

New Jersey Temporary Workers' Bill of Rights and Manufacturing Employers Using Temporary Laborers

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New Jersey's [Temporary Workers' Bill of Rights](#) law went into effect on Aug. 5, 2023, and vastly changed the landscape for manufacturing employers who use temporary laborers.

The law provides temporary laborers significant rights regarding their employment through temporary help service firms, places burdensome obligations on employers who use temporary laborers, and boosts the cost to employers using temporary laborers. The New Jersey Department of Labor and Workforce Development (NJDOL) issued proposed regulations on July 21, 2023, but it has not issued the final regulations.

A "temporary help service firm" is any person or entity who employs individuals for the purpose of assigning those individuals to assist the firm's customers in the handling of temporary, excess, or special workloads and is responsible for the payment of wages or salaries, federal social security taxes, state and federal unemployment insurance, and workers' compensation insurance.

Temporary Laborers Assigned to Certain Manufacturing Positions Are Covered

The Bill of Rights applies to temporary laborers that contract for employment with a temporary help service firm in certain designated classification placement.

"Designated classification placement" means an assignment of a temporary laborer by a temporary help service firm to perform work in certain occupational categories (as designated by the U.S. Bureau of Labor Statistics), including but not limited to:

- 37-0000 Building and Grounds Cleaning and Maintenance Occupations;
- 49-0000 Installation, Maintenance, and Repair Occupations;
- 51-0000 Production Occupations; and
- 53-0000 Transportation and Material Moving Occupations.

These classifications cover many positions within a manufacturing facility, which means the obligation under the Bill of Rights law will apply.

Obligations of Temporary Help Service Firms

Temporary help service firms that supply temporary laborers to manufacturing clients have extensive notice, recordkeeping, registration, and payment obligations under the law. Below summarizes the obligations of a temporary help service firm:

- **Notice Obligations:** Post a notice regarding the Bill of Rights and provide a written statement to each temporary laborer containing specific, itemized information on the terms and condition of the engagement. See NJDOL's form: Temporary Laborer Assignment Notice ([MW-23](#)) ([5-17-23](#)) (nj.gov).

- *Recordkeeping Requirements:* Maintain records of each temporary laborer as provided in the law. The records must be maintained for at least six years.
- *Registration Obligations:* Register and pay a \$2,000 annual fee with the NJDOL.
- *Wage and Hour Obligations:* Pay temporary laborers not less than the average rate of pay and average cost of benefits, or the cash equivalent, of employees of the third-party client performing the same or substantially similar work on jobs that require equal skill, effort, and responsibility to perform, and which are performed under similar working conditions for the third-party client at the time the laborer is assigned to work. The law also details other requirements.

Obligations of Manufacturing Client Using Temporary Laborers

If a manufacturing company uses temporary laborers, it has specific obligations under the law that could increase costs and substantial penalties. The manufacturing company is obligated to:

- Provide the temporary help service firm a list of the hourly rates of pay and cost per hour of benefits for each employee that performs the same or substantially similar work to that of the temporary laborer(s) requiring equal skill, effort, and responsibility, and which is performed under similar working conditions.
- Provide the temporary help service firm the name, address, specific location(s), type of work performed, the number of hours worked, the hourly rate of pay, and the date sent for each temporary laborer used no later than seven days following the last day of the workweek worked by the temporary laborer.
- Provide the temporary laborer a work verification form at the end of the workday containing the date, the temporary laborer's name, the work location, and the hours worked on that day, if the temporary laborer works only a single day. See NJDOL's form: [Temporary Laborer Single-Day Work Verification \(MW-51S\) \(7/23\) \(nj.gov\)](#)
- Verify a temporary help service firm's registration status at the time of contract and on March 1 and September 1 each year.
- Not retaliate against any temporary laborer for exercising rights granted under the Bill of Rights. If a temporary laborer is terminated within 90 days of the laborer's exercise of protected activity, a rebuttable presumption the termination was retaliatory will be established.

Enforcement

The Bill of Rights allows the NJDOL to levy administrative penalties between \$500 and \$5,000 for each violation. On top of administrative penalties, a person aggrieved by a violation of the Bill of Rights by a temporary help service firm or third-party client can institute a private cause of action in Superior Court.

Impact of Bill of Rights

Manufacturing clients who are using or intend to use temporary laborers in a "Designated classification placement" position must determine whether the additional costs,

administrative burdens, and potential penalties under the Temporary Workers' Bill of Rights law is worth it. The obligation to pay temporary laborers the average rate of pay and average costs of benefits as the manufacturing company's own employees likely will increase the costs of using temporary laborers. The administrative burden of providing information, posting notices, and ensuring compliance are additional costs. While use of temporary laborers may still be necessary, a manufacturing company must ensure compliance with the new law to avoid potentially substantial penalties and lawsuits.

Jackson Lewis attorneys can assist with any aspect of compliance and answer any questions regarding the provisions or applicability of the new law. For assistance, please contact your Jackson Lewis attorney.

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