



Sen. Miguel del Valle

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09400SB2339sam001

LRB094 16364 WGH 54299 a

1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. _____. Amend Senate Bill 2339 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Minimum Wage Law is amended by changing
5 Section 12 as follows:

6 (820 ILCS 105/12) (from Ch. 48, par. 1012)

7 Sec. 12. (a) If any employee is paid by his employer less
8 than the wage to which he is entitled under the provisions of
9 this Act, the employee may recover in a civil action the amount
10 of any such underpayments together with costs and such
11 reasonable attorney's fees as may be allowed by the Court, and
12 any agreement between him and his employer to work for less
13 than such wage is no defense to such action. At the request of
14 the employee or on motion of the Director of Labor, the
15 Department of Labor may make an assignment of such wage claim
16 in trust for the assigning employee and may bring any legal
17 action necessary to collect such claim, and the employer shall
18 be required to pay the costs incurred in collecting such claim.
19 Every such action shall be brought within 3 years from the date
20 of the underpayment. Such employer shall be liable to the
21 Department of Labor for 20% of the total employer's
22 underpayment and shall be additionally liable to the employee
23 for punitive damages in the amount of 2% of the amount of any
24 such underpayments for each month following the date of payment

1 during which such underpayments remain unpaid, and the employee
2 may recover such punitive damages in any proceeding or action
3 allowed by any provision of this subsection, including, but not
4 limited to, a civil action filed directly by the employee. The
5 Director may promulgate rules for the collection of these
6 penalties. The amount of a penalty may be determined, and the
7 penalty may be assessed, through an administrative hearing. The
8 penalty may be recovered in a civil action brought by the
9 Director of Labor in any circuit court. The penalty shall be
10 imposed in cases in which an employer's conduct is proven by a
11 preponderance of the evidence to be willful. In any such
12 action, the Director of Labor shall be represented by the
13 Attorney General.

14 (b) The Director is authorized to supervise the payment of
15 the unpaid minimum wages and the unpaid overtime compensation
16 owing to any employee or employees under Sections 4 and 4a of
17 this Act and may bring any legal action necessary to recover
18 the amount of the unpaid minimum wages and unpaid overtime
19 compensation and an equal additional amount as punitive
20 damages, and the employer shall be required to pay the costs.
21 The action shall be brought within 5 years from the date of the
22 failure to pay the wages or compensation. Any sums thus
23 recovered by the Director on behalf of an employee pursuant to
24 this subsection shall be paid to the employee or employees
25 affected. Any sums which, more than one year after being thus
26 recovered, the Director is unable to pay to an employee shall
27 be deposited into the General Revenue Fund.

28 (Source: P.A. 92-392, eff. 1-1-02.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law."