

Assembly Bill No. 1132

CHAPTER 214

An act to amend Section 2664 of the Labor Code, relating to employment.

[Approved by Governor August 9, 2003. Filed with Secretary of State August 11, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, Koretz. Employment.

Under existing law, articles or material unlawfully manufactured at home may be removed by the Division of Labor Standards Enforcement. The division retains the articles or materials for 30 days or until the final determination of any court action, and may then dispose of the articles or material.

This bill would provide that the confiscated articles or material may not be sold. It would further provide that notice shall be given of the confiscation and of the right to appeal, and if a timely notice of appeal is filed, the Labor Commissioner shall hold a hearing, which is required to be recorded. After the hearing, the Labor Commissioner must issue a decision with findings of fact and legal analysis, and may order the return of none, some, or all of the confiscated articles and materials. Finally, it provides that judicial review is available by petition for writ of mandate.

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

SECTION 1. Section 2664 of the Labor Code is amended to read:

2664. (a) Any article or material which is being manufactured in a home in violation of any provision of this part may be confiscated by the division. Articles or material confiscated pursuant to this section shall be placed in the custody of the division, which shall be responsible for destroying or disposing of them pursuant to regulations adopted under Section 2666, provided that the articles or material shall not enter the mainstream of commerce and shall not be offered for sale. The division shall, by certified mail, give notice of the confiscation and the procedure for appealing the confiscation to the person whose name and address are affixed to the article or material as provided in this part. The notice shall state that failure to file a written notice of appeal with the Labor Commissioner within 15 days after service of the notice of confiscation



shall result in the destruction or disposition of the confiscated article or material.

(b) To contest the confiscation of articles or material, a person shall, within 15 days after service of the notice of confiscation, file a written notice of appeal with the Office of the Labor Commissioner at the address that appears on the notice of confiscation. Within 30 days after the timely filing of a notice of appeal, the Labor Commissioner shall hold a hearing on the appeal. The hearing shall be recorded. Based on the evidence presented at the hearing, the Labor Commissioner may affirm, modify, or dismiss the confiscation, and may order the return of none, some, or all of the confiscated articles or material, under terms that the Labor Commissioner may specify. The decision of the Labor Commissioner shall consist of findings of fact, legal analysis, and an order. The decision shall be served by first-class mail on all parties to the hearing, to the last known address of the parties on file with the Labor Commissioner, within 15 days of the conclusion of the hearing. Service shall be complete pursuant to Section 1013 of the Code of Civil Procedure. Judicial review shall be by petition for writ of mandate, filed with the appropriate court, within 45 days of service of the decision.

