

NEW JERSEY STATE INDUSTRIAL HOME WORK LAWS AND REGULATIONS



New Jersey Department of Labor and Workforce Development

Division of Wage and Hour Compliance

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Notes

Effective July 1, 2004, the formal name of the Department has changed to the “Department of Labor and Workforce Development.” All references to the “Department of Labor and Industry,” the “Department of Labor,” the “Commissioner of Labor and Industry,” or the “Commissioner of Labor,” should be understood to mean “Department of Labor and Workforce Development” and “Commissioner of Labor and Workforce Development,” respectively.

Additional information about the Industrial Home Work Laws and Regulations is available at the Department of Labor and Workforce Development’s web site at www.nj.gov/labor

This booklet is for ready reference only. For updated official information, consult the New Jersey Statutes Annotated and the New Jersey Administrative Code.

**INDUSTRIAL HOME WORK
LAWS AND REGULATIONS**

INDUSTRIAL HOME WORK LAW

N.J.S.A. 34:6-136.1 et seq. 1

P.L. 1941, c.308, as amended through July 15, 1991

(For contents by section, see analysis preceding 34:6-136.1.)

THE HOME WORK LAW

N.J.S.A. 34:6-120 et seq.10

P.L. 1930, c.26, as amended through March 19, 1953

(For contents by section, see analysis preceding 34:6-120.)

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NEW JERSEY STATE INDUSTRIAL HOME WORK LAWS

N.J.S.A. 34:6-136.1 et seq.

N.J.S.A. 34:6-120 et seq.



**INDUSTRIAL HOME WORK LAW - N.J.S.A. 34:6-136.1 et seq.
P.L. 1941, c. 308, as amended through July 15, 1991**

CHAPTER 6

**INSPECTION AND REGULATION OF FACTORIES, MINES, WORKSHOPS
AND OTHER INDUSTRIES**

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34:6-136.1. Declaration of policy

(a) The Legislature has long recognized, through laws regulating the employment of men, women and children, that working conditions detrimental to health and welfare result in injury not only to the workers immediately affected but to the public interest as a whole. Now the Legislature finds that industrial home work runs counter to, and tends to defeat, the purpose of these laws because it is performed at excessively low wages for long and irregular hours, under insanitary and otherwise unhealthful working conditions, in constant competition with factory production and free from effective regulation; that these factors result in (1) serious danger to the health, efficiency and general well-being of home workers, (2) the breakdown of standards of employment for factory workers in this State, (3) rendering more difficult the enforcement of laws governing the standards of employment for such factory workers, (4) unfair competition between employers in factory production and employers utilizing industrial home work, and (5) detriment to the consumer and the public welfare.

(b) It is hereby declared to be the policy of this act, through the exercise by the Legislature of the police power, to control strictly the methods of production by industrial home work in this State.

Definitions

Whenever used in this act.

(a) "Person" means any individual; firm; partnership, or the officers or agents thereof; domestic corporation or foreign corporation, or the officers or agents of such domestic or foreign corporation; company, association or society, or the officers or agents thereof; the legal representatives of a deceased individual; the receiver, trustee or successor of an individual, firm, partnership, domestic corporation or foreign corporation, company, association, or society.

(b) "To manufacture" includes to prepare, alter, repair, finish or process in whole or in part, or handle in any way connected with the production, wrapping, packaging or preparation for display of an article or materials.

(c) "Home" means any room, house, apartment or other premises, whichever is most extensive, used in whole or in part as a place of dwelling; and includes outbuildings upon premises that are primarily used as a place of dwelling, where such outbuildings are under the control of the persons dwelling on such premises.

(d) "Employer" means any person, including any independent contractor, who, directly or indirectly or through an employee, agent, independent contractor, subcontractor, or any other person, (1) in any way distributes or delivers or causes to be distributed or delivered to another person any articles or materials to be manufactured within this State in a home, and thereafter to be returned to him, not for the personal use of himself or of a member of his family, or thereafter to be disposed of otherwise in accordance with his direction; or

(1) in any way distributes or delivers or causes to be distributed or delivered to another person any articles or materials to be manufactured within this State in a home, and thereafter to be returned to him, not for the personal use of himself or of a member of his family, or thereafter to be disposed of otherwise in accordance with his direction; or

(2) sells or causes to be sold to another person any articles or materials for the purpose of having such materials or articles manufactured within this State in a home and of then rebuying such materials or articles, after such manufacture, either by himself, or by someone designated by him.

(e) "Industrial homework" means any manufacture, in a home, of materials or articles for an employer, but shall not be construed to mean or include any manufacture performed for an employer by any person employed by him at the place of manufacture, where such place is used for manufacturing only, and who does not dwell in the building where the manufacture is performed, even though persons may dwell in other parts of such building; provided, however, that where persons dwell in such building, the living quarters shall be entirely separate and independent from the part of the building where the manufacture is performed and have independent entrances separated by open air. A place of manufacture shall not be construed to be a cellar or basement of a house or an outbuilding.

(f) "Home worker" means any person engaged in manufacturing, in a home, materials or articles for an employer.

(g) "Industry" shall mean any trade, business, industry, or any portion or branch thereof, or groups of industries.

(h) "Commissioner" means the Commissioner of Labor of the State of New Jersey or any of his authorized representatives.

(i) "Tenement" means any house or building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the home or residence of three families or more, living independently of each other and doing their cooking upon the premises.

(j) Words used in the singular shall include the plural and the plural the singular.

34:6-136.3. Prohibited homework

The manufacture of any of the following by industrial homework shall be unlawful, and no permit or certificate issued under this act shall be deemed to authorize such manufacture: (1) Articles of food or drink, (2) Articles for use in connection with the serving of food or drink, (3) Toys and dolls, (4) Tobacco, (5) Drugs and poisons, (6) Bandages and other sanitary goods, (7) Explosives, fireworks, and articles of like character, (8) Articles of infants' and children's wearing apparel, (9) Articles of women's or men's wearing apparel, (10) Articles, the processing of which requires exposure to substances determined by the commissioner to be hazardous to the health or safety of persons so exposed, (11) the manufacture or distribution of dolls' clothing in any tenement house is hereby prohibited, anything to the contrary herein notwithstanding.

34:6-136.4. Power to prohibit

(a) The commissioner shall have the power upon his own initiative, and it shall be his duty upon receipt of a petition of fifty or more residents of this State, to make an investigation of any industry which employs home workers, in order to determine: (1) Whether the wages and conditions of employment are injurious to the health and welfare of home workers in such industry; and (2) Whether the wages and conditions of employment of home workers prevailing in such industry have the effect of rendering unduly difficult the maintenance of existing labor standards in or the observance and enforcement of labor standards established by law or regulation for factory workers in such industry.

(b) If, on the basis of information in his possession, with or without an investigation, and after a public hearing as provided for by section five of this act, the commissioner shall find that industrial home work cannot be continued within any industry without: (1) injuring the health and welfare of the home workers within that industry, or (2) rendering unduly difficult the maintenance of existing labor standards of factory workers in that industry or the observance and enforcement of labor standards established by law or regulation for factory workers in that industry, the commissioner shall by order prohibit industrial home work in such industry, except as may be otherwise provided in such order pursuant to the provisions of section six of this act, and no permit issued under this act shall be deemed thereafter to authorize the furnishing of articles or materials for industrial home work prohibited by such order.

34:6-136.5. Hearings

Before making such order the commissioner shall hold a public hearing or hearings at which an opportunity to be heard shall be afforded to any employer, or representatives of employers, and any home worker, or representative of home workers, and any other person or persons having an interest in the subject matter of hearing. A public notice of such hearing shall be given in such manner as may be fixed by the commissioner. Such notice shall be given at least thirty days before the hearing is held. Such hearing or hearings shall be in such place or places as the commissioner deems most convenient to the employer and home workers to be affected by such order.

34:6-136.6. Orders

(a) The commissioner shall determine the effective date of such order, which date shall be not less than ninety days after the date of its promulgation. The order shall set forth the type or types of

manufacturing which are prohibited after its effective date, and shall contain such terms and conditions as the commissioner may deem necessary to carry out the purpose and policy of this act and to safeguard its provisions. The commissioner may in such order permit limited distribution of industrial home work under such terms or conditions as are hereinafter prescribed by subsection (b) of this section, to any person if he finds (1) That such person is unable to adjust to factory employment because of old age or physical or mental deficiency or disability, or is unable to leave the home because his services are essential to care for an invalid in the home; and (2) That such limited distribution is not inconsistent with the purpose and policy of this act.

(b) Industrial home work shall be performed under subsection (a) of this section only where (1) the employer maintains a factory or business in this State in which persons are employed on operations which are the same or similar to the home work operations permitted and, provided further, that the commissioner shall determine the ratio, which shall not exceed one-third, of the number of home workers engaged by an employer to the number of persons employed by said employer in his factory or business, said determination to be based on conditions of employment, maintenance of existing labor standards and other factors involving the preservation of the best interests of this State; (2) on any operation, a home worker is paid at least the same rate as that paid to workers on the same or similar operations in the factory or business; and (3) the employer and home worker comply with such other terms or conditions as the commissioner may by rule or regulation prescribe to safeguard the health and welfare of home workers and the wages and working conditions of factory workers, and to effectuate the purpose of this section.

34:6-136.7. Permit required

(a) Every employer must procure from the commissioner an employer's permit. Application for such permit shall list the names and addresses of home workers and shall be made on a form prescribed by the commissioner. Such permit shall be in writing, dated when issued, and signed by the commissioner. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted. Such permit shall be valid for a period of one year from the date of its issuance, unless sooner revoked, and shall not be transferable for any cause.

(b) Such permit shall be issued or remain valid only where the employer (1) maintains a factory or business within this State or (2) operates through another employer possessing a valid permit and maintaining a factory or business within this State. A permit shall only be issued when the same conditions specified in section 6(b) of this act exist, prevail or are established.

(c) No such permit shall be issued to or remain valid for any independent contractor to act for an employer unless such other employer or employers for whose direct or indirect benefit or account such independent contractor so acts possesses a valid employer's permit; nor shall any such permit be issued to any person, or to the successor in interest of any person, or to a person directly or indirectly owned or controlled by any person, whose employer's permit has been revoked by the commissioner within two years prior to the latest application for such permit.

(d) No employer shall deliver or cause to be delivered any article or materials for industrial home work to an independent contractor who is not in possession of a valid employer's permit.

(e) No employer shall deliver or cause to be delivered any article or materials for industrial home work unless (1) such an employer is in possession of a valid permit; (2) the home worker is in possession of a valid home worker's certificate where such article or materials are distributed to said home worker by employer; (3) where subsequent distribution is intended, such person is in possession of a valid permit. The commissioner may revoke any employer's permit for violation of this section. The employer shall also be subject to the penalties provided in this act for such violation.

(f) Before any permit is granted to an employer to distribute industrial home work from a home, an inspection of home or room therein shall be made by the commissioner. If the commissioner ascertains that such home or room therein is in a clean and proper sanitary condition and that the articles or materials may be distributed for manufacturing purposes under clean and healthful conditions, the commissioner shall grant the permit and allow the use of such home or room therein for the purpose of distributing industrial home work. Every room in which industrial home work is distributed shall be kept in a clean and sanitary condition and shall be subject to examination and inspection by the commissioner, local boards of health or tenement house inspection for the purpose of ascertaining whether said articles or materials are clean and free from vermin and every matter of infectious or contagious nature.

(g) Any person holding a permit issued by the commissioner shall immediately report to the commissioner any case of infectious or contagious disease, of which the employer has knowledge, occurring in a place or home used for the distribution of industrial home work. If the commissioner, local board of health or tenement house inspector shall find evidence of infectious or contagious disease present in any home or room therein where industrial home work is distributed, the commissioner, local board of health, or tenement house inspector shall issue such orders as the public health may require and shall condemn and destroy such infectious and contagious goods.

(h) The permit must be posted in a conspicuous place in the room where industrial home work is distributed except that where such distribution is made from a factory or business, the employer shall file and keep the permit on file on the premises from which such home work is distributed.

34:6-136.8. Fees

A fee of \$150.00 shall be paid to the Department of Labor and Industry for the original issuance of an employer's permit. For each annual renewal of such permit, the employer shall pay to the department a fee of: (1) \$150.00, where at no time during the preceding calendar year did the employer directly or indirectly have business relations with more than 25 home workers; (2) \$300.00, where at any time during the preceding calendar year the employer directly or indirectly had business relations with more than 25 home workers.

34:6-136.9. Revocation of permit

If the commissioner has reason to believe that a person having an employer's permit is not observing the provisions of this act or any rule, regulation or order issued thereunder, or the conditions of the employer's permit, the commissioner may, on ten days' notice, summon such person to appear before the commissioner to show cause why the commissioner should not find that he has failed to observe such provisions or conditions.

(b) If, after such notice and opportunity to be heard, the commissioner finds as a fact that such person has failed to observe or comply with a provision of this act, his permit, or a regulation or order issued by the commissioner under authority of this act, the commissioner may revoke the permit of such person.

(c) The commissioner may revoke a permit if the health of the community or of the employees require it, or if it appears that the place in which the industrial home work is distributed is not in a healthy or proper sanitary condition.

34:6-136.10. Home worker's certificate

(a) Every person desiring to engage in industrial home work within this State must procure from the commissioner a home worker's certificate which shall be issued without cost and which shall be valid for a period of one year from the date of its issuance, unless sooner revoked or suspended. Application for

such certificate shall be made in such form as the commissioner may by regulation prescribe. No home worker's certificate shall be issued: (1) To any person under the age of sixteen years; or (2) To any person suffering from an infectious, contagious, or communicable disease or living in a home that is not clean, sanitary and free from infectious, contagious or communicable disease.

(b) The commissioner may, upon reasonable notice and opportunity to be heard, revoke or suspend any home worker's certificate if he finds that the holder is performing industrial home work contrary to the conditions under which the certificate was issued or to any provision of this act or has permitted any person not holding a valid home worker's certificate to assist him in performing his industrial home work. The commissioner may also revoke a home worker's certificate if the health of the community or the persons in the home requires it, or if it appears that the home to which such certificate relates is not in a healthy and proper sanitary condition.

(c) Before any application for a home worker's certificate is approved and such certificate is issued, the commissioner shall cause an inspection of the home to be made. If the home is in a clean and proper sanitary condition and if the articles or materials may be manufactured therein under clean and healthful conditions, the commissioner shall issue the certificate permitting the use of such home for performing industrial home work by the home worker. Home worker's certificates shall not be transferable, because of a change in address of a home worker and a new application shall be made and certificate issued subject to the above inspection.

(d) The home worker's certificate must be posted in a conspicuous place in the room or rooms where the industrial home work is being manufactured.

(e) Every room in a home where articles or materials are being manufactured shall be kept in a clean and sanitary condition and shall be subject to examination and inspection by the commissioner, local boards of health or tenement house inspectors for the purpose of ascertaining whether said articles or materials are clean and free from vermin and every matter of infectious or contagious nature.

(f) Any person holding a home worker's certificate shall immediately report to the commissioner any case of infectious or contagious disease occurring in the home. If the commissioner, local board of health or tenement house inspector shall find evidence of infectious or contagious disease present in any home where industrial home work is being carried on, premises where industrial home work is being distributed, the commissioner, local board of health or tenement house inspector shall issue such orders as the public health may require and shall condemn and destroy such infectious and contagious goods and such local board or inspector shall forward a copy of such order to the commissioner.

(g) The commissioner may, when he deems it necessary, require that any and all rooms in a home used for industrial home work or the distribution thereof, shall be separate from and have no door, window or other opening into any living or sleeping room.

(h) In addition to the other requirements of this act, no home workers' certificate shall be issued for the manufacture of dolls' clothing nor shall a permit be issued for the distribution of dolls' clothing for manufacture unless the applicant thereof shall first secure the approval of the local board of health.

34:6-136.11. Records to be kept

Each employer shall keep within this State in such form and manner as the commissioner may by rule, regulation or order prescribe and shall forward to the commissioner at such intervals and upon such blanks as the commissioner may by rule, regulation or order prescribe and provide a complete and accurate record of: (1) All persons engaged in industrial home work directly or indirectly for or in behalf of such employer; (2) All places where such persons work; (3) All articles or materials directly or

indirectly distributed to such persons; (4) All articles or materials manufactured by such persons; (5) The net cash wages received by each home worker and such piecework rates at which each home worker is compensated; (6) All independent contractors to whom he has furnished materials to be manufactured by industrial home work; and (7) Such other facts and information as may be pertinent to the proper enforcement and effectuation of the provisions of this act.

34:6-136.12. Conditions of manufacture

Industrial home work shall be performed: (1) Only by a person possessing a valid home worker's certificate, and resident in the home in which the work is done; (2) Only by persons 16 years of age or over; (3) Only in accordance with the wages, hours or working conditions established for labor in factories or businesses by persons of the same age as the home workers by State law or regulation or any applicable Federal law or regulation; (4) Only in accordance with the provisions of any State law or regulation, including the provisions of this act, or of any applicable Federal law or regulation, relating to employment and applicable to home workers; and (5) Only in a home that is clean and sanitary and free from any infectious, contagious or communicable disease.

Every employer shall be deemed to have accepted responsibility for the observance of the conditions of manufacture specified by this section and of such terms and conditions as may be specified pursuant to section 6 of this act; and each of such conditions shall be deemed to be a condition of the employer's permit to the same extent as though it were expressly set forth therein.

34:6-136.13. Labels required

No employer shall deliver or cause to be delivered any materials or articles to be manufactured by any home worker unless there has been conspicuously affixed to each article a label or other mark of identification bearing the employer's name and address, printed or written legibly in English. But if the goods are of such a nature that they cannot be individually so labeled or identified, then the employer shall conspicuously label in such manner as the commissioner may by rule or regulation prescribe.

34:6-136.14. Unlawfully manufactured or distributed articles or materials

(a) Any article or material which is being manufactured in a home in violation of any provisions of this act may be removed by the commissioner and may be retained by him until claimed by the employer. The commissioner shall by registered mail give notice of such removal to the person whose name and address are affixed to the article or material as provided by section thirteen. Unless the article or material so removed is claimed within thirty days thereafter, it may be destroyed or otherwise disposed of. Where the owner or the article or material cannot be determined, unless such article or material removed by the commissioner is claimed within thirty days after such removal, it may be destroyed or otherwise disposed of.

(b) It shall be a violation of this act for any person to receive from, handle or convey to others, to sell, offer for sale, to expose for sale or hold in stock any articles or materials that have been manufactured by a home worker, who does not possess a valid home worker's certificate or distributed for manufacture by persons not in possession of a valid permit.

34:6-136.15. Agreements to contributions by employees void

Any agreement by a home worker to pay any portion of a payment required of any other person by any provision of this act shall be void and of no effect. 1941, c. 308, p. 840, s. 15.

34:6-136.16. Enforcement; administration, oaths, affidavits, subpoenas, witnesses

(a) The commissioner shall enforce and administer the provisions of this act and the commissioner is directed to make all inspections and investigations necessary for proper enforcement and administration thereof.

(b) In the administration of this act the commissioner shall have the power to administer oaths, take affidavits and the depositions of witnesses and issue subpoenas for and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, testimony and other evidence of whatever description. In the case of failure of any person to comply with any order of the commissioner or subpoena, lawfully issued, or on the refusal of any witness to produce evidence or to testify as to any matter regarding which he may be lawfully interrogated, it shall be the duty of the Special Civil Part, Law Division, of the Superior Court or the Superior Court, or the judge thereof, upon application by the commissioner to compel obedience by proceedings for contempt, as in the case of disobedience of a subpoena issued for such court or a refusal to testify therein.

(c) Notwithstanding the provisions of any other general, local or special law, all fees and other moneys derived from the operation of this act shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

34:6-136.17. Rules and regulations

The commissioner shall have the power to make, issue, amend and rescind such rules, regulations and orders as are necessary or appropriate to carry out the provisions of this act. Without limiting the generality of the foregoing, such rules, regulations or orders may define the terms used in this act.

34:6-136.18. Injunctive relief against violations

The commissioner shall have the power to institute a civil action in the Superior Court for injunctive relief, and such court shall have the power to restrain any employer from violating any of the provisions of this act. The court may proceed in the action in a summary manner or otherwise.

34:6-136.19. Penalties

Any employer or person who: (1) Directly or indirectly in any way, distributes, delivers or causes to be distributed or delivered, or sells or causes to be sold, articles or materials for industrial home work in violation of any provision of this act or of any rule, regulation or order issued thereunder; or (2) Violates or fails to comply with any provision of this act or any rule, regulation or order issued thereunder; or (3) Does not possess a valid employer's permit issued by the commissioner pursuant to section 7 of this act or fails to comply with any provision or condition of that permit; or (4) Refuses to allow the commissioner or his authorized representative to enter his place of business or other place for the purpose of investigating in the enforcement of this act, and of inspecting any records required to be kept by section 10 of this act; or (5) Willfully makes a false statement or representation in order to lower the amount of fees due from him under this act; or (6) Makes any deduction from the wages or salary of a home worker in order to pay any portion of a payment which the employer or person is required to make by this act; shall be guilty of a disorderly persons offense and, upon conviction for a violation, shall be punished by a fine of not less than \$100 nor more than \$1,000. If an employer or person knowingly violates this act or if an employer or person commits a second violation or multiple violation of this act, that employer or person shall be guilty of a crime of the fourth degree. Each day a violation is continued and each home worker engaged in industrial home work directly or indirectly for or in behalf of the employer or person in violation of any provision of this act or any rule, regulation or order issued thereunder shall be considered a separate offense.

As an alternative to or in addition to any other sanctions provided by law for violations of any provision of Article 12 of chapter 6 of Title 34 of the Revised Statutes when the Commissioner of Labor finds that an employer has violated that article, the commissioner is authorized to assess and collect administrative penalties, up to a maximum of \$250 for a first violation and up to a maximum of \$500 for each subsequent violation, specified in a schedule of penalties to be promulgated as a rule or regulation by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the amount of the penalty imposed because of a violation, the commissioner shall consider factors which include the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer and the size of the employer's business. No administrative penalty shall be levied pursuant to this section unless the Commissioner of Labor provides the alleged violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing before the commissioner or his designee within 15 days following the receipt of the notice. If a hearing is requested, the commissioner shall issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed pursuant to this section may be recovered with costs in a summary proceeding commenced by the commissioner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Any sum collected as a fine or penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

34:6-136.20. Construction

If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

34:6-136.21. Exemptions

Nothing in this act shall be held to prevent the employment of a tailor or seamstress by any person for the purpose of making, altering, repairing or finishing any articles of wearing apparel for the personal use of such person or members of his family.

34:6-136.22. Disorderly house

Any home or other place where industrial home work is habitually carried on or articles or materials are habitually being distributed for manufacture in violation of any of the provisions of this act shall be a disorderly house and any person owning, operating or managing a business involving such industrial home work or the distribution of such articles or materials for manufacture shall be deemed guilty of keeping a disorderly house, and, upon conviction thereof, shall be fined a sum of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or shall be imprisoned for a term not to exceed two years or both.

34:6-136.23. Time of taking effect

This act shall take effect ninety days after its adoption; except sections seven (a), (b) and (c), section eight, and section sixteen (c) which shall take effect immediately, and except that the commissioner shall have power immediately to promulgate rules and regulations, appoint such officers and employees, and fix their compensation, as may be necessary to carry out the provisions of this act, and do such other things as may be necessary to set up the machinery required to enforce the provisions of this act.

**THE HOME WORK LAW - N.J.S.A. 34:6-120 et seq.
P.L. 1930, c. 26, as amended through March 19, 1953**

CHAPTER 6

**INSPECTION AND REGULATION OF FACTORIES, MINES, WORKSHOPS
AND OTHER INDUSTRIES**

ARTICLE 12. HOME WORK AND SWEATSHOPS

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34:6-120. Short title of article

This article may be cited by its short title as "the home work law"

34:6-121. Tenement defined

Within the meaning of this article a tenement is any house or building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the home or residence of three families or more, living independently of each other and doing their cooking upon the premises.

34:6-122. License required

No dwelling, tenement, or room therein, or building situated immediately in the rear of a tenement or dwelling shall be used for the purpose of manufacturing, altering, repairing, finishing or distributing therein, for hire or reward, any goods whatsoever unless a license is secured therefor, as provided in this article.

34:6-123. Application for license

Application for such a license shall be made to the commissioner by any family or member thereof, or any person desiring to manufacture, alter, repair, finish or distribute any goods in any dwelling, tenement, or room therein, or building situated immediately in the rear of a tenement or dwelling. Each license shall run continuously for a period of one year, whereupon a new or further license must be obtained. Each application for such a license shall describe the dwelling, tenement, room or building, shall specify the number of persons to be employed therein, and be in such form as the commissioner may determine. Blank applications shall be prepared and furnished by the commissioner.

34:6-124. Investigation before granting license

Before any such license is granted, an inspection of the dwelling, tenement, room, or building sought to be licensed, shall be made by the commissioner, factory inspector or investigator. If the commissioner or such inspectors or investigators ascertain that such dwelling, tenement, room, or building is in a clean and proper sanitary condition, and that the goods specified in the application may be manufactured, altered, repaired, finished or distributed therein under clean and healthful conditions, the commissioner shall grant the license.

34:6-125. Number of employees

Each license shall state the maximum number of persons who may be employed in the dwelling, tenement, room, or building. The number shall be determined by the number of cubic feet of air space contained in each room mentioned in the license, allowing not less than two hundred and fifty cubic feet for each person employed between the hours of six o'clock in the morning and six o'clock in the evening, unless by special written permit of the commissioner and not less than four hundred cubic feet for each person employed therein between the hours of six in the evening and six in the morning, but no permit shall be issued unless the dwelling, tenement, room, or building has suitable light at all times during work hours.

34:6-126. License to be posted; revocation

The license must be posted in a conspicuous place in the room or rooms where the work is carried on. The license may be revoked by the commissioner if the health of the community or of the employees requires it, or if it appears that the place to which the license relates is not in a healthy and proper sanitary condition. Every room in which goods are manufactured, altered, repaired, finished or distributed shall be kept in a clean and sanitary condition, and shall be subject to examination and inspection by the commissioner, factory inspectors, investigators, local boards of health, or tenement house inspectors for the purpose of ascertaining whether the goods, or any part or parts thereof, are clean and free from vermin and every matter of infectious or contagious nature.

34:6-127. Diseases to be reported

Any person holding such license shall immediately report to the department any case of infectious or contagious disease occurring in the place covered by the license. If the commissioner, factory inspector, investigator, local board of health, or tenement house inspector shall find evidence of infectious or contagious disease present in any place subject to the provisions of this article he or it shall issue such orders as the public health may require and shall condemn and destroy such infectious and contagious goods.

34:6-128. Contracts to manufacture in unlicensed place unlawful

It shall be unlawful for any person to contract to manufacture, alter, repair, finish or distribute for such purposes any goods whatsoever in an unlicensed dwelling, tenement or room therein or building situated immediately in the rear of a tenement or dwelling, not licensed as provided in this article. It shall also be unlawful for any person to receive from, handle or convey to others or to sell, offer for sale, to expose for sale or hold in stock any goods that have been manufactured or altered or repaired or finished or distributed for such purposes in any such unlicensed dwelling, tenement, room, or building.

34:6-129. Separate living quarters; toilets

The commissioner may, when he deems it necessary, require that any and all rooms to which this article applies, shall be separate from and have no door, window or other opening into any living or sleeping room. He may further require or direct a separate outside entrance to the rooms where the work is carried on, and if such work is carried on above the first floor, he may direct that a separate and distinct stairway leading thereto be constructed and every such room shall be well and sufficiently heated and ventilated by ordinary, or, if necessary, by mechanical appliances. He may also require suitable closet arrangements and separate toilets when and as he deems it necessary.

34:6-130. Contract record

Any person, by himself or by his agent, contracting for the manufacturing, altering, repairing, finishing or distributing in any place regulated by this article of any goods whatsoever, shall keep a register of the names and addresses plainly written in English of the persons to whom the article or goods are given, and the place where the articles are to be so manufactured, altered, repaired, finished or distributed. The register shall be subject to inspection on demand by the commissioner or factory inspectors or investigators, and a copy thereof shall be furnished at his or their request.

34:6-130.1. Records of and payment for homework in hand knitting industry

All homeworkers engaged or employed in the hand knitting industry shall keep a daily record of work done, and all employers in said industry shall likewise keep and maintain a record of the daily work done by any such homemaker or employee. All records shall be kept and maintained by all parties for a period of two years. All employers shall henceforth be required to pay each employee for work done immediately upon the completion and delivery of the same.

34:6-130.2. Violations of section 34:6-130.1; penalties

Any violation of the provisions hereof shall subject the offender to a penalty of not less than fifty dollars (\$50.00) for the first offense, and a penalty of not less than two hundred dollars (\$200.00) for a second and each subsequent offense. All penalties sued for hereunder shall be in accordance with the practice and procedure contained in section 34:6-136 of the Revised Statutes.

34:6-131. Manufacture of infants' clothing, dolls and dolls' clothing prohibited in tenement houses

The manufacturing, altering, repairing or finishing in whole or in part, or distributing for the purposes thereof, of any dolls, dolls' clothing, articles of children's or infants' wearing apparel in any tenement house is hereby prohibited, notwithstanding anything to the contrary elsewhere in this article.

34:6-132. Infants' and dolls' clothing and dolls; manufacture in dwelling

No license to manufacture, alter, repair or finish in whole or in part, or distribute for the purposes thereof, any dolls, dolls' clothing, or articles of children's or infants' wearing apparel, shall be granted for any dwelling unless the applicant shall also first secure the approval of the local board of health.

34:6-133. Tailors and seamstresses exempted

Nothing in this article shall be held to prevent the employment of a tailor or seamstress by any person for the purpose of making, altering, repairing or finishing any articles of wearing apparel for the personal use of such person or for the personal use of his family.

34:6-134. Penalty

Any corporation, the officers and agents thereof, the members of any firm, the agents thereof, and any other person who shall violate any of the provisions of this article shall be liable to a penalty of twenty-five dollars for the first violation and fifty dollars for each subsequent violation.

34:6-135. Disorderly house

Any place where manufacturing, altering, repairing, finishing or distributing for the purposes thereof, of any goods, for hire or reward, is habitually carried on in violation of this article shall be deemed a disorderly house, and the officers or agents of any corporation, the members of any firm, and any other person owning, operating or managing the business shall be deemed to be guilty of keeping a disorderly house, and upon conviction thereof, shall be fined a sum not to exceed five hundred dollars, or shall be imprisoned for a term not to exceed two years, or both.

34:6-136. Recovery of penalties; disposition

Any penalty for a violation of this article shall be recovered in a civil action brought in the name of the commissioner in the Superior Court or municipal court of the municipality, where the offense is committed.

A penalty recovered shall be transmitted by the clerk of the court to the commissioner and by him paid into the treasury of this State.

NEW JERSEY STATE INDUSTRIAL HOME WORK REGULATIONS

N.J.A.C. 12:59



CHAPTER 59

INDUSTRIAL HOME WORK LAW

SUBCHAPTER 1. GENERAL PROVISIONS

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SUBCHAPTER 1. GENERAL PROVISIONS

12:59-1.1 Purpose; authority

These rules and regulations supplement the Industrial Home Work Law, Chapter 308, Laws of 1941 and are promulgated by virtue of Section 17 of said law.

12:59-1.2 Compliance by distributors

All New Jersey distributors of industrial home work must comply with the laws and rules and regulations governing employment of women and minors in the home and factory as well as the general factory laws.

12:59-1.3 Distribution of industrial home work

The distribution of industrial home work to a home worker can only occur from a factory or business located in New Jersey.

12:59-1.4 Limitation on number of home workers

The number of home workers that is permitted for any one employer is restricted to one-third of the employees in the factory or business.

12:59-1.5 Employer's permit; home worker's certificate

(a) Under no circumstances can industrial home work be distributed unless:

1. An employer is in possession of a valid employer's permit;
2. The home worker is in possession of a valid home worker's certificate where such industrial home work is distributed to said home worker by the employer;

3. Where subsequent distribution is intended, such person is in possession of a valid employer's permit.

(b) The employer's permit must be kept on file on the premises from which the industrial home work is distributed.

12:59-1.6 Applications

(a) Requests for application forms for an employer's permit and home worker's certificates must be made by an employer and completed applications for employer's permit and permit fee and home workers' certificates must be mailed by the employer to:

New Jersey Department of Labor and Workforce Development
Division of Wage and Hour Compliance
John Fitch Plaza
PO Box 389
Trenton, New Jersey 08625-0389

(b) The Division of Wage and Hour Compliance will not recognize any applications for home worker's certificates if requests are made directly by the home worker.

(c) To eliminate any question concerning the validity of home workers' certificates, employers must file applications for home worker's certificate with the Division of Wage and Hour Compliance of the Department of Labor. A home worker's certificate is valid for one employer only. Where a home worker does work for several employers, each employer must procure a home worker's certificate from the Division of Wage and Hour Compliance for the said home worker.

12:59-1.7 Workmen's Compensation Insurance

All employers of home workers must provide Workmen's Compensation Insurance coverage for all such home workers.

12:59-1.8 Employment of minors

(a) No minor under 16 years of age is permitted to manufacture industrial home work in either the factory or in the home.

(b) All minors between 16 and 18 years of age who are engaged in the manufacture of industrial home work at any place (factory, business or home) must comply with the following requirements:

1. An employment certificate must be secured and kept on file by the employer. These certificates are procurable from the issuing officer in the school district where the minor resides.

2. Such minors may not work in excess of eight hours per day or 40 hours per week and cannot be employed more than six consecutive days.

3. Male minors may not work before 6:00 A.M. nor after 10:00 P.M. Female minors may not work before 7:00 A.M. nor after 10:00 P.M.

4. The employer must post an abstract of the Child Labor Law and a schedule of hours of work for minors in the place where the minor is directly employed.

5. The employer must keep an accurate work time record for such minors showing:

i. Name of minor;

- ii. Address of minor;
- iii. Date of birth;
- iv. Time of commencing and stopping work and time allowed for meal periods;
- v. Wages paid to minors.

(c) Such minors must receive a 30-minute meal period after five consecutive hours of work.

(d) The employer is responsible for compliance with the provisions of the Child Labor Law insofar as any phase of industrial home work operations may be concerned.

12:59-1.9 Records to be kept*

**The records required under N.J.A.C. 12:59-1.9 must be available for inspection during regular business hours.*

(a) Each employer (including distributors or independent contractors and any person who sells or causes to be sold to another person any articles or materials for the purpose of having such articles or materials manufactured within this State in a home and of then rebuying such articles or materials, after such manufacture, either by himself or by someone designated by him) shall keep the following complete and accurate records in one book, said records to be kept for a period of one year:

1. Names of all persons engaged in industrial home work directly or indirectly for or in behalf of such employer;
2. Address of all places where such persons work;
3. All articles or materials directly or indirectly distributed to such persons;
4. All articles or materials manufactured by such persons;
5. The net cash wages received by each home worker and such piecework rates at which each home worker is compensated;
6. All independent contractors to whom materials to be manufactured by industrial home work have been furnished (this includes distributors and other persons who may be engaged in resale transaction as indicated in this Section);
7. The number of the employer's permit or home worker's certificate, whichever is applicable;
8. Daily hours of work by each home worker on all articles or materials furnished by the employer. Time spent in transporting articles or materials to and from the home from and to the point of distribution will be considered working time when same is done by the home worker and must appear on the time record.

12:59-1.10 Home worker time record

Each home worker must furnish the employer with a statement in writing showing hours worked each day, shown by date, on such articles or materials. This time record must be transcribed by the employer to work time record for home worker as noted above.

12:59-1.11 Limitations on female employees' hours

Female employees (including home workers) are not permitted to work more than ten hours in any one day, 54 hours per week.

12:59-1.12**Minimum wage requirements**

(a) In accordance with the Minimum Wage Law, true and accurate records of the hours worked by each worker together with the wages paid must be kept. Such records must be kept regardless of the form of employment. The employer is solely and directly responsible for having true and accurate records.

(b) Where such records (see N.J.A.C. 12:59-1.9(a)7 and 8) are not true and accurate, the employer will be subject to the penalties provided in the Minimum Wage Law.

(c) The following New Jersey Minimum Wage Orders are in effect:

1. Mandatory Order No. 13--CLEANING AND DYEING OCCUPATIONS AND LAUNDRY OCCUPATIONS.

(d) All occupations covered by this chapter shall be paid at a rate of pay not less than the current statutory minimum wage rate pursuant to N.J.S.A. 34:11-56a.4.

(e) A copy of the applicable order must be posted in a conspicuous place in every room where workers are employed. Copies of these orders and any additional information may be secured upon request from:

New Jersey Department of Labor
Office of Wage and Hour Compliance
PO Box 389
Trenton, New Jersey 08625-0389

12:59-1.13**Federal compliance**

Compliance with the provisions of the New Jersey Minimum Wage Law does not excuse any failure on the part of the employer from complying with the Federal Fair Labor Standards Act.

New Jersey Department of Labor and Workforce Development is an equal opportunity employer with equal opportunity programs. Auxiliary aids and services are available upon request to individuals with disabilities.

If you need this document in Braille or large print, call (609) 292-2305. TTY users can contact this department through New Jersey Relay: 7-1-1.



Working Together to Keep New Jersey Working