

Significant Changes to NJ Employment Laws



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THESE CHANGES MAY IMPACT YOUR DEALERSHIP

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"Ban the Box" Becomes Law: Limits Employers' Interview Questions About Criminal Records

The "Opportunity to Compete Act," commonly referred to as "Ban the Box," took effect on March 1, 2015. The new law, which prohibits employers from asking job applicants about their criminal background until after the first interview, applies to employers with 15 or more employees in N.J. However, if a job applicant voluntarily discloses their criminal history, an employer is permitted to make inquiries before or during the initial interview. The new law also prohibits the advertisement or solicitation of applications which state the employer will not consider an applicant with prior criminal arrests.

The law does not subject employers to civil lawsuits. Violations subject employers to a \$1,000 penalty for the first violation, \$5,000 for the second, and \$10,000 for each subsequent violation, collectible by the New Jersey Department of Labor and Workforce Development.

What this means for your dealership:

Dealerships should review their hiring policies and practices to ensure compliance with the new law. Specifically, dealerships should eliminate any application questions about criminal history and ensure that advertisements and online job postings do not contain any references to an applicant's criminal history. Additionally, all personnel involved in the hiring process should know about the new law and receive training about its impact.

New Jersey Supreme Court Ruling Significantly Restricts Employers' Ability to Classify Workers as Independent Contractors

In February 2015, the New Jersey Supreme Court held that the "ABC test" used for worker's compensation purposes will now be used to determine if a person is an employee or

independent contractor in resolving whether he or she received proper pay and overtime wages. (The "ABC test" is far broader than the definitions used by either the IRS or for unemployment purposes.)

The "ABC test" assumes workers are employees for purposes of pay and overtime if either of the following tests is met:

- The business retains the right to supervise the individual and control what is done as well as how it shall be done.
- The individual relies on the income from the business and the work performed by the individual is an integral part of the activities of the business. (In other words, the worker would need a profession that would persist despite the termination of the challenged relationship to be considered an independent contractor.)

What this means for your dealership:

Unlike independent contractors, regular employees must be paid minimum wage and overtime consisting of time and a half. The improper classification of workers can result in payment of unpaid wages, potential fines and attorney's fees and costs.

Dealerships should review their policies to determine if they are properly classifying workers as employees or independent contractors. 🚗

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