

**ASSEMBLY BILL**

**No. 2242**

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**Introduced by Assembly Member Koretz**

February 20, 2002

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An act to amend Section 1197.1 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 2242, as introduced, Koretz. Payment of wages; penalties.

Existing law prohibits an employer or other person acting either individually or as an officer, agent, or employee of another person, from paying or causing to be paid to an employee a wage less than the minimum fixed by an order of the Industrial Welfare Commission. Existing law imposes, for any initial violation that is intentionally committed by an employer or that person, a civil penalty of \$50 for each underpaid employee for each pay period for which the employee is underpaid.

This bill would increase the amount of the civil penalty that may be imposed to \$75.

Existing law imposes, for any subsequent violation of the same specific offense, a civil penalty of \$250 for each underpaid employee for each day period for which the employee is underpaid, regardless of whether the initial violation is intentionally committed.

This would increase the amount of the civil penalty for subsequent violations to \$300.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1197.1 of the Labor Code is amended to  
2 read:

3 1197.1. (a) Any employer or other person acting either  
4 individually or as an officer, agent, or employee of another person,  
5 who pays or causes to be paid to any employee a wage less than the  
6 minimum fixed by an order of the commission shall be subject to  
7 a civil penalty as follows:

8 (1) For any initial violation that is intentionally committed,  
9 ~~fifty~~ *seventy-five* dollars ~~(\$50)~~ *(\$75)* for each underpaid employee  
10 for each pay period for which the employee is underpaid.

11 (2) For each subsequent violation for the same specific offense,  
12 ~~two three hundred fifty~~ dollars ~~(\$250)~~ *(\$300)* for each underpaid  
13 employee for each pay period for which the employee is underpaid  
14 regardless of whether the initial violation is intentionally  
15 committed.

16 (b) If, upon inspection or investigation, the Labor  
17 Commissioner determines that a person has paid or caused to be  
18 paid a wage less than the minimum, the Labor Commissioner may  
19 issue a citation to the person in violation. The citation may be  
20 served personally or by registered mail in accordance with  
21 subdivision (c) of Section 11505 of the Government Code. Each  
22 citation shall be in writing and shall describe the nature of the  
23 violation, including reference to the statutory provision alleged to  
24 have been violated. The Labor Commissioner promptly shall take  
25 all appropriate action, in accordance with this section, to enforce  
26 the citation and to recover the civil penalty assessed in connection  
27 with the citation.

28 (c) If a person desires to contest a citation or the proposed  
29 assessment of a civil penalty therefor, the person shall, within 15  
30 business days after service of the citation, notify the office of the  
31 Labor Commissioner that appears on the citation of his or her  
32 request for an informal hearing. The Labor Commissioner or his  
33 or her deputy or agent shall, within 30 days, hold a hearing at the  
34 conclusion of which the citation or proposed assessment of a civil  
35 penalty shall be affirmed, modified, or dismissed.

36 The decision of the Labor Commissioner shall consist of a  
37 notice of findings, findings, and an order, all of which shall be  
38 served on all parties to the hearing within 15 days after the hearing



1 by regular first-class mail at the last known address of the party on  
2 file with the Labor Commissioner. Service shall be completed  
3 pursuant to Section 1013 of the Code of Civil Procedure. Any  
4 amount found due by the Labor Commissioner as a result of a  
5 hearing shall become due and payable 45 days after notice of the  
6 findings and written findings and order have been mailed to the  
7 party assessed. A writ of mandate may be taken from this finding  
8 to the appropriate superior court. The party shall pay any judgment  
9 and costs ultimately rendered by the court against the party for the  
10 assessment. The writ shall be taken within 45 days of service of the  
11 notice of findings, findings, and order thereon.

12 (d) A person to whom a citation has been issued shall, in lieu  
13 of contesting a citation pursuant to this section, transmit to the  
14 office of the Labor Commissioner designated on the citation the  
15 amount specified for the violation within 15 business days after  
16 issuance of the citation.

17 (e) When no petition objecting to a citation or the proposed  
18 assessment of a civil penalty is filed, a certified copy of the citation  
19 or proposed civil penalty may be filed by the Labor Commissioner  
20 in the office of the clerk of the superior court in any county in  
21 which the person assessed has or had a place of business. The clerk,  
22 immediately upon the filing, shall enter judgment for the state  
23 against the person assessed in the amount shown on the citation or  
24 proposed assessment of a civil penalty.

25 (f) When findings and the order thereon are made affirming or  
26 modifying a citation or proposed assessment of a civil penalty after  
27 hearing, a certified copy of these findings and the order entered  
28 thereon may be entered by the Labor Commissioner in the office  
29 of the clerk of the superior court in any county in which the person  
30 assessed has property or in which the person assessed has or had  
31 a place of business. The clerk, immediately upon the filing, shall  
32 enter judgment for the state against the person assessed in the  
33 amount shown on the certified order.

34 (g) A judgment entered pursuant to this section shall bear the  
35 same rate of interest and shall have the same effect as other  
36 judgments and be given the same preference allowed by the law  
37 on other judgments rendered for claims for taxes. The clerk shall  
38 make no charge for the service provided by this section to be  
39 performed by him or her.



- 1 (h) The civil penalties provided for in this section are in
- 2 addition to any other penalty provided by law.
- 3 (i) This section shall not apply to any order of the commission
- 4 relating to household occupations.

