

[First Reprint]
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.

4
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,

26 ¹[or, if no other agency of the State attempts to assess or collect an
27 administrative penalty for the violation.]¹ 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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALA committee amendments adopted November 7, 1996.

1 schedule of penalties promulgated by rule or regulation of the
2 commissioner in accordance with the "Administrative Procedure Act,"
3 P.L.1968, c.410 (C.52:14B-1 et seq.). No administrative penalty shall
4 be levied pursuant to this subsection unless the commissioner or his
5 designee provides the violator with notification of the violation and of
6 the amount of the penalty by certified mail and an opportunity to
7 request a hearing within 15 days following the receipt of the notice.
8 If a hearing is requested, the commissioner, or his designee, may issue
9 a final order upon such hearing and a finding that a violation has
10 occurred. If no hearing is requested, the notice shall become a final
11 order upon the expiration of the 15-day period. Payment of the
12 penalty is due when a final order is issued or when the notice becomes
13 a final order. Any penalty imposed under this subsection may be
14 recovered with costs in a summary proceeding pursuant to "the penalty
15 enforcement law" (N.J.S.2A:58-1 et seq.). Any penalty imposed under
16 this subsection shall be paid to the Division of Workplace Standards
17 and applied to enforcement and administrative costs of the division;
18 and

19 c. To serve as the designee of the commissioner for the purpose
20 of taking any action authorized by this act necessary to implement its
21 provisions.

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

23

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

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

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

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

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

1 d. is guilty of a crime of the fourth degree.

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

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

42 g. An intentional failure to comply with the registration
43 requirements of section 3 of this act shall be a crime of the fourth
44 degree.

45 h. The commissioner or his designee may, after a hearing thereon,
46 and after due consideration of the size and past experience of the

1 manufacturer or contractor and the seriousness of the violation,
2 require as a condition of continued registration, the payment of a
3 surety bond or may revoke, by order, the registration of any
4 manufacturer or contractor for any period ranging from 30 days to one
5 year upon being found guilty of:

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

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

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

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

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

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

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34 3. This act shall take effect immediately.

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39 _____
40 Increases penalties for violations of workplace standards in the apparel
industry.