

THE LUTI LAW FIRM

CLIENT ALERT

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California's Labor Code Private Attorneys General Act

A publication addressing legal and business issues of interest to our clients and friends. The information in this publication should not be construed as legal advice. For more information, please contact Anthony N. Luti at the Firm.

BY ANTHONY N. LUTI

On January 1, 2004, the "Labor Code Private Attorneys General Act of 2004" (Senate Bill 796) goes into effect in California. The Act authorizes aggrieved employees to file lawsuits against employers who violate provisions of the California Labor Code, and to recover attorneys fees and receive a quarter of the civil penalties.

This Client Alert summarizes the newly implemented Act and highlights some of the issues raised by it.

Bill 796: What It Says

The Labor Code Private Attorneys General Act raises all of the rules and regulations overseen by the State's Labor and Workforce Development Agency to the status of civil causes of action. Previously, civil penalties for Labor Code violations were assessed and collected by the Labor and Workforce Development Agency and its subordinate agencies. As of January 1st, however, "aggrieved" employees will be able to file lawsuits – on their own behalf and on behalf of other current or former employees – and to recover these penalties if the agency has not cited the employer for violation of the same Labor Code provision.

The major provisions of the bill include the following:

- "Aggrieved" employees can sue their employers on behalf of themselves and their co-workers for alleged violations of Labor Code rules and regulations;
- If the Labor Code provision at issue does not set forth a civil penalty, damages will be calculated at the rate of \$100.00 per day per employee per pay period, or \$200.00 per day per employee for repeat violations;
- Courts can exercise the same discretion as the various departments in assessing penalties; and

The bill provides for reasonable fees and costs for the aggrieved employees' attorneys.

Accordingly, if an employee files a lawsuit under the Act and prevails, the employee is entitled to an award of reasonable attorneys' fees and costs as well as 25 percent of the civil penalty.

What Are The Implications Of The Act To California Employers

Given the complexity of the California Labor Code, in addition to the attorney fee provision in the Act, it is anticipated that plaintiff's employment lawyers will aggressively seek to enlist employees to sue, on behalf of themselves and their coworkers, as private attorneys general. Consequently, it is essential that employers be extremely diligent in ensuring compliance with the Labor Code. Wise preventative actions include ongoing human resource training, expert counseling and workplace audits.



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