

CHAPTER 375

AN ACT concerning employee misclassification and supplementing Title 34 of the Revised Statutes.

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

C.34:1A-1.19 Post notices about misclassification.

1. Post notices about misclassification. a. Each employer required to maintain and report records regarding wages, benefits, taxes and other contributions and assessments pursuant to State wage, benefit and tax laws, as defined in section 1 of P.L.2009, c.194 (C.34:1A-1.11), shall conspicuously post notification, in a place or places accessible to all employees in each of the employer's workplaces, in a form issued by the commissioner, explaining:

- (1) The prohibition against employers misclassifying employees;
- (2) The standard delineated in paragraph (6) of subsection (i) of R.S.43:21-19 that is applied by the department to determine whether an individual is an employee or an independent contractor;
- (3) The benefits and protections to which an employee is entitled under State wage, benefit and tax laws;
- (4) The remedies under New Jersey law to which workers affected by misclassification may be entitled; and
- (5) Information on how a worker or a worker's authorized representative may contact, by telephone, mail and e-mail, a representative of the commissioner to provide information to, or file a complaint with, the representative regarding possible worker misclassification.

b. No employer shall discharge or in any other manner discriminate against an employee because the employee has made an inquiry or complaint to his employer, to the commissioner or to his authorized representative regarding possible worker misclassification, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding regarding worker misclassification under State wage, benefit and tax laws, or because the employee has testified in the proceeding.

c. An employer who violates any provision of this section shall be guilty of a disorderly persons offense and shall, upon conviction, be fined not less than \$100 nor more than \$1,000. In the case of a discharge or other discriminatory action in violation of this section, the employer shall also be required to offer reinstatement in employment to the discharged employee and to correct any discriminatory action, and to pay the employee all reasonable legal costs of the action, all wages and benefits lost as a result of the discharge or discriminatory action, plus punitive damages equal to two times the lost wages and benefits, under penalty of contempt proceedings for failure to comply with the requirement.

C.34:1A-1.20 Information regarding worker misclassification.

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

- (a) The prohibition against employers misclassifying employees;
- (b) The standard delineated in paragraph (6) of subsection (i) of R.S.43:21-19 that is applied by the department to determine whether an individual is an employee or an independent contractor;
- (c) The benefits and legal protections to which an employee is entitled under State wage, benefit and tax laws;
- (d) The remedies under New Jersey law to which workers affected by misclassification may be entitled; and

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

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

Approved January 20, 2020.