

# Apparel Registration Act

Abstract of Chapter 458 - Laws of New Jersey 1987 as Amended and Supplemented through July 2, 1991

## N.J.S.A. 34:6-146 Registration

- a. No manufacturer or contractor shall engage in the apparel industry in this State unless the manufacturer or contractor is registered as a manufacturer or contractor with the department, in writing, on a form provided by the commissioner. That form shall contain the following information: whether the manufacturer or contractor is a sole proprietorship, partnership or corporation; the manufacturer's or contractor's name and principal business address in the State; the name and address of each person with a financial interest in the manufacturer's or contractor's business and the amount of that interest, except that if the manufacturer or contractor is a publicly-traded corporation, only the names and addresses of the corporation officers shall be required; the manufacturer's or contractor's tax identification number; and, if the registrant is a contractor, whether that contractor subcontracts the cutting or sewing of apparel or sections or components thereof. Divisions, subsidiary corporations, or related companies may, at the option of the manufacturer or contractor, be named and included under one omnibus registration.
- (b) The commissioner shall issue pursuant to the provisions of this act, a certificate of registration upon receipt of a manufacturer's or contractor's completed registration form and documentation that the manufacturer or contractor has paid any surety bond required pursuant to subsection h. of N.J.S.A. 34:6-150 and provides workers' compensation coverage for the manufacturer's or contractor's production employees working in this State. The initial fee for each registration shall be \$300. Each subsequent annual registration fee shall be \$300. The commissioner may prorate the initial annual registration fee if the certificate of registration is for a period of less than 12 months. Registrations shall be renewed on or before January 15th of each year, and all fees shall be payable to the Division of Wage and Hour Compliance. With respect to manufacturers or contractors operating prior to or on the effective date of this act, the initial registration shall be filed on or before the first day of the sixth month following the effective date of this act and shall be effective until the following January 15th. With respect to new manufacturers or contractors, the initial registration shall be filed upon the commencement of manufacturing or contracting in the apparel industry and shall be effective until the following January 15th. The commissioner may, by order, compel registration pursuant to this subsection.

## N.J.S.A. 34:6-149 Powers of the Apparel Industry Unit

The apparel industry unit shall have the following powers:

- (a) To investigate and conduct inspections at locations where an apparel industry manufacturer or contractor is operating to ensure compliance with this act;
- (b) To inspect books, records and premises of manufacturers and contractors, with respect to their production employees, to determine compliance with the State's labor laws, including but not limited to, laws concerning wages, overtime compensation, unemployment compensation and temporary disability insurance, workers' compensation coverage, child labor, and industrial homework laws, and, if the apparel industry unit determines that a manufacturer or contractor has violated a provision of any of those laws with respect to its production employees, to assess and collect, on behalf of the commissioner, any administrative penalty authorized by law. If the violation is of a provision of a labor law for which the assessment and collection of an administrative penalty is not otherwise authorized, the Apparel Industry Unit is hereby authorized to assess and collect an administrative penalty of not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more

than \$1,000 for each subsequent violation, specified in a schedule of penalties promulgated by rule or regulation of the commissioner in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.). No administrative penalty shall be levied pursuant to this subsection unless the commissioner or his designee provides the violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing within 15 days following the receipt of the notice. If a hearing is requested, the commissioner, or his designee, may issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon the expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). Any penalty imposed under this subsection shall be paid to the Division of Wage and Hour Compliance and applied to enforcement and administrative costs of the division; and

- (c) To serve as the designee of the commissioner for the purpose of taking any action authorized by this act necessary to implement its provisions.

## N.J.S.A. 34:6-150 Violations, Penalties, Procedures

- (a) Any manufacturer or contractor who has failed to comply with the registration requirements of section 3 of this act shall be deemed to have violated this act.
- (b) Any manufacturer or contractor who has failed to comply, for the second time within any three year period, with an order issued by the commissioner to comply with the registration requirements of N.J.S.A. 34:6-146 shall be deemed to have violated this act.
- (c) Any manufacturer or contractor who contracts for the performance of any apparel industry service, as identified in subsection a. of N.J.S.A. 34:6-145, with any other manufacturer or contractor whom the manufacturer or contractor knows does not hold a valid registration shall be deemed to have violated this act. A contractor or manufacturer who knowingly violates this subsection c. within three years after having been found liable for a civil or administrative penalty for violating this subsection c. is guilty of a crime of the fourth degree.
- (d) No manufacturer or contractor shall perform services or hold himself out as being able to perform services as a registered manufacturer or contractor unless he holds a valid registration pursuant to this act. A contractor or manufacturer who knowingly violates this subsection d. within three years after having been found liable for a civil or administrative penalty for violating this subsection d. is guilty of a crime of the fourth degree.
- (e) If the commissioner or his designee determines that any manufacturer or contractor commits a violation as provided in subsection a., b., or c. of this section, or violates subsection d. of this section, the commissioner or his designee may impose a civil penalty, and such penalty shall be made with due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, upon the manufacturer or contractor of not less than \$1,000 and not more than \$2,000 for an initial violation and not less than \$2,000 and not more than \$4,000 for each subsequent violation, and, as an alternative or in addition to the civil penalty, the commissioner or his designee is authorized to assess and collect an administrative penalty of not less than \$250 and not more than \$500 for a first violation, and not less

than \$500 and not more than \$1,000 for each subsequent violation, specified in a schedule of penalties to be promulgated by rule or regulation of the commissioner in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.). No administrative penalty shall be levied pursuant to this subsection unless the commissioner or his designee provides the violator with notification of the violation and of the amount of the penalty by certified mail and an opportunity to request a hearing within 15 days following the receipt of the notice. If a hearing is requested, the commissioner, or his designee, may issue a final order upon such hearing and a finding that a violation has occurred. If no hearing is requested, the notice shall become a final order upon the expiration of the 15-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. Any penalty imposed under this subsection may be recovered with costs in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The civil or administrative penalties shall be paid to the Division of Wage and Hour Compliance and applied to enforcement and administrative costs of the division, except as provided in subsection b. of section 11 of this act. Any civil penalty imposed pursuant to this section shall be enforceable in a summary manner pursuant to Rule 4:70 of the Rules Governing the Courts of the State of New Jersey.

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

(g) An intentional failure to comply with the registration requirements of N.J.S.A. 34:6-146 shall be a crime of the fourth degree.

(h) The commissioner or his designee may, after a hearing thereon, and after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, require as a condition of continued registration, the payment of a surety bond or may revoke, by order, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of:

1. A second violation of the same provision of this act within any three-year period; or
2. A second violation within any three-year period of the same provision of any other labor law applicable to the employment of production employees. The surety bond shall be payable to the State and shall be for the benefit of production employees damaged by any failure of the manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of law. The surety bond shall be in the sum and form that the commissioner deems necessary for the protection of the production employees, but shall not exceed \$2,500 per production employee.

(i) Any manufacturer or contractor who contracts, for the second time within any three-year period, for the performance of any apparel industry service with any other manufacturer or contractor whom the manufacturer or contractor knows has failed to comply with the registration requirements of N.J.S.A. 34:6-146, shall, if the other manufacturer or contractor has failed to pay any civil penalty assessed under subsection e. of this section, be liable to pay a civil penalty equal to the civil penalty that the other manufacturer or contractor has been assessed.

(j) Nothing herein shall affect either the authority of the department to enforce the industrial home work laws of this State or the right of any manufacturer to possess or repossess any apparel, or sections or components of apparel, that are located at any contractor with whom it has contracted.

#### **N.J.S.A. 34:6-151 Confiscation**

(a) The commissioner may, in addition to seeking civil, administrative, or criminal penalties pursuant to N.J.S.A. 34:6-144 et seq., order the apparel industry unit to confiscate any partially or completely assembled articles of apparel and any equipment used in the assembly of apparel from any manufacturer or contractor who is violating any provision of N.J.S.A. 34:6-144 et seq. and has previously been found liable for a civil or administrative penalty for two or more separate violations of N.J.S.A. 34:6-144 et seq. during the immediately preceding three year period. All items confiscated shall be placed in the custody of the apparel industry unit until the confiscation order becomes final and until the final resolution of any appeal of the final confiscation order pursuant to subsection b. of this section.

(b) Prior to the time that the confiscation becomes final, the commissioner or his designee shall provide the manufacturer or contractor with notification of the violation and confiscation by certified mail and an opportunity to request from the commissioner or his designee, by certified mail, a hearing before the commissioner or his designee within 15 days following receipt of the notice. If a hearing is requested, the commissioner or his designee shall hold the hearing within 10 days following receipt of the request and may issue a final confiscation order upon such hearing and a finding that a violation has occurred. If a hearing is not requested, the commissioner or his designee shall issue a final confiscation order upon the expiration of the 15-day period. The manufacturer or contractor may appeal the final confiscation order to the Appellate Division of the Superior Court within 30 days following the issuing of the final confiscation order. Upon issuance of a final confiscation order or, if an appeal is made to the Appellate Division, upon the final resolution of that appeal, title to the confiscated goods shall vest in the State, and the apparel industry unit shall dispose of them pursuant to regulations adopted by the commissioner.

#### **N.J.S.A. 34:6-152 Public Listing**

The commissioner or his designee shall make public a list of all manufacturers and contractors which have been found guilty of violations of N.J.S.A. 34:6-144 et seq. or any other act for which a manufacturer or contractor may, pursuant to N.J.S.A. 34:6-144 et seq., be subject to a revocation of registration or confiscation of items of apparel or equipment for a subsequent violation. The commissioner or his designee shall update that list public in a timely manner. The commissioner shall make the list and any updates of the list available upon the request to any requesting manufacturer, contractor, or organization representing manufacturers or contractors.

#### **N.J.S.A. 34:6-153 Records**

Each manufacturer and contractor shall keep accurate records regarding all of its production employees during the preceding three years and make those records available to the apparel industry unit upon request. The records shall include:

- (a) The name and address of each production employee and the age of each production employee who is a minor;
- (b) The number of hours of work and the time of day that work begins and ends for each production employee;
- (c) The wages, wage rates, and piece rates paid during each payroll period; and
- (d) Contract worksheets indicating the price per unit agreed between manufacturer and contractor.

