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AB-673 Failure to pay wages: penalties. (2019-2020)

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Assembly Bill No. 673

CHAPTER 716

An act to amend Section 210 of the Labor Code, relating to employment.

[Approved by Governor October 10, 2019. Filed with Secretary of State October 10, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 673, Carrillo. Failure to pay wages: penalties.

Existing law provides for a civil penalty, in addition to, and entirely independent and apart from other penalties, on every person who fails to pay the wages of each employee, as specified, including a provision prohibiting wage differential on the basis of sex, as provided in specified provisions of the Labor Code. Existing law requires the Labor Commissioner to recover that penalty as part of a hearing held to recover unpaid wages and penalties or in an independent civil action. Existing law requires that a specified percentage of the penalty recovered under that provision be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws and that the remainder be paid into the State Treasury to the credit of the General Fund.

This bill would also authorize the affected employee to bring an action to recover specified statutory penalties against the employer as part of a hearing held to recover unpaid wages. The bill would remove the authority for the Labor Commissioner to recover civil penalties in an independent civil action. The bill would also modify the list of statutes that a statutory penalty may be recovered for violation of by adding a provision relating to wages paid to an employee who is licensed under the Barbering and Cosmetology Act. The bill would authorize an employee to either recover statutory penalties under these provisions or to enforce civil penalties under a specified provision of the Labor Code Private Attorneys General Act of 2004, but not both, for the same violation.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 210 of the Labor Code is amended to read:

210. (a) In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follows:

(1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

(b) The penalty shall either be recovered by the employee as a statutory penalty pursuant to Section 98 or by the Labor Commissioner as a civil penalty through the issuance of a citation or pursuant to Section 98.3. The procedures for issuing, contesting, and enforcing judgments for citations issued by the Labor Commissioner under this section shall be the same as those set forth in subdivisions (b) through (k), inclusive, of Section 1197.1.

(c) An employee is only entitled to either recover the statutory penalty provided for in this section or to enforce a civil penalty as set forth in subdivision (a) of Section 2699, but not both, for the same violation.