

## **CLIENT ALERT: Massachusetts Enacts Law Requiring Mandatory Triple Damages for State Wage Law Infractions**

The Massachusetts legislature yesterday enacted Senate Bill No. 1059, which makes triple damages mandatory for a variety of state wage and hour infractions, including incorrect calculation of overtime pay, and underpayment of commissions, regardless of whether the violation was the result of a good faith mistake.

The law, entitled “An Act to Clarify the Law Protecting Employee Compensation” was enacted after the legislature refused to adopt Governor Deval Patrick’s recommendation that these changes be brought into line with the federal Fair Labor Standards Act of 1938, which provides employers with a defense to multiple damage awards where the employer acted in good faith. As Governor Patrick explained, “mandating treble damages in all cases and without any exception for employers who act in good faith is unfairly punitive.” The bill becomes law effective on July 13, 2008.

The law responds in part to the case of *Wiedmann v. Bradford Group, Inc.*, 444 Mass. 698 (2005), and prior cases, which gave judges discretion to award multiple damages where an employer willfully violated state wage and hour laws. The new law eliminates any discretion formerly vested in judges, and instead compels the award of triple damages regardless of whether an employer erroneously acted in good faith in failing to pay the correct overtime, commissions or other wages. In addition to the triple damages provision, Massachusetts state wage law already mandated that employers pay plaintiff attorney’s fees, and costs of litigation to prevailing employees.

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