

ASSEMBLY, No. 2463

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblyman GARCIA

1 AN ACT increasing penalties for violations in the apparel industry of
2 certain laws regarding workplace standards and amending
3 P.L.1987, c.458.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 6 of P.L.1987, c.458 (C.34:6-149) is amended to read
9 as follows:

10 6. The apparel industry unit shall have the following powers:

11 a. To investigate and conduct inspections at locations where an
12 apparel industry manufacturer or contractor is operating to ensure
13 compliance with this act;

14 b. To inspect books, records and premises of manufacturers and
15 contractors, with respect to their production employees, to determine
16 compliance with the State's labor laws, including but not limited to,
17 laws concerning wages, overtime compensation, unemployment
18 compensation and temporary disability insurance, workers'
19 compensation coverage, child labor, and industrial homework laws,
20 and, if the apparel industry unit determines that a manufacturer or
21 contractor has violated a provision of any of those laws with respect
22 to its production employees, to assess and collect, on behalf of the
23 commissioner, any administrative penalty authorized by law. If the
24 violation is of a provision of a labor law for which the assessment and
25 collection of an administrative penalty is not otherwise authorized, or,
26 if no other agency of the State attempts to assess or collect an
27 administrative penalty for the violation, the apparel industry unit is
28 hereby authorized to assess and collect an administrative penalty [, up
29 to a maximum] of not less than \$250 and not more than \$500 for a
30 first violation and [up to a maximum of] not less than \$500 and not
31 more than \$1,000 for each subsequent violation, specified in a
32 schedule of penalties promulgated by rule or regulation of the
33 commissioner in accordance with the "Administrative Procedure Act,"
34 P.L.1968, c.410 (C.52:14B-1 et seq.). No administrative penalty shall

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 be levied pursuant to this subsection unless the commissioner or his
2 designee provides the violator with notification of the violation and of
3 the amount of the penalty by certified mail and an opportunity to
4 request a hearing within 15 days following the receipt of the notice.
5 If a hearing is requested, the commissioner, or his designee, may issue
6 a final order upon such hearing and a finding that a violation has
7 occurred. If no hearing is requested, the notice shall become a final
8 order upon the expiration of the 15-day period. Payment of the
9 penalty is due when a final order is issued or when the notice becomes
10 a final order. Any penalty imposed under this subsection may be
11 recovered with costs in a summary proceeding pursuant to "the penalty
12 enforcement law" (N.J.S.2A:58-1 et seq.). Any penalty imposed under
13 this subsection shall be paid to the Division of Workplace Standards
14 and applied to enforcement and administrative costs of the division;
15 and

16 c. To serve as the designee of the commissioner for the purpose
17 of taking any action authorized by this act necessary to implement its
18 provisions.

19 (cf: P.L.1991, c.189, s.8)

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21 2. Section 7 of P.L.1987, c.458 (C.34:6-150) is amended to read
22 as follows:

23 7. a. Any manufacturer or contractor who has failed to comply with
24 the registration requirements of section 3 of this act shall be deemed
25 to have violated this act.

26 b. Any manufacturer or contractor who has failed to comply, for
27 the second time within any three-year period, with an order issued by
28 the commissioner to comply with the registration requirements of
29 section 3 of this act shall be deemed to have violated this act.

30 c. Any manufacturer or contractor who contracts for the
31 performance of any apparel industry service, as identified in subsection
32 a. of section 2 of this act, with any other manufacturer or contractor
33 whom the manufacturer or contractor knows does not hold a valid
34 registration shall be deemed to have violated this act. A contractor or
35 manufacturer who knowingly violates this subsection c. within three
36 years after having been found liable for a civil or administrative penalty
37 for violating this subsection c. is guilty of a crime of the fourth degree.

38 d. No manufacturer or contractor shall perform services or hold
39 himself out as being able to perform services as a registered
40 manufacturer or contractor unless he holds a valid registration
41 pursuant to this act. A contractor or manufacturer who knowingly
42 violates this subsection d. within three years after having been found
43 liable for a civil or administrative penalty for violating this subsection
44 d. is guilty of a crime of the fourth degree.

45 e. If the commissioner or his designee determines that any
46 manufacturer or contractor commits a violation as provided in

1 subsection a., b., or c. of this section, or violates subsection d. of this
2 section, the commissioner or his designee may impose a civil penalty,
3 and such penalty shall be made with due consideration of the size and
4 past experience of the manufacturer or contractor and the seriousness
5 of the violation, upon the manufacturer or contractor [up to
6 \$1,000.00] of not less than \$1,000 and not more than \$2,000 for an
7 initial violation and [up to \$2,000.00] not less than \$2,000 and not
8 more than \$4,000 for each subsequent violation, and, as an alternative
9 or in addition to the civil penalty, the commissioner or his designee is
10 authorized to assess and collect an administrative penalty, [up to a
11 maximum] of not less than \$250 and not more than \$500 for a first
12 violation and [up to a maximum of] not less than \$500 and not more
13 than \$1,000 for each subsequent violation, specified in a schedule of
14 penalties to be promulgated by rule or regulation of the commissioner
15 in accordance with the "Administrative Procedure Act," P.L.1968,
16 c.410 (C.52:14B-1 et seq.). No administrative penalty shall be levied
17 pursuant to this subsection unless the commissioner or his designee
18 provides the violator with notification of the violation and of the
19 amount of the penalty by certified mail and an opportunity to request
20 a hearing within 15 days following the receipt of the notice. If a
21 hearing is requested, the commissioner, or his designee, may issue a
22 final order upon such hearing and a finding that a violation has
23 occurred. If no hearing is requested, the notice shall become a final
24 order upon the expiration of the 15-day period. Payment of the
25 penalty is due when a final order is issued or when the notice becomes
26 a final order. Any penalty imposed under this subsection may be
27 recovered with costs in a summary proceeding pursuant to "the penalty
28 enforcement law" (N.J.S.2A:58-1 et seq.). The civil or administrative
29 penalties shall be paid to the Division of Workplace Standards and
30 applied to enforcement and administrative costs of the division, except
31 as provided in subsection b. of section 11 of this act. Any civil penalty
32 imposed pursuant to this section shall be enforceable in a summary
33 manner pursuant to Rule 4:70 of the Rules Governing the Courts of
34 the State of New Jersey.

35 f. If any manufacturer or contractor fails to comply with an order
36 by the commissioner to register or renew registration, the
37 commissioner may seek and obtain in a summary action in Superior
38 Court an injunction prohibiting such unlawful activity.

39 g. An intentional failure to comply with the registration
40 requirements of section 3 of this act shall be a crime of the fourth
41 degree.

42 h. The commissioner or his designee may, after a hearing thereon,
43 and after due consideration of the size and past experience of the
44 manufacturer or contractor and the seriousness of the violation,
45 require as a condition of continued registration, the payment of a
46 surety bond or may revoke, by order, the registration of any

1 manufacturer or contractor for any period ranging from 30 days to one
2 year upon being found guilty of:

3 (1) A second violation of the same provision of this act within any
4 three-year period; or

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

8 The surety bond shall be payable to the State and shall be for the
9 benefit of production employees damaged by any failure of the
10 manufacturer or contractor to pay wages or benefits or otherwise
11 comply with the provisions of law. The surety bond shall be in the
12 sum and form that the commissioner deems necessary for the
13 protection of the production employees, but shall not exceed \$2,500
14 per production employee.

15 i. Any manufacturer or contractor who contracts, for the second
16 time within any three-year period, for the performance of any apparel
17 industry service with any other manufacturer or contractor whom the
18 manufacturer or contractor knows has failed to comply with the
19 registration requirements of section 3 of this act, shall, if the other
20 manufacturer or contractor has failed to pay any civil penalty assessed
21 under subsection e. of this section, be liable to pay a civil penalty equal
22 to the civil penalty that the other manufacturer or contractor has been
23 assessed.

24 j. Nothing herein shall affect either the authority of the department
25 to enforce the industrial homework laws of this State or the right of
26 any manufacturer to possess or repossess any apparel, or sections or
27 components of apparel, that are located at any contractor with whom
28 it has contracted.

29 (c: P.L.1991, c.189, s.9.)

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31 3. This act shall take effect immediately.

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STATEMENT

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36 This bill increases penalties imposed by P.L.1987, c.458 (C.34:6-
37 144 et seq.) for violations in the apparel industry of certain laws
38 setting workplace standards.

39 In the case of a manufacturer or contractor in the apparel industry
40 who fails to comply with that law's requirements related to
41 registration, civil penalties are increased from up to \$1,000 for a first
42 violation and up to \$2,000 for a subsequent violation to not less than
43 \$1,000 and not more than \$2,000 for a first violation and not less than
44 \$2,000 and not more than \$4,000 for a subsequent violation. In such
45 cases the administrative penalties are increased from up to \$250 for a
46 first violation and up to \$500 for a subsequent violation to not less

1 than \$250 and not more than \$500 for a first violation and not less
2 than \$500 and not more than \$1,000 for a subsequent violation.

3 In the case of a manufacturer or contractor in the apparel industry
4 who violates other State labor laws, including laws concerning wages,
5 overtime compensation, unemployment and temporary disability
6 insurance, workers' compensation, child labor and industrial
7 homework, the administrative penalties are increased from up to \$250
8 for a first violation and up to \$500 for a subsequent violation to not
9 less than \$250 and not more than \$500 for a first violation and not less
10 than \$500 and not more than \$1,000 for a subsequent violation.

11 In sum, the bill establishes, in each case subject to its provisions, a
12 minimum penalty equal to the current maximum penalty and increases
13 the maximum penalty to an amount twice as large as the current
14 maximum penalty.

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19 Increases penalties for violations of workplace standards in the apparel
20 industry.