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AMENDED IN SENATE SEPTEMBER 3, 1999  
AMENDED IN SENATE JUNE 24, 1999  
AMENDED IN ASSEMBLY JUNE 1, 1999  
AMENDED IN ASSEMBLY MARCH 25, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 633**

**Introduced by Assembly Member Steinberg**  
*(Principal coauthor: Senator Hayden)*

February 19, 1999

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An act to amend Sections 2671, 2675, 2675.5, 2676, 2677, and 2680 of, and to add Sections 2673.1, and 2684 to, the Labor Code, relating to labor, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 633, as amended, Steinberg. Labor: garment manufacturing.

Existing law requires every person engaged in the business of garment manufacturing, as defined, to register with the Labor Commissioner and to pay an initial registration fee of \$150 and an annual renewal fee of \$100. *Existing law imposes certain other requirements on garment manufacturers, and provides for administration and enforcement of the garment manufacturing provisions by the Labor Commissioner.*

~~This bill would also require registration of every person who contracts to have garment manufacturing performed by another person and every person who purchases garments from another person engaged in garment manufacturing carrying a label owned by the purchaser and would require registration and renewal fees to be sufficient to defray administrative costs and be based on each garment manufacturer's annual volume, but requires the fees to be not less than \$250 nor more than \$2,500~~ *substantially revise the existing law on state regulation of garment manufacturing. The bill would revise the definition of garment manufacturing to authorize the Department of Industrial Relations to adopt regulations to include additional operations and practices in the apparel industry that are consistent with the garment manufacturing registration provisions. The bill would also authorize the department to adopt and amend regulations to clarify and refine that statutory definition. The bill would add a new definition of "contractor" and revise the definition of "person." The bill would revise the existing law for setting the registration and renewal fees for persons in garment manufacturing to require the fees to be set in the aggregate to recover costs of administration of the law and to be based on an applicant's annual volume, but to be not less than \$250 nor more than \$1,000, in the case of a contractor, or \$2,500, in the case of other registrants.*

Existing law requires the commissioner to deposit \$25 of each registrant's annual registration fee into a separate account and requires that the funds in the separate account be disbursed only to persons damaged by a registrant where damages exceed the limits of a registrant's bond.

This bill would increase the amount of each registrant's annual registration fee deposited into the separate account to \$75, *thereby making an appropriation.* The bill would ~~additionally~~ *revise these provisions to* authorize the commissioner to disburse the funds to persons damaged by *failure of* a garment manufacturer, jobber, contractor, or subcontractor *to pay wages or benefits.* ~~This bill also would provide that a person who is owed any sum for services performed in garment manufacturing shall have a lien against the assets of the employer that shall prevail over all other~~



~~claims, except as specified.~~ The bill would provide that a person engaged in garment manufacturing *who contracts with an unregistered or unbonded person for garment manufacturing* shall ~~guarantee~~ *be deemed an employer of the contractor's employees and shall be jointly liable with the contractor for the payment of wages to his—~~or—her~~ the contractor's employees, and would specify the process by which this ~~guarantee liability~~ may be enforced.*

Nothing in existing law makes garment manufacturers liable for guaranteeing payment of wages to employees of their contractors.

This bill would impose that liability to the extent of requirements for payment of the minimum wage and overtime compensation. The bill would prescribe a claims procedure by which an aggrieved employee may enforce a claim for unpaid wages against the ~~immediate employer~~ *contractor* and the garment manufacturer contracting with the ~~employer~~ *contractor*. The bill would require the Labor Commissioner to investigate these claims, hold meet-and-confer conferences and hearings, and issue decisions and awards, as specified. The bill would also authorize the Labor Commissioner to enforce this guarantee in the same manner as proceeding against the employer, with or without a complaint being filed, *subject to the procedures specified in the bill*. The bill would authorize the Labor Commissioner to revoke the registration of any garment manufacturer that fails to pay a wage award issued pursuant to the bill. The bill would make the successor of ~~an~~ *a* garment manufacturer *primarily engaged in sewing or assembly of garments for other persons, and that owes wages, also liable for payment of those wages under specified circumstances, but this provision would not apply to the wage guarantee obligation established by the bill.* The bill would make conforming related changes.

Existing law authorizes the Division of Labor Standards Enforcement of the Department of Industrial Relations to confiscate any garment or wearing apparel assembled or partially assembled by a person who has not complied with the garment manufacturing registration requirements and requires the division to notify the manufacturer and



contractor of the removal and the location of the confiscated goods.

This bill would ~~also, with a specified exception,~~ authorize the division to confiscate ~~garments or wearing apparel the means of production, including equipment and property,~~ from ~~unregistered garment manufacturers if employees performing garment manufacturing have not been paid all wages due and owing.~~ The bill would revise the procedures used by the division for disposing of or destroying confiscated ~~goods~~ *the garment manufacturer is a contractor that has been subject to a previous confiscation within the prior 5 years. The bill would require the proceeds of sales of the equipment or property to be deposited into a Back Wages and Taxes Account, which the bill would create in the General Fund, and would authorize the Labor Commissioner, upon appropriation, to use moneys in the account to pay back wages owed to garment workers and taxes.*

*Existing law does not make the successor, to an employer primarily engaged in sewing or assembly of garments for other persons engaged in the business of garment manufacturing, liable for unpaid wages owed to the predecessor's employees.*

*This bill would impose that liability under prescribed conditions.*

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

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

- 1 SECTION 1. Section 2671 of the Labor Code is
- 2 amended to read:
- 3 2671. As used in this part:
- 4 (a) "Person" means any individual, partnership,
- 5 corporation, limited liability company, or association, and
- 6 includes, but is not limited to, employers, manufacturers,
- 7 jobbers, wholesalers, contractors, ~~and subcontractors~~
- 8 *subcontractors, and any other person or entity engaged*
- 9 *in the business of garment manufacturing.*
- 10 "Person" does not include any person who
- 11 manufactures garments by himself or herself, without the



1 assistance of a contractor, employee, or others; any person  
2 who engages solely in that part of the business engaged  
3 solely in cleaning, alteration, or tailoring; any person who  
4 engages in the activities herein regulated as an employee  
5 with wages as his or her sole compensation; or any person  
6 as provided by regulation.

7 (b) “Garment manufacturing” means sewing, cutting,  
8 making, processing, repairing, finishing, assembling, or  
9 otherwise preparing any garment or any article of  
10 wearing apparel or accessories designed or intended to be  
11 worn by any individual, including, but not limited to,  
12 clothing, hats, gloves, handbags, hosiery, ties, scarfs, and  
13 belts, for sale or resale by any person or any persons  
14 contracting to have ~~the—above~~ those operations  
15 performed *and other operations and practices in the*  
16 *apparel industry as may be identified in regulations of the*  
17 *Department of Industrial Relations consistent with the*  
18 *purposes of this part. The Department of Industrial*  
19 *Relations shall adopt, and may from time to time amend,*  
20 *regulations to clarify and refine this definition to be*  
21 *consistent with current and future industry practices, but*  
22 *the regulations shall not limit the scope of garment*  
23 *manufacturing, as defined in this subdivision.*

24 (c) “Commissioner” means the Labor Commissioner.

25 (d) “Contractor” means any person who, with the  
26 assistance of employees or others, is primarily engaged in  
27 sewing, cutting, making, processing, repairing, finishing,  
28 assembling, or otherwise preparing any garment or any  
29 article of wearing apparel or accessories designed or  
30 intended to be worn by any individual, including, but not  
31 limited to, clothing, hats, gloves, handbags, hosiery, ties,  
32 scarfs, and belts, for another person. ‘Contractor’ includes  
33 a subcontractor that is primarily engaged in those  
34 operations.

35 SEC. 2. Section 2673.1 is added to the Labor Code, to  
36 read:

37 2673.1. (a) To ensure that employees are paid for all  
38 hours worked, a person engaged in garment  
39 manufacturing, as defined in Section 2671, who contracts  
40 with another person for the performance of garment



1 manufacturing *operations* shall guarantee payment of  
2 the *applicable* minimum wage and overtime  
3 compensation, as required by law, that are due ~~and~~  
4 ~~unpaid from the immediate employer to employees who~~  
5 ~~perform that manufacturing.~~ *from that other person to its*  
6 *employees that perform those operations.*

7 (b) Where the work of two or more persons is being  
8 performed at the same worksite during the same payroll  
9 period, ~~they shall be jointly and severally liable, but the~~  
10 ~~period, the~~ liability of each person under this guarantee  
11 ~~may shall~~ be limited to his or her proportionate share—~~if~~  
12 ~~the person establishes his or her proportionate share., as~~  
13 ~~determined by the Labor Commissioner pursuant to~~  
14 ~~paragraph (3) or (4) of subdivision (d).~~

15 (c) Employees may enforce this guarantee *solely* by  
16 filing a claim with the Labor Commissioner ~~for payment~~  
17 ~~by the guarantor in the same manner as if the employees~~  
18 ~~were proceeding against their immediate employer. for~~  
19 ~~nonpayment of wages. If an employee files a claim against~~  
20 ~~his or her immediate employer, the Labor Commissioner~~  
21 ~~shall conduct an investigation to determine the existence~~  
22 ~~of any potential guarantors under this section. against the~~  
23 ~~contractor and the guarantor or guarantors, if known, to~~  
24 ~~recover unpaid wages. Guarantors whose identity or~~  
25 ~~existence is unknown at the time the claim is filed may be~~  
26 ~~added to the claim pursuant to paragraph (2) of~~  
27 ~~subdivision (d).~~

28 (d) Claims filed with the Labor Commissioner for  
29 payment of wages pursuant to subdivision (c) shall be  
30 subject to the following procedure:

31 (1) Within 10 business days of receiving a claim  
32 pursuant subdivision (c), the Labor Commissioner shall  
33 give written notice to the employee, the ~~—immediate~~  
34 ~~employer contractor~~, and persons that may be guarantors  
35 of the nature of the claim and the date of the  
36 meet-and-confer conference on the claim. Within 10  
37 business days of receiving the claim, the Labor  
38 Commissioner shall issue a subpoena duces tecum  
39 requiring the ~~immediate employer contractor~~ to submit  
40 to the Labor Commissioner those books and records as



1 may be necessary to *investigate the claim and* determine  
2 the identity of *any potential* guarantors for the payment  
3 of the wage claim, including, but not limited to, invoices  
4 for work performed for any and all persons during the  
5 period included in the claim. Compliance with such a  
6 request for books and records, within 10 days of the  
7 mailing of the notice, shall be a condition of continued  
8 registration pursuant to Section 2675. At the request of  
9 any party, the Labor Commissioner shall provide to that  
10 party copies of all books and records received by the  
11 Labor Commissioner in conducting its investigation.

12 (2) Within 30 days of receiving a claim pursuant to  
13 subdivision (c), the Labor Commissioner shall send a  
14 notice of the claim and of the meet-and-confer  
15 conference to any other persons who may be guarantors  
16 with respect to the claim.

17 (3) Within ~~45~~ 60 days of receiving a claim pursuant to  
18 subdivision (c), the Labor Commissioner shall hold a  
19 meet-and-confer conference with the employee, the  
20 ~~immediate employer contractor~~, and all known potential  
21 guarantors ~~to obtain from the parties information~~  
22 ~~regarding the claim and~~ to attempt to resolve the claim.  
23 *Prior to the meet-and-confer conference, the Labor*  
24 *Commissioner shall conduct and complete an*  
25 *investigation of the claim, shall make a finding and*  
26 *assessment of the amount of wages owed, and shall*  
27 *conduct an investigation and determine each guarantor's*  
28 *proportionate share of liability. The investigation shall*  
29 *include, but not be limited to, interviewing the employee*  
30 *and his or her witnesses and making a finding and*  
31 *assessment of back wages due, if any, to the employee. An*  
32 *employee's claim of hours worked and back wages due*  
33 *shall be presumed valid and shall be the Labor*  
34 *Commissioner's assessment, unless the contractor*  
35 *provides specific, compelling, and reliable written*  
36 *evidence to the contrary and is able to produce records*  
37 *pursuant to subdivision (d) of Section 1174 or Section*  
38 *2673 that are accurate and contemporaneous, itemized*  
39 *wage deduction statements pursuant to Section 226, bona*  
40 *fide complete and accurate payroll records, and evidence*



1 of the precise hours worked by the employee for each pay  
2 period during the period of the claim. If the Labor  
3 Commissioner finds falsification by the contractor of  
4 payroll records submitted for any pay period of the claim,  
5 any other payroll records submitted by the contractor  
6 shall be presumed false and disregarded.

7 The Labor Commissioner shall present his or her  
8 findings and assessment of the amount of wages owed and  
9 each guarantor's proportionate share thereof to the  
10 parties at the meet-and-confer conference and shall make  
11 a demand for payment of the amount of the assessment.

12 If no resolution is reached, the Labor Commissioner shall  
13 ~~advise the parties, at the meet-and-confer conference as~~  
14 ~~to whether a, set the matter for hearing will be held~~  
15 ~~pursuant to paragraph (4) or whether action will be taken~~  
16 ~~in accordance with Sections 98.3 or 1193.6. The Labor~~  
17 ~~Commissioner's assessment, pursuant to this paragraph,~~  
18 ~~of the amount of back wages due is solely for purposes of~~  
19 ~~the meet-and-confer conference and shall not be~~  
20 ~~admissible or be given any weight in the hearing~~  
21 ~~conducted pursuant to paragraph (4). If the Labor~~  
22 ~~Commissioner has not identified any potential guarantors~~  
23 ~~after investigation and the matter is not resolved at the~~  
24 ~~conclusion of the meet-and-confer conference, the~~  
25 ~~Commissioner shall proceed against the immediate~~  
26 ~~employer contractor pursuant to Section 98.~~

27 ~~(4) If the Labor Commissioner determines to hold a~~  
28 ~~hearing, the hearing shall be held~~

29 ~~(4) The hearing shall commence within 30 days of, and~~  
30 ~~shall be completed within 45 days of, the date of the~~  
31 ~~meet-and-confer conference. Prior to the hearing, the~~  
32 ~~Labor Commissioner shall conduct an investigation and~~  
33 ~~issue its proposed findings of the guarantor's~~  
34 ~~proportionate share of liability and shall, at least 10 days~~  
35 ~~prior to the hearing, provide written notice of the~~  
36 ~~findings to the employee, immediate employer, and each~~  
37 ~~guarantor. The Commissioner shall present these~~  
38 ~~proposed findings at the hearing. Any party may present~~  
39 ~~evidence at the hearing to support or rebut the proposed~~  
40 ~~findings. The hearing may be bifurcated, addressing first~~



1 the question of liability of the ~~immediate employer~~  
2 *contractor* and the guarantor or guarantors, and  
3 immediately thereafter the proportionate responsibility  
4 of the guarantors. *The Labor Commissioner shall present*  
5 *his or her proposed findings of the guarantor's*  
6 *proportionate share at the hearing. Any party may*  
7 *present evidence at the hearing to support or rebut the*  
8 *proposed findings.* Except as provided in this paragraph,  
9 the hearing shall be held in accordance with the  
10 procedure set forth in subdivisions (b) to (h), inclusive,  
11 of Section 98. It is the intent of the Legislature that these  
12 hearings be conducted in an informal setting preserving  
13 the rights of the parties.

14 (5) Within 15 days of the ~~conclusion~~ *completion* of the  
15 hearing, the Labor Commissioner shall issue an order,  
16 decision, or award with respect to the claim and shall file  
17 the order, decision, or award in accordance with Section  
18 98.1.

19 (e) An employee shall be entitled to recover, from ~~his~~  
20 ~~or her immediate employer~~ *the contractor*, liquidated  
21 damages in an amount equal to the wages unlawfully  
22 withheld, as set forth in Section 1194.2, and liquidated  
23 damages in an amount equal to unpaid overtime  
24 compensation due. A guarantor under subdivision (a)  
25 shall be liable for its proportionate share of those  
26 liquidated damages if the guarantor has acted in bad faith,  
27 including, *but not limited to, failure to pay or*  
28 *unreasonably delaying payment to its contractor,*  
29 *unreasonably reducing payment to its contractor,*~~setting~~  
30 ~~a price for work by its contractor~~ *where it is established*  
31 *that the guarantor knew or reasonably should have*  
32 *known that the price set for the work was insufficient to*  
33 *cover the minimum wage and overtime pay owed by the*  
34 *contractor, asserting frivolous defenses, or unreasonably*  
35 *delaying or impeding the Labor Commissioner's*  
36 *investigation of the claim.*

37 (f) ~~An employee prevailing in an administrative~~  
38 ~~hearing conducted pursuant to paragraph (4) of~~  
39 ~~subdivision (d) shall be entitled to recover reasonable~~



1 ~~attorney's fees and costs from the immediate employer~~  
2 ~~and the guarantors.~~

3 (f) *If either the contractor or guarantor refuses to pay*  
4 *the assessment, and the employee prevails at the hearing,*  
5 *the party that refuses to pay shall pay the employee's*  
6 *reasonable attorney's fees and costs. If the employee*  
7 *rejects the assessment of the Labor Commissioner and*  
8 *prevails at the hearing, the employer shall pay the*  
9 *employee's reasonable attorney's fees and costs. The*  
10 *guarantor shall be jointly and severally liable for the*  
11 *contractor's share of the attorney's fees and costs awarded*  
12 *to an employee only if the Labor Commissioner*  
13 *determines that the guarantor acted in bad faith,*  
14 *including, but not limited to, failure to pay, unreasonably*  
15 *delaying payment to the contractor, unreasonably*  
16 *reducing payment to the contractor where it is*  
17 *established that the guarantor knew or reasonably should*  
18 *have known that the price set for the work was*  
19 *insufficient to cover the applicable minimum wage and*  
20 *overtime pay owed by the contractor, asserting frivolous*  
21 *defenses, or unreasonably delaying or impeding the*  
22 *Labor Commissioner's investigation of the claim.*

23 (g) Any party shall have the right to judicial review of  
24 the order, decision, or award of the Labor Commissioner  
25 made pursuant to paragraph (5) of subdivision (d) as  
26 provided in Section 98.2. As a condition precedent to  
27 filing an appeal, the ~~immediate employer~~ contractor or  
28 the guarantor, whichever appeals, shall post a bond with  
29 the Commissioner in an amount equal to *one and one-half*  
30 *times* the amount of the ~~assessment~~ award. No bond shall  
31 be required of an employee filing an appeal pursuant to  
32 Section 98.2. *At the employee's request, the Labor*  
33 *Commissioner shall represent the employee in the*  
34 *judicial review as provided in Section 98.4.*

35 (h) *If the contractor or guarantor appeals the order,*  
36 *decision, or award of the Labor Commissioner and the*  
37 *employee prevails on appeal, the court shall order the*  
38 *contractor or guarantor, as the case may be, to pay the*  
39 *reasonable attorney's fees and costs of the employee*  
40 *incurred in pursuing his or her claim. If the employee*



1 *appeals the order, decision, or award of the Labor*  
2 *Commissioner and the contractor or guarantor prevails*  
3 *on appeal, the court may order the employee to pay the*  
4 *reasonable attorney's fees and costs of the contractor*  
5 *employer or guarantor only if the court determines that*  
6 *the employee acted in bad faith in bringing the claim.*

7 ~~(h)~~

8 (i) The rights and remedies provided by this section do  
9 not preclude an employee from pursuing any other rights  
10 and remedies under any other provision of law. ~~If state or~~  
11 ~~federal law. If a finding and assessment is not issued as~~  
12 ~~specified and within the time limits in paragraph (3) of~~  
13 ~~subdivision (d), the employee may bring a civil action for~~  
14 ~~the recovery of unpaid wages pursuant to any other rights~~  
15 ~~and remedies under any other provision of the laws of this~~  
16 ~~state unless, prior to the employee bringing the civil~~  
17 ~~action, the guarantor files a petition for writ of mandate~~  
18 ~~within 10 days of the date the assessment should have~~  
19 ~~been issued. If findings and assessments are not made, or~~  
20 ~~a hearing is not commenced or an order, decision, or~~  
21 ~~award is not issued within the time limits specified in~~  
22 ~~paragraphs (4) and (5) of subdivision (d), the guarantor~~  
23 ~~may obtain, and shall be entitled to, a stay of any civil~~  
24 ~~action brought by the employee for the recovery of~~  
25 ~~unpaid wages pursuant to any other rights and remedies~~  
26 ~~under any other provision of law by filing a petition for~~  
27 ~~any party may file a petition for writ of mandate to~~  
28 ~~compel the Labor Commissioner to issue findings and~~  
29 ~~assessments, commence the hearing, or issue the order,~~  
30 ~~decision, or award prior to the filing of the civil action by~~  
31 ~~the employee. award. All time requirements specified in~~  
32 ~~this section shall be mandatory and shall be enforceable~~  
33 ~~by a writ of mandate.~~

34 ~~(i)~~

35 (j) The Labor Commissioner may enforce the wage  
36 guarantee described in this section in the same manner  
37 as a proceeding against the ~~immediate employer~~  
38 ~~contractor~~. The Labor Commissioner may, with or  
39 without a complaint being filed by an employee, conduct  
40 an investigation as to whether all the employees of



1 persons engaged in garment manufacturing are being  
 2 paid minimum wage or overtime compensation and, with  
 3 or without the consent of the employees affected,  
 4 commence a civil action to enforce the wage guarantee.  
 5 *Prior to commencing such a civil action and pursuant to*  
 6 *rules of practice and procedure adopted by the Labor*  
 7 *Commissioner, the commissioner shall provide notice of*  
 8 *the investigation to each guarantor and employee, issue*  
 9 *findings and an assessment of the amount of wages due,*  
 10 *hold a meet-and-confer conference with the guarantors*  
 11 *and employees to attempt to resolve the matter, and*  
 12 *provide for a hearing.*

13 ~~(j)~~

14 (k) Except as expressly provided in this section, this  
 15 section shall not be deemed to create any new right to  
 16 bring a civil action of any kind for unpaid minimum  
 17 wages, overtime pay, penalties, wage assessments,  
 18 attorney’s fees, or costs against a registered garment  
 19 manufacturer based on its use of any contractor that is  
 20 also a registered garment manufacturer.

21 ~~(k)~~

22 (l) The payment of the wage guarantee provided in  
 23 this section shall not be used as a basis for finding that the  
 24 registered garment manufacturer making the payment is  
 25 a joint employer, co-employer, or single employer of any  
 26 employees of a contractor that is also a registered  
 27 garment manufacturer.

28 ~~(l)~~

29 (m) The Labor Commissioner may, in his or her  
 30 discretion, revoke the registration under this part of any  
 31 registrant that fails to pay, on a timely basis, any wages  
 32 awarded pursuant to this section, after the award has  
 33 become final.

34 SEC. 3. Section 2675 of the Labor Code is amended to  
 35 read:

36 2675. (a) For purposes of enforcing this part and  
 37 Sections 204, 209, 212, 221, 222, 222.5, 223, 226, 227, and  
 38 227.5, Chapter 2 (commencing with Section 300) and  
 39 Article 2 (commencing with Section 400) of Chapter 3 of  
 40 Part 1 of this division, Sections 1195.5, 1197, 1197.5, and



1 1198, Division 4 (commencing with Section 3200) and  
2 Division 4.7 (commencing with Section 6200), every  
3 person engaged in the business of garment  
4 manufacturing, shall register with the commissioner.

5 The commissioner shall not permit any person to  
6 register, nor shall the commissioner allow any person to  
7 renew registration, until all the following conditions are  
8 satisfied:

9 (1) The person has executed a written application  
10 therefor in a form prescribed by the commissioner,  
11 subscribed and sworn by the person, and containing:

12 (A) A statement by the person of all facts required by  
13 the commissioner concerning the applicant's character,  
14 competency, responsibility, and the manner and method  
15 by which the person proposes to engage in the business  
16 of garment manufacturing if the registration is issued.

17 (B) The names and addresses of all persons, except  
18 bona fide employees on stated salaries, financially  
19 interested, either as partners, associates, or profit sharers,  
20 in the proposed business of garment manufacturing  
21 together with the amount of their respective interests,  
22 except that in the case of a publicly traded corporation a  
23 listing of principal officers shall suffice.

24 (2) The commissioner, after investigation, is satisfied  
25 as to the character, competency, and responsibility of the  
26 person.

27 (3) In the case of a person who has been cited and  
28 penalized within the prior three years under this part, the  
29 person has deposited or has on file a surety bond in the  
30 sum and form that the commissioner deems sufficient and  
31 adequate to ensure future compliance, not to exceed five  
32 thousand dollars (\$5,000). The bond shall be payable to  
33 the people of California and shall be for the benefit of any  
34 employee of a registrant damaged by the registrant's  
35 failure to pay wages and fringe benefits, or for the benefit  
36 of any employee of a registrant damaged by a violation of  
37 Section 2677.5.

38 (4) The person has documented that a current  
39 workers' compensation insurance policy is in effect for  
40 the employees of the person seeking registration.



1 (5) The person has paid an initial or renewal  
2 registration fee to the commissioner. The fee for initial  
3 registration and for each registration renewal shall be  
4 established in an amount determined by the Labor  
5 Commissioner to be sufficient to defray the costs of  
6 administering this part and shall be based on the  
7 ~~manufacturer's~~ *applicant's* annual volume, but shall be  
8 not less than two hundred fifty dollars (\$250) ~~nor more~~  
9 ~~than two thousand five hundred dollars (\$2,500).~~ *and*  
10 *shall be not more than one thousand dollars (\$1,000) for*  
11 *contractors and two thousand five hundred dollars*  
12 *(\$2,500) for all other registrants.*

13 (b) At the time a certificate of registration is originally  
14 issued or renewed, the commissioner shall provide  
15 related and supplemental information regarding business  
16 administration and applicable labor laws. This related and  
17 supplemental information, as much as reasonably  
18 possible, shall be provided in the primary language of the  
19 garment manufacturer. The information shall include all  
20 subject matter on which persons seeking registration are  
21 examined pursuant to subdivision (c), and shall be  
22 available to persons seeking registration prior to taking  
23 this examination.

24 (c) Effective January 1, 1991, persons seeking  
25 registration under this section for the first time, and  
26 persons seeking to renew their registration pursuant to  
27 subdivision (f), shall comply with all of the following  
28 requirements:

29 (1) Demonstrate, by an oral or written examination, or  
30 both, knowledge of the pertinent laws and administrative  
31 regulations concerning garment manufacturing as the  
32 commissioner deems necessary for the safety and  
33 protection of garment workers.

34 (2) Demonstrate, by an oral or written examination, or  
35 both, knowledge of state laws and regulations relating to  
36 occupational safety and health which shall include, but  
37 not be limited to, the following:

38 (A) Section 3203 of Title 8 of the California Code of  
39 Regulations (Injury Prevention Program).



1 (B) Section 3220 of Title 8 of the California Code of  
2 Regulations (Emergency Action Plan).

3 (C) Section 3221 of Title 8 of the California Code of  
4 Regulations (Fire Prevention Plan).

5 (D) Section 6151 of Title 8 of the California Code of  
6 Regulations which provides for the placement, use,  
7 maintenance, and testing of portable fire extinguishers  
8 provided for the use of employees.

9 (3) Sign a statement which provides that he or she  
10 shall do all of the following:

11 (A) Comply with those regulations specified in  
12 paragraph (2) which establish minimum standards for  
13 securing safety in all places of employment.

14 (B) Ensure that all employees are made aware of the  
15 existence of these regulations and any other applicable  
16 laws and are instructed in how to implement the Injury  
17 Prevention Program, Emergency Action Plan, and Fire  
18 Prevention Plan, specified in paragraph (2), in the  
19 workplace.

20 (C) Ensure that all employees are instructed in the use  
21 of portable fire extinguishers.

22 (D) Post the Injury Prevention Program, Emergency  
23 Action Plan, and Fire Prevention Plan, specified in  
24 paragraph (2), in a prominent location in the workplace.

25 (d) The Division of Occupational Safety and Health  
26 shall assist the Division of Labor Standards Enforcement  
27 in developing the examination which shall include, but  
28 not be limited to, the state's occupational safety and  
29 health laws specified in paragraph (2) of subdivision (c).

30 (e) The commissioner shall charge a fee to persons  
31 taking the examinations required by subdivision (c)  
32 which is sufficient to pay for costs incurred in  
33 administering the examinations.

34 (f) A person seeking renewal of registration shall be  
35 required to take both of the examinations, and sign the  
36 statement, specified in subdivision (c). However, once a  
37 renewal of registration has been granted based on these  
38 examinations, subsequent examinations shall only be  
39 required at the discretion of the commissioner if, in the  
40 preceding year, the registrant has been found to be in



1 violation of subdivision (a) or any of the sections  
2 enumerated in that subdivision.

3 (g) Proof of registration shall be by an official Division  
4 of Labor Standards Enforcement registration form.  
5 Every person, as set forth in Section 2671, shall post the  
6 registration form where it may be read by employees  
7 during the workday.

8 (h) At least 90 days prior to the expiration of each  
9 registrant’s registration, the commissioner shall mail a  
10 renewal notice to the last known address of the registrant.  
11 The notice shall include all necessary application forms  
12 and complete instructions for registration renewal.  
13 However, omission of the commissioner to provide notice  
14 in accordance with this subdivision shall not excuse a  
15 registrant from making timely application for renewal of  
16 registration, shall not be a defense in any action or  
17 proceeding involving failure to renew registration, and  
18 shall not subject the commissioner to any legal liability  
19 under this section.

20 SEC. 4. Section 2675.5 of the Labor Code is amended  
21 to read:

22 2675.5. (a) The commissioner shall deposit  
23 seventy-five dollars (\$75) of each registrant’s annual  
24 registration fee, required pursuant to paragraph (5) of  
25 subdivision (a) of Section 2675, into one separate account.  
26 Funds from the separate account shall be disbursed by the  
27 commissioner only to persons determined by the  
28 commissioner to have been damaged by the failure to pay  
29 wages and benefits by any garment manufacturer,  
30 jobber, contractor, or subcontractor after exhausting a  
31 bond, if any, to ensure the payment of wages and benefits.  
32 Any disbursed funds subsequently recovered by the  
33 commissioner shall be returned to the separate account.

34 (b) The remainder of each registrant’s annual  
35 registration fee not deposited into the special account  
36 pursuant to subdivision (a) shall be applied to costs  
37 incurred by the commissioner in administering the  
38 provisions of Section 2675 and this section.

39 SEC. 5. Section 2677 of the Labor Code is amended to  
40 read:



1 2677. (a) Any person engaged in the business of  
2 garment manufacturing who contracts with any other  
3 person similarly engaged who has not registered with the  
4 commissioner or does not have a valid bond on file with  
5 the commissioner, as required by Section 2675, shall be  
6 deemed an employer, and shall be jointly liable with such  
7 other person for any violation of Section 2675 and the  
8 sections enumerated in that section.

9 ~~(b) Any employee aggrieved by a violation of any of  
10 the sections enumerated in subdivision (a) of Section  
11 2675 by a person engaged in the business of garment  
12 manufacturing may bring a civil action to recover any  
13 wages, damages, or penalties to which he or she may be  
14 entitled~~

15 *(b) Any employee of a person or persons engaged in  
16 garment manufacturing who are not registered as  
17 required by this part may bring a civil action against any  
18 person deemed to be an employer pursuant to  
19 subdivision (a) to recover any wages, damages, or  
20 penalties to which the employee may be entitled because  
21 of a violation by the unregistered person or persons of any  
22 provision specified in subdivision (a) of Section 2675, or  
23 may file a claim with the Labor Commissioner pursuant  
24 to Section 2673.1. In any civil action brought pursuant to  
25 this subdivision, the court shall grant a prevailing  
26 plaintiff's reasonable attorney's fees and costs.*

27 SEC. 6. (a) Section 2680 of the Labor Code is  
28 amended to read:

29 2680. Any garment or wearing apparel, assembled or  
30 partially assembled by or on behalf of any person who has  
31 not complied with the registration requirements of this  
32 ~~part, or any person who, in violation of Part 1  
33 (commencing with Section 200) or Part 4 (commencing  
34 with Section 1171), has not paid all wages due and owing  
35 to his or her employees performing garment  
36 manufacturing during a period of 180 days prior to an  
37 investigation by the Division of Labor Standards  
38 Enforcement, may be confiscated by the division. If the  
39 goods are confiscated because of noncompliance with  
40 registration requirements, the confiscated garments or~~



1 ~~wearing apparel~~ part, may be confiscated by the Division  
2 of Labor Standards Enforcement. Garments and wearing  
3 apparel confiscated pursuant to this section shall be  
4 placed in the custody of the division, which shall be  
5 charged with the responsibility of destroying or disposing  
6 of them pursuant to regulations adopted under Section  
7 2672, provided that the goods shall not enter the  
8 mainstream of commerce and shall not be offered for sale.  
9 ~~If the goods are confiscated because of the nonpayment~~  
10 ~~of wages, the offered for sale. The~~ division shall, by  
11 registered mail and telephone, give notice of the removal  
12 and the location where the confiscated goods are held in  
13 custody to the known manufacturer and contractor ~~and~~  
14 ~~shall release the confiscated goods to them upon the~~  
15 ~~payment of the wages in full. If the wages remain unpaid~~  
16 ~~for a period of two weeks after the notice, the confiscated~~  
17 ~~goods shall be destroyed or disposed of in the same~~  
18 ~~manner as provided for goods confiscated because of~~  
19 ~~noncompliance with registration requirements.~~

20 (b) *If the person from whom garments or wearing*  
21 *apparel are confiscated pursuant to subdivision (a) was*  
22 *providing the confiscated garments or wearing apparel as*  
23 *a contractor and has previously, within the immediately*  
24 *preceding five-year period, had garments or wearing*  
25 *apparel confiscated pursuant to subdivision (a), the*  
26 *Labor Commissioner may, in addition to the remedies set*  
27 *forth in subdivision (a), confiscate the means of*  
28 *production, including all manufacturing equipment and*  
29 *the property where the current unregistered garment*  
30 *manufacturing operations have taken place. This*  
31 *subdivision does not apply where nonregistration of the*  
32 *contractor was due to delayed renewal of registration.*

33 (c) *The proceeds from the sale of any equipment or*  
34 *property under subdivision (b) shall be deposited into a*  
35 *single account in the General Fund, to be known as the*  
36 *Back Wages and Taxes Account. At the Labor*  
37 *Commissioner's discretion, and upon appropriation by*  
38 *the Legislature, funds from that account may be*  
39 *disbursed to pay back wages owed to garment workers,*  
40 *including, but not limited to, workers of the unregistered*



1 contractor whose violation caused the confiscation, and  
2 for the payment of taxes.

3 SEC. 7. Section 2684 is added to the Labor Code, to  
4 read:

5 2684. (a) *The Legislature finds and declares that*  
6 *persons who are primarily engaged in sewing or assembly*  
7 *of garments for other persons engaged in garment*  
8 *manufacturing frequently close down their sewing shops*  
9 *to avoid paying their employees' wages and subsequently*  
10 *reopen under the conditions described in subdivision (b),*  
11 *and are more likely to do so than are other types of*  
12 *persons engaged in garment manufacturing.*

13 (b) A successor to any employer that is primarily  
14 engaged in sewing or assembly of garments for other  
15 persons engaged in the business of garment  
16 manufacturing, as defined by subdivision (b) of Section  
17 2671, that owes wages to the predecessor's former  
18 employee or employees is liable for those wages if the  
19 successor meets any of the following criteria:

20 ~~(a)~~

21 (1) Uses substantially the same facilities or work force  
22 to produce substantially the same products for  
23 substantially the same type of customers as the  
24 predecessor employer.

25 ~~(b)~~

26 (2) Shares in the ownership, management, control of  
27 labor relations, or interrelations of business operations  
28 with the predecessor employer.

29 ~~(c)~~

30 (3) Has in its employ in a managerial capacity any  
31 person who directly or indirectly controlled the wages,  
32 hours, or working conditions of the affected employees of  
33 the predecessor employer.

34 ~~(d)~~

35 (4) Is an immediate family member of any owner,  
36 partner, officer, or director of the predecessor employer  
37 or of any person who had a financial interest in the  
38 predecessor employer.

39 This section does not impose liability upon a successor  
40 for the guarantee of unpaid minimum wages and



1 overtime compensation set forth in subdivision (a) or (b)  
2 of Section 2673.1.

3 SEC. 8. No reimbursement is required by this act  
4 pursuant to Section 6 of Article XIII B of the California  
5 Constitution because the only costs that may be incurred  
6 by a local agency or school district will be incurred  
7 because this act creates a new crime or infraction,  
8 eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section  
10 17556 of the Government Code, or changes the definition  
11 of a crime within the meaning of Section 6 of Article  
12 XIII B of the California Constitution.

