

CHAPTER 210

APPAREL INDUSTRY REGISTRATION

Authority

N.J.S.A. 34:1-20, 34:1A-3(e) and specifically, 34:6-144 and 157 as amended by P.L. 1991, c.189.

Source and Effective Date

R.1996 d.555, effective November 6, 1996.
See: 28 N.J.R. 4162(a), 28 N.J.R. 5077(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 210, Apparel Industry Registration, expires on May 5, 2002. See: 33 N.J.R. 3305(a).

Chapter Historical Note

Chapter 210, Apparel Industry Registration System, was adopted as R.1988 d.439, effective September 6, 1988. See: 20 N.J.R. 1334(b), 20 N.J.R. 2306(a). Chapter 210, Apparel Industry Registration System, was repealed and a new Chapter 210, Apparel Industry Registration, was adopted as R.1991 d.607, effective December 16, 1991. See: 23 N.J.R. 2951(a), 23 N.J.R. 3816(b).

Pursuant to Executive Order No. 66(1978), Chapter 210, was re-adopted as R.1996 d.555, effective November 6, 1996. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISION

12:210-1.1 Purpose and scope

(a) The purpose of this subchapter is to establish a registration system which requires apparel industry manufacturers and contractors to register with the Department as a condition of doing business in the State.

(b) This subchapter is applicable to all apparel industry manufacturers and contractors who conduct business within the State of New Jersey.

12:210-1.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Apparel industry” means the making, cutting, sewing, finishing, assembling, pressing or otherwise producing of apparel, designed or intended to be worn by any individual and sold or offered for sale for that purpose, but does not include cleaning, pressing or tailoring services performed upon apparel sold or offered for sale at retail.

“Commissioner” means the Commissioner of Labor.

“Contractor” means any person who contracts to perform in this State the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section of component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. “Contractor” shall include, but not be limited to, a subcontractor, jobber or wholesaler, but shall not include a production employee employed for wages who does not employ others.

“Department” means the State Department of Labor.

“Manufacturer” means any person who contracts with a contractor to perform in this State the cutting, sewing, finishing, assembling, pressing or producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose, or who cuts, sews, finishes, assembles, presses or otherwise produces in this State any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. “Manufacturer” shall not include a production employee employed for wages who does not employ others.

“Production employee” means any person who is employed by a contractor or manufacturer directly to perform the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose.

12:210-1.3 Registration

(a) Prior to engaging in the apparel industry business in this State, a manufacturer or contractor shall register with the Department by completing a form prescribed by the Commissioner.

(b) The registration form shall contain, but not be limited to, the following information for all manufacturers and contractors.

1. The structure of the business, that is, sole proprietorship, partnership or corporation;

2. The manufacturer's or contractor's name and principal business address in the State; and the name and address of each person with a financial interest in the manufacturer's or contractor's business and the amount of that interest, except that if the manufacturer or contractor is a publicly traded corporation, only the names and addresses of the corporate officers shall be required;

3. The tax identification number;

4. If the registrant is a contractor the registrant must list all manufacturers to whom the registrant will be subcontracting this work. The list shall contain the name, address and tax identification (I.D.) numbers of the manufacturers and/or subcontractors; and

5. A certified list of all violations of any of New Jersey's labor laws or regulations for the period of three years prior to this current application must accompany the registration form.

(c) Divisions, subsidiary corporations or related companies may be named and included under one omnibus registration.

(d) The Commissioner shall issue a certificate of registration upon receipt of the following:

1. A manufacturer's or contractor's completed registration form;

2. Documentation which is suitable to the Commissioner or his or her authorized representative that the manufacturer or contractor has paid any surety bond required pursuant to N.J.S.A. 34:6-150;

3. Documentation that the registrant has workers' compensation coverage for his or her production employees working in the State; and

4. Payment of the \$300.00 registration fee made payable to the Commissioner of Labor, Apparel Registration.

(e) New manufacturers or contractors shall file the initial registration upon the commencement of business in the apparel industry in this State. The registration shall be valid until January 15 of the following year.

(f) The certificate of registration shall be renewed by January 15 of each year.

(g) The Commissioner may prorate the initial annual registration fee if the certificate of registration is for a period of less than 12 months. The prorated registration fees are as follows:

1. Six months to 12 months—\$300.00;
2. Three months to six months—\$150.00; and
3. Up to three months—\$75.00.

Amended by R.1996 d.555, effective December 2, 1996.
See: 28 N.J.R. 4162(a), 28 N.J.R. 5077(a).

12:210-1.4 Apparel Industry Unit

(a) There is established an Apparel Industry unit, comprised of Departmental personnel, to enforce all State labor laws which affect the apparel industry.

(b) The Apparel Industry Unit has the power to:

1. Inspect manufacturers and contractors, with respect to their production employees, for compliance with:

i. The registration requirements of N.J.A.C. 12:210-1.3;

ii. State wage and hour, unemployment compensation, temporary disability, workers' compensation, child labor and industrial homework laws; and

iii. All orders and assessments of civil penalties by the Commissioner;

2. Investigate and conduct inspections of a manufacturer's or contractor's locations, books, records and premises to ensure compliance with this subchapter; and

3. Take any action necessary to implement the provisions of this subchapter.

(c) The Apparel Industry Unit members shall receive special training with regard to the State labor laws to enable them to enforce the provisions of this subchapter.

12:210-1.5 Violations; penalties

(a) The following acts constitute violations of this subchapter:

1. Failure to comply with the registration requirements pursuant to N.J.A.C. 12:210-1.3;

2. Performing services or representing oneself as being registered to perform apparel industry services without holding a valid registration;

3. Contracting for the performance of an apparel industry service with a manufacturer or contractor who is known to have failed to register, renew its registration, or whose registration has been revoked; and

4. Failure to comply, for the second time in three years, with an order of the Commissioner concerning registration compliance.

(b) The following civil penalties may be imposed by the Commissioner for committing the violations in (a)1 through 4 above:

1. A fine of up to \$1,000 for an initial violation;
2. A fine of up to \$2,000 for each subsequent violation.

(c) Penalties shall be payable to the Commissioner of Labor, Apparel Registration.

(d) An intentional failure to comply with the registration requirements shall be a crime of the fourth degree.

(e) If a manufacturer or contractor fails to comply with an order by the Commissioner to register or renew registration, the Commissioner may obtain an injunction prohibiting the manufacturer or contractor from conducting business.

(f) If a manufacturer or contractor is found guilty, after a hearing held pursuant to the Administrative Procedure Act, N.J.S.A. 51:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, of two violations of the same provision of this subchapter in three years, the Commissioner may suspend the registration of any such manufacturer or contractor for a period ranging from 30 days to one year.

(g) Any manufacturer or contractor who contracts, for the second time in three years, with a manufacturer or contractor who is known to have failed to comply with the registration requirements in N.J.A.C. 12:210-1.3, shall be liable to pay any civil penalty assessed against the known violator, if such violator has not paid the penalty.

(h) As an alternative or in addition to any other sanctions provided for in N.J.S.A. 34:6-149(e) when the Commissioner of Labor finds that an employer has violated the Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:

- i. First violation—not more than \$250.00;
- ii. Second and subsequent violations—not less than \$25.00 nor more than \$500.00.

(i) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 working days following the receipt of the notice.

1. The notice shall become the Final Order upon the expiration of the 15-working day period following receipt of the notice if a hearing is not requested.

12:210-1.6 Records

(a) Each manufacturer and contractor shall keep accurate records regarding all of its production employees during the preceding three years and make those records available to the apparel industry unit upon request. The records shall include:

1. The name and address of each production employee and the age of each production employee who is a minor;

2. The number of hours of work and the time of day that work begins and ends for each production employee;

3. The wages, wage rates, and piece rates paid during each payroll period;

4. The number of pieces per hour when piece rate is paid; and

5. Contract worksheets indicating the price per unit agreed between manufacturer and contractor.

12:210-1.7 Surety bond

(a) The Commissioner or his or her duly authorized designee may, after a hearing thereon, and after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, require as a condition of continued registration the payment of a surety bond or may revoke, by order, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of:

1. A second violation of the same provision of the Apparel Registration Act within any three-year period; or

2. A second violation within any three-year period of the same provision of any other labor law applicable to employment of production employees.

(b) Each week in which a violation occurs constitutes a separate violation.

(c) The surety shall be made payable to the State and shall be for the benefit of production employees damaged by any failure to the manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of law. The surety bond shall be in the sum and form that the Commissioner deems necessary for the protection of the production employees, but shall not exceed \$2,500 per production employee.

(d) Surety may be held for a period of two years from the date the employer's operation ceases.

12:210-1.8 Hearings

(a) When the Commissioner assesses an administrative or civil penalty under N.J.A.C. 12:210-1.5 the employer shall have the right to a hearing under (b) below.

(b) No administrative or civil penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification by certified mail of the violation and the amount of the penalty and an opportunity to request a formal hearing. A request for a formal hearing must be received within 15 working days following the receipt of the notice. All hearings shall be heard pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) The Commissioner shall make the final decision of the Department.

(d) Appeals of the final decision of the Commissioner shall be made to the Appellate Division of the New Jersey Superior Court.

(e) Recipients of an administrative and/or civil penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(f) If the employer, or a designated representative of the employer, fails to appear at a requested hearing, the Commissioner or his or her designee may, for good cause shown, re-schedule a hearing.

(g) If the Commissioner or his or her designee does not authorize such a re-scheduled hearing, then the Commissioner shall issue a final agency determination effective upon the date set for the original hearing.

(h) Payment of the penalty is due when a final agency determination is issued.

(i) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

Amended by R.1996 d.555, effective December 2, 1996.
See: 28 N.J.R. 4162(a), 28 N.J.R. 5077(a).

12:210-1.9 Confiscation of apparel and equipment

(a) In addition to any penalty which may be assessed against an individual who is in violation of this chapter, the Commissioner may order the apparel industry unit to confiscate any partially or completely assembled articles of apparel and any equipment used in the assembly of apparel from any manufacturer or contractor who has been found to be:

1. In violation of this chapter; and
2. Previously liable for a civil or administrative penalty for two or more separate violations of this chapter during the immediately preceding three-year period.

(b) The Commissioner, through his or her designee, shall have the authority to enter the business premises of the manufacturer or contractor in order to label all items subject to confiscation in preparation for subsequent removal of the items therefrom.

(c) All items labeled for confiscation shall be placed in the custody of the apparel industry unit until the confiscation order becomes final and until final resolution of any appeal of the final confiscation order.

(d) Any individual who removes items labeled for confiscation without the Commissioner's approval shall be subject to prosecution for a disorderly persons offense and upon conviction fined not less than \$100.00 nor more than \$1,000 in addition to any other civil or administrative penalties under the Act.

(e) Upon confiscation, the Commissioner or his or her designee shall provide the manufacturer or contractor with written notification by certified mail of:

1. The violation and confiscation; and
2. The opportunity to request from the Commissioner, or his or her designee, a formal hearing within 15 days following receipt of the notice.

(f) The Department may notify all parties which it has reason to believe have an interest in the ownership, shipment or sale of the items which are the subject of the confiscation order.

(g) The Commissioner, or his or her designee, shall forward the request for formal hearing to the Office of Administrative Law for hearing. All hearings shall be held in accordance with the Apparel Industry Registration Act, N.J.S.A. 34:6-151; the Administrative Procedure Act, N.J.S.A. 52:14B et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(h) The Commissioner shall issue the final administrative determination regarding the confiscation order upon completion of the hearing.

(i) If a hearing is not requested, the Commissioner, or his or her designee, shall issue a final confiscation order upon the expiration of the 15 day period.

(j) The manufacturer or contractor may appeal the final confiscation order to the Appellate Division of the Superior Court within 30 days of the date of its issuance.

(k) The manufacturer or contractor shall be notified of the location to which the confiscated items are removed.

(l) Upon issuance of a final confiscation order or upon final resolution of an appeal therefrom, title to the items shall vest in the State.

(m) Confiscated goods shall be disposed in the following manner:

1. The confiscated goods may be donated to a charity certified to do business in the State of New Jersey or to any public agency for use by agency clients provided that such goods will not enter the mainstream of commerce and shall not be offered for sale;

2. The confiscated goods may be sold at public sale or auction;

3. The confiscated goods may be donated to public agencies or school districts which conduct classes or training in apparel manufacturing, sewing or related areas; or

4. The confiscated goods may be destroyed.

New Rule, R.1996 d.371, effective August 5, 1996.
See: 28 N.J.R. 2792(a), 28 N.J.R. 3802(a).

12:210-1.10 List of violations; availability

(a) The Department's Division of Workplace Standards shall make public a list of all manufacturers and contractors who have been found to have violated any of the provisions of this chapter or any other act for which the manufacturer or contractor may be subject to revocation of registration or

confiscation of apparel and equipment for a subsequent violation of this chapter.

(b) The list shall be updated on a quarterly basis and shall be made available upon the request of:

1. Any manufacturer or contractor who is engaged in the apparel industry; and

2. Any organization which represents manufacturers or contractors who are engaged in the apparel industry.

(c) Subsection (b) above does not limit requests for the release of information under the Right to Know Law, N.J.S.A. 47:1A-1 et seq.

New Rule, R.1996 d.371, effective August 5, 1996.
See: 28 N.J.R. 2792(a), 28 N.J.R. 3802(a).