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Overview for Employers: The New Jersey Domestic Workers Bill of Rights

Kathryn Hyde

Greenbaum, Rowe, Smith & Davis LLP Client Alert

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What You Need to Know

- The New Jersey Domestic Workers Bill of Rights provides protections for, and establishes guidelines related to the hiring of, hourly or salaried individuals who work in a residence to provide services such as childcare, care for the elderly or disabled, housekeeping, cooking, food service, parking cars, cleaning, laundry, gardening, personal organizing, or other household duties.
- Under the law, workers are also protected under the New Jersey Law Against Discrimination, which prohibits discrimination and harassment in employment, housing, and public accommodations based on various characteristics, including race, nationality, and gender.
- Employers must be cognizant of their responsibilities under the law, which became effective in July of 2024, and should familiarize themselves – and take steps to comply – with all relevant provisions.

The New Jersey Domestic Workers Bill of Rights, which went into effect on July 1, 2024, outlines a comprehensive set of rights for domestic workers employed in private households. These include protections against discrimination and harassment, privacy rights, and requirements for written employment contracts. In order to bring transparency and accountability to a workforce that is often overlooked, the law further establishes guidelines for fair pay, employment benefits, and safe working conditions. It also provides domestic workers with legal recourse in the event of violations.

Accordingly, it is important for employers to be aware of these requirements to ensure compliance and avoid legal consequences.

Attorneys

Kathryn Hyde

Who is a Domestic Worker?

A domestic worker is an hourly or salaried employee, whether full-time, part-time, or temporary, who works in a residence to provide services such as childcare, care for the elderly or disabled, housekeeping, cooking, food service, parking cars, cleaning, laundry, gardening, personal organizing, or other household duties. However, the term domestic worker explicitly excludes several categories, including: (1) family members; (2) individuals primarily engaged in house sitting, pet sitting, or dog walking; (3) individuals working at a business primarily run from the residence, like a home day-care business; (4) individuals who primarily work in household repair or maintenance such as roofers, plumbers, or painters; (5) employees of the state or federal government; and (6) kinship legal guardians.

The Distinction Between Employees and Independent Contractors

If an employee is misclassified as an independent contractor but is actually an employee, or if they are compensated in cash off the books, that worker is still entitled to his/her rights under the New Jersey Domestic Workers Bill of Rights. Therefore, employers must understand the distinction between employees and independent contractors.

Under New Jersey law, a worker is presumed an employee unless the employer can demonstrate that the worker is free from control or direction over the performance of service, the service provided by the worker is either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise, and the worker is customarily engaged in an independently established trade, occupation, profession, or business.

Employer Responsibilities Under the New Jersey Domestic Workers Bill of Rights

Employers must be cognizant of their responsibilities under the New Jersey Domestic Workers Bill of Rights to mitigate the risk of legal disputes concerning wages, work hours, and treatment of workers. This is particularly important for private households who hire babysitters and/or nannies, as this law imposes specific legal protections and requirements that were generally uncommon in the past. For example, most families would traditionally hire babysitters or nannies through informal, trust-based agreements rather than formal written contracts, due to the perceived short-term nature of the work. However, under the New Jersey Domestic Workers Bill of Rights, employers of domestic workers (working five or more hours per month) must execute written contracts with their employees. Employers are responsible for creating the contracts and cannot retaliate against their employees for requesting a contract.

Furthermore, under the New Jersey Domestic Workers Bill of Rights, workers are now protected under the New Jersey Law Against Discrimination (NJLAD), which prohibits discrimination and harassment in employment, housing, and public accommodations based on various characteristics, including race, nationality, and gender. Employers may also face fines and penalties for retaliation, as domestic workers cannot be punished for filing complaints to enforce their rights or discussing alleged violations of their rights.

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Other important requirements under the New Jersey Domestic Workers Bill of Rights include:

- Employees are entitled to regular pay of at least the state minimum wage, and the rate agreed to when hired.
- If an employee works over 40 hours per week, that employee is entitled to 1.5 times his/her hourly rate for those hours.
- Employers must provide up to 40 hours of earned sick leave for employees to care for themselves or loved ones.
- Employers must provide their employees with 10-minute paid breaks every four hours and cannot prevent or discourage employees from taking rest breaks.
- Employees are entitled to a 30-minute meal break after more than five hours worked consecutively.
- Employers cannot keep original copies of any personal documents belonging to their employees.
- Employers must have Workers' Compensation insurance for their employees.
- Employers must comply with occupational health and safety standards to reduce risks and hazards in the workplace.
- Employees are entitled to a minimum of two weeks' notice before termination of employment.

Taking Steps to Comply

To ensure compliance with the New Jersey Domestic Workers Bill of Rights, employers should take the following steps:

- Familiarize themselves with all relevant provisions of the law.
- Draft clear, written contracts for domestic workers, which outline terms of employment, work hours, compensation, and responsibilities.
- Keep accurate records of wages paid, hours worked, and any additional benefits provided to employees.
- Establish policies that promote a non-discriminatory and harassment-free workplace in accordance with the NJLAD.
- Ensure that employees receive the required benefits, including earned sick leave and meal/rest breaks.
- Provide necessary workers' compensation coverage.
- Comply with all applicable occupational health and safety standards.

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Please contact the author of this Alert with questions concerning your responsibilities as an employer under the New Jersey Domestic Workers Bill of Rights.

Kathryn Hyde

Associate, Corporate, Employment Law and Litigation Departments

khyde@greenbaumlaw.com

732.476.2470