

Codes Display Text

DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.5]

(Division 2 enacted by Stats. 1937, Ch. 90.)

PART 3. PRIVILEGES AND IMMUNITIES [920 - 1138.5]

(Part 3 enacted by Stats. 1937, Ch. 90.)

CHAPTER 5. Political Affiliations [1101 - 1106]

(Chapter 5 enacted by Stats. 1937, Ch. 90.)

1101.

No employer shall make, adopt, or enforce any rule, regulation, or policy:

- (a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office.
- (b) Controlling or directing, or tending to control or direct the political activities or affiliations of employees.

(Enacted by Stats. 1937, Ch. 90.)

1102.

No employer shall coerce or influence or attempt to coerce or influence

his employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.

(Enacted by Stats. 1937, Ch. 90.)

1102.5.

(a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

(b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.

(c) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

(d) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for having exercised his or her rights under subdivision (a), (b), or (c) in any former employment.

(e) A report made by an employee of a government agency to his or her employer is a disclosure of information to a government or law enforcement agency pursuant to subdivisions (a) and (b).

(f) In addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

(g) This section does not apply to rules, regulations, or policies that implement, or to actions by employers against employees who violate, the confidentiality of the lawyer-client privilege of Article 3 (commencing with Section 950) of, or the physician-patient privilege of Article 6 (commencing with Section 990) of, Chapter 4 of Division 8 of the Evidence Code, or trade secret information.

(h) An employer, or a person acting on behalf of the employer, shall not retaliate against an employee because the employee is a family member of a person who has, or is perceived to have, engaged in any acts protected by this section.

(i) For purposes of this section, “employer” or “a person acting on behalf of the employer” includes, but is not limited to, a client employer as defined in paragraph (1) of subdivision (a) of Section 2810.3 and an employer listed in subdivision (b) of Section 6400.

(Amended by Stats. 2015, Ch. 792, Sec. 2. Effective January 1, 2016.)

1102.6.

In a civil action or administrative proceeding brought pursuant to Section 1102.5, once it has been demonstrated by a preponderance of the evidence that an activity proscribed by Section 1102.5 was a contributing factor in the alleged prohibited action against the employee, the employer shall have the burden of proof to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in activities protected by Section 1102.5.

(Added by Stats. 2003, Ch. 484, Sec. 3. Effective January 1, 2004.)

1102.7.

(a) The office of the Attorney General shall maintain a whistleblower hotline to receive calls from persons who have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees.

(b) The Attorney General shall refer calls received on the whistleblower hotline to the appropriate government authority for review and possible investigation.

(c) During the initial review of a call received pursuant to subdivision (a), the Attorney General or appropriate government agency shall hold in confidence information disclosed through the whistleblower hotline, including the identity of the caller disclosing the information and the employer identified by the caller.

(d) A call made to the whistleblower hotline pursuant to subdivision (a) or its referral to an appropriate agency under subdivision (b) may not be the sole basis for a time period under a statute of limitation to

commence. This section does not change existing law relating to statutes of limitation.

(Added by Stats. 2003, Ch. 484, Sec. 4. Effective January 1, 2004.)

1102.8.

(a) An employer shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline described in Section 1102.7.

(b) Any state agency required to post a notice pursuant to Section 8548.2 of the Government Code or subdivision (b) of Section 6128 of the Penal Code shall be deemed in compliance with the posting requirement set forth in subdivision (a) if the notice posted pursuant to Section 8548.2 of the Government Code or subdivision (b) of Section 6128 of the Penal Code also contains the whistleblower hotline number described in Section 1102.7.

(Amended by Stats. 2004, Ch. 820, Sec. 1. Effective September 27, 2004.)

1103.

An employer or any other person or entity that violates this chapter is guilty of a misdemeanor punishable, in the case of an individual, by imprisonment in the county jail not to exceed one year or a fine not to exceed one thousand dollars (\$1,000) or both that fine and imprisonment, or, in the case of a corporation, by a fine not to exceed five thousand dollars (\$5,000).

(Amended by Stats. 2013, Ch. 732, Sec. 7. Effective January 1, 2014.)

1104.

In all prosecutions under this chapter, the employer is responsible for the acts of his managers, officers, agents, and employees.

(Enacted by Stats. 1937, Ch. 90.)

1105.

Nothing in this chapter shall prevent the injured employee from recovering damages from his employer for injury suffered through a violation of this chapter.

(Enacted by Stats. 1937, Ch. 90.)

1106.

For purposes of Sections 1102.5, 1102.6, 1102.7, 1102.8, 1104, and 1105, “employee” includes, but is not limited to, any individual employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California.

(Amended by Stats. 2003, Ch. 484, Sec. 7. Effective January 1, 2004.)