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AB-1003 Wage theft: grand theft. (2021-2022)

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Assembly Bill No. 1003

CHAPTER 325

An act to add Section 487m to the Penal Code, relating to grand theft.

[Approved by Governor September 27, 2021. Filed with Secretary of State September 27, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1003, Lorena Gonzalez. Wage theft: grand theft.

Existing law regulates the payment of wages and benefits in the state. Existing law makes violation of specified wage and gratuity provisions a misdemeanor and provides for civil penalties and remedies for the recovery of wages.

Existing law defines the crime of grand theft as theft committed when the money, labor, or real or personal property taken is of a value exceeding \$950. Under existing law, grand theft is generally punishable either as a misdemeanor by imprisonment in a county jail for up to 1 year or as a felony by imprisonment in county jail for 16 months or 2 or 3 years.

This bill would make the intentional theft of wages, including gratuities, in an amount greater than \$950 from any one employee, or \$2,350 in the aggregate from 2 or more employees, by an employer in any consecutive 12-month period punishable as grand theft. The bill would specifically authorize wages, gratuities, benefits, or other compensation that are the subject of a prosecution under these provisions to be recovered as restitution in accordance with existing provisions of law. This bill would specify that, for the purposes of these provisions, independent contractors are included within the meaning of employee and hiring entities of independent contractors are included within the meaning of employer. By increasing the penalty for a crime and by creating a new crime, this bill would impose a state-mandated local program.

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 Local Program: yes

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

SECTION 1. Section 487m is added to the Penal Code, to read:

487m. (a) Notwithstanding Sections 215 and 216 of the Labor Code, the intentional theft of wages in an amount greater than nine hundred fifty dollars (\$950) from any one employee, or two thousand three hundred fifty dollars (\$2,350) in the aggregate from two or more employees, by an employer in any consecutive 12-month period may be punished as grand theft.

(b) For purposes of this section, "theft of wages" is the intentional deprivation of wages, as defined in Section 200 of the Labor Code, gratuities, as defined in Section 350 of the Labor Code, benefits, or other compensation, by unlawful means, with the knowledge that the wages, gratuities, benefits, or other compensation is due to the employee under the law.

(c) For purposes of this section, "employee" includes an independent contractor and "employer" includes the hiring entity of an independent contractor.

(d) Wages, gratuities, benefits, or other compensation that are the subject of a prosecution under this section may be recovered as restitution in accordance with Sections 1202.4 and 1203.1. This section does not prohibit the employee or the Labor Commissioner from commencing a civil action to seek remedies provided for under the Labor Code for acts prosecuted under this section.

(e) This section does not constitute a change in, and does not expand or limit the scope of conduct prohibited by, Section 487.

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