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09400SB2339sam003

LRB094 16364 WGH 56687 a

1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. _____. Amend Senate Bill 2339, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 2, by replacing lines 23 through 33 of page 4, all of page 5,
5 and lines 1 through 3 of page 6 with the following:

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 damages of 2% of the amount of any such underpayments for each
13 month following the date of payment during which such
14 underpayments remain unpaid. Any ~~any~~ agreement between the
15 employee ~~him~~ and the ~~his~~ employer to work for less than such
16 wage is no defense to such action. At the request of the
17 employee or on motion of the Director of Labor, the Department
18 of Labor may make an assignment of such wage claim in trust for
19 the assigning employee and may bring any legal action necessary
20 to collect such claim, and the employer shall be required to
21 pay the costs incurred in collecting such claim. Every such
22 action shall be brought within 3 years from the date of the
23 underpayment. Such employer shall be liable to the Department
24 of Labor for 20% of the total employer's underpayment and shall
25 be additionally liable to the employee for ~~punitive~~ damages in

1 the amount of 2% of the amount of any such underpayments for
2 each month following the date of payment during which such
3 underpayments remain unpaid. Such employer shall be
4 additionally liable to the Department of Labor for up to 20% of
5 the total employer's underpayment where the employer's conduct
6 is proven by a preponderance of the evidence to be willful,
7 repeated, or with reckless disregard of this Act or any rule
8 adopted under this Act. These penalties and damages ~~The~~
9 ~~Director may promulgate rules for the collection of these~~
10 ~~penalties. The amount of a penalty may be determined, and the~~
11 ~~penalty may be assessed, through an administrative hearing. The~~
12 ~~penalty may be recovered in a civil action brought by the~~
13 ~~Director of Labor in any circuit court. The penalty shall be~~
14 ~~imposed in cases in which an employer's conduct is proven by a~~
15 ~~preponderance of the evidence to be willful.~~ In any such
16 action, the Director of Labor shall be represented by the
17 Attorney General.

18 (b) The Director is authorized to supervise the payment of
19 the unpaid minimum wages and the unpaid overtime compensation
20 owing to any employee or employees under Sections 4 and 4a of
21 this Act and may bring any legal action necessary to recover
22 the amount of the unpaid minimum wages and unpaid overtime
23 compensation and an equal additional amount as ~~punitive~~
24 ~~damages, and the employer shall be required to pay the costs~~
25 incurred in collecting such claim. Such ~~and the~~ employer shall
26 be additionally liable to the Department of Labor for up to 20%
27 of the total employer's underpayment where the employer's
28 conduct is proven by a preponderance of the evidence to be
29 willful, repeated, or with reckless disregard of this Act or
30 any rule adopted under this Act. ~~be required to pay the costs.~~
31 The action shall be brought within 5 years from the date of the
32 failure to pay the wages or compensation. Any sums thus
33 recovered by the Director on behalf of an employee pursuant to
34 this subsection shall be paid to the employee or employees

1 affected. Any sums which, more than one year after being thus
2 recovered, the Director is unable to pay to an employee shall
3 be deposited into the General Revenue Fund.
4 (Source: P.A. 92-392, eff. 1-1-02.)".