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NJDOL Uses Expanded Powers to Stop Worker Exploitation at Job Sites

FOR IMMEDIATE RELEASE

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TRENTON – In the three years since Governor Murphy signed a law expanding NJDOL’s powers to stop work on a job site when there is strong evidence workers are being exploited, the department has issued 71 stop-work orders, through which agents found nearly \$1 million in back wages owed to 235 workers.

[The law](#) gave NJDOL’s Division of Wage and Hour and Contract Compliance the power to immediately halt work at any public or private work site – both construction and non-construction sites – when an initial investigation finds evidence that the employer has violated any state wage, benefit or tax laws.

“With the authority to issue stop-work orders as soon as we identify a violation, the NJDOL gained the ability to shut down a job when it finds workers are being exploited,” said Labor Commissioner Robert Asaro-Angelo. “The legislation signed by Governor Murphy in the Summer of 2019 has given NJDOL a powerful enforcement tool to uphold its mission of protecting our workforce, strengthening our businesses, and promoting the dignity of work.”

The most common violations leading to stop-work orders are: employers not having workers’ compensation insurance or misclassifying employees as independent contractors. Other examples include employers who fail to pay prevailing wage or overtime; those who have outstanding judgements against them; or those whose workers were not paid, were paid late or were shorted, or were paid in cash off the books. Often, these unscrupulous employers have not made their required contributions to the state unemployment trust fund, from which unemployment payments are drawn.

Prior to the law’s enactment, the NJDOL had little recourse to stop or prevent violators from shirking these policies. Work stoppages were rarely utilized because they could be applied only in cases when an employer amassed a history of violations. This made stopping out-of-state violators doing work in New Jersey particularly difficult, as they often left the state before the department could enforce state regulations.

Stop-work orders have been used to shut down work sites of all types, such as construction jobs, restaurants, [an internet radio station](#), and medical offices. Typically, stop-work orders are resolved in a matter of a few days, and are often resolved on the spot when the order is delivered to a business – as was the case in August 2021 when the [NJDOL issued stop-work orders](#) to four separate businesses for wage violations, with each business paying the back wages owed to their workers immediately to avoid closure.

“We understand stop-work orders impact employees and their ability to work, which is why we issue them only when warranted,” said Assistant Commissioner Joseph Petrecca of the Division of Wage and Hour and Contract Compliance. “Our goal is to ensure compliance among employers for the benefit of their workers. Fortunately, we’ve found most employers will do whatever it takes to come into compliance as quickly as possible.”

Cases involving improperly paid wages take time to investigate to ensure workers get all the back wages they deserve. With back wages, administrative fees, and/or penalties, stop-work orders can result in significant monetary assessments.

Stop-work orders may be appealed by an employer, in which case the NJDOL has seven days to schedule a hearing. The NJDOL continues to monitor locations where stop-work orders have been issued, and can assess civil penalties of \$5,000 per day against an employer conducting business in violation of the order, which has occurred just once in the past three years.

Of the businesses that have been issued a stop-work order over the past three years, there have been no repeat offenders.

Below is a list of the number of stop-work orders issued per county:

Number of Stop-Work Orders Per County* July 2019 – July 2022			
*Counties not listed had no stop-work orders issued during this timeframe			
County	# Stop-Work Orders	County	# Stop-Work Orders
Bergen	6	Middlesex	8
Burlington	3	Monmouth	8
Camden	6	Morris	1
Cumberland	1	Ocean	10
Essex	1	Passaic	2
Gloucester	1	Salem	1
Hudson	10	Union	2
Hunterdon	3	Statewide	1
Mercer	7	TOTAL:	71

Aiding the Fight Against Worker Misclassification

New Jersey has taken a strong stance against misclassification, and the state's gold-standard [ABC test](#) for determining the proper classification of workers once again was validated in the courts with the New Jersey Supreme Court's recent decision in [East Bay Drywall L.L.C. v. Department of Labor and Workforce Development](#), upholding the NJDOL's finding that 16 of the drywall installation business' workers were misclassified as independent contractors.

To help combat the illegal practice of misclassifying employees as independent contractors, Gov. Murphy further expanded the NJDOL's stop-work powers in January 2020 when he [signed a package of laws](#) in response to recommendations by a Misclassification Task Force [report](#) released in July 2019. This included [the ability to issue a stop-work order](#) when an employer is in violation of any state wage, benefit or tax law.

The Governor [expanded the power again](#) in July 2021 with [another package of misclassification laws](#), giving the NJDOL further enforcement options in the Office of Administrative Law, and permitting stop-work orders to be applied to all work sites of an employer found to be in violation of the law. The NJDOL used this newly authorized ability to [halt every job](#) being performed in the state by one contractor found to have repeated and ongoing violations of state wage and hour laws.

The laws to fight misclassification also streamlined the NJDOL's ability to work with sister agencies to investigate bad actors and hold them accountable. One notable case occurred in summer of 2021 at a construction site at 88 Regent Street in Jersey City, where a [multi-agency team of more than 60 investigators conducted an unannounced investigation](#) in response to allegations of worker misclassification. Efforts in cooperation with the state Department of the Treasury's Division of Taxation, Department of Banking and Insurance, and Office of the Attorney General led to the NJDOL's Division of Wage and Hour and Contract Compliance [issuing stop-work orders to three contractors](#) earlier this year.

Stop-work orders involving misclassification cases have also generated \$92,500 divided among 100 workers through a misclassification penalty that took effect last year requiring employers to pay misclassified workers an additional 5 percent of their gross wages from the previous 12 months.

Protecting Public Bodies and Registered Public Works Contractors

Of the 71 stop-work orders issued over the past three years, 57 involved construction jobs, with investigations leading to 11 contractors being debarred from engaging in future public works jobs. Of note, a general contractor can be held liable for the unlawful actions and back wages of any subcontractor that results in a stop-work order.

In an effort to educate public entities and minimize stop-work orders on public works jobs, the [NJDOL sent a letter to local governments and school boards](#) in June regarding recent changes to the state's prevailing wage laws, which requires the payment of minimum rates of pay to laborers, craftsmen, and apprentices employed on public works projects. Construction contractors performing public work must also participate in a [USDOL Registered Apprenticeship program](#), ensuring that taxpayer dollars are also investing in New Jersey's future workforce.

The NJDOL maintains a [record of registered public works contractors](#) that should be consulted by any government agency or entity before hiring for a public works job. Doing so can help avoid unnecessary project delays and extra costs to businesses, schools, government entities and taxpayers. The current list contains more than 6,000 businesses, and is searchable by name, address, registration date, and certificate number.

For more information on New Jersey's wage and hour laws, please visit myworkrights.nj.gov.

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