



Governor Murphy's Task Force Cracks Down on Employee Misclassification

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Brief Summary: Yesterday Governor Murphy's Task Force released its report on Employee Misclassification (the "Report"). The Governor also announced his intent to sign New Jersey Senate Bill S-2557, giving the New Jersey Department of Labor (NJDOL) the power to issue stop-work orders whenever an initial work-site investigation finds sufficient misclassification violations.

In May 2018, the Governor created the Task Force on Employee Misclassification (the "Task Force") by Executive Order No. 25. The goal of the Task Force is to "intensify efforts to curtail the widespread and illegal practice of misclassifying workers as independent contractors instead of employees." Labor Commissioner Robert Asaro-Angelo noted, "[m]isclassifying workers as 1099 employees denies them benefits, robs the State Treasury of needed revenue, and makes it harder for law-abiding businesses to compete." For example, according to an audit conducted by the NJDOL of one percent of New Jersey's businesses, the NJDOL determined that 12,315 workers were misclassified. According to the Report, "the misclassification resulted in \$462 million in underreported wages and \$14 million in lost contributions to unemployment, disability, family leave and workforce programs." Misclassification is most rampant in industries such as "construction, janitorial services, home care, transportation, trucking and delivery services, and other labor-intensive, low wage sectors."

As part of the Governor's efforts, the NJDOL now has additional tools to end misclassification. Murphy's administration has acted on eight of the Task Force's 16 recommendations outlined in the Report including "expanding interagency cooperation through coordinated enforcement, data sharing, and cooperation with neighboring states." The NJDOL currently has a Memorandum of Understanding with the U.S. Department of Labor (USDOL). On July 9, 2019, New Jersey, Pennsylvania, and Delaware signed a similar Memorandum. In the

Governor's press release announcing the Report, it stated "[t]he reciprocal agreement maximizes the neighboring states' enforcement efforts through referrals, data sharing, and joint investigations."

The Governor also announced his intent to sign A-108/S-2557, allowing the NJDOL to issue stop-work orders when an initial work-site investigation finds sufficient misclassification violations.

A link to the Report appears here: <https://www.nj.gov/labor/assets/PDFs/Misclassification%20Report%202019.pdf>

Conclusion: Employers should carefully consider whether to classify a worker as an independent contractor as opposed to an employee.

If you have any questions about how this decision could affect your organization, please contact [Scott Ohnegian](#), [Natalya Johnson](#), or any member of Riker Danzig's [Labor & Employment Group](#). Riker Danzig's employment practice group routinely counsels companies on worker classification and works with the NJDOL and USDOL in defending companies against audits and investigations.

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