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# NJ Labor Department Proposes New Rules to Address Statutory "ABC Test" for Independent Contractor Status

## FOR IMMEDIATE RELEASE

April 28, 2025

**TRENTON** – The New Jersey Department of Labor and Workforce Development (NJDOL) has filed a notice of proposal for new rules with the state Office of Administrative Law (OAL). Those new rules at N.J.A.C. 12:11 would codify the NJDOL's interpretation of the ABC test for independent contractor status under the New Jersey Unemployment Compensation Law, the New Jersey Wage and Hour Law, and the New Jersey Wage Payment law, among other New Jersey laws. This proposal reflects the department's ongoing commitment to protecting workers' rights and ensuring a level playing field for employers across the state.

The notice of proposal for new rules will be published in the May 5, 2025, issue of the New Jersey Register, and there will be a 60-day period beginning on May 5, 2025, during which the NJDOL will accept written comments on the proposed new rules. To view the full notice of proposal posted on the department's website, [click here](#).

The new rules would include factors used by the New Jersey Supreme Court in [Carpet Remnant Warehouse, Inc. v. New Jersey Department of Labor \(CRW\)](#), 125 N.J. 567 (1991) and [East Bay Drywall, LLC v. Dep't of Labor and Workforce Development \(EBD\)](#), 251 N.J. 477 (2022), as well as court and administrative decisions issued both before and after [CRW](#) and [EBD](#).

The proposed new rules stem from the NJDOL's interpretation of the statutory ABC test, and are informed by binding decisions of the Appellate Division of the New Jersey Superior Court and the New Jersey Supreme Court, including the New Jersey Supreme Court's 2022 [unanimous ruling](#) in [East Bay Drywall, LLC v. Department of Labor and Workforce Development](#), in which the Court expressly suggested 'that the Department exercise its statutory authority

and expertise... to promulgate regulations...'

The proposed new rules aim not only to safeguard the rights and benefits of employees who have been wrongly classified as independent contractors, but also to affirm the right of genuine independent contractors to forgo employment in favor of engaging in independently established business enterprises.

"The work being done in New Jersey to combat worker misclassification is a testament to our state's commitment to justice and fairness in the workplace," said Labor Commissioner Robert Asaro-Angelo. "This rule proposal is a critical step in providing clear, reliable guidance to employers to help them comply with the law and prevent the illegal misclassification of employees. Not only would these new rules protect workers' rights, but they would also ensure that bona fide independent contractors understand what makes them independent contractors, rather than employees, so that they can continue to operate with autonomy."

The proposed new rules outline the application of the ABC test, which is critical in determining whether a worker should be classified as an employee or an independent contractor under various New Jersey statutes, including but not limited to the [Unemployment Compensation Law](#), the [Wage and Hour Law](#), and the [Wage Payment Law](#). The proposed new rules include detailed guidelines for evaluating the three prongs of the ABC test, ensuring that employers are well-informed and better equipped to make appropriate classification decisions.

The NJDOL has consistently worked to address the issue of misclassification, which undermines workers' access to essential benefits and protections. By codifying the NJDOL's interpretation of the ABC test, the proposed new rules would provide clarity, reducing the risk of misclassification and enhancing compliance across industries.

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Soon after taking office, Governor Murphy created the Task Force on Misclassification, which released a [comprehensive report](#) with recommendations leading to the Governor [signing a package of laws](#) in January 2020. Passed with bipartisan support from the legislature, these laws included [NJDOL's ability to issue a stop-work order](#) when an employer is in violation of any state wage, benefit, or tax law – a power that NJDOL has exercised 185 times – as well as a first-of-its-kind misclassification penalty that has assessed more than \$10.6 million to be paid directly to over 12,500 misclassified workers since its implementation in September 2021.

In July 2021, the Governor signed [another package of misclassification laws](#), also with bipartisan backing, which streamlined NJDOL's ability to work with sister agencies, created the [Office of Strategic Enforcement and Compliance](#) under NJDOL and empowered the department, through the Attorney General, to bring affirmative cases against those who violate our laws and seek permanent injunctions for forward compliance with

NJ labor laws.

With the continual bipartisan strengthening of New Jersey's worker protection laws, the additional clarity provided by the proposed rules are more necessary than ever.

To see all NJDOL rule proposals, visit [nj.gov/labor/research-info/legalnotices.shtml](https://nj.gov/labor/research-info/legalnotices.shtml).

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