



The Spector of “Stop-Work Orders” and Misclassification Enforcement

A bill pending in New York would empower the Commissioner of Labor to issue “stop work orders” (SWO) for the misclassification of employees without requiring a prior hearing. SWOs require companies to immediately cease business operations.

In March 2025, the New York State Senate passed Bill S1514, which would allow the Commissioner of Labor to issue SWOs after the Commissioner determines “a company has knowingly misclassified their employees.” The New York State Senate version of this bill does not require a hearing prior to the SWO. The bill contains no other prerequisites for the stop-work order or checks upon the Commissioner’s power. This power could be used against employers solely on the basis of misclassification. The bill also targets employers who provide false or misleading information to insurance companies about their employees. This bill would mark a major expansion of enforcement tools regarding the alleged misclassification of independent contractors. The bill remains pending in the New York Assembly.

New Jersey law does not go this far. In New Jersey, stop-work orders are reserved for independent violations of wage, benefit, or tax laws. Misclassification that leads to such other violations is illegal and may lead to an SWO, but for the NJDOL to issue stop work orders for misclassification alone and without the right to a hearing is not the law in New Jersey.

That being said, we know New Jersey takes a hard line against what NJDOL defines as “Misclassification”. New Jersey currently uses the ABC Test to determine employee misclassification. The onus rests upon the putative employer to prove that a worker is an independent contractor. Currently proposed regulations seek to further tighten the application of the ABC Test. In reforming N.J.A.C. 12:11, the NJDOL “intends to codify its interpretation of the statutory ABC Test.” While the proposed rules do not mention stop work orders, we will keep our eyes on developments across the River.

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