

# WARNING ABOUT CLASSIFYING WORKERS AS INDEPENDENT CONTRACTORS

## Additional Penalties Added for “Misclassification” of Independent Contractors

### CA SB 459

Sections 226.8 and 2753 have been added to the California Labor Code authorizing the Labor Workforce Development Agency to assess civil penalties of not less than \$5,000.00 and not more than \$15,000.00 for each violation in addition to those (penalties) already permitted by law. The civil penalties increase to between \$10,000.00 and \$25,000.00 for each violation if the employer has engaged in a pattern or practice of willful independent-contractor misclassifications. Additionally, employers or persons who are licensed contractors under the Contractors’ State License Law could be subject to disbarment if they are found in violation.

The new law also will have particular significance to California professionals who assist companies in making classification determinations. The new legislation makes such individuals jointly and severally liable with the employers if they **knowingly** advise employers to misclassify employees as independent contractors. The provisions do not apply to licensed attorney, human resources employees, or other employees providing advice to their employer. Notably consultants and tax advisors are not excluded.

Any employer found to have **willfully** misclassified employees as independent contractors may be required to post a notice regarding the violation(s) on their website or in an area accessible by all employees and customers for up to 1-year following the violation. Such posting likely will be reviewed by attorney seeking targets for wage and hour class actions.



### What this means to Production Companies

Production companies face significant risk if they pay workers "under the table" or 1099 workers that should be classified as employees.

Extreme Reach Crew Services can help your company protect itself from misclassifying workers. Our knowledgeable HR staff can assist you in determining who is not properly classified.