

[Home](#) / NJ Labor Department Prevails on Behalf of Truck Drivers in Major Legal Test of Workers' Rights

NJ Labor Department Prevails on Behalf of Truck Drivers in Major Legal Test of Workers' Rights

FOR IMMEDIATE RELEASE

September 12, 2019

TRENTON – A national trucking company operating in New Jersey that has been misclassifying its drivers for more than a decade agreed this week to repay state taxpayers \$1.25 million in back unemployment and disability contributions and, more importantly, come into compliance with the law.

In the midst of the Murphy Administration's crackdown on employee misclassification, Eagle Intermodal Inc., settled its 13-year-old case with the New Jersey Department of Labor and Workforce Development (NJDOL) on Tuesday, and agreed to drop its federal lawsuit challenging the Department's assessment, in a deal brokered by the state's Office of Administrative Law.

"The exploitation of our workers will never be tolerated in New Jersey," said Gov. Murphy. "My administration will continue to fight illegal and unethical practices that create unfair advantages for companies and hurt working families."

Labor Commissioner Robert Asaro-Angelo added: "Too many employers misclassify their workers as independent contractors when, in fact, they are employees legally entitled to Unemployment and Family Leave Insurance, earned sick days, and minimum wage, overtime and equal pay protections, among other New Jersey benefits. Unless employers can meet our strict criteria for exemption, commonly referred to as the 'ABC test,' workers in every industry are presumed employees – not independent contractors – under New Jersey law."

The dispute with Eagle Intermodal began in 2006 when an audit revealed the company was misclassifying its drivers, and therefore not contributing on their behalf to the state's Unemployment Insurance and Temporary Disability Insurance funds.

Under state law, a specialized exemption from coverage exists for services performed by certain operators of large trucks. In order for that exemption to be successfully asserted, the law requires that the truck driving services also be exempt from coverage under the Federal Unemployment Tax Act (FUTA). If the trucking company is unable to establish entitlement to the specialized exemption, it may alternatively establish that the services are exempt from coverage under New Jersey's test for independence – the ABC test.

The Labor Department's assessment concluded that Eagle had not established entitlement to the specialized exemption, and had failed to meet its burden to establish that the drivers were independent contractors rather than employees under the ABC test.

As part of the settlement, the company agreed to pay its contested contribution liability over the course of the next year, with the first payment due in 30 days. The company also agreed to future NJDOL audits, and to be accountable for the findings.

Every year, NJDOL is required by law to audit one percent of active New Jersey businesses. According to Gov. Murphy's Task Force on Employee Misclassification, these audits have uncovered tens of millions of dollars in employee-related taxes not paid to the state. Ending misclassification ensures fairness to companies that play by the rules and compensate their employees fairly.

In response to this growing problem, Gov. Murphy issued Executive Order No. 25 last year, establishing an Employee Misclassification Task Force to "promote fairness, fight against discrimination, and work to end unfair labor practices... that create an unfair advantage over companies that play by the rules and hurt our working families."



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NJ adds jobs in July; 7th consecutive months of gains. [nj.gov/labor/lwdhome/...](http://nj.gov/labor/lwdhome/)

Aug 19, 2021



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As of the latest reporting, more than \$33 billion in unemployment benefits have been sent to Garden State workers. With federal benefits set to expire on September 4, we encourage everyone to check your email and visit MyUnemployment.nj.gov for updates and available resources.



The task force report identified **trucking**, along with **transportation, delivery services, construction, janitorial services, home care**, and other labor-intensive, low-wage sectors as industries where misclassification is widespread.

Read the report of Gov. Murphy's Task Force on Employee Misclassification [here](#).

[← Go back to all press releases](#)

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Home

File or Access Your Claim

Temporary Disability Insurance

Family Leave Insurance

Maternity Leave

Unemployment Insurance

Social Security Disability

Worker Protections

Your Rights at Work

Workers' Compensation

Safety and Health

Wage & Hour Compliance

Paid Sick Leave

Career Support

Career Services

Employer Services

Employer Accounts

Layoffs and Closings

Wage & Hour Compliance

Business Support

Apprenticeship

Industry Partnerships

Employer Handbook

Employer Poster Packet

Equal Pay Act Reporting

Research & Information

Labor Market Information

Grant Opportunities

Legal Notices

Press Releases

About Us

Statewide

Governor Phil Murphy

Lt. Governor Sheila Oliver

NJ Home

Services A to Z

Departments/Agencies

FAQs

Contact Us

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