

A Summary of Vermont's Debarment Laws

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Debarment Provisions in Vermont Labor Statutes:

- 8 V.S.A. § 3661(c)
 - “An employer who makes a false statement or representation that results in a lower workers' compensation premium . . . may be assessed an administrative penalty of not more than \$20,000.00 in addition to any other appropriate penalty. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate.”
- 21 V.S.A. § 692(b)
 - “If an employer fails to comply with the provisions of section 687 of this title (security for workers' compensation) after investigation by the Commissioner, the Commissioner shall issue an emergency order to that employer to stop work until the employer has secured workers' compensation insurance. . . . An employer against whom a stop-work order has been issued is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for a period of up to three years following the date of the issuance of the stop-work order, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate.”
- 21 V.S.A. § 708
 - “A person who willfully makes a false statement or representation, for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for herself or himself or for any other person . . . may be assessed an administrative penalty of not more than \$20,000.00, and shall forfeit all or a portion of any right to compensation under the provisions of this chapter . . . In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have made a false statement or misrepresentation of a material fact, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate.”
- 21 V.S.A. § 1314a
 - Properly classify an individual regarding the status of employment is subject to a penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate.”

History:

- 2010 Act 142 created the four debarment provisions in Vermont's workers' compensation and unemployment insurance laws. In addition, it:
 - Directed the Department of Labor to create an online employee misclassification reporting system.
 - Added monetary penalties for a violation of a stop-work order under 21 V.S.A. § 692.
 - Added monetary penalties for employee misclassification and making false statements in relation to unemployment insurance.
 - Required the Agency of Administration to ensure that the State does not contract with employers who are on the State's debarment list, which is published on the BGS website.
 - Added anti-retaliation provisions to protect workers that report employee misclassification related to workers' compensation.
 - Required the Secretary of Administration to ensure coordination between State agencies in relation to enforcing laws prohibiting misclassification and required reports enforcement efforts be submitted to the General Assembly in 2011 and 2012.
- The criminal penalty for workers' compensation fraud provided pursuant to 13 V.S.A. § 2024, was added by 1994 Act 225.
- On September 8, 2012, Governor Shumlin signed Executive Order No. 08-12, establishing the Governor's Task Force on Employee Misclassification.
- An audit performed by the State Auditor in 2015 made several recommendations for reducing the incidence of misclassification. One recommendation was to adopt administrative rules necessary to assess misclassification penalties authorized by statute, such as debarment.
 - The report notes on pages 15 and 16, that the debarment penalties had not been used because the Department had not adopted the necessary rules and procedures.
 - Since the audit was performed, the Department has adopted Workers' Compensation Rule 45, which will enable it to impose debarment penalties for employee misclassification related to workers' compensation.