

California Department of Justice  
Office of the Attorney General



## Legal Alert

Subject:

### State Law Restrictions on Employer-Driven Debt

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### TO: All California Employers

The Office of the Attorney General issues this legal alert to remind all employers of state-law restrictions on employer-driven debt.

#### What is Employer-Driven Debt?

Employer-driven debt is a term referring to debt obligations incurred by individuals through employment arrangements. Examples of employer-driven debt include arrangements where an employer provides training, equipment, or supplies to a worker, but requires the worker to reimburse the employer for these expenses if the worker leaves their job before a certain date, even if the worker is fired or laid off.

Use of employer-driven debt products has grown substantially in recent years, potentially stifling competition in the labor market and forcing workers to remain in jobs that they would otherwise prefer to leave due to low pay or substandard working conditions. As a form of consumer debt, employer-driven debt may also expose workers to significant financial risk and predatory debt collection practices. Employer-driven debt has been observed in numerous industries, including in healthcare, trucking, aviation, and the retail and service industries.

#### Employer-Driven Debt Arrangements May Violate California Law.

Employer-driven debt may violate several provisions of California law, including Labor Code section 2802, which mandates that employers “indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties[.]” (Cal. Lab. Code, § 2802, subd. (a).) Related to job training specifically, California law prohibits an employer from requiring a worker to repay training costs unless the training is (1) necessary to legally practice the profession at issue, or (2) undertaken by the worker voluntarily and not employer-mandated. These laws apply to workers in all industries. Another provision of the Labor Code, section 2802.1, expressly makes clear that section 2802, and the aforementioned rules regarding training debt, apply to workers providing direct patient care in hospitals and applicants for such positions. (Cal. Lab. Code, § 2802.1.) These protections and others established in the Labor Code may not be waived by contract. (See *id.*, § 2804.)

Employer-driven debt practices may also violate a number of California consumer protection statutes. For instance, the Rosenthal Fair Debt Collection Practices Act prohibits an employer or its agent from engaging in unfair or deceptive acts or practices when attempting to collect on employer-driven debt. (See Cal. Civ. Code, § 1788.1, subd. (b); see, e.g., §§ 1788.11, 1788.13.) Likewise, any abusive employer-driven debt practices may violate the California Consumer Financial Protection Law, such as if an employer takes advantage of a worker’s lack of information or knowledge about the risks or costs of the debt. (See Cal. Fin. Code, § 90003, subd. (a)(1) & (2); 12 U.S.C. § 5531(d).)

Furthermore, a violation of these or other statutes may constitute an independent violation of California's Unfair Competition Law, which prohibits unlawful, unfair or fraudulent business practices. (Cal. Bus. & Prof. Code, § 17200 et seq.)

Workers and consumers who believe their rights have been violated may file a complaint at <https://oag.ca.gov/contact/consumer-complaint-against-business-or-company>.