

Date of Hearing: June 21, 2022

ASSEMBLY COMMITTEE ON JUDICIARY  
Mark Stone, Chair  
SB 1260 (Durazo) – As Amended March 29, 2022

**SENATE VOTE:** 27-9

**SUBJECT:** EMPLOYMENT: GARMENT MANUFACTURING

**KEY ISSUE:** SHOULD THE STATUTORY PENALTIES FOR WAGE VIOLATIONS IN THE GARMENT INDUSTRY THAT HAVE LONG BEEN IMPOSED ON MANUFACTURERS AND CONTRACTORS, BE REINSTATED?

**SYNOPSIS**

*Since passage of AB 633 (Steinberg, Chap. 554, Stats. 1999), manufacturers and subcontractors in the garment industry – just one of the layers of contracting in the industry – who are found to be underpaying or stealing workers' wages have been liable for statutory penalties, in addition to being liable for unpaid wages. Last year, SB 62 (Durazo, Chap. 329, Stats. 2021) strengthened protections for garment workers by imposing joint and several liability for brand guarantors (or the brands we all recognize who then contract with manufacturers and subcontractors) who, until then, had been able to evade accountability for wage theft. In the final days of session, the bill was amended to remove provisions holding manufacturers and contractors, as well as brand guarantors, liable for liquidated damages equal to unlawfully withheld wages or unpaid overtime compensation, as a penalty for violation of minimum wage and overtime laws. This change meant fewer legal protections were available to low wage workers in the garment industry than in other industries. This bill would correct the oversight and impose liability for liquidated damages for wage theft. The bill was previously heard by the Assembly Committee on Labor and Employment, and passed by a vote of 5-2.*

**SUMMARY:** Restores the liability of garment manufacturers and contractors for liquidated damages in the amount of any unpaid minimum and overtime wages that a garment worker has earned but has not been paid.

**EXISTING LAW:**

- 1) Defines “garment manufacturing” as sewing, cutting, making, processing, repairing, finishing, assembling, dyeing, altering a garment’s design, causing another person to alter a garment’s design, affixing a label to a garment, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for sale or resale by any person or any persons contracting to have those operations performed and other operations and practices in the apparel industry. (Labor Code Section 2673 (c).)
- 2) Defines “brand guarantor” as any person contracting for the performance of garment manufacturing as specified. (Labor Code Section 2673 (d).)

- 3) Requires brand guarantors, garment manufacturers, and contractors who contract with another person for the performance of garment manufacturing operations to be jointly and severally liable with the manufacturer or contractor for all of the following:
  - a) The full amount of unpaid minimum, regular, overtime, and other premium wages, reimbursement for expenses, and any other compensation, including interest, due to any and all employees who performed the manufacturing operations;
  - b) Penalties for the failure to obtain valid worker's compensation insurance; and
  - c) The employee's reasonable attorney's fees and costs. (Labor Code Section 2673.1 (a).)
- 4) Entitles employees who have not received at least minimum wage to liquidated damages equal to the amount of the unpaid wages. (Labor Code Section 1194.2.)
- 5) Makes garment manufacturers and contractors liable for the full amount of damages and penalties, including interest, due to any and all employees, for specified violations, but not including liquidated damages for failure to pay minimum wage or overtime rates. (Labor Code Section 2673.1 (b).)

**FISCAL EFFECT:** As currently in print this bill is keyed non-fiscal.

**COMMENTS:** The garment industry historically has been a maze of brands contracting with manufacturers who contract with subcontractors, many of whom engage in exploitative practices against their predominantly minority, female worker populations. Since passage of AB 633 (Steinberg, *Chap. 554, Stats. 1999*) manufacturers and subcontractors found to be underpaying or stealing workers' wages have been liable for statutory penalties, in addition to unpaid wages to be recovered by the worker. Last year, SB 62 (Durazo, *Chap. 329, Stats. 2021*) strengthened protections for garment workers by imposing joint and several liability on brand guarantors (or the brands we all recognize who then contract with manufacturers and subcontractors) for workers' unpaid wages who, until then, had been able to evade accountability for wage theft.

Despite the bill containing numerous advancements for garment worker protections, it unfortunately contained a change that disrupted longstanding practice (and law) relating to minimum wage penalties. In the final days of the session, SB 62 was amended to inadvertently delete liability for liquidated damages equal to the wages or overtime premiums withheld imposed for wage violations. In its final form, the bill imposed liability on manufacturers and subcontractors for damages, penalties, and unpaid wages, and held brand guarantors liable for unpaid wages only. The change inadvertently resulted in manufacturers and contractors no longer being liable for liquidated damages. According to the author:

Last year the Legislature passed and the Governor signed into law Senate Bill 62. This nation-leading legislation improved existing law to make clear that a business contracting to have garments made is liable for unpaid wages to the skilled workers who make those garments – regardless of how many layers of contracting that company may use.

End of session amendments to SB 62 resulted in drafting errors and we are seeking to now correct them, so that there are no ambiguities in the law.

***This bill*** simply restores liability for liquidated damages for unpaid wages on garment manufacturers and contractors. In limiting damages and penalties to manufacturers and

contractors, SB 62 limited liability for any violations of the “section.” However, liquidated damages for unpaid wages are available pursuant to a statute not amended by SB 62, Labor Code Section 1194.2. Therefore, this seemingly minor provision in SB 62 had the outsized effect of appearing to eliminate workers’ ability to recover liquidated damages for unpaid wages pursuant to Section 1194.2, including from manufacturers and subcontractors; or at least creating ambiguity about the issue. This bill would revert the law governing wage theft in the garment industry to the long-standing penalty structure, allowing garment workers to recover liquidated damages from manufacturers and subcontractors who engage in wage theft. This change would ensure that remedies available to garment workers subject to wage theft continue to mirror remedies available to workers in other industries. The bill also makes various clarifying amendments and cleans up a number of erroneous cross-references.

**ARGUMENTS IN SUPPORT:** The bill is supported by the California School Employees Association (CSEA). In support of the measure they write:

To address wage claim problems within the garment manufacturing industry, SB 62 (Durazo, Chapter 329, Statutes of 2021) requires employers to share liability with their subcontractors for penalties related to wage and benefits theft. SB 62 contained language that would have applied these liquidated damages clauses to garment manufacturers’ violations of minimum wage law, but late in the legislative process Assembly amendments stripped these provisions out of the bill.

SB 1260 fixes this inadvertent mistake by adding liquidated damages equal to the wages unlawfully withheld and liquidated damages equal to unpaid overtime compensation due to penalties applied to garment manufacturers or their subcontractors for failure to compensate workers. The addition of these penalties establishes parity between violations in the garment manufacturing industry with virtually all other industries.

**Recent or pending related legislation:** SB 62 (Durazo, *Chap. 329, Stats. 2021*) required a garment manufacturer who contracts with another person for the performance of garment manufacturing to jointly and individually share all civil legal responsibility and civil liability for all workers in that other person’s employ; and prohibited the practice of piece-rate compensation for garment manufacturing, except where there is a valid collective bargaining agreement.

AB 633 (Steinberg, *Chap. 554, Stats. 1999*) created regulations for garment manufacturers and their contractors to prevent wage theft within the industry. Among other things, the bill imposed liquidated damages in an amount equal to the violation on any employer paying less than minimum and overtime wages.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California School Employees Association

### **Opposition**

None on file

**Analysis Prepared by:** Manuela Boucher-de la Cadena / JUD. / (916) 319-2334