

AMENDED IN SENATE AUGUST 25, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JULY 6, 2000

AMENDED IN SENATE JUNE 26, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2509

Introduced by Assembly Member Steinberg

February 24, 2000

An act to amend Sections 92, 98.1, 98.2, ~~98.7~~, 203.1, 218.5, 226, ~~226.3, 240, 350, 351, 1174, 1174.5, 1194.2, and 1197.1~~ and 1174 of, and to add Sections 218.6, ~~226.7, 226.8, and 245~~ and 226.7 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2509, as amended, Steinberg. Employment: remedies for employment law violations.

~~Existing law authorizes the Labor Commissioner, his or her deputies, and agents to issue subpoenas for the purpose of carrying out the laws which the Division of Labor Standards Enforcement is responsible for enforcing.~~

~~This bill would authorize using a prescribed notice in lieu of a subpoena in adjudicatory proceedings before the Labor Commissioner to compel attendance of a party, person for whose benefit the proceeding is prosecuted or defended, or any officer, director, or managing agent thereof. The notice would have the same force and effect as a subpoena.~~

Existing law authorizes the Labor Commissioner to conduct administrative hearings and issue orders, decisions, and awards for recovery of wages, penalties, and other demands for compensation properly before the Division of Labor Standards Enforcement or the commissioner. Existing law requires these awards for unpaid wages to accrue interest at a specified adjusted annual rate determined under the tax laws.

This bill would instead require this rate to be the same as the legal rate of interest payable upon a contract obligation in default where the contract does not otherwise specify the rate of interest.

Existing law provides that any order, decision, or award made by the Labor Commissioner in these administrative proceedings may be appealed by filing an action in the municipal or superior court. ~~If the appealing party is unsuccessful, existing law requires the court to award costs and attorney's fees to the other parties.~~

~~This bill would exempt those appeal proceedings from provisions respecting submission of certain matters in specified municipal and superior courts to mandatory arbitration. The bill would require employers filing such an appeal to post a prescribed undertaking and would provide for disposition thereof. The bill would require an award of costs and attorney's fees against an unsuccessful appellant regardless of whether the successful party is represented by his or her own attorney or by the Labor Commissioner.~~

~~Under existing law, any person may file a complaint for unlawful discharge or unlawful discrimination with the Labor Commissioner, who is empowered to provide prescribed relief if the complaint is found meritorious. Existing law requires that, if the Labor Commissioner dismisses such a complaint, the Labor Commissioner is required to notify the complainant of the right to bring a court action or to file a complaint against the state program with the United States Department of Labor.~~

~~This bill would specify that if a timely complaint is filed against the state program with the United States Department of Labor, the Labor Commissioner's decision dismissing the complaint is vacated pending issuance of findings by the~~



~~United States Department of Labor. The bill would require the Labor Commissioner, within 15 days of receiving those findings, either to notify the parties of the reopening of the investigation or to issue a new determination of the complaint. The bill would also expressly provide that an employee may file a civil judicial action without exhausting any administrative remedy under the jurisdiction of the Labor Commissioner, and may in such a civil action seek any relief that would be available from the Labor Commissioner. The bill would make the limitation period for filing a complaint with the Labor Commissioner inapplicable to such a civil action.~~

Under existing law, an employer in the building and construction industry is liable for a penalty of up to 30 days' wages and fringe benefits to any employee paid by a check, draft, or voucher that is drawn on a nonexistent account or that is dishonored for insufficient funds if the instrument is presented for payment within 30 days of receipt. This penalty does not apply if the employer can establish that the violation was unintentional.

This bill would make this penalty applicable to all employers, *as specified*, and would make related conforming and technical, nonsubstantive changes.

Under existing law, the prevailing party, with certain exceptions, is entitled to an award of attorney's fees in an action brought for nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions.

This bill would add an express exception for employee actions to recover underpayment of the minimum wage or *specified* overtime wages, in which a prevailing employee but not the employer is expressly authorized to recover attorney's fees. The bill would also require the court, in an action to recover unpaid wages, to award interest, as specified.

Under existing law, employers are required to provide employees semimonthly, with payment of wages, an itemized statement listing gross wages, total hours worked of employees paid by the hour, specified deductions, net wages, and certain other information. Violation of these requirements is a misdemeanor. Under existing law, an employee suffering injury as a result of the employer's



knowing or intentional failure to comply with this requirement is entitled to recover the greater of actual damages or \$100, plus costs and reasonable attorney's fees.

This bill would provide that total hours need not be disclosed for salaried employees exempt from payment of overtime compensation. The bill would impose a state-mandated local program by requiring disclosure of the number of piece-rate units and the applicable piece rate for employees paid on that basis and by requiring disclosure of all applicable hourly rates and the number of hours worked by the employee at each rate. The bill would revise the liability of employers for knowing or intentional noncompliance with this disclosure requirement to entitle an aggrieved employee to recover the greater of actual damages or penal damages of \$50 *for the initial pay period in which a violation occurs and \$100 per employer for each subsequent pay period in which the violation occurs up to \$10,000 \$4,000*, plus costs and reasonable attorney's fees. ~~The bill would authorize an aggrieved employee to seek recovery in administrative proceedings before the Labor Commissioner or in a civil action.~~

~~Existing law makes employers liable for prescribed civil penalties, based upon the number of employees and number of citations, for failure to provide employee wage deduction statements or keep certain employee pay records.~~

~~This bill would specify that if the employer fails to maintain records identifying the affected employees, these penalties are to be computed in accordance with a prescribed formula. The bill would make a technical, clarifying change in related provisions that specify employer record-keeping requirements.~~

Existing law authorizes the Industrial Welfare Commission to adopt orders respecting wages, hours, and working conditions.

This bill would ~~make~~ *require* any employer that requires any employee to work during a meal or rest period mandated by an order of the commission ~~subject to a civil penalty of \$50 per violation and liable to pay the employee for twice the employee's average hourly or piecework one hour's pay for each workday that the meal or rest period is not provided. An~~



~~aggrieved employee could bring an administrative action before the Labor Commissioner or could commence a civil action for recovery of these amounts, and if the employee prevails in such a civil action, the employee would be entitled to recover attorney's fees.~~

~~This bill would provide that if an employer fails to provide and maintain necessary tools or equipment in violation of an applicable wage order of the Industrial Welfare Commission and an employee purchases the tools or equipment in order to perform his or her work, the employer shall either purchase the tools or equipment from the employee in an amount equal to the price paid by the employee or pay sufficient wages to the employee to qualify for an exemption to the wage order, as provided.~~

~~Existing law authorizes the Labor Commissioner to require an employer to deposit a bond if the employer is convicted of violating specified provisions respecting paying employees or if a judgment for unpaid wages against the employer remains unsatisfied for 10 days after expiration of the appeal period with no appeal on file. The bond is conditioned on the employer paying employees for up to 6 months in compliance with specified laws and payment of any judgment for unpaid wages.~~

~~This bill would revise these provisions to make the authorization for a bond requirement applicable to unpaid judgments for interest, penalties, or other demands for compensation within the jurisdiction of the Labor Commissioner, in addition to judgments for unpaid wages. The bond would also be conditioned on payment of such an unsatisfied judgment. The bill would make conforming related changes.~~

~~Under existing law, the Labor Commissioner is empowered to implement administrative proceedings for the recovery of unpaid wages and penalties.~~

~~This bill would provide that whenever the Labor Commissioner makes an award based upon a finding that the employer has engaged in a pattern or practice of violating wage and hour laws, the Labor Commissioner may require the employer to post a prescribed notice of the violation with~~



~~specified information for not less than 60 days. The bill would specify a civil penalty for violation of the posting requirement.~~

Existing law prohibits employers from receiving or deducting gratuities intended for employees from wages otherwise payable. Violation is a misdemeanor. Under existing law, this prohibition is not applicable to an employee that has a guaranteed wage or salary that is at least the higher of the federal or state minimum wage.

This bill would delete the above exemption, thereby imposing a state-mandated local program. As so revised, the bill would make these provisions applicable to amounts paid by patrons directly to a dancer subject to specified orders of the commission. The bill would also impose a state-mandated local program by requiring employers to remit to their employees gratuities paid by credit card, without deduction for credit card fees, not later than the next regular payday following the date the credit card payment is authorized by the patron.

Existing law requires employers to keep specified payroll records.

This bill would require these payroll records to identify the number of piece-rate units earned by employees and any applicable piece rate paid to employees.

~~Existing law requires employers to keep records showing the names and addresses of employees and the ages of minor employees and makes an employer's willful failure to maintain these records or payroll records subject to a civil penalty of \$500.~~

~~This bill would revise the amount of the civil penalty to \$100 per employee for each payroll period up to a maximum of 3 years. The bill would also make these civil penalties applicable to an employer that fails to keep records required by wage orders of the commission.~~

~~Under existing law, an aggrieved employee, or the Department of Industrial Relations or its Division of Labor Standards Enforcement, with or without the employee's consent, may bring a civil action to recover unpaid minimum wages or overtime compensation, interest, costs, and reasonable attorney's fees. In these civil actions to recover unpaid minimum wages, the employee is entitled to~~



~~additional damages equal to the unpaid wages and interest thereon, except that if the employer can show that the act or omission giving rise to the violation was in good faith and that the employer had reasonable grounds for believing there was no violation, the court may refuse to award those damages.~~

~~This bill would make technical, clarifying changes in these provisions and also make them applicable to proceedings before the Labor Commissioner.~~

~~Under existing law, any employer or person who pays or causes to be paid less than the minimum wage prescribed by order of the commission is subject to prescribed civil penalties assessed and collected by the Labor Commissioner in proceedings initiated by the issuance of a citation.~~

~~This bill would include in these proceedings restitution of the underpaid wages, interest, and statutory liquidated damages.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. ~~Section 92 of the Labor Code is amended~~
- 2 ~~to read:~~
- 3 92. (a) ~~The Labor Commissioner and his or her~~
- 4 ~~deputies and agents may issue subpoenas to compel the~~
- 5 ~~attendance of witnesses and parties and the production of~~
- 6 ~~books, papers and records; administer oaths; examine~~
- 7 ~~witnesses under oath; take the verification;~~
- 8 ~~acknowledgment, or proof of written instruments; and~~
- 9 ~~take depositions and affidavits for the purpose of carrying~~
- 10 ~~out the provisions of this code and all laws that the~~
- 11 ~~division is to enforce.~~
- 12 (b) ~~In any adjudicatory hearing before the Labor~~
- 13 ~~Commissioner, a notice in lieu of a subpoena may be used~~



1 to compel the attendance of a party, a person for whose
2 benefit the proceeding is prosecuted or defended, or any
3 officer, director, or managing agent of a party or such a
4 person. The service of a subpoena in these cases is not
5 required if written notice requesting the witness to
6 attend, with the time and place of the hearing, is served
7 upon the party or person, or his or her attorney of record.
8 The notice shall be served at least 10 days before the time
9 requested for attendance unless the hearing officer
10 prescribes a shorter time. The giving of the notice shall
11 have the same effect as service of a subpoena on the
12 witness. Section 1013 of the Code of Civil Procedure shall
13 be applicable to service of these notices.

14 (c) The notice specified in subdivision (b) may
15 include a request that the party or person bring with him
16 or her books, papers, records, documents, or other things.
17 The notice shall state the exact materials or things to be
18 produced and that the party or person has them in his or
19 her possession or under his or her control.

20 (d) A party or person required to attend or produce
21 records at a hearing pursuant to notice under subdivision
22 (b) may object to the notice as provided in Section
23 11450.30 of the Government Code.

24 (e) Notice under subdivision (b) has the same force
25 and effect as a subpoena issued by the Labor
26 Commissioner pursuant to subdivision (a) and may be
27 enforced, and willful disobedience punished, in
28 accordance with Section 93.

29 (f) Any subpoena specified in subdivision (a) or any
30 notice specified in subdivision (b) may include a request
31 that the party or person deliver to the Labor
32 Commissioner and to the requesting party a copy of the
33 books, papers, records, documents, or other things
34 subject to the subpoena or notice not less than five days
35 prior to the hearing.

36 **SEC. 2.**

37 *SECTION 1.* Section 98.1 of the Labor Code is
38 amended to read:

39 98.1. (a) Within 15 days after the hearing is
40 concluded, the Labor Commissioner shall file in the office



1 of the division a copy of the order, decision, or award. The
2 order, decision, or award shall include a summary of the
3 hearing and the reasons for the decision. Upon filing of
4 the order, decision, or award, the Labor Commissioner
5 shall serve a copy of the decision personally or by
6 first-class mail on the parties. The notice shall also advise
7 the parties of their right to appeal the decision or award
8 and further advise the parties that failure to do so within
9 the period prescribed by this chapter shall result in the
10 decision or award becoming final and enforceable as a
11 judgment by the appropriate municipal or superior court,
12 in accordance with the appropriate rules of jurisdiction.

13 (b) For the purpose of this section, an award shall
14 include any sums found owing, damages proved, and any
15 penalties awarded pursuant to this code.

16 (c) All awards granted pursuant to a hearing under
17 this chapter shall accrue interest on all due and unpaid
18 wages at the same rate as prescribed by subdivision (b)
19 of Section 3289 of the Civil Code. The interest shall accrue
20 until the wages are paid from the date that the wages
21 were due and payable as provided in Part 1 (commencing
22 with Section 200) of Division 2.

23 ~~SEC. 3.~~

24 *SEC. 2.* Section 98.2 of the Labor Code is amended to
25 read:

26 98.2. (a) Within 10 days after service of notice of an
27 order, decision, or award the parties may seek review by
28 filing an appeal to the municipal or superior court, in
29 accordance with the appropriate rules of jurisdiction,
30 where the appeal shall be heard de novo. A copy of the
31 appeal request shall be served upon the Labor
32 Commissioner by the appellant. For purposes of
33 computing the 10-day period after service, Section 1013
34 of the Code of Civil Procedure shall be applicable. ~~The~~
35 ~~appeal proceedings in the municipal or superior court~~
36 ~~shall be exempt from Section 1141.11 of the Code of Civil~~
37 ~~Procedure.~~

38 (b) Whenever an employer files an appeal pursuant to
39 this section, the employer shall post an undertaking with
40 the reviewing court in the amount of the order, decision,



1 or award. The undertaking shall consist of an appeal bond
2 issued by a licensed surety or a cash deposit with the court
3 in the amount of the order, decision, or award. The
4 employer shall provide written notification to the other
5 parties and the Labor Commissioner of the posting of the
6 undertaking. The undertaking shall be on the condition
7 that, if any judgment is entered in favor of the employee,
8 the employer shall pay the amount owed pursuant to the
9 judgment, and if the appeal is withdrawn or dismissed
10 without entry of judgment, the employer shall pay the
11 amount owed pursuant to the order, decision, or award of
12 the Labor Commissioner unless the parties have executed
13 a settlement agreement for payment of some other
14 amount, in which case the employer shall pay the amount
15 that the employer is obligated to pay under the terms of
16 the settlement agreement. If the employer fails to pay the
17 amount owed within 10 days of entry of the judgment,
18 dismissal, or withdrawal of the appeal, or the execution of
19 a settlement agreement, a portion of the undertaking
20 equal to the amount owed, or the entire undertaking if
21 the amount owed exceeds the undertaking, shall be
22 forfeited to the employee.

23 (c) If the party seeking review by filing an appeal to
24 the municipal or superior court is unsuccessful in the
25 appeal, the court shall determine the costs and reasonable
26 attorney's fees incurred by the other parties to the appeal,
27 ~~regardless of whether the successful party is represented~~
28 ~~by his or her attorney or by the Labor Commissioner~~
29 ~~pursuant to Section 98.4, and shall~~ *and* assess that amount
30 as a cost upon the party filing the appeal.

31 (d) If no notice of appeal of the order, decision, or
32 award is filed within the period set forth in subdivision
33 (a), the order, decision, or award shall, in the absence of
34 fraud, be deemed the final order.

35 (e) The Labor Commissioner shall file, within 10 days
36 of the order becoming final pursuant to subdivision (d),
37 a certified copy of the final order with the clerk of the
38 municipal or superior court, in accordance with the
39 appropriate rules of jurisdiction, of the appropriate
40 county unless a settlement has been reached by the



1 parties and approved by the Labor Commissioner.
2 Judgment shall be entered immediately by the court
3 clerk in conformity therewith. The judgment so entered
4 shall have the same force and effect as, and shall be
5 subject to all of the provisions of law relating to, a
6 judgment in a civil action, and may be enforced in the
7 same manner as any other judgment of the court in which
8 it is entered. Enforcement of the judgment shall receive
9 court priority.

10 (f) In order to ensure that judgments are satisfied, the
11 Labor Commissioner may serve upon the judgment
12 debtor, personally or by first-class mail at the last known
13 address of the judgment debtor listed with the division,
14 a form similar to, and requiring the reporting of the same
15 information as, the form approved or adopted by the
16 Judicial Council for purposes of subdivision (a) of Section
17 116.830 of the Code of Civil Procedure to assist in
18 identifying the nature and location of any assets of the
19 judgment debtor.

20 The judgment debtor shall complete the form and
21 cause it to be delivered to the division at the address listed
22 on the form within 35 days after the form has been served
23 on the judgment debtor, unless the judgment has been
24 satisfied. In case of willful failure by the judgment debtor
25 to comply with this subdivision, the division or the
26 judgment creditor may request the court to apply the
27 sanctions provided in Section 708.170 of the Code of Civil
28 Procedure.

29 (g) Notwithstanding subdivision (e), the Labor
30 Commissioner may stay execution of any judgment
31 entered upon an order, decision, or award that has
32 become final upon good cause appearing therefor and
33 may impose the terms and conditions of the stay of
34 execution. A certified copy of the stay of execution shall
35 be filed with the clerk entering the judgment.

36 (h) When a judgment is satisfied in fact, otherwise
37 than by execution, the Labor Commissioner may, upon
38 the motion of either party or on its own motion, order
39 entry of satisfaction of judgment. The clerk of the court



1 shall enter a satisfaction of judgment upon the filing of a
2 certified copy of the order.

3 (i) The Labor Commissioner shall make every
4 reasonable effort to ensure that judgments are satisfied,
5 including taking all appropriate legal action and
6 requiring the employer to deposit a bond as provided in
7 Section 240.

8 (j) The judgment creditor, or the Labor
9 Commissioner as assignee of the judgment creditor, shall
10 be entitled to court costs and reasonable attorney fees for
11 enforcing the judgment that is rendered pursuant to this
12 section.

13 ~~SEC. 4. Section 98.7 of the Labor Code is amended to~~
14 ~~read:~~

15 ~~98.7. (a) Any person who believes that he or she has~~
16 ~~been discharged or otherwise discriminated against in~~
17 ~~violation of any provision of this code under the~~
18 ~~jurisdiction of the Labor Commissioner may file a~~
19 ~~complaint with the division within six months after the~~
20 ~~occurrence of the violation. The six-month period may be~~
21 ~~extended for good cause. The complaint shall be~~
22 ~~investigated by a discrimination complaint investigator in~~
23 ~~accordance with this section. The Labor Commissioner~~
24 ~~shall establish procedures for the investigation of~~
25 ~~discrimination complaints. A summary of the procedures~~
26 ~~shall be provided to each complainant and respondent at~~
27 ~~the time of initial contact. The Labor Commissioner shall~~
28 ~~inform complainants charging a violation of Section 6310~~
29 ~~or 6311, at the time of initial contact, of his or her right to~~
30 ~~file a separate, concurrent complaint with the United~~
31 ~~States Department of Labor within 30 days after the~~
32 ~~occurrence of the violation.~~

33 ~~(b) Each complaint of unlawful discharge or~~
34 ~~discrimination shall be assigned to a discrimination~~
35 ~~complaint investigator, who shall prepare and submit a~~
36 ~~report to the Labor Commissioner based on an~~
37 ~~investigation of the complaint. The Labor Commissioner~~
38 ~~may designate the chief deputy or assistant Labor~~
39 ~~Commissioner or the chief counsel to receive and review~~
40 ~~the reports. The investigation shall include, where~~



1 appropriate, interviews with the complainant,
2 respondent, and any witnesses who may have
3 information concerning the alleged violation, and a
4 review of any documents that may be relevant to the
5 disposition of the complaint. The identity of witnesses
6 shall remain confidential unless the identification of a
7 witness becomes necessary to proceed with the
8 investigation or to prosecute an action to enforce a
9 determination. The investigation report submitted to the
10 Labor Commissioner or designee shall include the
11 statements and documents obtained in the investigation
12 and the findings of the investigator concerning whether
13 a violation occurred. The Labor Commissioner may hold
14 an investigative hearing whenever the Labor
15 Commissioner determines, after review of the
16 investigation report, that a hearing is necessary to fully
17 establish the facts. In the hearing the investigation report
18 shall be made a part of the record and the complainant
19 and respondent shall have the opportunity to present
20 further evidence. The Labor Commissioner shall issue,
21 serve, and enforce any necessary subpoenas.

22 (e) If the Labor Commissioner determines a violation
23 has occurred, he or she shall notify the complainant and
24 respondent and direct the respondent to cease and desist
25 from the violation and take action as deemed necessary
26 to remedy the violation, including, where appropriate,
27 rehiring or reinstatement, reimbursement of lost wages
28 and interest thereon, payment of reasonable attorney's
29 fees associated with any hearing held by the Labor
30 Commissioner in investigating the complaint, and the
31 posting of notices to employees. If the respondent does
32 not comply with the order within 10 working days
33 following notification of the Labor Commissioner's
34 determination, the Labor Commissioner shall bring an
35 action promptly in an appropriate court against the
36 respondent. If the Labor Commissioner fails to bring an
37 action in court promptly, the complainant may bring an
38 action against the Labor Commissioner in any
39 appropriate court for a writ of mandate to compel the
40 Labor Commissioner to bring an action in court against



1 the respondent. If the complainant prevails in his or her
2 action for a writ of mandate, the court shall award the
3 complainant court costs and reasonable attorney's fees,
4 notwithstanding any other provision of law. Regardless of
5 any delay in bringing an action in court, the Labor
6 Commissioner shall not be divested of jurisdiction. In the
7 action, the court may permit the claimant to intervene as
8 a party plaintiff to the action and shall have jurisdiction,
9 for cause shown, to restrain the violation and to order all
10 appropriate relief. Appropriate relief includes, but is not
11 limited to, rehiring or reinstatement of the complainant,
12 reimbursement of lost wages and interest thereon, and
13 any other compensation or equitable relief that is
14 appropriate under the circumstances of the case. The
15 Labor Commissioner shall petition the court for
16 appropriate temporary relief or a restraining order unless
17 he or she determines good cause exists for not doing so.

18 (d) If the Labor Commissioner determines no
19 violation has occurred, he or she shall notify the
20 complainant and respondent and shall dismiss the
21 complaint. The Labor Commissioner may direct the
22 complainant to pay reasonable attorney's fees associated
23 with any hearing held by the Labor Commissioner if the
24 Labor Commissioner finds the complaint was frivolous,
25 unreasonable, groundless, and was brought in bad faith.
26 The complainant may, after notification of the Labor
27 Commissioner's determination to dismiss a complaint,
28 bring an action in an appropriate court, which shall have
29 jurisdiction to determine whether a violation occurred,
30 and if so, to restrain the violation and order all
31 appropriate relief to remedy the violation. Appropriate
32 relief includes, but is not limited to, rehiring or
33 reinstatement of the complainant, reimbursement of lost
34 wages and interest thereon, and other compensation or
35 equitable relief that is appropriate under the
36 circumstances of the case. When dismissing a complaint,
37 the Labor Commissioner shall advise the complainant of
38 his or her right to bring an action in an appropriate court
39 if he or she disagrees with the determination of the Labor
40 Commissioner, and in the case of an alleged violation of



1 ~~Section 6310 or 6311, to file a complaint against the state~~
2 ~~program with the United States Department of Labor.~~
3 ~~The filing of a timely complaint against the state program~~
4 ~~with the United States Department of Labor shall vacate~~
5 ~~the Labor Commissioner's dismissal of the person's~~
6 ~~complaint against the respondent, pending the issuance~~
7 ~~of findings by the United States Department of Labor.~~
8 ~~Within 15 days of the receipt of those findings the Labor~~
9 ~~Commissioner shall notify the parties of the reopening of~~
10 ~~the investigation of the person's complaint against the~~
11 ~~respondent, or shall issue a new determination of the~~
12 ~~complaint pursuant to subdivision (e) or this subdivision.~~

13 ~~(e) The Labor Commissioner shall notify the~~
14 ~~complainant and respondent of his or her determination~~
15 ~~under subdivision (e) or (d) not later than 60 days after~~
16 ~~the filing of the complaint. Determinations by the Labor~~
17 ~~Commissioner under subdivision (e) or (d) may be~~
18 ~~appealed by the complainant or respondent to the~~
19 ~~Director of Industrial Relations within 10 days following~~
20 ~~notification of the determination. The appeal shall set~~
21 ~~forth specifically and in full detail the grounds upon~~
22 ~~which the appealing party considers the Labor~~
23 ~~Commissioner's determination to be unjust or unlawful,~~
24 ~~and every issue to be considered by the director. The~~
25 ~~director may consider any issue relating to the initial~~
26 ~~determination and may modify, affirm, or reverse the~~
27 ~~Labor Commissioner's determination. The director's~~
28 ~~determination shall be the determination of the Labor~~
29 ~~Commissioner. The director shall notify the complainant~~
30 ~~and respondent of his or her determination within 10 days~~
31 ~~of receipt of the appeal.~~

32 ~~(f) The rights and remedies provided by this section~~
33 ~~do not preclude an employee from pursuing any other~~
34 ~~rights and remedies under any other provision of law. An~~
35 ~~employee may file a civil judicial action without~~
36 ~~exhausting his or her administrative remedies concerning~~
37 ~~the alleged violation of any of the discrimination~~
38 ~~provisions under the jurisdiction of the Labor~~
39 ~~Commissioner, and may seek whatever relief would be~~
40 ~~available from the Labor Commissioner under this~~



1 ~~section, in addition to any other relief that may be~~
2 ~~available under any other provision of law. The limitation~~
3 ~~period for filing a complaint with the Labor~~
4 ~~Commissioner under subdivision (a) shall not apply to~~
5 ~~any civil action filed by an employee under this~~
6 ~~subdivision.~~

7 ~~SEC. 5.~~

8 SEC. 3. Section 203.1 of the Labor Code is amended
9 to read:

10 203.1. If an employer pays an employee in the regular
11 course of employment or in accordance with Section 201,
12 201.5, 201.7, or 202 any wages or fringe benefits, or both,
13 by check, draft or voucher, which check, draft or voucher
14 is subsequently refused payment because the employer
15 or maker has no account with the bank, institution, or
16 person on which the instrument is drawn, or has
17 insufficient funds in the account upon which the
18 instrument is drawn at the time of its presentation, so long
19 as the same is presented within 30 days of receipt by the
20 employee of the check, draft or voucher, those wages or
21 fringe benefits, or both, shall continue as a penalty from
22 the due date thereof at the same rate until paid or until
23 an action therefor is commenced. However, those wages
24 and fringe benefits shall not continue for more than 30
25 days and this penalty shall not apply if the employer can
26 establish to the satisfaction of the Labor Commissioner or
27 an appropriate court of law that the violation of this
28 section was unintentional. This penalty ~~is in addition to,~~
29 ~~and independent and apart from, any other penalty in~~
30 ~~this article.~~ *also shall not apply in any case in which an*
31 *employee recovers the service charge authorized by*
32 *Section 1719 of the Civil Code in an action brought by the*
33 *employee thereunder.*

34 ~~SEC. 6.~~

35 SEC. 4. Section 218.5 of the Labor Code is amended
36 to read:

37 218.5. In any action brought for the nonpayment of
38 wages, fringe benefits, or health and welfare or pension
39 fund contributions, the court shall award reasonable
40 attorney's fees and costs to the prevailing party if any



1 party to the action requests attorney's fees and costs upon
2 the initiation of the action. This section shall not apply to
3 an action brought by the Labor Commissioner. This
4 section shall not apply to a surety issuing a bond pursuant
5 to Chapter 9 (commencing with Section 7000) of Division
6 3 of the Business and Professions Code or to an action to
7 enforce a mechanics lien brought under Chapter 2
8 (commencing with Section 3109) of Title 15 of Part 4 of
9 Division 3 of the Civil Code.

10 This section does not apply to any action for which
11 attorney's fees are recoverable under Section 1194.

12 ~~SEC. 7.~~

13 *SEC. 5.* Section 218.6 is added to the Labor Code, to
14 read:

15 218.6. In any action brought for the nonpayment of
16 wages, the court shall award interest on all due and
17 unpaid wages at the rate of interest specified in
18 subdivision (b) of Section 3289 of the Civil Code, which
19 shall accrue from the date that the wages were due and
20 payable as provided in Part 1 (commencing with Section
21 200) of Division 2.

22 ~~SEC. 8.~~

23 *SEC. 6.* Section 226 of the Labor Code is amended to
24 read:

25 226. (a) Every employer shall, semimonthly or at the
26 time of each payment of wages, furnish each of his or her
27 employees, either as a detachable part of the check, draft,
28 or voucher paying the employee's wages, or separately
29 when wages are paid by personal check or cash, an
30 itemized statement in writing showing (1) gross wages
31 earned, (2) total hours worked by the employee, except
32 for any employee whose compensation is solely based on
33 a salary and who is exempt from payment of overtime
34 under *subdivision (a) of* Section 515 or any applicable
35 order of the Industrial Welfare Commission, (3) the
36 number of piece-rate units earned and any applicable
37 piece rate if the employee is paid on a piece-rate basis, (4)
38 all deductions, provided, that all deductions made on
39 written orders of the employee may be aggregated and
40 shown as one item, (5) net wages earned, (6) the



1 inclusive dates of the period for which the employee is
2 paid, (7) the name of the employee and his or her social
3 security number, (8) the name and address of the legal
4 entity that is the employer, and (9) all applicable hourly
5 rates in effect during the pay period and the
6 corresponding number of hours worked at each hourly
7 rate by the employee.

8 The deductions made from payments of wages shall be
9 recorded in ink or other indelible form, properly dated,
10 showing the month, day, and year, and a copy of the
11 statement or a record of the deductions shall be kept on
12 file by the employer for at least three years at the place
13 of employment or at a central location within the State of
14 California.

15 An employer that is required by this code or any
16 regulation adopted pursuant to this code to keep the
17 information required by this section shall afford current
18 and former employees the right to inspect or copy the
19 records pertaining to that current or former employee,
20 upon reasonable request to the employer. The employer
21 may take reasonable steps to assure the identity of a
22 current or former employee. If the employer provides
23 copies of the records, the actual cost of reproduction may
24 be charged to the current or former employee.

25 This section does not apply to any employer of any
26 person employed by the owner or occupant of a
27 residential dwelling whose duties are incidental to the
28 ownership, maintenance, or use of the dwelling,
29 including the care and supervision of children, or whose
30 duties are personal and not in the course of the trade,
31 business, profession, or occupation of the owner or
32 occupant.

33 (b) Any employee suffering injury as a result of a
34 knowing and intentional failure by an employer to
35 comply with subdivision (a) shall be entitled to recover
36 the greater of all actual damages or ~~one hundred dollars~~
37 ~~(\$100) for each pay period in which a violation occurs,~~
38 ~~not fifty dollars (\$50) for the initial pay period in which~~
39 ~~a violation occurs and one hundred dollars (\$100) per~~
40 ~~employee for each violation in a subsequent pay period,~~



1 *not* exceeding an aggregate penalty of ~~ten~~ *four* thousand
2 dollars ~~(\$10,000)~~ *(\$4,000)*, and shall be entitled to an
3 award of costs and reasonable attorney's fees. ~~Any~~
4 ~~aggrieved employee may seek recovery of the damages~~
5 ~~or penalty provided for in this section by filing a~~
6 ~~complaint pursuant to subdivision (a) of Section 98 or~~
7 ~~bringing a civil action.~~

8 (c) This section does not apply to the state, or any city,
9 county, city and county, district, or any other
10 governmental entity.

11 ~~SEC. 9. Section 226.3 of the Labor Code is amended~~
12 ~~to read:~~

13 ~~226.3. Any employer that violates subdivision (a) of~~
14 ~~Section 226 shall be subject to a civil penalty in the~~
15 ~~amount of two hundred fifty dollars (\$250) per employee~~
16 ~~per violation in an initial citation and one thousand dollars~~
17 ~~(\$1,000) per employee for each violation in a subsequent~~
18 ~~citation, for which the employer fails to provide the~~
19 ~~employee a wage deduction statement or fails to keep the~~
20 ~~records required in subdivision (a) of Section 226. In the~~
21 ~~event that an employer fails to maintain records that~~
22 ~~identify each employee to whom wages are paid, the~~
23 ~~penalties under this section shall be computed by~~
24 ~~multiplying the number of employees employed on the~~
25 ~~date the penalty is assessed by the 24 semimonthly pay~~
26 ~~periods of the immediately preceding 12 months, but the~~
27 ~~employer may affirmatively establish that the evidence~~
28 ~~supports a lesser penalty based upon proof of a lesser~~
29 ~~number of affected employees. The civil penalties~~
30 ~~provided for in this section are in addition to any other~~
31 ~~penalty provided by law. In enforcing this section, the~~
32 ~~Labor Commissioner shall take into consideration~~
33 ~~whether the violation was inadvertent and, in his or her~~
34 ~~discretion, may decide not to penalize an employer for a~~
35 ~~first violation when that violation was due to a clerical~~
36 ~~error or inadvertent mistake.~~

37 ~~SEC. 10.~~

38 ~~SEC. 7. Section 226.7 is added to the Labor Code, to~~
39 ~~read:~~



1 226.7. (a) No employer shall require any employee to
2 work during any meal or rest period mandated by an
3 applicable order of the Industrial Welfare Commission.

4 ~~(b) An employer that violates this section shall be~~
5 ~~subject to both of the following:~~

6 ~~(1) A civil penalty of fifty dollars (\$50) per employee~~
7 ~~per violation.~~

8 ~~(2) Payment to the aggrieved employee of an amount~~
9 ~~equal to twice his or her average hourly rate of~~
10 ~~compensation for the full length of the meal or rest~~
11 ~~periods during which the employee was required to~~
12 ~~perform any work. An employee paid on a piecework~~
13 ~~basis shall be entitled to an amount equal to twice the~~
14 ~~amount of piecework units earned during those periods;~~
15 ~~but in no event shall the amount be less than the~~
16 ~~applicable state minimum wage for the full length of~~
17 ~~those time periods during which any work was~~
18 ~~performed.~~

19 ~~(c) Any employee aggrieved by a violation of this~~
20 ~~section may do either of the following:~~

21 ~~(1) Seek recovery of payments under paragraph (2) of~~
22 ~~subdivision (b) through a complaint filed pursuant to~~
23 ~~subdivision (a) of Section 98.~~

24 ~~(2) Seek recovery of payments under paragraph (2) of~~
25 ~~subdivision (b) in a civil action. The court shall award a~~
26 ~~prevailing plaintiff in such an action reasonable~~
27 ~~attorney's fees.~~

28 ~~SEC. 11. Section 226.8 is added to the Labor Code, to~~
29 ~~read:~~

30 ~~226.8. If an employer fails to provide and maintain~~
31 ~~necessary tools or equipment in violation of an applicable~~
32 ~~wage order of the Industrial Welfare Commission and an~~
33 ~~employee purchases the tools or equipment in order to~~
34 ~~perform his or her work, the employer shall do one of the~~
35 ~~following, whichever results in a greater sum being paid~~
36 ~~to the employee:~~

37 ~~(a) Purchase the tools or equipment from the~~
38 ~~employee in an amount equal to the price paid by the~~
39 ~~employee for the tools or equipment.~~



1 ~~(b) Pay sufficient wages to the employee for a period~~
2 ~~of six months, as stated in the applicable wage order, to~~
3 ~~qualify for an exemption to the wage order.~~

4 ~~SEC. 12. Section 240 of the Labor Code is amended to~~
5 ~~read:~~

6 ~~240. (a) If any employer has been convicted of a~~
7 ~~violation of any provision of this article, or if any~~
8 ~~judgment against an employer for unpaid wages, interest,~~
9 ~~penalties, or other demands for compensation within the~~
10 ~~jurisdiction of the Labor Commissioner remains~~
11 ~~unsatisfied for a period of 10 days after the time to appeal~~
12 ~~therefrom has expired, and no appeal therefrom is then~~
13 ~~pending, the Labor Commissioner may require the~~
14 ~~employer to deposit a bond in a sum that the Labor~~
15 ~~Commissioner deems sufficient and adequate in the~~
16 ~~circumstances. The bond shall be payable to the Labor~~
17 ~~Commissioner and shall be conditioned that the~~
18 ~~employer shall, for a definite future period, not exceeding~~
19 ~~six months, pay the employees in accordance with the~~
20 ~~provisions of this article, and shall be further conditioned~~
21 ~~upon the payment by the employer of any unsatisfied~~
22 ~~judgment against the employer for unpaid wages,~~
23 ~~interest, penalties, or other demands within the~~
24 ~~jurisdiction of the Labor Commissioner.~~

25 ~~(b) If within 10 days after demand for the bond, which~~
26 ~~demand may be made by mail, the employer fails to~~
27 ~~deposit the bond, the Labor Commissioner may bring an~~
28 ~~action in the name and on behalf of the people of the State~~
29 ~~of California against the employer in a court of competent~~
30 ~~jurisdiction to compel the employer to furnish the bond~~
31 ~~or to cease doing business until the employer has done so.~~
32 ~~The employer has the burden of proving either that the~~
33 ~~bond is unnecessary or that the amount demanded is~~
34 ~~excessive. If the court finds that there is just cause for~~
35 ~~requiring the bond, and that the bond is reasonably~~
36 ~~necessary or proper to secure prompt payment of any~~
37 ~~unsatisfied judgment against the employer for unpaid~~
38 ~~wages, interest, penalties, or other demands within the~~
39 ~~jurisdiction of the Labor Commissioner or for the~~
40 ~~employer's compliance with the provisions of this article,~~



1 the court may enjoin the employer, whether an
2 individual, partnership, corporation, company, trust, or
3 association, and any other person or persons that may
4 have been or may be concerned with, or in any way
5 participated in, the failure to pay the wages resulting in
6 the judgment, from doing business until the requirement
7 is met, and make other and further orders appropriate to
8 compel compliance with the requirement.

9 SEC. 13. Section 245 is added to the Labor Code, to
10 read:

11 245. Whenever the Labor Commissioner makes an
12 award against an employer pursuant to this chapter, upon
13 finding that the employer has engaged in a pattern and
14 practice of violating wage and hours laws, the Labor
15 Commissioner shall also make an order requiring the
16 employer to post a notice at the place of employment
17 where the affected employees are or were employed
18 containing a description of the nature of the violation, a
19 declaration by the employer stating that it will not engage
20 in those unlawful acts in the future, and the address and
21 telephone number of the Labor Commissioner. The
22 notice, on a form approved by the Labor Commissioner,
23 shall be posted conspicuously by the employer for a
24 period of not less than 60 days. The notice shall bear the
25 seal of the State of California and of the Labor
26 Commissioner and the signature of the employer or a
27 representative or agent of the employer. The cost of
28 producing and posting the notice shall be paid by the
29 employer. The failure or refusal of an employer to post
30 the notice in accordance with this section shall subject the
31 employer to a civil penalty, to be assessed and collected
32 by the Labor Commissioner, in the amount of five
33 hundred dollars (\$500) for each instance in which the
34 employer fails or refuses to post a notice as required by
35 this section, and the employer shall be required to
36 properly post the notice.

37 SEC. 14.—

38 (b) *If an employer fails to provide an employee a meal*
39 *period or rest period in accordance with an applicable*
40 *order of the Industrial Welfare Commission, the*



1 *employer shall pay the employee one additional hour of*
2 *pay at the employee's regular rate of compensation for*
3 *each work day that the meal or rest period is not*
4 *provided.*

5 SEC. 8. Section 350 of the Labor Code is amended to
6 read:

7 350. As used in this article, unless the context indicates
8 otherwise:

9 (a) "Employer" means every person engaged in any
10 business or enterprise in this state that has one or more
11 persons in service under any appointment, contract of
12 hire, or apprenticeship, express or implied, oral or
13 written, irrespective of whether the person is the owner
14 of the business or is operating on a concessionaire or other
15 basis.

16 (b) "Employee" means every person, including aliens
17 and minors, rendering actual service in any business for
18 an employer, whether gratuitously or for wages or pay,
19 whether the wages or pay are measured by the standard
20 of time, piece, task, commission, or other method of
21 calculation, and whether the service is rendered on a
22 commission, concessionaire, or other basis.

23 (c) "Employing" includes hiring, or in any way
24 contracting for, the services of an employee.

25 (d) "Agent" means every person other than the
26 employer having the authority to hire or discharge any
27 employee or supervise, direct, or control the acts of
28 employees.

29 (e) "Gratuity" includes any tip, gratuity, money, or
30 part thereof that has been paid or given to or left for an
31 employee by a patron of a business over and above the
32 actual amount due the business for services rendered or
33 for goods, food, drink, or articles sold or served to the
34 patron. Any amounts paid directly by a patron to a dancer
35 employed by an employer subject to Industrial Welfare
36 Commission Order No. 5 or 10 shall be deemed a gratuity.

37 (f) "Business" means any business establishment or
38 enterprise, regardless of where conducted.

39 ~~SEC. 15.~~



1 SEC. 9. Section 351 of the Labor Code is amended to
2 read:

3 351. No employer or agent shall collect, take, or
4 receive any gratuity or a part thereof that is paid, given
5 to, or left for an employee by a patron, or deduct any
6 amount from wages due an employee on account of a
7 gratuity, or require an employee to credit the amount, or
8 any part thereof, of a gratuity against and as a part of the
9 wages due the employee from the employer. Every
10 gratuity is hereby declared to be the sole property of the
11 employee or employees to whom it was paid, given, or left
12 for. An employer that permits patrons to pay gratuities by
13 credit card shall pay the employees the full amount of the
14 gratuity that the patron indicated on the credit card slip,
15 without any deductions for any credit card payment
16 processing fees or costs that may be charged to the
17 employer by the credit card company. Payment of
18 gratuities made by patrons using credit cards shall be
19 made to the employees not later than the next regular
20 payday following the date the patron authorized the
21 credit card payment.

22 ~~SEC. 16.~~

23 SEC. 10. Section 1174 of the Labor Code is amended
24 to read:

25 1174. Every person employing labor in this state shall:

26 (a) Furnish to the commission, at its request, reports
27 or information that the commission requires to carry out
28 this chapter. The reports and information shall be verified
29 if required by the commission or any member thereof.

30 (b) Allow any member of the commission or the
31 employees of the Division of Labor Standards
32 Enforcement free access to the place of business or
33 employment of the person to secure any information or
34 make any investigation that they are authorized by this
35 chapter to ascertain or make. The commission may
36 inspect or make excerpts, relating to the employment of
37 employees, from the books, reports, contracts, payrolls,
38 documents, or papers of the person.

39 (c) Keep a record showing the names and addresses of
40 all employees employed and the ages of all minors.



1 (d) Keep, at a central location in the state or at the
2 plants or establishments at which employees are
3 employed, payroll records showing the hours worked
4 daily by and the wages paid to, and the number of
5 piece-rate units earned by and any applicable piece rate
6 paid to, employees employed at the respective plants or
7 establishments. These records shall be kept in accordance
8 with rules established for this purpose by the commission,
9 but in any case shall be kept on file for not less than two
10 years.

11 ~~SEC. 17. Section 1174.5 of the Labor Code is amended~~
12 ~~to read:~~

13 ~~1174.5. Any person employing labor who willfully fails~~
14 ~~to maintain the records required by subdivision (c) of~~
15 ~~Section 1174 or accurate and complete records required~~
16 ~~by subdivision (d) of Section 1174 or by the applicable~~
17 ~~wage orders of the Industrial Welfare Commission, or to~~
18 ~~allow any member of the commission or employees of the~~
19 ~~division to inspect records pursuant to subdivision (b) of~~
20 ~~Section 1174, shall be subject to a civil penalty of one~~
21 ~~hundred dollars (\$100) per employee for each payroll~~
22 ~~period during which the violation occurs, up to a~~
23 ~~maximum period of three years.~~

24 ~~SEC. 18. Section 1194.2 of the Labor Code is amended~~
25 ~~to read:~~

26 ~~1194.2. (a) In any proceeding before the Labor~~
27 ~~Commissioner, or any action under Section 1193.6 or 1194,~~
28 ~~to recover wages because of the payment of a wage less~~
29 ~~than the minimum wage fixed by an order of the~~
30 ~~commission, an employee shall be entitled additionally to~~
31 ~~recover liquidated damages in an amount equal to the~~
32 ~~wages unlawfully unpaid and interest thereon. Nothing in~~
33 ~~this subdivision shall be construed to authorize the~~
34 ~~recovery of liquidated damages for failure to pay~~
35 ~~overtime compensation.~~

36 ~~(b) Notwithstanding subdivision (a), if the employer~~
37 ~~demonstrates to the satisfaction of the Labor~~
38 ~~Commissioner or the court that the act or omission giving~~
39 ~~rise to the action was in good faith and that the employer~~
40 ~~had reasonable grounds for believing that the act or~~



1 omission was not a violation of any provision of the Labor
2 Code relating to minimum wage, or an order of the
3 commission, the Labor Commissioner or the court may,
4 in the discretion of the Labor Commissioner or the court
5 as the case may be, refuse to award liquidated damages
6 or award any amount of liquidated damages not
7 exceeding the amount specified in subdivision (a).

8 (e) This section only applies to civil actions
9 commenced on or after January 1, 1992.

10 SEC. 19. Section 1197.1 of the Labor Code is amended
11 to read:

12 1197.1. (a) Any employer or other person, acting
13 either individually or as an officer, agent, or employee of
14 another person, who pays or causes to be paid to any
15 employee a wage less than the minimum fixed by an
16 order of the commission shall be subject to a civil penalty
17 and restitution as follows:

18 (1) For any initial violation that is intentionally
19 committed, fifty dollars (\$50) for each underpaid
20 employee for each pay period for which the employee is
21 underpaid, in addition to an amount sufficient to recover,
22 on behalf of the affected employees, all underpaid wages,
23 any owed interest thereon, and statutory liquidated
24 damages.

25 (2) For each subsequent violation for the same specific
26 offense, two hundred fifty dollars (\$250) for each
27 underpaid employee for each pay period for which the
28 employee is underpaid, regardless of whether the initial
29 violation is intentionally committed, in addition to an
30 amount sufficient to recover, on behalf of the affected
31 employees, all underpaid wages, any interest owed
32 thereon, and statutory liquidated damages.

33 (b) If, upon inspection or investigation, the Labor
34 Commissioner determines that a person has paid or
35 caused to be paid a wage less than the minimum, the
36 Labor Commissioner may issue a citation to the person in
37 violation. The citation may be served personally or by
38 registered mail in accordance with subdivision (e) of
39 Section 11505 of the Government Code. Each citation
40 shall be in writing and shall describe the nature of the



1 violation, including reference to the statutory provision
2 alleged to have been violated. The Labor Commissioner
3 promptly shall take all appropriate action, in accordance
4 with this section, to enforce the citation and to recover
5 the civil penalty and restitution assessed in connection
6 with the citation.

7 (e) If a person desires to contest a citation or the
8 proposed assessment of a civil penalty or restitution
9 therefor, the person shall, within 15 business days after
10 service of the citation, notify the office of the Labor
11 Commissioner that appears on the citation of his or her
12 request for an informal hearing. The Labor
13 Commissioner or his or her deputy or agent shall, within
14 30 days, hold a hearing at the conclusion of which the
15 citation or proposed assessment of a civil penalty and
16 restitution shall be affirmed, modified, or dismissed.

17 The decision of the Labor Commissioner shall consist of
18 a notice of findings, findings, and an order, all of which
19 shall be served on all parties to the hearing within 15 days
20 after the hearing by regular first class mail at the last
21 known address of the party on file with the Labor
22 Commissioner. Service shall be completed pursuant to
23 Section 1013 of the Code of Civil Procedure. Any amount
24 found due by the Labor Commissioner as a result of a
25 hearing shall become due and payable 45 days after notice
26 of the findings and written findings and order have been
27 mailed to the party assessed. A writ of mandate may be
28 taken from this finding to the appropriate superior court.
29 The party shall pay any judgment and costs ultimately
30 rendered by the court against the party for the
31 assessment. The writ shall be taken within 45 days of
32 service of the notice of findings, findings, and order
33 thereon.

34 (d) A person to whom a citation has been issued may,
35 in lieu of contesting a citation pursuant to this section,
36 transmit to the office of the Labor Commissioner
37 designated on the citation the amount of the civil penalty
38 and restitution specified for the violation within 15
39 business days after issuance of the citation.



1 ~~(e) When no petition objecting to a citation or the~~
2 ~~proposed assessment of a civil penalty and restitution is~~
3 ~~filed, a certified copy of the citation or proposed civil~~
4 ~~penalty and restitution may be filed by the Labor~~
5 ~~Commissioner in the office of the clerk of the superior~~
6 ~~court in any county in which the person assessed has or~~
7 ~~had a place of business. The clerk, immediately upon the~~
8 ~~filing, shall enter judgment for the state against the~~
9 ~~person assessed in the amount shown on the citation or~~
10 ~~proposed assessment of a civil penalty and restitution.~~

11 ~~(f) When findings and the order thereon are made~~
12 ~~affirming or modifying a citation or proposed assessment~~
13 ~~of a civil penalty and restitution after hearing, a certified~~
14 ~~copy of these findings and the order entered thereon may~~
15 ~~be entered by the Labor Commissioner in the office of the~~
16 ~~clerk of the superior court in any county in which the~~
17 ~~person assessed has property or in which the person~~
18 ~~assessed has or had a place of business. The clerk,~~
19 ~~immediately upon the filing, shall enter judgment for the~~
20 ~~state against the person assessed in the amount shown on~~
21 ~~the certified order.~~

22 ~~(g) A judgment entered pursuant to this section shall~~
23 ~~bear the same rate of interest and shall have the same~~
24 ~~effect as other judgments and be given the same~~
25 ~~preferenece allowed by the law on other judgments~~
26 ~~rendered for claims for taxes. The clerk shall make no~~
27 ~~charge for the service provided by this section to be~~
28 ~~performed by him or her.~~

29 ~~(h) The civil penalties and restitution provided for in~~
30 ~~this section are in addition to any other penalty or remedy~~
31 ~~provided by law.~~

32 ~~(i) This section shall not apply to any order of the~~
33 ~~commission relating to household occupations.~~

34 ~~SEC. 20.—~~

35 *SEC. 11. The amendments to Section 218.5 of the*
36 *Labor Code made by Section 4 of this act do not constitute*
37 *a change in, but are declaratory of, the existing law, and*
38 *these amendments are intended to reflect the holding of*
39 *the Court of Appeal in Early v. Superior Court (2000) 79*
40 *Cal.App.4th 1420.*



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

O

