of Workplace Standards and
19 applied to enforcement and administrative costs of the division, except
20 as provided in subsection b. of section 11 of this act. Any civil penalty
21 imposed pursuant to this section shall be enforceable in a summary
22 manner pursuant to Rule 4:70 of the Rules Governing the Courts of
23 the State of New Jersey.

24 f. If any manufacturer or contractor fails to comply with an order
25 by the commissioner to register or renew registration, the
26 commissioner may seek and obtain in a summary action in Superior
27 Court an injunction prohibiting such unlawful activity.

28 g. An intentional failure to comply with the registration
29 requirements of section 3 of this act shall be a crime of the fourth
30 degree.

31 h. The commissioner or his designee may, after a hearing thereon,
32 and after due consideration of the size and past experience of the
33 manufacturer or contractor and the seriousness of the violation,
34 require as a condition of continued registration, the payment of a
35 surety bond or may revoke, by order, the registration of any
36 manufacturer or contractor for any period ranging from 30 days to one
37 year upon being found guilty of:

38 (1) A second violation of the same provision of this act within any
39 three-year period; or

40 (2) A second violation within any three-year period of the same
41 provision of any other labor law applicable to the employment of
42 production employees.

43 The surety bond shall be payable to the State and shall be for the
44 benefit of production employees damaged by any failure of the
45 manufacturer or contractor to pay wages or benefits or otherwise
46 comply with the provisions of law. The surety bond shall be in the

1 sum and form that the commissioner deems necessary for the
2 protection of the production employees, but shall not exceed \$2,500
3 per production employee.

4 i. Any manufacturer or contractor who contracts, for the second
5 time within any three-year period, for the performance of any apparel
6 industry service with any other manufacturer or contractor whom the
7 manufacturer or contractor knows has failed to comply with the
8 registration requirements of section 3 of this act, shall, if the other
9 manufacturer or contractor has failed to pay any civil penalty assessed
10 under subsection e. of this section, be liable to pay a civil penalty equal
11 to the civil penalty that the other manufacturer or contractor has been
12 assessed.

13 j. Nothing herein shall affect either the authority of the department
14 to enforce the industrial homework laws of this State or the right of
15 any manufacturer to possess or repossess any apparel, or sections or
16 components of apparel, that are located at any contractor with whom
17 it has contracted.

18 (cf: P.L.1991, c.189, s.9.)

19

20 3. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-
26 144 et seq.) for violations in the apparel industry of certain laws
27 setting workplace standards.

28 In the case of a manufacturer or contractor in the apparel industry
29 who fails to comply with that law's requirements related to
30 registration, civil penalties are increased from up to \$1,000 for a first
31 violation and up to \$2,000 for a subsequent violation to not less than
32 \$1,000 and not more than \$2,000 for a first violation and not less than
33 \$2,000 and not more than \$4,000 for a subsequent violation. In such
34 cases the administrative penalties are increased from up to \$250 for a
35 first violation and up to \$500 for a subsequent violation to not less
36 than \$250 and not more than \$500 for a first violation and not less
37 than \$500 and not more than \$1,000 for a subsequent violation.

38 In the case of a manufacturer or contractor in the apparel industry
39 who violates other State labor laws, including laws concerning wages,
40 overtime compensation, unemployment and temporary disability
41 insurance, workers' compensation, child labor and industrial
42 homework, the administrative penalties are increased from up to \$250
43 for a first violation and up to \$500 for a subsequent violation to not
44 less than \$250 and not more than \$500 for a first violation and not less
45 than \$500 and not more than \$1,000 for a subsequent violation.

46 In sum, the bill establishes, in each case subject to its provisions, a

A1427 GARCIA

6

- 1 minimum penalty equal to the current maximum penalty and increases
- 2 the maximum penalty to an amount twice as large as the current
- 3 maximum penalty.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1427

STATE OF NEW JERSEY

DATED: JUNE 4, 1998

The Assembly Labor Committee reports favorably Assembly Bill No. 1427.

This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-144 et seq.) for violations in the apparel industry of certain laws setting workplace standards.

In the case of a manufacturer or contractor in the apparel industry who fails to comply with that law's requirements related to registration, civil penalties are increased from up to \$1,000 for a first violation and up to \$2,000 for a subsequent violation to not less than \$1,000 and not more than \$2,000 for a first violation and not less than \$2,000 and not more than \$4,000 for a subsequent violation. In such cases the administrative penalties are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

In the case of a manufacturer or contractor in the apparel industry who violates other State labor laws, including laws concerning wages, overtime compensation, unemployment and temporary disability insurance, workers' compensation, child labor and industrial homework, the administrative penalties are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

In sum, the bill establishes, in each case subject to its provisions, a minimum penalty equal to the current maximum penalty and increases the maximum penalty to an amount twice as large as the current maximum penalty.

This bill was pre-filed for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1427

STATE OF NEW JERSEY

DATED: OCTOBER 19, 1998

The Senate Commerce Committee reports favorably Assembly Bill No. 1427.

This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-144 et seq.) for violations of certain laws setting workplace standards in the apparel industry.

In the case of a manufacturer or contractor in the apparel industry who fails to comply with that law's requirements related to registration, civil penalties are increased from up to \$1,000 for a first violation and up to \$2,000 for a subsequent violation to not less than \$1,000 and not more than \$2,000 for a first violation and not less than \$2,000 and not more than \$4,000 for a subsequent violation. In such cases the administrative penalties are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

In the case of a manufacturer or contractor in the apparel industry who violates other State labor laws, including laws concerning wages, overtime compensation, unemployment and temporary disability insurance, workers' compensation, child labor and industrial homework, the administrative penalties for violations of labor law for which the assessment and collection of an administrative penalty is not otherwise authorized are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

The bill establishes, in each case subject to its provisions, a minimum penalty equal to the current maximum penalty and increases the maximum penalty to an amount twice as large as the current maximum penalty.

SENATE, No. 1091

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 21, 1998

Sponsored by:

Senator BERNARD F. KENNY

District 33 (Hudson)

Co-Sponsored by:

Senator Rice

SYNOPSIS

Increases penalties for violations of workplace standards in the apparel industry.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/11/1998)

S1091 KENNY

2

1 AN ACT increasing penalties for violations in the apparel industry of
2 certain laws regarding workplace standards and amending
3 P.L.1987, c.458.

4

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

7

8 1. Section 6 of P.L.1987, c.458 (C.34:6-149) is amended to read
9 as follows:

10 6. The apparel industry unit shall have the following powers:

11 a. To investigate and conduct inspections at locations where an
12 apparel industry manufacturer or contractor is operating to ensure
13 compliance with this act;

14 b. To inspect books, records and premises of manufacturers and
15 contractors, with respect to their production employees, to determine
16 compliance with the State's labor laws, including but not limited to,
17 laws concerning wages, overtime compensation, unemployment
18 compensation and temporary disability insurance, workers'
19 compensation coverage, child labor, and industrial homework laws,
20 and, if the apparel industry unit determines that a manufacturer or
21 contractor has violated a provision of any of those laws with respect
22 to its production employees, to assess and collect, on behalf of the
23 commissioner, any administrative penalty authorized by law. If the
24 violation is of a provision of a labor law for which the assessment and
25 collection of an administrative penalty is not otherwise authorized, the
26 apparel industry unit is hereby authorized to assess and collect an
27 administrative penalty **[, up to a maximum]** of not less than \$250 and
28 not more than \$500 for a first violation and **[up to a maximum of]** not
29 less than \$500 and not more than \$1,000 for each subsequent
30 violation, specified in a schedule of penalties promulgated by rule or
31 regulation of the commissioner in accordance with the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). No
33 administrative penalty shall be levied pursuant to this subsection unless
34 the commissioner or his designee provides the violator with
35 notification of the violation and of the amount of the penalty by
36 certified mail and an opportunity to request a hearing within 15 days
37 following the receipt of the notice. If a hearing is requested, the
38 commissioner, or his designee, may issue a final order upon such
39 hearing and a finding that a violation has occurred. If no hearing is
40 requested, the notice shall become a final order upon the expiration of
41 the 15-day period. Payment of the penalty is due when a final order
42 is issued or when the notice becomes a final order. Any penalty
43 imposed under this subsection may be recovered with costs in a

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

Matter underlined thus is new matter.

1 summary proceeding pursuant to "the penalty enforcement law"
2 (N.J.S.2A:58-1 et seq.). Any penalty imposed under this subsection
3 shall be paid to the Division of Workplace Standards and applied to
4 enforcement and administrative costs of the division; and

5 c. To serve as the designee of the commissioner for the purpose of
6 taking any action authorized by this act necessary to implement its
7 provisions.

8 (cf: P.L.1991, c.189, s.8)

9

10 2. Section 7 of P.L.1987, c.458 (C.34:6-150) is amended to read
11 as follows:

12 7. a. Any manufacturer or contractor who has failed to comply
13 with the registration requirements of section 3 of this act shall be
14 deemed to have violated this act.

15 b. Any manufacturer or contractor who has failed to comply, for
16 the second time within any three-year period, with an order issued by
17 the commissioner to comply with the registration requirements of
18 section 3 of this act shall be deemed to have violated this act.

19 c. Any manufacturer or contractor who contracts for the
20 performance of any apparel industry service, as identified in subsection
21 a. of section 2 of this act, with any other manufacturer or contractor
22 whom the manufacturer or contractor knows does not hold a valid
23 registration shall be deemed to have violated this act. A contractor or
24 manufacturer who knowingly violates this subsection c. within three
25 years after having been found liable for a civil or administrative penalty
26 for violating this subsection c. is guilty of a crime of the fourth degree.

27 d. No manufacturer or contractor shall perform services or hold
28 himself out as being able to perform services as a registered
29 manufacturer or contractor unless he holds a valid registration
30 pursuant to this act. A contractor or manufacturer who knowingly
31 violates this subsection d. within three years after having been found
32 liable for a civil or administrative penalty for violating this subsection
33 d. is guilty of a crime of the fourth degree.

34 e. If the commissioner or his designee determines that any
35 manufacturer or contractor commits a violation as provided in
36 subsection a., b., or c. of this section, or violates subsection d. of this
37 section, the commissioner or his designee may impose a civil penalty,
38 and such penalty shall be made with due consideration of the size and
39 past experience of the manufacturer or contractor and the seriousness
40 of the violation, upon the manufacturer or contractor **[up to**
41 **\$1,000.00]** of not less than \$1,000 and not more than \$2,000 for an
42 initial violation and **[up to \$2,000.00]** not less than \$2,000 and not
43 more than \$4,000 for each subsequent violation, and, as an alternative
44 or in addition to the civil penalty, the commissioner or his designee is
45 authorized to assess and collect an administrative penalty, **[up to a**
46 **maximum]** of not less than \$250 and not more than \$500 for a first

S1091 KENNY

1 violation and **[up to a maximum of]** not less than \$500 and not more
2 than \$1,000 for each subsequent violation, specified in a schedule of
3 penalties to be promulgated by rule or regulation of the commissioner
4 in accordance with the "Administrative Procedure Act," P.L.1968,
5 c.410 (C.52:14B-1 et seq.). No administrative penalty shall be levied
6 pursuant to this subsection unless the commissioner or his designee
7 provides the violator with notification of the violation and of the
8 amount of the penalty by certified mail and an opportunity to request
9 a hearing within 15 days following the receipt of the notice. If a
10 hearing is requested, the commissioner, or his designee, may issue a
11 final order upon such hearing and a finding that a violation has
12 occurred. If no hearing is requested, the notice shall become a final
13 order upon the expiration of the 15-day period. Payment of the
14 penalty is due when a final order is issued or when the notice becomes
15 a final order. Any penalty imposed under this subsection may be
16 recovered with costs in a summary proceeding pursuant to "the penalty
17 enforcement law" (N.J.S.2A:58-1 et seq.). The civil or administrative
18 penalties shall be paid to the Division of Workplace Standards and
19 applied to enforcement and administrative costs of the division, except
20 as provided in subsection b. of section 11 of this act. Any civil penalty
21 imposed pursuant to this section shall be enforceable in a summary
22 manner pursuant to Rule 4:70 of the Rules Governing the Courts of
23 the State of New Jersey.

24 f. If any manufacturer or contractor fails to comply with an order
25 by the commissioner to register or renew registration, the
26 commissioner may seek and obtain in a summary action in Superior
27 Court an injunction prohibiting such unlawful activity.

28 g. An intentional failure to comply with the registration
29 requirements of section 3 of this act shall be a crime of the fourth
30 degree.

31 h. The commissioner or his designee may, after a hearing thereon,
32 and after due consideration of the size and past experience of the
33 manufacturer or contractor and the seriousness of the violation,
34 require as a condition of continued registration, the payment of a
35 surety bond or may revoke, by order, the registration of any
36 manufacturer or contractor for any period ranging from 30 days to one
37 year upon being found guilty of:

38 (1) A second violation of the same provision of this act within any
39 three-year period; or

40 (2) A second violation within any three-year period of the same
41 provision of any other labor law applicable to the employment of
42 production employees.

43 The surety bond shall be payable to the State and shall be for the
44 benefit of production employees damaged by any failure of the
45 manufacturer or contractor to pay wages or benefits or otherwise
46 comply with the provisions of law. The surety bond shall be in the

1 sum and form that the commissioner deems necessary for the
2 protection of the production employees, but shall not exceed \$2,500
3 per production employee.

4 i. Any manufacturer or contractor who contracts, for the second
5 time within any three-year period, for the performance of any apparel
6 industry service with any other manufacturer or contractor whom the
7 manufacturer or contractor knows has failed to comply with the
8 registration requirements of section 3 of this act, shall, if the other
9 manufacturer or contractor has failed to pay any civil penalty assessed
10 under subsection e. of this section, be liable to pay a civil penalty equal
11 to the civil penalty that the other manufacturer or contractor has been
12 assessed.

13 j. Nothing herein shall affect either the authority of the department
14 to enforce the industrial homework laws of this State or the right of
15 any manufacturer to possess or repossess any apparel, or sections or
16 components of apparel, that are located at any contractor with whom
17 it has contracted.

18 (cf: P.L.1991, c.189, s.9.)

19

20 3. This act shall take effect immediately.

21

22

23

STATEMENT

24

25 This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-
26 144 et seq.) for violations in the apparel industry of certain laws
27 setting workplace standards.

28 In the case of a manufacturer or contractor in the apparel industry
29 who fails to comply with that law's requirements related to
30 registration, civil penalties are increased from up to \$1,000 for a first
31 violation and up to \$2,000 for a subsequent violation to not less than
32 \$1,000 and not more than \$2,000 for a first violation and not less than
33 \$2,000 and not more than \$4,000 for a subsequent violation. In such
34 cases the administrative penalties are increased from up to \$250 for a
35 first violation and up to \$500 for a subsequent violation to not less
36 than \$250 and not more than \$500 for a first violation and not less
37 than \$500 and not more than \$1,000 for a subsequent violation.

38 In the case of a manufacturer or contractor in the apparel industry
39 who violates other State labor laws, including laws concerning wages,
40 overtime compensation, unemployment and temporary disability
41 insurance, workers' compensation, child labor and industrial
42 homework, the administrative penalties are increased from up to \$250
43 for a first violation and up to \$500 for a subsequent violation to not
44 less than \$250 and not more than \$500 for a first violation and not less
45 than \$500 and not more than \$1,000 for a subsequent violation.

46 In sum, the bill establishes, in each case subject to its provisions, a

S1091 KENNY

6

- 1 minimum penalty equal to the current maximum penalty and increases
- 2 the maximum penalty to an amount twice as large as the current
- 3 maximum penalty.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1091

STATE OF NEW JERSEY

DATED: OCTOBER 19, 1998

The Senate Commerce Committee reports favorably Senate Bill No. 1091.

This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-144 et seq.) for violations of certain laws setting workplace standards in the apparel industry.

In the case of a manufacturer or contractor in the apparel industry who fails to comply with that law's requirements related to registration, civil penalties are increased from up to \$1,000 for a first violation and up to \$2,000 for a subsequent violation to not less than \$1,000 and not more than \$2,000 for a first violation and not less than \$2,000 and not more than \$4,000 for a subsequent violation. In such cases the administrative penalties are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

In the case of a manufacturer or contractor in the apparel industry who violates other State labor laws, including laws concerning wages, overtime compensation, unemployment and temporary disability insurance, workers' compensation, child labor and industrial homework, the administrative penalties for violations of labor law for which the assessment and collection of an administrative penalty is not otherwise authorized are increased from up to \$250 for a first violation and up to \$500 for a subsequent violation to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for a subsequent violation.

The bill establishes, in each case subject to its provisions, a minimum penalty equal to the current maximum penalty and increases the maximum penalty to an amount twice as large as the current maximum penalty.

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: January 21, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

A-2008, sponsored by Assembly Members George F. Geist (R-Camden/Gloucester) and Arline M. Friscia (D-Middlesex), raises the state minimum wage rate to bring it into concurrence with the federal minimum wage rate, which is currently \$5.15 per hour. Under the bill, any future changes in the federal minimum wage would be automatically incorporated into state minimum wage law.

A-1697, sponsored by Assembly Members John S. Wisniewski (D- Middlesex) and David W. Wolfe (R-Monmouth/Ocean) and Senators Joseph F. Vitale (D-Middlesex) and Jack Sinagra (R-Middlesex), creates the School Bus Enhanced Safety Act. The bill, which implements the recommendations of the Governor's School Bus Safety Task Force, authorizes the Director of the Division of Motor Vehicles (DMV) to establish a semi-annual or annual in-terminal school bus inspection program and establish standards and requirements pertaining to equipment, maintenance and repair of school buses; maintenance, repair and inspection records and driver employment records and any other records or credentials deemed necessary by the director. It also authorizes the DMV Director to implement a fee and fine schedule for such inspections. The bill will enhance the in-terminal semi-annual inspection program that the Director of DMV, through his administrative powers, implemented on July 6. This program includes both a safety and a vehicle emissions inspection.

A-1427, sponsored by Assembly Members Raul "Rudy" Garcia (D- Hudson) and George F. Geist (R-Camden/Gloucester) and Senator Bernard F. Kenny, Jr. (D-Hudson), increases penalties for violations of workplace standards in the apparel industry. The bill establishes a minimum penalty equal to the current maximum penalty and doubles the maximum penalties for violations of workplace laws. For instance, under the previous laws fines for first violations ranged up to \$1,000 while the new law provides that penalties for first violations will not be less than \$1,000 or more than \$2,000.

A-192, sponsored by Assembly Members George F. Geist (R- Camden/Gloucester) and Kevin J. O'Toole (R-Essex/Union), conforms New Jersey law regarding public sector labor organizations with federal law pertaining to penalties imposed in the private sector for individuals in labor organizations convicted of certain crimes. The bill provides that during the period in which an individual convicted under federal law of certain crimes is prohibited from serving in various private sector labor union capacities, the individual shall also be prohibited from serving in comparable capacities in connection with labor organizations, employers and employer organizations which are related to State and local government in New Jersey.

S-1324, sponsored by Senators Robert E. Littell (R- Sussex/Hunterdon/Morris) and Henry P. McNamara (R-Bergen/Passaic) and Assembly Members Guy R. Gregg (R-Sussex/ Hunterdon/Morris) and Sam Thompson (R-Middlesex/Monmouth), appropriates \$3,166,577 in funds from the Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996 to the Department of Environmental Protection (DEP) for lake restoration projects in Northern New Jersey. Six local government entities in Monmouth, Morris, Passaic, and Sussex counties are eligible for funding totaling \$849,927 under the bill. Also, under the bill, the DEP's Division of Parks and Forestry will be eligible for funding totaling \$816,650 for projects in Morris, Sussex, Hunterdon, Middlesex and Warren counties and three private lake associations, as co-applicants with local governments, in Morris, Passaic and Sussex counties will be eligible for a total of \$1.5 million in loans.

S-1419, sponsored by Senators Diane B. Allen (R-Burlington/Camden) and Joseph A. Palaia (R-Monmouth), appropriates \$1,833,423 in funds from the Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bound Act of 1996 to the DEP for lake restoration projects in Southern New Jersey. Under the bill, grants totaling \$1,724,473 will be distributed by the DEP to eight local governments in Atlantic, Burlington, Gloucester, Monmouth and Ocean counties. DEP also will award grants to its Division of Parks and Forestry (\$75,000 for a project in Burlington County) and to its Division of Fish, Game and Wildlife (\$33,950 for a project that spans Gloucester and Salem Counties).
