

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2879

Introduced by Assembly Member Leno

February 22, 2008

An act to add Section 559 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2879, as amended, Leno. Employee wages and working hours: violators.

Existing law requires private employers to perform certain activities with regard to employee wages, hours, and working conditions.

This bill would require the Labor and Workforce Development Agency, in consultation with the Franchise Tax Board and the ~~Joint Enforcement Strike Force on the Underground Economy~~ *Economic and Employment Enforcement Coalition*, to develop and implement a set of standards that, if met by an employer, would trigger a recommendation for an audit or investigation by appropriate state tax authorities of employers in violation of statutes relating to employee wages, hours, and working conditions. After July 1, 2009, this bill would require the Labor Commissioner to take specified actions to facilitate audits and investigations of employers who meet the standards required by this bill. This bill also would state findings and declarations relating to the underground economy.

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. (a) The Legislature finds and declares all of the
 2 following:
 3 (1) Despite many targeted enforcement efforts in recent years,
 4 *including the creation of the Economic and Employment*
 5 *Enforcement Coalition*, evidence indicates that the underground
 6 economy in California is flourishing.
 7 ~~(2) According to a 2003 report by the Joint Enforcement Strike~~
 8 ~~Force on the Underground Economy, \$232 million in unreported~~
 9 ~~wages and \$29 million in unpaid payroll taxes were identified in~~
 10 ~~2003, which represent only that portion of the underground~~
 11 ~~economy that we actually know about.~~
 12 ~~(3) The underground economy harms everyone—workers, the~~
 13 ~~state through lost revenue, and the vast majority of law-abiding~~
 14 ~~businesses that face unlawful competition from employers~~
 15 ~~operating in the underground economy.~~
 16 ~~(4)~~
 17 (2) *According to the Employment Development Department’s*
 18 *analysis of findings of the Internal Revenue Service, the*
 19 *underground economy in California is estimated to be between*
 20 *\$60 billion and \$140 billion each year.*
 21 (3) *Employers operating in the underground economy hurt*
 22 *everyone—the state loses billions of dollars each year in tax*
 23 *revenues, workers are forced to go without basic employment*
 24 *protections, and law-abiding businesses are confronted with unfair*
 25 *competition from scofflaw competitors.*
 26 (4) *According to the Franchise Tax Board and the Board of*
 27 *Equalization, an average of \$8.5 billion in owed corporate,*
 28 *personal, and sales and use taxes go uncollected in California*
 29 *each year, with unreported and underreported economic activity*
 30 *responsible for the vast majority of that total.*
 31 (5) *As the state faces unprecedented budget shortfalls, rigorous*
 32 *enforcement of existing state tax laws should be a top priority.*
 33 (6) It is therefore in the public interest to establish a coordinated
 34 approach to enforcement in the underground economy, which
 35 ~~approach~~ would include a nexus between the state’s enforcement
 36 of labor and tax laws.
 37 (b) It is the intent of the Legislature in enacting this act to target
 38 those employers that operate in the underground economy in

1 flagrant violation of law, and not employers that commit minor or
2 inadvertent violations of existing law.

3 SEC. 2. Section 559 is added to the Labor Code, to read:

4 559. (a) The Labor and Workforce Development Agency, in
5 consultation with the Franchise Tax Board and the ~~Joint~~
6 ~~Enforcement Strike Force on the Underground Economy~~ *Economic*
7 *and Employment Enforcement Coalition*, shall, by July 1, 2009,
8 develop and implement an appropriate set of standards that, if met
9 by an employer, will trigger a recommendation for an audit or
10 investigation by appropriate state tax authorities of employers in
11 violation of this chapter, Chapter 1 (commencing with Section
12 200) of Part 1, or Chapter 1 (commencing with Section 1171) of
13 Part 4. The set of standards shall take into account, among other
14 things, the severity and number of violations committed by an
15 employer.

16 (b) After July 1, 2009, the Labor Commissioner shall take all
17 of the following actions with respect to an employer who has met
18 the set of standards developed ~~by the Labor and Workforce~~
19 ~~Development Agency~~ pursuant to subdivision (a):

20 (1) Notify the appropriate state tax authorities each time the set
21 of standards is met by an employer.

22 (2) Provide the appropriate state tax authorities with the name
23 of the employer and all relevant and necessary information
24 regarding the violations.

25 (3) Make a recommendation to the appropriate state tax
26 authorities that the employer be audited or investigated.

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29 CORRECTIONS:

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