LABOR CODE - LAB

DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8] *(Division 2 enacted by Stats. 1937, Ch. 90.)*

PART 13. THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 [2698 - 2699.8] *(Part 13 added by Stats. 2003, Ch. 906, Sec. 2.)*

2698. This part shall be known and may be cited as the Labor Code Private Attorneys General Act of 2004.

(Added by Stats. 2003, Ch. 906, Sec. 2. Effective January 1, 2004.)

2699. (a) Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of the employee and other current or former employees against whom a violation of the same provision was committed pursuant to the procedures specified in Section 2699.3.

(b) For purposes of this part, "person" has the same meaning as defined in Section 18.

(c) (1) For purposes of this part, "aggrieved employee" means any person who was employed by the alleged violator and personally suffered each of the violations alleged during the period prescribed under Section 340 of the Code of Civil Procedure, except that for purposes of actions brought pursuant to paragraph (2), "aggrieved employee" means any person who was employed by the alleged violator against whom one or more of the alleged violations was committed within the period prescribed under Section 340 of the Code of Civil Procedure.

(2) Notwithstanding paragraph (1), a nonprofit legal aid organization that has obtained Section 501(c)(3) tax-exempt status, is a qualified legal services project or qualified support center, as defined in Section 6213 of the Business and Professions Code, and has served as counsel of record in civil actions under this part for at least five years prior to January 1, 2025, may file a civil action pursuant to this part as counsel of record for an aggrieved employee on behalf of the employee and one or more current or former employees against whom one or more of the alleged violations was committed. Nothing in this provision establishes standing for the nonprofit legal aid organization as a party in the civil action.

(d) (1) For purposes of subdivisions (c) and (f) of Section 2699.3, and except for violations of subdivision (a) of Section 226, "cure" means that the employer corrects the violation alleged by the aggrieved employee, is in compliance with the underlying statutes specified in the notice required by this part, and each aggrieved employee is made whole. An employee who is owed wages is made whole when the employee has received an amount sufficient to recover any owed unpaid wages due under the underlying statutes specified in the notice dating back three years from the date of the notice, plus 7 percent interest, any liquidated damages as required by statute, and reasonable lodestar attorney's fees and costs to be determined by the agency or the court. In case of a dispute over the amount of unpaid wages due, nothing in this part prohibits an employer from curing the alleged violations by paying amounts sufficient to cover any unpaid wages that the agency or court determine could reasonably be owed to the aggrieved employees based on the violations alleged in notice.

(2) (A) A violation of paragraph (8) of subdivision (a) of Section 226 shall be considered cured only upon a showing that the employer has provided written notice of the correct information to each aggrieved employee. Such notice may be provided in summary form but shall identify correct information for each pay period in which a violation occurred.

(B) A violation of paragraphs (1) to (7), inclusive, and (9) of subdivision (a) of Section 226 shall be considered cured only upon a showing that the employer has provided, at no cost to the employee, a fully compliant,

itemized wage statement or, if such information is customarily provided in digital form, reasonable access to a digital or computer-generated record or records maintained in the ordinary course of business containing the same information required on a fully compliant, itemized wage statement, to each aggrieved employee for each pay period during which the violation occurred during the three years prior to the date of the notice. Nothing in this subdivision will impact any right the employee has to request copies of employment records pursuant to Sections 226, 432, and 1198.5.

(e) (1) For purposes of this part, whenever the Labor and Workforce Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, has discretion to assess a civil penalty or seek injunctive relief, a court is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty and award injunctive relief.

(2) In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part, including the penalty amounts in subdivisions (g) and (h), or may, notwithstanding the limitations set forth in subdivisions (g) and (h) exceed the limitations set forth in those subdivisions, if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.

(f) For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows:

(1) If, at the time of the alleged violation, the person does not employ one or more employees, the civil penalty is five hundred dollars ($500).

(2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is as follows:

(A) One hundred dollars ($100) for each aggrieved employee per pay period, except that:

(i) If, at the time of the alleged violation, the person employs one or more employees, and the alleged violation is a violation of paragraphs (1) to (7), inclusive, or paragraph (9) of subdivision (a) of Section 226, the only civil penalty applicable under this part is twenty-five dollars ($25) for each aggrieved employee per pay period if the employee could promptly and easily determine from the wage statement alone the accurate information specified by subdivision (a) of Section 226. If the alleged violation is a violation of paragraph (8) of subdivision (a) of Section 226, the civil penalty applicable under this part for the violation is twenty-five dollars ($25) for each aggrieved employee per pay period if the employee would not be confused or misled about the correct identity of their employer or, if their employer is a farm labor contractor, the legal entity that secured the services of that employer. This subdivision does not apply if the employer has failed to provide an itemized payroll statement during any of the pay periods at issue.

(ii) The civil penalty is fifty ($50) for each aggrieved employee per pay period if the alleged violation resulted from an isolated, nonrecurring event that did not extend beyond the lesser of 30 consecutive days or four consecutive pay periods.

(B) The civil penalty is two hundred dollars ($200) for each aggrieved employee per pay period if either of the following are met:

(i) Within the five years preceding the alleged violation, the agency or any court issued a finding or determination to the employer that its policy or practice giving rise to the violation was unlawful.

(ii) The court determines that the employer’s conduct giving rise to the violation was malicious, fraudulent, or oppressive.

(3) If the alleged violation is a failure to act by the Labor and Workforce Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, there shall be no civil penalty.

(g) (1) In any civil action under this part for an alleged violation of this code, if, prior to receiving the notice of violation required by Section 2699.3, or prior to receiving a request for records pursuant to Section 226, 432, or 1198.5 from the aggrieved employee or the employee’s counsel, the person alleged to have committed the noticed violation has taken all reasonable steps to be in compliance with all provisions identified in the notice, the civil penalty that may be recovered in a civil action pursuant to this part shall not be more than 15 percent of the penalty sought under subdivision (a) or (f).

(2) For purposes of paragraph (1), “all reasonable steps” may include, but are not limited to, any of the following: conducted periodic payroll audits and took action in response to the results of the audit, disseminated lawful

written policies, trained supervisors on applicable Labor Code and wage order compliance, or took appropriate corrective action with regard to supervisors. Whether the employer's conduct was reasonable shall be evaluated by the totality of the circumstances and take into consideration the size and resources available to the employer, and the nature, severity and duration of the alleged violations. The existence of a violation, despite the steps taken, is insufficient to establish that an employer failed to take all reasonable steps.

(3) Paragraph (1) does not apply if the civil penalty recovered is recovered pursuant to subparagraph (B) of paragraph (2) of subdivision (f).

(h) (1) In any civil action under this part for an alleged violation of this code, if within 60 days after receiving the notice of violation required by Section 2699.3, the person alleged to have committed the noticed violation has taken all reasonable steps to prospectively be in compliance with all provisions identified in the notice, the civil penalty that may be recovered in a civil action under this part shall not be more than 30 percent of the penalty sought under subdivision (a) or (f).

(2) For purposes of paragraph (1), "all reasonable steps" may include, but are not limited to, taking an action to initiate any of the following: conduct an audit of the alleged violations and take action in response to the results of the audit, disseminate lawful written policies as to the alleged violations, train supervisors on applicable Labor Code and wage order compliance, or take appropriate corrective action with regard to supervisors. Whether the employer's conduct was reasonable shall be evaluated by the totality of the circumstances and take into consideration the size and resources available to the employer, and the nature, severity and duration of the alleged violations. The existence of a violation, despite the steps taken, is insufficient to establish that an employer failed to take all reasonable steps.

(3) Paragraph (1) does not apply if the civil penalty recovered is recovered pursuant to subparagraph (B) of paragraph (2) of subdivision (f).

(i) An aggrieved employee shall not collect a civil penalty for any violation of Sections 201, 202, 203, of the Labor Code, or for a violation of Section 204 that is neither willful or intentional, or a violation of Section 226 that is neither knowing or intentional nor a failure to provide a wage statement, that is in addition to the civil penalty collected by that aggrieved employee for the underlying unpaid wage violation. Nothing in this part or in paragraph (2) of subdivision (e) shall prevent a court, in awarding a civil penalty, from reducing the penalty for any alleged violation if the same conduct or omission resulted in multiple violations of this code.

(j) An employer who satisfies subdivision (g) or (h) and cures a violation shall not be required to pay a civil penalty for that violation. An employer who cures a violation of subdivision (a) of Section 226 as set forth above shall not be required to pay a civil penalty for that violation. Any other employer shall pay a civil penalty of no more than fifteen dollars ($15) per employee per pay period for the statute of limitations set forth in Section 340 of the Code of Civil Procedure for any violations that the employer cures.

(k) (1) Except as provided in paragraph (2), an aggrieved employee may recover the civil penalty described in subdivision (f) and may be awarded injunctive relief in a civil action pursuant to the procedures specified in Section 2699.3 filed on behalf of the employee and other current or former employees against whom a violation of the same provision was committed. Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs, including any filing fee paid pursuant to subparagraph (B) of paragraph (1) of subdivision (a) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 2699.3. Nothing in this part shall operate to limit an employee's right to pursue or recover other remedies available under state or federal law, either separately or concurrently with an action taken under this part.

(2) No action shall be brought under this part for any violation of a posting, notice, agency reporting, or filing requirement of this code, except if the filing or reporting requirement involves mandatory payroll or workplace injury reporting.

(l) No action may be brought under this section by an aggrieved employee if the agency or any of its departments, divisions, commissions, boards, agencies, or employees, on the same facts and theories, cites a person within the timeframes set forth in Section 2699.3 for a violation of the same section or sections of the Labor Code under which the aggrieved employee is attempting to recover a civil penalty on behalf of the employee or others or initiates a proceeding pursuant to Section 98.3.

(m) Except as provided in subdivision (n), civil penalties recovered by aggrieved employees shall be distributed as follows: 65 percent to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 35 percent to the aggrieved employees.

(n) Civil penalties recovered under paragraph (1) of subdivision (f) shall be distributed to the Labor and Workforce Development Agency for enforcement of labor laws, including the administration of this part, and for education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes.

(o) For purposes of this section, the penalty recovered pursuant to this part shall be reduced by one-half if the employees' regular pay period is weekly rather than biweekly or semimonthly.

(p) The superior court may limit the evidence to be presented at trial or otherwise limit the scope of any claim filed pursuant to this part to ensure that the claim can be effectively tried.

(q) Nothing in this part shall prevent a court from consolidating or coordinating civil actions filed pursuant to this part alleging legally or factually overlapping violations against the same employer.

(r) Nothing contained in this part is intended to alter or otherwise affect the exclusive remedy provided by the workers' compensation provisions of this code for liability against an employer for the compensation for any injury to or death of an employee arising out of and in the course of employment.

(s) (1) For cases filed on or after July 1, 2016, the aggrieved employee or representative shall, within 10 days following commencement of a civil action pursuant to this part, provide the Labor and Workforce Development Agency with a file-stamped copy of the complaint that includes the case number assigned by the court.

(2) The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.

(3) A copy of the superior court's judgment in any civil action filed pursuant to this part and any other order in that action that either provides for or denies an award of civil penalties under this code shall be submitted to the agency within 10 days after entry of the judgment or order.

(4) Items required to be submitted to the Labor and Workforce Development Agency under this subdivision or to the Division of Occupational Safety and Health pursuant to paragraph (4) of subdivision (b) of Section 2699.3, shall be transmitted online through the same system established for the filing of notices and requests under subdivisions (a) and (c) of Section 2699.3.

(t) This section shall not apply to the recovery of administrative and civil penalties in connection with the workers' compensation law as contained in Division 1 (commencing with Section 50) and Division 4 (commencing with Section 3200), including, but not limited to, Sections 129.5 and 132a.

(u) The agency or any of its departments, divisions, commissions, boards, or agencies may promulgate regulations to implement the provisions of this part.

(v) (1) Except as provided in paragraph (2), the amendments made to this section by the act adding this subdivision shall apply to a civil action brought on or after June 19, 2024.

(2) The amendments made to this section by the act adding this subdivision shall not apply to a civil action with respect to which the notice required by subparagraph (A) of paragraph (1) of subdivision (a), paragraph (1) of subdivision (b), or subparagraph (A) of paragraph (1) of subdivision (c) of Section 2699.3 was filed before June 19, 2024.

(Amended by Stats. 2024, Ch. 44, Sec. 1. (AB 2288) Effective July 1, 2024.)

2699.3. (a) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met:

(1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.

(B) A notice filed with the Labor and Workforce Development Agency pursuant to subparagraph (A) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75). The fees required by this subparagraph are subject to waiver in accordance with the requirements of Sections 68632 and 68633 of the Government Code.

(C) The fees paid pursuant to subparagraph (B) shall be paid into the Labor and Workforce Development Fund and used for the purposes specified in subdivision (n) of Section 2699.

(2) (A) The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

(B) If the agency intends to investigate the alleged violation, it shall notify the employer and the aggrieved employee or representative by certified mail of its decision within 65 calendar days of the postmark date of the notice received pursuant to paragraph (1). Within 120 calendar days of that decision, the agency may investigate the alleged violation and issue any appropriate citation. If the agency determines that no citation will be issued, it shall notify the employer and aggrieved employee of that decision within five business days thereof by certified mail. Upon receipt of that notice or if no citation is issued by the agency within the time limits prescribed by subparagraph (A) and this subparagraph or if the agency fails to provide timely or any notification, the aggrieved employee may commence a civil action pursuant to Section 2699.

(C) Notwithstanding any other provision of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under this part at any time within 60 days of the time periods specified in this part.

(b) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision of Division 5 (commencing with Section 6300) other than those listed in Section 2699.5 shall commence only after the following requirements have been met:

(1) The aggrieved employee or representative shall give notice by online filing with the Division of Occupational Safety and Health and by certified mail to the employer, with a copy to the Labor and Workforce Development Agency, of the specific provisions of Division 5 (commencing with Section 6300) alleged to have been violated, including the facts and theories to support the alleged violation.

(2) (A) The division shall inspect or investigate the alleged violation pursuant to the procedures specified in Division 5 (commencing with Section 6300).

(i) If the division issues a citation, the employee may not commence an action pursuant to Section 2699. The division shall notify the aggrieved employee and employer in writing within 14 calendar days of certifying that the employer has corrected the violation.

(ii) If by the end of the period for inspection or investigation provided for in Section 6317, the division fails to issue a citation and the aggrieved employee disputes that decision, the employee may challenge that decision in the superior court. In such an action, the superior court shall follow precedents of the Occupational Safety and Health Appeals Board. If the court finds that the division should have issued a citation and orders the division to issue a citation, then the aggrieved employee may not commence a civil action pursuant to Section 2699.

(iii) A complaint in superior court alleging a violation of Division 5 (commencing with Section 6300) other than those listed in Section 2699.5 shall include therewith a copy of the notice of violation provided to the division and employer pursuant to paragraph (1).

(iv) The superior court shall not dismiss the action for nonmaterial differences in facts or theories between those contained in the notice of violation provided to the division and employer pursuant to paragraph (1) and the complaint filed with the court.

(B) If the division fails to inspect or investigate the alleged violation as provided by Section 6309, the provisions of subdivision (c) shall apply to the determination of the alleged violation.

(3) (A) Nothing in this subdivision shall be construed to alter the authority of the division to permit long-term abatement periods or to enter into memoranda of understanding or joint agreements with employers in the case of long-term abatement issues.

(B) Nothing in this subdivision shall be construed to authorize an employee to file a notice or to commence a civil action pursuant to Section 2699 during the period that an employer has voluntarily entered into consultation with the division to ameliorate a condition in that particular worksite.

(C) An employer who has been provided notice pursuant to this section may not then enter into consultation with the division in order to avoid an action under this section.

(4) The superior court shall review and approve any proposed settlement of alleged violations of the provisions of Division 5 (commencing with Section 6300) to ensure that the settlement provisions are at least as effective as the protections or remedies provided by state and federal law or regulation for the alleged violation. The provisions of the settlement relating to health and safety laws shall be submitted to the division at the same time that they are submitted to the court. This requirement shall be construed to authorize and permit the division to comment on those settlement provisions, and the court shall grant the division's commentary the appropriate weight.

(c) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall commence only after the following requirements have been met:

(1) (A) The aggrieved employee or representative shall give written notice by online filing with the Labor and Workforce Development Agency and by certified mail to the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.

(B) A notice filed with the Labor and Workforce Development Agency pursuant to subparagraph (A) and any employer response to that notice shall be accompanied by a filing fee of seventy-five dollars ($75). The fees required by this subparagraph are subject to waiver in accordance with the requirements of Sections 68632 and 68633 of the Government Code.

(C) The fees paid pursuant to subparagraph (B) shall be paid into the Labor and Workforce Development Fund and used for the purposes specified in subdivision (n) of Section 2699.

(D) If the employer is not eligible for the processes in paragraphs (2) or (3) or chooses not to utilize those processes, the agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to subparagraph (A), the aggrieved employee may commence a civil action pursuant to Section 2699.

(E) If the agency intends to investigate the alleged violation, it shall notify the employer and the aggrieved employee or representative by certified mail of its decision within 65 calendar days of the postmark date of the notice received pursuant to subparagraph (A). Within 120 calendar days of that decision, the agency may investigate the alleged violation and issue any appropriate citation. If the agency determines that no citation will be issued, it shall notify the employer and aggrieved employee of that decision within five business days thereof by certified mail. Upon receipt of that notice or if no citation is issued by the agency within the time limits prescribed by subparagraph (D) and this subparagraph or if the agency fails to provide timely or any notification, the aggrieved employee may commence a civil action pursuant to Section 2699.

(2) (A) Within 33 days of receipt of the notice sent by the aggrieved employee or representative, an employer that employed fewer than 100 employees in total during the period covered by the notice may submit to the agency a confidential proposal to cure one or more of the alleged violations. The employer shall specify which of the alleged violations it proposes to cure.

(B) If the cure is facially sufficient or if a conference is necessary to determine if a sufficient cure is possible, then within 14 days after receipt of the employer's proposal, the agency may set a conference with the parties, to be conducted no more than 30 days thereafter, to determine whether the proposed cure is sufficient, what additional information may be necessary to evaluate the sufficiency of the cure, and the deadline agreed upon by the parties for the employer to complete the cure. If the cure includes the payment of unpaid wages, the agency shall also determine at the conference whether to request the employer pay the proposed cure amount, including any wages and liquidated damages due and 7 percent interest, into escrow or shall provide such other form of security as the agency deems suitable. Any such conference may be electronic, telephonic, or in person. If the agency determines that the cure is not facially sufficient or does not act upon the employer's cure proposal, the employee may proceed with a civil action under this part after 65 calendar days from sending the notice required by this subdivision, unless this time is extended by the agency, provided that such time shall not be extended to more than 120 calendar days after notice is sent. However, the employer shall be entitled to file a request for a stay and early evaluation conference as set forth in subdivision (f).

(C) On or before the agreed upon deadline to cure, but no more than 45 days after the conference, the employer shall complete the cure and provide a sworn notification to the employee and agency that the cure is

completed, accompanied by a payroll audit and check register if the violation involves a payment obligation. This notification shall also include any information the parties deemed necessary to determine the sufficiency of the cure. The agency shall verify whether the cure is complete within 20 days of receiving the employer's notification. If the agency review procedure under this section extends beyond the 65-day period set forth in this section, the statute of limitation on the alleged violations shall remain tolled until that procedure has been completed.

(D) If the agency preliminarily determines that the alleged violation has been cured, it shall notify the aggrieved employee and, if requested by the aggrieved employee, shall set a hearing within 30 days of such determination. The agency shall issue an order no more than 20 days after the hearing providing a determination whether the cure is adequate and the reasons for its determination. If the agency determines that the alleged violation has been cured, the aggrieved employee may not proceed with a civil action. If the aggrieved employee disagrees with the cure determination, the aggrieved employee may appeal that determination to the superior court. Any amounts paid by the employer to the aggrieved employees exclusive of penalties under this section to cure the alleged violation shall be offset against any judgment later entered with respect to that violation, if the superior court concludes the agency abused its discretion in finding that the employer's cure was adequate.

(E) No cure or proposal to cure pursuant to this paragraph may be deemed an admission of liability by the employer that submitted the proposed cure. Any cure proposal shall be deemed a confidential settlement proposal subject to Section 1152 of the Evidence Code.

(F) Nothing in this paragraph prohibits an employer from independently remedying any violations or prevents the parties from agreeing to their own mediation process.

(3) If the only alleged violation the employer seeks to cure is a violation of Section 226, the following procedure shall apply:

(A) The employer may cure the alleged violation within 33 calendar days of the postmark date of the notice sent by the aggrieved employee or representative. The employer shall give written notice within that period of time by certified mail to the aggrieved employee or representative and by online filing with the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

(B) If the aggrieved employee disputes that the alleged violation of Section 226 has been cured, the aggrieved employee or representative shall provide written notice by online filing with the agency and by certified mail to the employer, including specified grounds to support that dispute, to the employer and the agency. Within 17 calendar days of the receipt of that notice, the agency shall review the actions taken by the employer to cure the alleged violation, and provide written notice of its decision by certified mail to the aggrieved employee and the employer. The agency may grant the employer three additional business days to cure the alleged violation. If the agency determines that the alleged violation has not been cured or if the agency fails to provide timely or any notification, the employee may proceed with the civil action pursuant to Section 2699. If the agency determines that the alleged violation has been cured, but the employee still disagrees, the employee may appeal that determination to the superior court.

(d) No employer shall avail itself of the notice and cure provisions of this section more than one time in a 12-month period for violations of the same provisions set forth in the notice, regardless of the location of the worksite or if it has been served with a prior notice pursuant to this part alleging the same violation that it did not cure.

(e) The periods specified in this section are not counted as part of the time limited for the commencement of the civil action to recover penalties under this part.

(f) (1) (A) Notwithstanding any other law, an employer not covered by subparagraph (A) of paragraph (2) of subdivision (c), upon being served with a summons and complaint asserting a claim under subdivision (a) or (f) of Section 2699, may file a request for an early evaluation conference in the proceedings of the claim and a request for a stay of court proceedings prior to or simultaneous with that defendant's responsive pleading or other initial appearance in the action that includes the claim.

(B) The purpose of the evaluation conference shall include, but not be limited to, evaluation of all of the following, as applicable:

(i) Whether any of the alleged violations occurred and if so, whether the defendant has cured the alleged violations.

(ii) The strengths and weaknesses of the plaintiff's claims and the defendant's defenses.

(iii) Whether plaintiff's claims, including any claim for penalties or injunctive relief, can be settled in whole or in part.

(iv) Whether the parties should share other information that may facilitate early evaluation and resolution of the dispute.

(2) A request for an early evaluation conference by a defendant pursuant to paragraph (1) shall include a statement regarding whether the defendant intends to cure any or all of the alleged violations, specify the alleged violations it will cure, if applicable, and identify the allegations it disputes.

(3) Upon the filing of a request for an early evaluation conference by a defendant and, if requested, a stay of proceedings, a court shall stay the proceedings and issue an order that does the following, absent good cause for denying defendant's request in whole or in part:

(A) Schedules a mandatory early evaluation conference for a date as soon as possible from the date of the order but in no event later than 70 days after issuance of the order.

(B) Directs a defendant that has filed a statement that it intends to cure any or all of the alleged violations to submit confidentially to the neutral evaluator and serve on the plaintiff, within 21 days after issuance of the order, the employer's proposed plan to cure those violations.

(C) Directs a defendant that is disputing any alleged violations to submit to the neutral evaluator and serve on the plaintiff a confidential statement that includes for use solely for the early evaluation conference, the basis and evidence for disputing those alleged violations.

(D) Directs the parties to appear at the time set for the conference.

(E) Directs the plaintiff to submit to the neutral evaluator and serve on the defendant no more than 21 days after service of defendant's proposed cure plan, a confidential statement that includes, to the extent reasonably known, for use solely for the purpose of the early evaluation conference, all of the following:

(i) The factual basis for each of the alleged violations.

(ii) The amount of penalties claimed for each violation if any, and the basis for that calculation.

(iii) The amount of attorney's fees and costs incurred to date, if any, that are being claimed.

(iv) Any demand for settlement of the case in its entirety.

(v) The basis for accepting or not accepting the employer's proposed plan for curing any or all alleged violations.

(4) If the neutral evaluator accepts the employer's proposed plan for curing any or all alleged violations, the defendant shall present evidence within 10 calendar days or such longer period as agreed by the parties or set by the neutral evaluator, demonstrating that the cure has been accomplished. If the defendant indicated it would cure any alleged violations and fails to timely submit the required evidence showing correction of the violation or violations to neutral evaluator and plaintiff, the early evaluation process and any stay may be terminated by the court.

(5) If the neutral evaluator and the parties agree that the employer has cured the alleged violations that it stated an intention to cure, the parties shall jointly submit a statement to the court setting forth the terms of their agreement.

(6) If no other alleged violations remain in dispute, the parties and the court shall treat the parties' submission as a proposed settlement pursuant to the terms and procedures set forth in subdivision (l) of Section 2699.

(7) If other alleged violations remain in dispute, the court shall have discretion to defer consideration of the parties' agreement until after further litigation proceedings.

(8) In calculating any penalties owed under this part for any violations that the employer promptly cured pursuant to this section, the court shall determine the applicability of subdivision (j), paragraph (2) of subdivision (e), paragraph (1) of subdivision (g), and paragraph (1) of subdivision (h) of Section 2699, and the court shall consider that the violations were cured without the need for extended litigation.

(9) If the neutral evaluator or plaintiff does not agree that the employer has cured the alleged violations that it stated an intention to cure, the employer may file a motion to request the court to approve the cure and submit evidence showing correction of the alleged violations. The court may request further briefing and evidentiary submissions from the parties in response to that motion and evidence.

(10) All statements or evidence submitted for purposes of the early evaluation conference and all discussions at the early evaluation conference shall be subject to Section 1152 of the Evidence Code.

(11) The early evaluation process shall not extend beyond 30 days unless parties mutually agree to extend time.

(12) Early evaluation conferences shall be conducted by a judge or commissioner or such other person knowledgeable about and experienced with issues arising under the code whom the court shall designate.

(13) Nothing in this subdivision affects or modifies the inadmissibility of evidence regarding offers of compromise pursuant to Section 1152 of the Evidence Code, including, but not limited to, inadmissibility to prove injury or damage.

(14) Nothing in this subdivision prohibits an employer from independently curing any violations or prevents the parties from agreeing to their own mediation process. Nor does anything in this section prohibit an employer covered by subparagraph (A) of paragraph (2) of subdivision (c) from requesting an early evaluation conference under such other terms and conditions as the court makes available to other litigants.

(15) Nothing in this subdivision shall preclude a court from ordering appropriate injunctive relief pursuant to paragraph (1) of subdivision (e) of Section 2699.

(16) Nothing in this subdivision limits the court's obligation to approve settlements under this part.

(g) This section shall become operative October 1, 2024.

(Repealed (in Sec. 1) and added by Stats. 2024, Ch. 45, Sec. 2. (SB 92) Effective July 1, 2024. Operative October 1, 2024, by its own provisions.)

2699.5. (a) The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, 224, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 511, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, Sections 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2801, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3073.6, 6310, 6311, and 6399.7.

(b) (1) Except as provided in paragraph (2), the amendments made to this section by the act adding this subdivision shall apply to a civil action brought on or after June 19, 2024.

(2) The amendments made to this section by the act adding this subdivision shall not apply to a civil action with respect to which the notice required by subparagraph (A) of paragraph (1) of subdivision (a), paragraph (1) of subdivision (b), or subparagraph (A) of paragraph (1) of subdivision (c) of Section 2699.3 was filed before June 19, 2024.

(Amended by Stats. 2024, Ch. 45, Sec. 3. (SB 92) Effective July 1, 2024.)

2699.6. (a) This part shall not apply to an employee in the construction industry with respect to work performed under a valid collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and for the employee to receive a regular hourly pay rate of not less than 30 percent more than the state minimum wage rate, and the agreement does all of the following:

(1) Prohibits all of the violations of this code that would be redressable pursuant to this part and provides for a grievance and binding arbitration procedure to redress those violations.

(2) Expressly waives the requirements of this part in clear and unambiguous terms.

(3) Authorizes the arbitrator to award any and all remedies otherwise available under this code, provided that nothing in this section authorizes the award of penalties under this part that would be payable to the Labor and Workforce Development Agency.

(b) Except for a civil action under Section 2699, this section does not preclude an employee from pursuing any other civil action against an employer, including, but not limited to, an action for a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), Title VII of the Civil Rights Act of 1964 (Public Law 88-352), or any other prohibition of discrimination or harassment.

(c) For purposes of this section, "employee in the construction industry" means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(d) This section shall remain in effect only until January 1, 2038, and as of that date is repealed.

(Amended by Stats. 2024, Ch. 803, Sec. 1. (AB 1034) Effective January 1, 2025. Repealed as of January 1, 2038, by its own provisions.)

2699.8. (a) This part shall not apply to a janitorial employee represented by a labor organization that has represented janitors before January 1, 2021, and employed by a janitorial contractor who registered as a property service employer pursuant to Section 1423 in calendar year 2020, with respect to work performed under a valid collective bargaining agreement in effect any time before July 1, 2028, that expressly provides for the wages, hours of work, and working conditions of employees, provides premium wage rates for all overtime hours worked, and does all of the following:

(1) Requires the employer to pay all nonprobationary workers working in certain worksites, defined in an applicable collective bargaining agreement, total hourly compensation, inclusive of wages, health insurance, pension, training, vacation, holiday, and fringe benefit funds, amounting to not less than 30 percent more than the state minimum wage rate.

(2) Prohibits all of the violations of this code that would be redressable pursuant to this part, provides for a grievance and binding arbitration procedure to redress those violations, and allows the labor organization to pursue a grievance on behalf of all affected employees.

(3) Expressly waives the requirements of this part in clear and unambiguous terms.

(4) Authorizes the arbitrator to award any and all remedies otherwise available under this code, provided that nothing in this section authorizes the award of penalties under this part that would be payable to the Labor and Workforce Development Agency.

(b) Except for a civil action under Section 2699, nothing in this section precludes an employee from pursuing any other civil action against an employer, including, but not limited to, an action for a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), Title VII of the Civil Rights Act of 1964 (Public Law 88-352), or any other prohibition of discrimination or harassment.

(c) Any janitorial contractor who has entered into an agreement that meets the criteria in subdivision (a) above shall, within 60 days of entering the agreement, share with the Labor and Workforce Development Agency the following information:

(1) The name of the janitorial contractor.

(2) The name of the labor organization.

(3) The number of employees covered by the agreement.

(4) The duration of the agreement.

(d) The exception provided by this section shall expire on the date the collective bargaining agreement expires or on July 1, 2028, whichever is earlier.

(e) (1) Except as provided in paragraph (2), for purposes of this section, "janitorial employee" means an employee whose primary duties are to clean and keep in an orderly condition commercial working areas and washrooms, or the premises of an office, multiunit residential facility, industrial facility, health care facility, amusement park, convention center, stadium, racetrack, arena, or retail establishment. Duties of a janitorial employee involve one or more of the following:

(A) Disinfecting, vacuuming, sweeping, mopping, or scrubbing, and polishing floors.

(B) Removing trash and other refuse and sorting recyclable material therefrom.

(C) Dusting equipment, furniture, or fixtures.

(D) Polishing metal fixtures or trimmings.

(E) Providing supplies in minor maintenance services.

(F) Cleaning laboratories, showers, and restrooms.

(2) For purposes of this section, "janitorial employee" does not include any of the following:

(A) Workers who specialize in window washing.

(B) Housekeeping staff who make beds and change linens as a primary responsibility.

(C) Workers working at airport facilities or cabin cleaning.

(D) Workers at hotels, card clubs, restaurants, or other food service operations.

(E) Grocery store employees and drug-retail employees.

(f) This section shall not apply to existing cases filed before the effective date of this section.

(g) Nothing in this section shall prevent a janitorial employee from filing an action under Section 2699.3 if there is a finding by a court or administrative agency of competent jurisdiction that the labor organization has breached its duty of fair representation in relation to a claim under Section 2699.3.

(h) This section shall remain in effect only until July 1, 2028, and as of that date is repealed.

(Added by Stats. 2021, Ch. 337, Sec. 1. (SB 646) Effective January 1, 2022. Repealed as of July 1, 2028, by its own provisions.)