

Memo

Date: November 26, 1990

To: Hugh McDaid Office: AITC

Attn: Ellen Davidow Office: AITC

From: Charles Horwitz & M Office: Counsel's

Re: Certification of Registration/Article 12-A of the
Labor Law

This is in response to your question about whether the NYS Department of Labor may withhold the issuance of a Certificate of Registration under Article 12-a of the Labor Law until the applicant submits documents required by the application including a copy of a Corporation's certificate of incorporation filed with the Secretary of State. Section 341 of the Labor Law requires that applicants submit a "completed registration form and documentation that a workers' compensation insurance policy is in effect..." accompanied by a registration fee. Although the Department's application form requires that corporations submit a certificate of incorporation the statute does not. Accordingly, it would be unlawful to withhold or deny issuance of a registration certificate until the above mentioned incorporation documents are submitted. Moreover, an applicant must be considered to have complied with the filing certificate deadline requirement in section 341 upon the Department's receipt of its completed registration form, proof of worker's compensation and the proper fee. In our opinion however, there is no legal objection for the Department to delay issuance of the certificate for a short time, e.g., two or three weeks, following a request to the applicant to submit the above mentioned documents.

cc: Diane Fiano