

ASSEMBLY BILL

No. 1221

Introduced by Assembly Member Bryan

February 21, 2025

An act to amend Section 1102.5 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1221, as introduced, Bryan. Employment: whistleblowers.

Existing law prohibits an employer from making, adopting, or enforcing 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, 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. Existing law defines specified terms for its purposes, as provided.

This bill would make a nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1102.5 of the Labor Code is amended to
2 read:

1 1102.5. (a) An employer, or any person acting on behalf of
2 the employer, shall not make, adopt, or enforce any rule, regulation,
3 or policy preventing an employee from disclosing information to
4 a government or law enforcement agency, to a person with
5 authority over the employee, or to another employee who has
6 authority to investigate, discover, or correct the violation or
7 noncompliance, or from providing information to, or testifying
8 before, any public body conducting an investigation, hearing, or
9 inquiry, if the employee has reasonable cause to believe that the
10 information discloses a violation of state or federal statute, or a
11 violation of or noncompliance with a local, state, or federal rule
12 or regulation, regardless of whether disclosing the information is
13 part of the employee's job duties.

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

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

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

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

38 (f) (1) In addition to other remedies available, an employer is
39 liable for a civil penalty not exceeding ten thousand dollars

1 (\$10,000) per employee for each violation of this section to be
2 awarded to the employee who was retaliated against.

3 (2) In assessing this penalty, the Labor Commissioner shall
4 consider the nature and seriousness of the violation based on the
5 evidence obtained during the course of the investigation. The Labor
6 Commissioner’s consideration of the nature and seriousness of the
7 violation shall include, but is not limited to, the type of violation,
8 the economic or mental harm suffered, and the chilling effect on
9 the exercise of employment rights in the workplace, and shall be
10 considered to the extent evidence obtained during the investigation
11 concerned any of these or other relevant factors.

12 (g) This section does not apply to rules, regulations, or policies
13 that implement, or to actions by employers against employees who
14 violate, the confidentiality of the lawyer-client privilege of Article
15 3 (commencing with Section 950) of, or the physician-patient
16 privilege of Article 6 (commencing with Section 990) of, Chapter
17 4 of Division 8 of the Evidence Code, or trade secret information.

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

22 (i) For *the* purposes of this section, “employer” or “a person
23 acting on behalf of the employer” includes, but is not limited to,
24 a client employer as defined in paragraph (1) of subdivision (a) of
25 Section 2810.3 and an employer listed in subdivision (b) of Section
26 6400.

27 (j) The court is authorized to award reasonable attorney’s fees
28 to a plaintiff who brings a successful action for a violation of these
29 provisions.