

NJ'S ABC RULE ADOPTION

KNOWING THE FACTS • N.J.A.C. 12:11 • NJDOL

New Jersey Department of Labor and Workforce Development

THE BOTTOM LINE:

We listened. We clarified. We delivered a rule that protects workers AND supports legitimate independent businesses.

WE HEARD YOU — AND WE RESPONDED

- **Open process:** Extended the 60-day comment period to 90 days, conducted an open public hearing, received thousands of public comments — and took them seriously.
- **Responsive:** Heard feedback, including from the business community — made changes that address feedback.
- **Existing statutory exemptions from coverage under the Unemployment Compensation Law (UCL) and other laws not impacted:** Exemptions from UCL coverage for insurance agents, agents of mutual fund brokers or dealers in the sale of mutual funds or other securities, and owner/operators of large trucks (18,000 pounds or more) – all explicitly preserved.
- **Home-based Independent Contractors (IC) work protected:** An individual's home where they perform remote work is not included among the potential employer's places of business — providing an express path to meet Prong B requirement for freelancers and others who work from home.

IN LINE WITH THE LAW — NOTHING NEW

- **ABC test not new:** The ABC test has been the statutory test for independent contractor status in New Jersey for 90 years.
- **Court-backed:** Codifies decades of NJ court precedent — Carpet Remnant Warehouse (1991) and East Bay Drywall (2022).
- **A direct mandate:** The NJ Supreme Court unanimously called on NJDOL to issue regulations.
- **No surprises:** Does not create new obligations — clarifies existing ones so employers can comply with confidence.

A WIN FOR LEGITIMATE BUSINESSES

- **Clarity for employers:** Employers have one source for clear, consistent guidance — no more relying on a patchwork of case law for guidance on worker classification.
- **ICs are affirmed:** Legitimate ICs who operate independent businesses are explicitly affirmed and protected.
- **Fair competition:** Levels the playing field — stops bad actors from undercutting compliant businesses.

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We heard from New Jersey's business community and workers — and we acted on it. We removed provisions in the draft rules that created uncertainty and built a framework shaped by their input, one that protects legitimate independent contractors, supports employees, and respects businesses that follow the rules.

At its core, this action has always been about protecting workers through fairness and clarity. When expectations are set, responsible employers can compete on a level playing field, without being undercut by those who misclassify workers.

– ACTING COMMISSIONER KEVIN D. JARVIS

THE 90 YEAR-OLD 3-PRONG ABC TEST — SIMPLY PUT

A

Worker has been and will continue to be free from control or direction over the performance of services.

B

Work performed is either outside the usual course of the business for which the work is being performed, or the work is performed outside of all the places of business of the enterprise for which the work is performed.

C

Worker is customarily engaged in an independently established trade, occupation, profession, or business.

KEY MESSAGES FOR STAKEHOLDERS:

- This rule doesn't change the law — it explains it clearly.
- Businesses asked for guidance. We delivered it.
- Independent contractors are protected, not threatened.
- Compliance is now clearer and more consistent than ever.



NJ.GOV/LABOR