

ASSEMBLY, No. 5892

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 9, 2021

Sponsored by:

Assemblywoman SHAVONDA E. SUMTER

District 35 (Bergen and Passaic)

Senator FRED H. MADDEN, JR.

District 4 (Camden and Gloucester)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Co-Sponsored by:

**Assemblyman Verrelli, Assemblywoman Murphy, Senators Singleton,
Greenstein and Turner**

SYNOPSIS

Streamlines identification of employee misclassification.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2021)

1 AN ACT concerning employee misclassification and insurance fraud
2 and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1983, c.320 (C.17:33A-3) is amended to
8 read as follows:

9 3. As used in this act:

10 "Attorney General" means the Attorney General of New Jersey
11 or his designated representatives.

12 "Bureau" means the Bureau of Fraud Deterrence established by
13 section 8 of P.L.1983, c.320 (C.17:33A-8).

14 "Commissioner" means the Commissioner of Banking and
15 Insurance.

16 "Hospital" means any general hospital, mental hospital,
17 convalescent home, nursing home or any other institution, whether
18 operated for profit or not, which maintains or operates facilities for
19 health care.

20 "Insurance company" means:

21 a. Any corporation, association, partnership, reciprocal
22 exchange, interinsurer, Lloyd's insurer, fraternal benefit society or
23 other person engaged in the business of insurance pursuant to
24 Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.),
25 or Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-
26 1 et seq.);

27 b. Any medical service corporation operating pursuant to
28 P.L.1940, c.74 (C.17:48A-1 et seq.);

29 c. Any hospital service corporation operating pursuant to
30 P.L.1938, c.366 (C.17:48-1 et seq.);

31 d. Any health service corporation operating pursuant to
32 P.L.1985, c.236 (C.17:48E-1 et seq.);

33 e. Any dental service corporation operating pursuant to
34 P.L.1968, c.305 (C.17:48C-1 et seq.);

35 f. Any dental plan organization operating pursuant to
36 P.L.1979, c.478 (C.17:48D-1 et seq.);

37 g. Any insurance plan operating pursuant to P.L.1970, c.215
38 (C.17:29D-1);

39 h. The New Jersey Insurance Underwriting Association
40 operating pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.); **[and]**

41 i. (Deleted by amendment, P.L.2010, c.32)

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 j. Any risk retention group or purchasing group operating
2 pursuant to the "Liability Risk Retention Act of 1986," 15
3 U.S.C.s.3901 et seq.; and

4 k. Any health maintenance organization operating pursuant to
5 P.L.1973, c.337 (C.26:2J-1 et seq.).

6 "Pattern" means five or more related violations of P.L.1983,
7 c.320 (C.17:33A-1 et seq.). Violations are related if they involve
8 either the same victim, or same or similar actions on the part of the
9 person or practitioner charged with violating P.L.1983, c.320
10 (C.17:33A-1 et seq.).

11 "Person" means a person as defined in R.S.1:1-2, and shall
12 include, unless the context otherwise requires, a practitioner.

13 "Principal residence" means that residence at which a person
14 spends the majority of his time. Principal residence may be an
15 abode separate and distinct from a person's domicile. Mere
16 seasonal or weekend residence within this State does not constitute
17 principal residence within this State.

18 "Practitioner" means a licensee of this State authorized to
19 practice medicine and surgery, psychology, chiropractic, or law or
20 any other licensee of this State whose services are compensated,
21 directly or indirectly, by insurance proceeds, or a licensee similarly
22 licensed in other states and nations or the practitioner of any
23 nonmedical treatment rendered in accordance with a recognized
24 religious method of healing.

25 "Producer" means an insurance producer as defined in section 3
26 of P.L.2001, c.210 (C.17:22A-28), licensed to transact the business
27 of insurance in this State pursuant to the provisions of the "New
28 Jersey Insurance Producer Licensing Act of 2001," P.L.2001, c.210
29 (C.17:22A-26 et seq.).

30 "Statement" includes, but is not limited to, any application,
31 writing, notice, expression, statement, proof of loss, bill of lading,
32 receipt, invoice, account, estimate of property damage, bill for
33 services, diagnosis, prescription, hospital or physician record, X-
34 ray, test result or other evidence of loss, injury or expense.

35 (cf: P.L.2010, c.32, s.2)

36

37 2. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to
38 read as follows:

39 4. a. A person or a practitioner violates this act if he:

40 (1) Presents or causes to be presented any written or oral
41 statement as part of, or in support of or opposition to, a claim for
42 payment or other benefit pursuant to an insurance policy or the
43 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
44 (C.39:6-61 et seq.), knowing that the statement contains any false or
45 misleading information concerning any fact or thing material to the
46 claim; or

- 1 (2) Prepares or makes any written or oral statement that is
2 intended to be presented to any insurance company, the Unsatisfied
3 Claim and Judgment Fund, or any claimant thereof in connection
4 with, or in support of or opposition to any claim for payment or
5 other benefit pursuant to an insurance policy or the "Unsatisfied
6 Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et
7 seq.), knowing that the statement contains any false or misleading
8 information concerning any fact or thing material to the claim; or
- 9 (3) Conceals or knowingly fails to disclose the occurrence of an
10 event which affects any person's initial or continued right or
11 entitlement to (a) any insurance benefit or payment or (b) the
12 amount of any benefit or payment to which the person is entitled;
- 13 (4) Prepares or makes any written or oral statement, intended to
14 be presented to any insurance company or producer for the purpose
15 of obtaining:
- 16 (a) a motor vehicle insurance policy, that the person to be
17 insured maintains a principal residence in this State when, in fact,
18 that person's principal residence is in a state other than this State; or
- 19 (b) an insurance policy, knowing that the statement contains any
20 false or misleading information concerning any fact or thing
21 material to an insurance application or contract;
- 22 (5) Conceals or knowingly fails to disclose any evidence,
23 written or oral, which may be relevant to a finding that a violation
24 of the provisions of paragraph (4) of this subsection a. has or has
25 not occurred; or
- 26 (6) Prepares, presents or causes to be presented to any insurer or
27 other person, or demands or requires the issuance of, a certificate of
28 insurance that contains any false or misleading information
29 concerning the policy of insurance to which the certificate makes
30 reference, or assists, abets, solicits or conspires with another to do
31 any of these acts. As used in this paragraph, "certificate of
32 insurance" means a document or instrument, regardless of how
33 titled or described, that is, or purports to be, prepared or issued by
34 an insurer or insurance producer as evidence of property or casualty
35 insurance coverage. The term shall not include a policy of
36 insurance, insurance binder, policy endorsement, or automobile
37 insurance identification or information card.
- 38 b. A person or practitioner violates this act if he knowingly
39 assists, conspires with, or urges any person or practitioner to violate
40 any of the provisions of this act.
- 41 c. A person or practitioner violates this act if, due to the
42 assistance, conspiracy or urging of any person or practitioner, he
43 knowingly benefits, directly or indirectly, from the proceeds
44 derived from a violation of this act.
- 45 d. A person or practitioner who is the owner, administrator or
46 employee of any hospital violates this act if he knowingly allows
47 the use of the facilities of the hospital by any person in furtherance

1 of a scheme or conspiracy to violate any of the provisions of this
2 act.

3 e. A person or practitioner violates this act if, for pecuniary
4 gain, for himself or another, he directly or indirectly solicits any
5 person or practitioner to engage, employ or retain either himself or
6 any other person to manage, adjust or prosecute any claim or cause
7 of action, against any person, for damages for negligence, or, for
8 pecuniary gain, for himself or another, directly or indirectly solicits
9 other persons to bring causes of action to recover damages for
10 personal injuries or death, or for pecuniary gain, for himself or
11 another, directly or indirectly solicits other persons to make a claim
12 for personal injury protection benefits pursuant to P.L.1972, c.70
13 (C.39:6A-1 et seq.); provided, however, that this subsection shall
14 not apply to any conduct otherwise permitted by law or by rule of
15 the Supreme Court.

16 f. A person who operates a motor vehicle on the public
17 highways of this State, which motor vehicle is insured by a policy
18 issued under the laws of another state, and who maintains a
19 principal residence in this State or who has his motor vehicle
20 principally garaged in this State violates the provisions of P.L.1983,
21 c.320 (C.17:33A-1 et seq.) if he has knowingly prepared or made
22 any written or oral statement, presented to any insurance company
23 or producer licensed to transact the business of insurance under the
24 laws of that other state, and which resulted in obtaining a motor
25 vehicle insurance policy for his motor vehicle in that other state,
26 that the person to be insured:

27 (1) Maintains a principal residence in the other state when, in
28 fact, that person's principal residence is in this State; or

29 (2) Has his vehicle principally garaged in the other state, when,
30 in fact, that person has his motor vehicle principally garaged in this
31 State.

32 This subsection shall not apply to a person who insures a vehicle
33 in another state, as permitted by and in accordance with the laws of
34 that state, based on a second residence, or attendance at an
35 educational institution, in that other state, if in obtaining the policy
36 the person truthfully discloses to the insurance company or
37 producer the state of the person's principal residence and the state
38 where the vehicle is principally garaged.

39 g. A person, organization, or business violates the provisions of
40 P.L.1983, c.320 (C.17:33A-1 et seq.) if such person, organization,
41 or business purposely or knowingly:

42 (1) Makes a false or misleading statement, representation, or
43 submission, including failing to properly classify employees in
44 violation of state wage, benefit and tax laws as defined in section 1
45 of P.L.2009, c.194 (C.34:1A-1.11), for the purpose of evading the
46 full payment of insurance benefits or premiums; or

1 (2) Coerces, solicits, or encourages, or employs, contracts, or
2 otherwise conspires with a person to coerce, solicit, or encourage,
3 any individual to make a false or misleading statement,
4 representation or submission concerning any fact that is material to
5 a claim for insurance benefits, or the payment of insurance benefits
6 or insurance premiums, for the purpose of wrongfully obtaining the
7 benefits or of evading the full payment of the insurance benefits or
8 insurance premiums.

9 (cf: P.L.2015, c.195, s.10)

10

11 3. Section 5 of P.L.1983, c.320 (C.17:33A-5) is amended to
12 read as follows:

13 5. a. Whenever the commissioner determines that a person has
14 violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.), the
15 commissioner may either:

16 (1) bring a civil action in accordance with subsection b. of this
17 section; or

18 (2) levy a civil administrative penalty and order restitution in
19 accordance with subsection c. of this section.

20 In addition to or as an alternative to the remedies provided in this
21 section, the commissioner may request the Attorney General to
22 bring a criminal action under applicable criminal statutes.
23 Additionally, nothing in this section shall be construed to preclude
24 the commissioner from referring the matter to appropriate state
25 licensing authorities, including the insurance producer licensing
26 section in the Department of Banking and Insurance, for
27 consideration of licensing actions, including license suspension or
28 revocation.

29 b. Any person who violates any provision of P.L.1983, c.320
30 (C.17:33A-1 et seq.) shall be liable, in a civil action brought by the
31 commissioner in a court of competent jurisdiction, for a penalty of
32 not more than \$5,000 for the first violation, \$10,000 for the second
33 violation and \$15,000 for each subsequent violation, provided that
34 if the person violates section 4 of P.L.1983, c.320 (C.17:33A-4) the
35 penalty shall be \$5,000 for the first violation, \$10,000 for the
36 second violation and \$15,000 for each subsequent violation. The
37 penalty shall be paid to the commissioner to be used in accordance
38 with subsection e. of this section. The court shall also award court
39 costs and reasonable attorneys' fees to the commissioner.

40 c. The commissioner is authorized to assess a civil and
41 administrative penalty of not more than \$5,000 for the first
42 violation, \$10,000 for the second violation and \$15,000 for each
43 subsequent violation of any provision of P.L.1983, c.320
44 (C.17:33A-1 et seq.) and to order restitution to any insurance
45 company or other person who has suffered a loss as a result of a
46 violation of P.L.1983, c.320 (C.17:33A-1 et seq.), provided that if
47 the provision violated was subsection g. of section 4 of P.L.1983,

1 c.320 (C.17:33A-4), the commissioner shall assess a civil and
2 administrative penalty of \$5,000 for the first violation, \$10,000 for
3 the second violation and \$15,000 for each subsequent violation and
4 shall order restitution to any insurance company or other person
5 who has suffered a loss as a result of a violation of subsection g. of
6 section 4 of P.L.1983, c.320 (C.17:33A-1 et seq.) . No assessment
7 shall be levied pursuant to this subsection until the violator has been
8 notified by certified mail or personal service. The notice shall
9 contain a concise statement of facts providing the basis for the
10 determination of a violation of P.L.1983, c.320 (C.17:33A-1 et
11 seq.), the provisions of that act violated, a statement of the amount
12 of civil penalties assessed and a statement of the party's right to a
13 hearing in accordance with the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.). The noticed party shall have
15 20 calendar days from receipt of the notice within which to deliver
16 to the commissioner a written request for a hearing containing an
17 answer to the statement of facts contained in the notice. After the
18 hearing and upon a finding that a violation has occurred, the
19 commissioner may issue a final order assessing up to the amount of
20 the penalty in the notice, restitution, and costs of prosecution,
21 including attorneys' fees. If no hearing is requested, the notice shall
22 become a final order after the expiration of the 20-day period.
23 Payment of the assessment is due when a final order is issued or the
24 notice becomes a final order.

25 Any penalty imposed pursuant to this subsection may be
26 collected with costs in a summary proceeding pursuant to "the
27 penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior
28 Court shall have jurisdiction to enforce the provisions of the "the
29 penalty enforcement law" in connection with P.L.1983, c.320
30 (C.17:33A-1 et seq.). Any penalty collected pursuant to this
31 subsection shall be used in accordance with subsection e. of this
32 section.

33 d. Nothing in this section shall be construed to prohibit the
34 commissioner and the person or practitioner alleged to be guilty of
35 a violation of this act from entering into a written agreement in
36 which the person or practitioner does not admit or deny the charges
37 but consents to payment of the civil penalty. A consent agreement
38 may contain a provision that it shall not be used in a subsequent
39 civil or criminal proceeding relating to any violation of this act, but
40 notification thereof shall be made to a licensing authority in the
41 same manner as required pursuant to subsection c. of section 10 of
42 P.L.1983, c.320 (C.17:33A-10). The existence of a consent
43 agreement under this subsection shall not preclude any licensing
44 authority from taking appropriate administrative action against a
45 licensee over which it has regulatory authority, nor shall such a
46 consent agreement preclude referral to law enforcement for
47 consideration of criminal prosecution.

1 e. The New Jersey Automobile Full Insurance Underwriting
2 Association and Market Transition Facility Auxiliary Fund
3 (hereinafter referred to as the "fund") is established as a nonlapsing,
4 revolving fund into which shall be deposited all revenues from the
5 civil penalties imposed pursuant to this section. Interest received on
6 moneys in the fund shall be credited to the fund. The fund shall be
7 administered by the Commissioner of Banking and Insurance and
8 shall be used to help defray the operating expenses of the New
9 Jersey Automobile Full Insurance Underwriting Association created
10 pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) or shall be used to
11 help defray the operating expenses of the Market Transition Facility
12 created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).
13 (cf: P.L.1997, c.151, s.4)

14

15 4. Section 9 of P.L.1983, c.320 (C.17:33A-9) is amended to
16 read as follows:

17 9. a. (1) Any person who believes that a violation of this act
18 has been or is being made shall notify the bureau and the Office of
19 the Insurance Fraud Prosecutor immediately after discovery of the
20 alleged violation of this act and shall send to the bureau and office,
21 on a form and in a manner jointly prescribed by the commissioner
22 and the Insurance Fraud Prosecutor, the information requested and
23 such additional information relative to the alleged violation as the
24 bureau or office may require. The bureau and the office shall
25 jointly review the reports and select those alleged violations as may
26 require further investigation by the office for possible criminal
27 prosecution, and those that may warrant investigation and possible
28 civil action or enforcement proceeding by the bureau in lieu of or in
29 addition to criminal prosecution. The bureau and office may
30 consult, as necessary, the Department of Labor and Workforce
31 Development to assist with the investigation of the failure to
32 properly classify employees in violation of any provision of State
33 wage, benefit and tax laws as defined in section 1 of P.L.2009,
34 c.194 (C.34:1A-1.11) for the purpose of wrongfully obtaining the
35 benefits or of evading the full payment of the insurance benefits or
36 insurance premiums. The Insurance Fraud Prosecutor and the
37 assistant commissioner shall meet monthly to ensure that reports are
38 handled in an expedited fashion.

39 (2) Whenever the Bureau of Fraud Deterrence or any employee
40 of the bureau obtains information or evidence of a reasonable
41 possibility of criminal wrongdoing not previously known or
42 disclosed to the Office of the Insurance Fraud Prosecutor, the
43 bureau shall immediately refer that information or evidence to that
44 office. In determining whether a referral to the office is appropriate,
45 the bureau shall utilize appropriate levels of internal review, which
46 shall include but not be limited to approval at the assistant
47 commissioner level. Upon referral, the bureau shall provide the

1 office with all documents related to the referral consistent with
2 section 39 of P.L.1998, c.21 (C.17:33A-23).

3 b. No person shall be subject to civil liability for libel,
4 violation of privacy or otherwise by virtue of the filing of reports or
5 furnishing of other information, in good faith and without malice,
6 required by this section or required by the bureau or the Office of
7 the Insurance Fraud Prosecutor as a result of the authority conferred
8 upon it by law.

9 c. The commissioner may, by regulation, require insurance
10 companies licensed to do business in this State to keep such records
11 and other information as he deems necessary for the effective
12 enforcement of this act.

13 (cf: P.L.2010, c.32, s.4)

14

15 5. R.S.54:50-8 is amended to read as follows:

16 54:50-8. a. The records and files of the director respecting the
17 administration of the State Uniform Tax Procedure Law or of any
18 State tax law shall be considered confidential and privileged and
19 neither the director nor any employee engaged in the administration
20 thereof or charged with the custody of any such records or files, nor
21 any former officer or employee, nor any person who may have
22 secured information therefrom under subsection d., e., f., g., p., q.,
23 **[or]** r., or s. of R.S.54:50-9 or any other provision of State law,
24 shall divulge, disclose, use for their own personal advantage, or
25 examine for any reason other than a reason necessitated by the
26 performance of official duties any information obtained from the
27 said records or files or from any examination or inspection of the
28 premises or property of any person. Neither the director nor any
29 employee engaged in such administration or charged with the
30 custody of any such records or files shall be required to produce any
31 of them for the inspection of any person or for use in any action or
32 proceeding except when the records or files or the facts shown
33 thereby are directly involved in an action or proceeding under the
34 provisions of the State Uniform Tax Procedure Law or of the State
35 tax law affected, or where the determination of the action or
36 proceeding will affect the validity or amount of the claim of the
37 State under some State tax law, or in any lawful proceeding for the
38 investigation and prosecution of any violation of the criminal
39 provisions of the State Uniform Tax Procedure Law or of any State
40 tax law.

41 b. The prohibitions of this section, against unauthorized
42 disclosure, use or examination by any present or former officer or
43 employee of this State or any other individual having custody of
44 such information obtained pursuant to the explicit authority of State
45 law, shall specifically include, without limitation, violations
46 involving the divulgence or examination of any information from or

1 any copy of a federal return or federal return information required
2 by New Jersey law to be attached to or included in any New Jersey
3 return. Any person violating this section by divulging, disclosing or
4 using information shall be guilty of a crime of the fourth degree.
5 Any person violating this section by examining records or files for
6 any reason other than a reason necessitated by the performance of
7 official duties shall be guilty of a disorderly persons offense.

8 c. Whenever records and files are used in connection with the
9 prosecution of any person for violating the provisions of this section
10 by divulging, disclosing or using records or files or examining
11 records and files for any reason other than a reason necessitated by
12 the performance of official duties, the defendant shall be given
13 access to those records and files. The court shall review such
14 records and files in camera, and that portion of the court record
15 containing the records and files shall be sealed by the court.

16 (cf: P.L.2020, c.156, s.125)

17

18 6. R.S.54:50-9 is amended to read as follows:

19 54:50-9. Nothing herein contained shall be construed to prevent:

20 a. The delivery to a taxpayer or the taxpayer's duly authorized
21 representative of a copy of any report or any other paper filed by
22 the taxpayer pursuant to the provisions of this subtitle or of any
23 such State tax law;

24 b. The publication of statistics so classified as to prevent the
25 identification of a particular report and the items thereof;

26 c. The director, in the director's discretion and subject to
27 reasonable conditions imposed by the director, from disclosing the
28 name and address of any licensee under any State tax law, unless
29 expressly prohibited by such State tax law;

30 d. The inspection by the Attorney General or other legal
31 representative of this State of the reports or files relating to the
32 claim of any taxpayer who shall bring an action to review or set
33 aside any tax imposed under any State tax law or against whom an
34 action or proceeding has been instituted in accordance with the
35 provisions thereof;

36 e. The examination of said records and files by the
37 Comptroller, State Auditor or State Commissioner of Finance, or by
38 their respective duly authorized agents;

39 f. The furnishing, at the discretion of the director, of any
40 information contained in tax reports or returns or any audit thereof
41 or the report of any investigation made with respect thereto, filed
42 pursuant to the tax laws, to the taxing officials of any other state,
43 the District of Columbia, the United States and the territories
44 thereof, providing said jurisdictions grant like privileges to this
45 State and providing such information is to be used for tax purposes
46 only;

- 1 g. The furnishing, at the discretion of the director, of any
2 material information disclosed by the records or files to any law
3 enforcing authority of this State who shall be charged with the
4 investigation or prosecution of any violation of the criminal
5 provisions of this subtitle or of any State tax law;
- 6 h. The furnishing by the director to the State agency
7 responsible for administering the Child Support Enforcement
8 program pursuant to Title IV-D of the federal Social Security Act,
9 Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home
10 addresses, social security numbers and sources of income and assets
11 of all absent parents who are certified by that agency as being
12 required to pay child support, upon request by the State agency and
13 pursuant to procedures and in a form prescribed by the director;
- 14 i. The furnishing by the director to the Board of Public
15 Utilities any information contained in tax information statements,
16 reports or returns or any audit thereof or a report of any
17 investigation made with respect thereto, as may be necessary for the
18 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
19 P.L.1997, c.162 (C.54:10A-5.25 et al.);
- 20 j. The furnishing by the director to the Director of the Division
21 of Alcoholic Beverage Control in the Department of Law and
22 Public Safety any information contained in tax information
23 statements, reports or returns or any audit thereof or a report of any
24 investigation made with respect thereto, as may be relevant, in the
25 discretion of the director, in any proceeding conducted for the
26 issuance, suspension or revocation of any license authorized
27 pursuant to Title 33 of the Revised Statutes;
- 28 k. The inspection by the Attorney General or other legal
29 representative of this State of the reports or files of any tobacco
30 product manufacturer, as defined in section 2 of P.L.1999, c.148
31 (C.52:4D-2), for any period in which that tobacco product
32 manufacturer was not or is not in compliance with subsection a. of
33 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
34 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
35 2), for the purpose of facilitating the administration of the
36 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);
- 37 l. The furnishing, at the discretion of the director, of
38 information as to whether a contractor or subcontractor holds a
39 valid business registration as defined in section 1 of P.L.2001, c.134
40 (C.52:32-44);
- 41 m. The furnishing by the director to a State agency as defined in
42 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
43 subject to suspension for non-payment of State tax indebtedness
44 pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);
- 45 n. The release to the United States Department of the Treasury,
46 Bureau of Financial Management Service, or its successor of
47 relevant taxpayer information for purposes of implementing a

1 reciprocal collection and offset of indebtedness agreement entered
2 into between the State of New Jersey and the federal government
3 pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

4 o. The examination of said records and files by the
5 Commissioner of Health and Senior Services, the Commissioner of
6 Human Services, the Medicaid Inspector General, or their
7 respective duly authorized agents, pursuant to section 5 of
8 P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413
9 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

10 p. The furnishing at the discretion of the director of employer
11 provided wage and tax withholding information contained in tax
12 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
13 54A:7-7, to the designated municipal officer of a municipality
14 authorized to impose an employer payroll tax pursuant to the
15 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
16 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
17 limited purpose of verifying the payroll information reported by
18 employers subject to the employer payroll tax;

19 q. The furnishing by the director to the Commissioner of Labor
20 and Workforce Development of any information, including, but not
21 limited to, tax information statements, reports, audit files, returns,
22 or reports of any investigation for the purpose of labor market
23 research or assisting in investigations pursuant to any State wage,
24 benefit or tax law as enumerated in section 1 of P.L.2009, c.194
25 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et
26 seq.).

27 r. The furnishing by the director to the New Jersey Economic
28 Development Authority any information contained in tax
29 information statements, reports or returns, or any audit thereof or a
30 report of any investigation made with respect thereto, as may be
31 relevant to assist the authority in the implementation of programs
32 through which grants, loans, tax credits, or other forms of financial
33 assistance are provided. The director shall provide to the New
34 Jersey Economic Development Authority, upon request, such
35 information.

36 s. The furnishing by the director to the Commissioner of
37 Banking and Insurance of any information, including, but not
38 limited to, tax information statements, reports, audit files, returns,
39 or reports of any investigation for the purpose of assisting in
40 investigations pursuant to any insurance fraud investigation as
41 enumerated in P.L.1983, c.320 (C.17:33A-1 et seq.).

42 (cf: P.L.2020, c.156, s.126)

43

44 7. This bill shall take effect on the first day of the sixth month
45 next following the date of enactment.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14

This bill streamlines the identification of employee misclassification. Specifically, the bill makes misclassifying employees for the purpose of evading payment of insurance premiums a violation of the New Jersey Insurance Fraud Prevention Act. Additionally, the bill specifies penalties for fraud when a misclassification occurs. The bill provides additional resources to DOBI to investigate misclassification as a violation of the New Jersey Insurance Fraud Prevention Act, including consultation by the Bureau of Fraud Deterrence with the Department of Labor and Workforce Development and the authorization of the release of tax information to the Commissioner of Banking and Insurance for the purpose of insurance fraud investigations.