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## ≡ Employment Law Client Alert ≡

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### BILL MANDATING TRIPLE DAMAGES AGAINST EMPLOYERS IN WAGE AND HOUR CLAIMS BECOMES LAW

A new law makes violations of Massachusetts wage and hour laws, including inadvertent violations where the employer acted in good faith, subject to mandatory triple damages. Senate Bill No. 1059, as enacted on April 14, 2008, affects all employers with Massachusetts employees and there are no defenses or exceptions of any kind to the award of treble damages once the employer is found to have violated the statute. This law goes into effect on July 13, 2008 and the mandatory triple damages will apply to wage and hour laws such as:

- ◆ Non-payment of overtime to employees misclassified as exempt
- ◆ Timely payment of wages and commission payments
- ◆ Holiday and vacation pay owed to employees whose employment has been terminated
- ◆ Minimum wage violations
- ◆ Sunday and holiday pay (Blue Laws)
- ◆ Independent contractor misclassifications
- ◆ Tipping practices

#### Employment Law Group

Laurie Alexander-Krom	(617) 589-3867
Judith Ashton	(617) 589-3873
David M. Cogliano	(617) 589-3812
Gary M. Feldman	(617) 589-3874
David Rapaport	(617) 589-3801

If an employer is found to have violated any of these laws, including inadvertent violations, the employee will be entitled to three times the amount of his or her lost wages, commissions, or overtime pay, plus attorney's fees and costs. Furthermore, because the final section of the legislation reads, "this act is intended to clarify the existing law and to reiterate the original intention of the general court that triple damages are mandatory," plaintiffs' attorneys might try to argue that the law has a retroactive effect and that all wage and hour violations in Massachusetts are immediately subject to triple damages.

This new legislation is a monumental change in Massachusetts wage and hour laws and is bound to significantly increase the number of wage and hour lawsuits against Massachusetts employers, including class action lawsuits, and could cause considerable financial exposure for employers. Accordingly, we recommend that employers closely review their wage payment practices and policies to ensure compliance with all aspects of the Massachusetts wage and hour laws.

If you have any questions, please contact one of the authors: Laurie Alexander-Krom at (617) 589-3867 or [lalexander-krom@davismalm.com](mailto:lalexander-krom@davismalm.com) or Gary M. Feldman at (617) 589-3874 or [gfeldman@davismalm.com](mailto:gfeldman@davismalm.com).

DAVIS MALM & D'AGOSTINE P.C.

ATTORNEYS AT LAW

ONE BOSTON PLACE • BOSTON, MASSACHUSETTS 02108 • 617.367.2500 • [www.davismalm.com](http://www.davismalm.com)