



# Agenda Magazine

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## **THE REFORMED “SUE YOUR BOSS LAW”**

*By: Dana Kravetz*

The California Legislature passed Senate Bill 796, officially named the “Labor Code Private Attorneys General Act of 2004” (a.k.a. the “Sue Your Boss Law”). SB 796 provided that individuals and their counsel could act, essentially, as “private attorneys general” to enforce the rights of employees for California Labor Code violations and bypass state agency enforcement. SB 796 created penalties for every Labor Code violation that did not already have them, and enabled the employee to share in any penalty awarded by the court. The court could also award attorneys' fees.

Numerous frivolous lawsuits were filed as a result of the passage of this bill for even the most trivial Labor Code violations. On August 12, 2004, Governor Schwarzenegger signed Senate Bill 1809, which takes effect immediately. The legislation scales back the scope of the "Sue Your Boss Law" and is retroactive to January 1, 2004, the date the original bill went into effect.

The most significant reforms include:

1. The elimination of the right to sue for minor violations of regulations such as the type size of required notices;
2. 75% of the money collected by employees in these actions goes to the Labor and Workforce Development Agency to be used for education and enforcement actions;
3. Labor Code Section 431 is repealed, which required an employer to file in the office of the Division of Labor Standards Enforcement a copy of the form of any application for employment that the employer requires an applicant to sign;
4. Court review and approval of all settlements is required for Private Attorney General Act suits and courts are provided with discretion to reduce penalties;
5. Specific procedures an aggrieved employee must follow prior to filing a lawsuit are established, including providing the employer and California's Labor and Workforce Development Agency with written notice of alleged violations. For certain alleged violations, the employer can then avoid a suit by "curing" the alleged violation within 33 days of the mailing date of the employee's notice, and providing written notice back to the employee; and
6. A lawsuit is barred if a California agency cites an employer for the same type of Labor Code violation within specified time frames.

Even with these reforms aimed at protecting employers, penalties for proven violations can be quite large. Strict employer compliance with the Labor Code is imperative. Please feel free to contact Dana Kravetz in Michelman & Robinson's Los Angeles office for more detailed information on how this new legislation may impact you and your business.