

NEW YORK STATE

DEPARTMENT OF LABOR

INTER-OFFICE MEMORANDUM

DATE: April 1, 1987

TO: Richard Polsinello OFFICE: Albany, Division of
Acting Director Labor Standards

FROM: Barbara C. Deinhardt OFFICE: Counsel's - Albany

SUBJECT: Article 12-A, Apparel Industry Task Force

You have requested an opinion as to whether only manufacturers or contractors employing "production employees" may be required to register under the above legislation. A response to this question must turn on a determination of legislative intent.

The legislation in new Section 340(c), (d), (e) defines "Apparel industry", "manufacturer" and "contractor". From these definitions, it appears that the legislation covers only persons or firms who are in this industry for profit and that the persons intended to be protected are the employees of these manufacturers or contractors. The requirement of Section 341(1) for documentation of workers' compensation insurance which would be necessary only in the case of an employer-employee relationship further strengthens this interpretation. Registration should therefore be limited to contractors who are in business for profit in the apparel industry and should not include individuals making a few items for their own purposes.

With regard to the term of registration, the statute requires that registrations shall be filed on or before January 15th of each year and be effective for twelve months. As we discussed with respect to existing employers, while there is some ambiguity in the statute, it seems most appropriate to have the initial registration effective from January 15, 1988 to January 14, 1989. The Division of Labor Standards may begin sending out application forms and requiring their completion prior to that date, but the effective date would be January 15, 1988. The initial fee would be \$100.

With respect to new employers, the registration must be filed upon commencement of manufacturing or contracting in the apparel industry and shall be effective until the following January fifteenth. This is very similar, except for effective dates, to the method by which Farm Labor Contractor Certificates are presently administered and a similar procedure would seem to be equally feasible for these Apparel

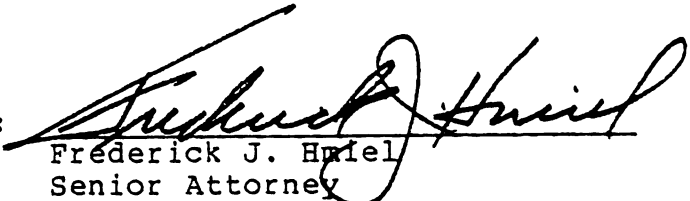
Industry Certificates. It is within the discretion of the Commissioner whether or not to pro-rate the initial application fee for those contractors entering in mid-year.

With respect to Section 343 (Duties) and 344 (Powers), Section 343 spells out the duties of the Task Force and 344 grants the Task Force the authority or power to carry out these duties; it puts teeth in 343 and avoids any later claims that the Task Force acted outside its authority. Simply put, the two sections mean the Task Force has the authority to carry out the duties imposed upon it under law.

By memo of February 9, 1987, you inquire whether manufacturers may be required to list the names and addresses of their contractors and contractors to list the names and addresses of the manufacturers for whom they work. In my opinion, requiring such information is a reasonable interpretation of the statute, it is necessary in order to carry out the intent of the statute, and is permissible.

Barbara C. Deinhardt
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for Legal Affairs

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