

## > Client Alert

# New Jersey Department of Labor Releases Employee Misclassification Posters that Employers are Required to Post Notice in the Workplace

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### Authors and Key Contacts

If you require any additional information about the New Jersey Department of Labor's new employee misclassification posting requirements, or any other employment issue, please contact any of the attorneys listed below.

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Earlier this year, New Jersey Governor Phil Murphy enacted an array of new employment laws<sup>1</sup> designed to protect workers from being misclassified as independent contractors instead of employees. One of those laws, [Assembly Bill 5843](#) (N.J.S.A. 34:1A-1.19), effective as of April 1, 2020, requires all New Jersey employers to post a notice regarding employee misclassification “in a form to be issued by the commissioner” of New Jersey Department of Labor and Workforce Development (NJDOL). In May 2020, the NJDOL finally issued the [required notice](#), which all New Jersey employers **must immediately post** in a place or places accessible to all employees, in each of their workplaces within the state.

The required notice, mandated pursuant to Assembly Bill 5843, explains:

- The prohibition against employers misclassifying their employees as independent contractors;
- The definition of employee *versus* independent contractor under New Jersey law;
- The benefits and protections to which an employee is entitled under New Jersey wage, benefit and tax laws;
- The remedies under New Jersey law available to workers adversely affected by misclassification; and
- Information concerning how workers' respective authorized representative(s) may contact a representative of the Commissioner of the NJDOL to provide information to, or to file a complaint with, the representative regarding possible worker misclassification.

Employers that violate Assembly Bill 5843 (N.J.S.A. 34:1A-1.19) are subject to a fine of not less than \$100 and up to \$1,000 depending on the nature of the violation. In addition, the law prohibits retaliation against any employee for complaining, filing an action, or testifying in a proceeding concerning worker misclassification. Any employer who violates the anti-retaliation provision must offer reinstatement to the aggrieved employee in addition to providing pay to the employer for any wages and benefits lost as a result of the retaliation.

New Jersey employers should immediately post the [required notice](#) and review

<sup>1</sup> This new palette of misclassification legislation also includes: stop-work orders ([A5838](#), N.J.S.A. 34:1A-1.17); penalties for misclassifications of employees ([A5839](#), N.J.S.A. 34:1A-1.18); joint liability for payment of employer tax law ([A5840](#), amending N.J.S.A. 34:11-57); publication of employers who violate NJ wage and hour laws ([S4226](#), N.J.S.A. 34:1A-1.16) and tax data sharing between the State Treasury and NJDOL ([S4228](#), amending N.J.S.A. 54:50-8 and 54:50-9).

their internal policies concerning worker classification to ensure they are compliant with the State's new employment laws. Failure to do so could subject the business to future liability, including costly and burdensome litigation. The Morrison Cohen LLP Labor & Employment team are here to help employers navigate these new laws and update any policies governing the workplace addressing these or any other employment issues, as needed.