



General Assembly

February Session, 2008

**Raised Bill No. 5118**

LCO No. 149

\*00149\_\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by:  
(LAB)

**AN ACT CONCERNING THE LABOR COMMISSIONER'S AUTHORITY  
TO BRING WAGE CLAIMS AGAINST GENERAL CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 31-53 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2008*):

4 (f) Each employer subject to the provisions of this section or section  
5 31-54 shall (1) keep, maintain and preserve such records relating to the  
6 wages and hours worked by each person performing the work of any  
7 mechanic, laborer and worker and a schedule of the occupation or  
8 work classification at which each person performing the work of any  
9 mechanic, laborer or worker on the project is employed during each  
10 work day and week in such manner and form as the Labor  
11 Commissioner establishes to assure the proper payments due to such  
12 persons or employee welfare funds under this section or section 31-54,  
13 regardless of any contractual relationship alleged to exist between the  
14 contractor and such person, and (2) submit monthly to the contracting  
15 agency a certified payroll that shall consist of a complete copy of such  
16 records accompanied by a statement signed by the employer that

17 indicates (A) such records are correct; (B) the rate of wages paid to  
18 each person performing the work of any mechanic, laborer or worker  
19 and the amount of payment or contributions paid or payable on behalf  
20 of each such person to any employee welfare fund, as defined in  
21 subsection (h) of this section, are not less than the prevailing rate of  
22 wages and the amount of payment or contributions paid or payable on  
23 behalf of each such person to any employee welfare fund, as  
24 determined by the Labor Commissioner pursuant to subsection (d) of  
25 this section, and not less than those required by the contract to be paid;  
26 (C) the employer has complied with the provisions of this section and  
27 section 31-54; (D) each such person is covered by a workers'  
28 compensation insurance policy for the duration of such person's  
29 employment, which shall be demonstrated by submitting to the  
30 contracting agency the name of the workers' compensation insurance  
31 carrier covering each such person, the effective and expiration dates of  
32 each policy and each policy number; (E) the employer does not receive  
33 kickbacks, as defined in 41 USC 52, from any employee or employee  
34 welfare fund; and (F) pursuant to the provisions of section 53a-157a,  
35 the employer is aware that filing a certified payroll which the  
36 employer knows to be false is a class D felony for which the employer  
37 may be fined up to five thousand dollars, imprisoned for up to five  
38 years, or both. [This subsection shall not be construed to prohibit a] A  
39 general contractor [from relying] or subcontractor may, in good faith,  
40 rely on the certification of a lower tier subcontractor [, provided the] as  
41 a valid defense to an action brought by the Labor Commissioner to  
42 collect unpaid wages on behalf of an employee of such lower tier  
43 subcontractor. The general contractor or subcontractor that relies on  
44 such certification shall not be exempted from the provisions of section  
45 53a-157a or section 31-72, as amended by this act, if the general  
46 contractor or such subcontractor knowingly relies upon a lower tier  
47 subcontractor's false certification. Notwithstanding the provisions of  
48 section 1-210 of the 2008 supplement to the general statutes, the  
49 certified payroll shall be considered a public record and every person  
50 shall have the right to inspect and copy such records in accordance

51 with the provisions of section 1-212. The provisions of subsections (a)  
52 and (b) of section 31-59 and sections 31-66 and 31-69 that are not  
53 inconsistent with the provisions of this section or section 31-54 apply  
54 to this section. Failing to file a certified payroll pursuant to subdivision  
55 (2) of this subsection is a class D felony for which the employer may be  
56 fined up to five thousand dollars, imprisoned for up to five years, or  
57 both.

58 Sec. 2. Section 31-72 of the general statutes is repealed and the  
59 following is substituted in lieu thereof (*Effective October 1, 2008*):

60 When [any] an employer fails to pay its employee wages in  
61 accordance with the provisions of sections 31-71a to 31-71i, inclusive,  
62 or fails to compensate its employee in accordance with section 31-76k  
63 or where an employee or a labor organization representing [an] such  
64 employee institutes an action to enforce an arbitration award which  
65 requires its employer to make [an] such employee whole or to make  
66 payments to an employee welfare fund, such employee or labor  
67 organization may recover, in a civil action, twice the full amount of  
68 such wages, with costs and such reasonable attorney's fees as may be  
69 allowed by the court, and any agreement between him and his  
70 employer for payment of wages other than as specified in said sections  
71 shall be no defense to such action. The Labor Commissioner may  
72 collect the full amount of any such unpaid wages, payments due to an  
73 employee welfare fund or such arbitration award, as well as interest  
74 calculated in accordance with the provisions of section 31-265 from the  
75 date the wages or payment should have been received, had payment  
76 been made in a timely manner. In addition, the Labor Commissioner  
77 may bring any legal action necessary against any such employer to  
78 recover twice the full amount of unpaid wages, payments due to an  
79 employee welfare fund or arbitration award, and [the] such employer  
80 shall be required to pay the costs and such reasonable attorney's fees as  
81 may be allowed by the court. The commissioner shall distribute any  
82 wages, arbitration awards or payments due to an employee welfare  
83 fund collected pursuant to this section to the appropriate person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	31-53(f)
Sec. 2	<i>October 1, 2008</i>	31-72

**Statement of Purpose:**

To clarify who the Labor Commissioner may bring a claim against and potential defenses that may be used.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*