



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 381
TRENTON, NEW JERSEY 08625-0381

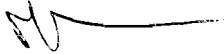
JON S. CORZINE
Governor

DAVID J. SOCOLOW
Commissioner

MEMORANDUM

July 14, 2009

To: All Judges and Attorneys

From: Peter J. Calderone, Director and Chief Judge 

Subject: Amendments to N.J.S.A. 34:15-79

As you may be aware, Governor Jon S. Corzine signed into law Assembly, No 3569 and Senate, No. 2498 which amend N.J.S.A. 34:15-79. Of primary interest is the new section of the statute that allows the Director to issue stop-work orders in certain situations.

The law as amended appears in the statute section of the website. Attached is a pre-publication rule proposal for comment and discussion. We have already received comments from the Commissioner's Advisory Council on Workers' Compensation on the process to issue and review stop-work orders. Please submit any comments you may have to my attention by mail to the Division of Workers' Compensation, One John Fitch Way, PO Box 381, Trenton, NJ 08625-0381 or by e-mail to peter.calderone@dol.state.nj.us. The comments should be received on or before August 7, 2009.

This pre-publication rule proposal will be the Division of Workers' Compensation's operating procedures until the filing of a proposed administrative rule for publication in the New Jersey Register.

Attachment

New Jersey Is An Equal Opportunity Employer



DIVISION OF WORKERS' COMPENSATION
(609) 292-2515 · FAX (609) 984-2515

AD-18.14 (R 01-06)

N.J.A.C. 12:235-3.17 Stop-Work Order Pursuant to N.J.S.A. 34:15-79 (New)

a. Besides any other penalties, remedies or sanctions as provided by statute or regulation, an employer who knowingly fails to provide workers' compensation coverage, who knowingly misrepresents one or more employees as independent contractors or who knowingly provides false, incomplete or misleading information concerning the number or occupational classification of employees shall be subject to a stop-work order by the Director of the Division of Workers' Compensation.

1. A violation will be considered to be knowingly if the employer:

i. Has previously obtained workers' compensation insurance and the insurance has been cancelled or the insurance has not been continued or renewed, or

ii. Has been advised of the need for workers' compensation insurance by the Division of Workers' Compensation or any other agency of the New Jersey Department of Labor and Workforce Development, or

iii. Has had one or more previous violations of workers' compensation insurance requirements, including, but not limited to, failure to insure and/or misreporting or misrepresentation of wages, employment or employee classification arising from and/or identified through insurance carrier audits of policies or workers' compensation claim petitions.

2. A stop-work order against an employer shall apply against any successor firm, corporation or partnership of the employer in the same manner that it applies to the employer.

b. On finding a violation under a. above after investigation, the Director shall issue, not later than 72 hours after making such determination, a stop-work order requiring the cessation of all business operations of the employer at every site at which the violation occurs.

1. A stop-work order shall take effect when served upon the employer, or, for a particular employer worksite, when served at the worksite.

2. A stop-work order shall remain in effect until the Director issues an order releasing the stop-work order upon finding that the employer has come into compliance and has paid any penalty assessed.

c. An employer who is subject to a stop-work order shall have the right to apply to the Director, not more than 10 days after the order is issued, for a hearing to contest whether the employer committed the violation on which the order was based.

1. Application for a hearing must be in writing and hand delivered to the Director within the prescribed period at 1 John Fitch Plaza, Trenton, New Jersey or submitted by certified mail, postmarked within the prescribed period, to the Director, Division of Workers' Compensation, P O Box 381, Trenton, New Jersey 08625-0381.

2. The hearing shall be afforded and a decision rendered by the Director or the Director's designee in the Director's absence within 48 hours of the Director's receipt of the application.

d. Failure or refusal to comply with a stop-work order issued by the Director shall, in addition to any other penalties provided by law, result in the assessment of a penalty of not less than \$1,000 and not more than \$5,000 for each day the employer is found not to be in compliance.