

MURPHY'S LATEST EXECUTIVE ORDER LOOKS TO CRACK DOWN ON MISCLASSIFIED WORKERS

JOHN REITMEYER | MAY 4, 2018

EO would create task force to identify companies classifying full-time workers as independent contractors, a practice that costs state some \$9 million every year



Gov. Phil Murphy's latest executive order calls for the creation of a new task force that will help the state more effectively go after companies that intentionally misclassify their employees to avoid paying taxes and other costs.

The misclassification of workers, which typically occurs when companies list employees as independent contractors instead of on their books, is particularly prevalent in the construction industry. Murphy signed the order yesterday at the Northeast

Regional Council of Carpenters training center in Edison.

"It hurts workers; it hurts honest, law-abiding businessmen that can no longer compete in our industry against such unscrupulous practices," said John Ballantyne, executive secretary-treasurer of the carpenters' organization.

The **executive order** signed by Murphy calls for a 12-member task force to be set up to evaluate the state's current enforcement practices. It also asks the task force to come up with ways to improve enforcement and to review current laws to determine whether any improvements should be made to better crack down on employee misclassification.

Building a fairer economy

"We cannot build a stronger and fairer economy without strong workplace protections that ensure fairness," Murphy said. "Through this task force, we will ensure New Jersey has just that."

The governor's signing of the order, which is his 25th since taking office in January, came on the same day Attorney General Gurbir Grewal announced that his office had joined a multistate brief with 12 other states that urges the National Labor Relations Board to declare employee misclassification a violation of federal labor laws.

A 2016 study by **Stockton University** looked at the issue of misclassifying workers as part of a broader report on the state's "Underground Construction Industry," which also involves paying workers under the table in addition to misclassifying them as independent contractors.

According to the report, companies give their workers a 1099 tax form as if they were self-employed, instead of the typical W-2 form that's given to other employees. Businesses do this to avoid paying mandatory payroll taxes, including for Social Security, Medicare, unemployment insurance, workers compensation, and paid family-leave insurance, the report said.

"Businesses that misclassify may also evade labor laws such as minimum and prevailing wages, overtime payments, and laws that protect collective-bargaining rights," the report said.

Under the table

In all, the Stockton study determined some 35,000 workers in New Jersey are being paid either under the table or through a misclassified position, with misclassified workers costing the state an estimated \$9 million in lost revenue annually.

State Department of Labor Commissioner Rob Asaro-Angelo said the task force would also boost efforts to improve safety at worksites in New Jersey since misclassification can be used to skirt federal Occupational Safety and Health Administration standards.

“The action the governor is taking today will lead to safer workplaces and will save lives,” Asaro-Angelo said.

The task force will also help workers in other industries where the practice occurs, in addition to construction, he said.

Murphy’s order calls for the task force to be made up of officials from his own administration. They include three representatives from the Department of Labor and Workforce Development and three from the Department of the Treasury. The task force will also include one representative each from the departments of Law and Public Safety, Agriculture, Banking and Insurance, Human Services, and Transportation. The last member will be a representatives of the state Economic Development Authority, according to the order.

“Let there be no doubt, if you practice 1099 fraud, we’re going to either bring you into compliance or we’re going to put you out of business. Period,” Murphy said.

