

Amendment No. 544

Assembly Amendment to Assembly Bill No. 211 (BDR 53-764)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

WBD/BJE



Date: 4/24/2017

A.B. No. 211—Revises provisions governing compensation and wages.

(BDR 53-764)



ASSEMBLY BILL NO. 211—ASSEMBLYMEN JAUREGUI;
FUMO AND MCCURDY II

PREFILED FEBRUARY 13, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing compensation and wages.
(BDR 53-764)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to labor; ~~authorizing a court to award treble damages in an action to recover unpaid wages;~~ increasing the amount of the administrative penalty that may be imposed by the Labor Commissioner for the violation of certain requirements relating to wages and compensation; authorizing the Labor Commissioner, under certain circumstances, to award money to persons harmed by such a violation; requiring the Labor Commissioner to post on an Internet website the business name and address of an employer that willfully violates certain requirements relating to wages and compensation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~This bill authorizes a court to award treble damages to an employee who prevails in an action or proceeding to recover unpaid wages.~~

Existing law establishes certain requirements and prohibitions concerning the wages and compensation that must be paid to employees. An employer who violates such a requirement or prohibition is guilty of a misdemeanor. In addition to any other penalty or remedy, the Labor Commissioner is authorized to impose an administrative penalty of not more than \$5,000. (NRS 608.005-608.195, 608.250-608.290)

Sections 1.3 and 1.4 of this bill increase the maximum amount of the administrative penalty the Labor Commissioner may impose from \$5,000 to \$10,000 and authorize the Labor Commissioner to award money to a person who is harmed by a violation of the laws relating to wages and compensation if the Labor Commissioner determines that it is in the best interest of this State to do so. Sections 1.3 and 1.4 also limit the amount of the award to the wages and benefits lost as a result of the violation or the amount of the proceeds of the administrative penalty recovered, whichever is less. Additionally, sections 1.3 and 1.4 require the Labor Commissioner to post the business name and address of any employer determined by the Labor Commissioner to have willfully violated the requirements and prohibitions concerning the wages that must be paid to employees on the Labor Commissioner's Internet website.

This bill also requires the Labor Commissioner to post on the Internet website the name and business address of an employer who willfully violates certain labor laws.

Sections 1.3 and 1.4 also authorize the Labor Commissioner to adopt regulations to carry out the provisions of these sections.

Section 1.1 of this bill requires all money collected by the Labor Commissioner as an administrative penalty imposed pursuant to sections 1.3 and 1.4 of this bill to be accounted for separately and used only for awards to persons who were harmed by a violation of the laws governing wages and compensation. Sections 2, 2.3 and 2.5 of this bill make conforming changes to reflect the other changes in the bill. Section 3 of this bill provides that the provisions of this bill apply to any actions and proceedings brought before a final decision has been rendered in the action or proceeding.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~If an employee prevails in any action or proceeding to recover wages which are not paid in accordance with the provisions of this chapter, the employee may recover an amount that is treble the amount of the unpaid wages.~~ (Deleted by amendment.)

Sec. 1.1. NRS 607.160 is hereby amended to read as follows:

607.160 1. The Labor Commissioner:

(a) Shall enforce all labor laws of the State of Nevada:

(1) Without regard to whether an employee or worker is lawfully or unlawfully employed; and

(2) The enforcement of which is not specifically and exclusively vested in any other officer, board or commission.

(b) May adopt regulations to carry out the provisions of paragraph (a).

2. If the Labor Commissioner has reason to believe that a person is violating or has violated a labor law or regulation, the Labor Commissioner may take any appropriate action against the person to enforce the labor law or regulation whether or not a claim or complaint has been made to the Labor Commissioner concerning the violation.

3. Before the Labor Commissioner may enforce an administrative penalty against a person who violates a labor law or regulation, the Labor Commissioner must provide the person with notice and an opportunity for a hearing as set forth in NRS 607.207.

4. In determining the amount of any administrative penalty to be imposed against a person who violates a labor law or regulation, the Labor Commissioner shall consider the person's previous record of compliance with the labor laws and regulations and the severity of the violation.

5. All money collected by the Labor Commissioner as an administrative penalty must be deposited in the State General Fund. Money collected as an administrative penalty imposed pursuant to section 1.3 or 1.4 of this act must be accounted for separately and used only for awards made by the Labor Commissioner pursuant to sections 1.3 and 1.4 of this act.

6. The actions and remedies authorized by the labor laws are cumulative. If a person violates a labor law or regulation, the Labor Commissioner may seek a civil remedy, impose an administrative penalty or take other administrative action against the person whether or not the person is prosecuted, convicted or punished for the violation in a criminal proceeding. The imposition of a civil remedy, an administrative penalty or other administrative action against the person does not operate as a defense in any criminal proceeding brought against the person.

7. If, after due inquiry, the Labor Commissioner believes that a person who is financially unable to employ counsel has a valid and enforceable claim for wages, commissions or other demands, the Labor Commissioner may present the facts to the Attorney General. The Attorney General shall prosecute the claim if the Attorney General determines that the claim is valid and enforceable.

Sec. 1.2. Chapter 608 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.4 of this act.

Sec. 1.3. 1. If an employer violates any provision of NRS 608.005 to 608.195, inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner, in addition to any other remedy or penalty, may impose against the employer an administrative penalty of not more than \$10,000 for each such violation.

2. Upon receipt of the proceeds of an administrative penalty imposed pursuant to subsection 1, the Labor Commissioner may, if he or she determines that it is in the best interest of this State, award to a person harmed by the violation for which the administrative penalty was imposed an amount of money that is equal to the lesser of:

(a) Three times the amount of the wages and benefits lost as a result of the violation; or

(b) The amount of the proceeds of the administrative penalty.

3. If the Labor Commissioner determines that an employer's violation of NRS 608.005 to 608.195, inclusive, or any regulation adopted pursuant thereto was willful, the Labor Commissioner shall post the business name and address of the employer on an Internet website maintained by the Labor Commissioner.

4. The Labor Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 1.4. 1. If an employer violates any provision of NRS 608.250 or any regulation adopted pursuant thereto, the Labor Commissioner, in addition to any other remedy or penalty, may impose against the employer an administrative penalty of not more than \$10,000 for each such violation.

2. Upon receipt of the proceeds of an administrative penalty imposed pursuant to subsection 1, the Labor Commissioner may, if he or she determines that it is in the best interest of this State, award to a person harmed by the violation for which the administrative penalty was imposed an amount of money that is equal to the lesser of:

(a) Three times the amount of the wages and benefits lost as a result of the violation; or

(b) The amount of the proceeds of the administrative penalty.

3. If the Labor Commissioner determines that an employer's violation of NRS 608.250 or any regulation adopted pursuant thereto was willful, the Labor Commissioner shall post the business name and address of the employer on an Internet website maintained by the Labor Commissioner.

4. The Labor Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 2. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, and section ~~1.3~~ 1.3 of this act to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

1 4. The special counsel, as provided in NRS 607.065,
2 ↪ shall prosecute the action for enforcement according to law.

3 **Sec. 2.3. NRS 608.195 is hereby amended to read as follows:**

4 608.195 ~~++~~ Except as otherwise provided in NRS 608.0165, any person
5 who violates any provision of NRS 608.005 to 608.195, inclusive, and section 1.3
6 of this act or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

7 ~~{2. In addition to any other remedy or penalty, the Labor Commissioner may~~
8 ~~impose against the person an administrative penalty of not more than \$5,000 for~~
9 ~~each such violation.}~~

10 **Sec. 2.5. NRS 608.290 is hereby amended to read as follows:**

11 608.290 ~~++~~ Any person who violates any provision of NRS 608.250 or any
12 regulation adopted pursuant thereto is guilty of a misdemeanor.

13 ~~{2. In addition to any other remedy or penalty, the Labor Commissioner may~~
14 ~~impose against the person an administrative penalty of not more than \$5,000 for~~
15 ~~each such violation.}~~

16 **Sec. 3.** The provisions of this act apply to any action or proceeding ~~to~~
17 ~~recover unpaid wages} brought~~ pursuant to chapter 608 of NRS in which a final
18 decision has not been rendered before, on or after July 1, 2017.

19 **Sec. 4.** This act becomes effective on July 1, 2017.