

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN ASSEMBLY MAY 30, 2006

AMENDED IN ASSEMBLY APRIL 24, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2095

Introduced by Assembly Member Niello

February 17, 2006

An act to amend Section 12950.1 of the Government Code, and to amend Section 204 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2095, as amended, Niello. Employment practices.

Existing law makes certain specified employment practices unlawful, including the harassment of an employee directly by the employer or indirectly by agents of the employer with the employer's knowledge. Existing law additionally requires employers with 50 or more employees to provide, by January 1, 2006, at least 2 hours of training and education regarding sexual harassment to all supervisory employees, as specified, who have been employed as of January 1, 2005, unless the employer has provided that training and education to these employees after January 1, 2003. This training must be provided to all supervisory employees once every 2 years and to all new supervisory employees within 6 months of their assumption of supervisory duties.

This bill would limit the training requirement to supervisory employees within California. The bill would also make technical, nonsubstantive changes to these provisions.

Under existing law, all wages earned by a person in any employment are due and payable twice during each calendar month, except as specified. Existing law provides that this requirement shall be deemed satisfied if the wages are paid not more than ~~seven~~ 7 calendar days following the close of the payroll period, and further provides that the payment of wages for labor in excess of the normal work period must be made no later than the payday for the next regular payroll period. *Existing law further requires an employer to furnish each employee semimonthly or at the time of each payment of wages with an accurate itemized statement showing, among other things, the total hours worked by the employee, with a specified exception.*

~~This bill would make technical, nonsubstantive changes to these provisions~~ provide that an employer has complied with the latter requirement if overtime hours worked in the current pay period are itemized as corrections on the paystub for the next regular pay period. *This bill would further require that corrections included in a subsequently issued paystub identify the dates of the pay period to which they refer.*

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

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

1 SECTION 1. Section 12950.1 of the Government Code is
 2 amended to read:
 3 12950.1. (a) By January 1, 2006, an employer having 50 or
 4 more employees shall provide at least two hours of classroom or
 5 other effective interactive training and education regarding
 6 sexual harassment to all supervisory employees in California
 7 who are employed as of July 1, 2005, and to all new supervisory
 8 employees within six months of their assumption of a
 9 supervisory position. Any employer who has provided this
 10 training and education to a supervisory employee after January 1,
 11 2003, is not required to provide training and education by the
 12 January 1, 2006, deadline. After January 1, 2006, each employer
 13 covered by this section shall provide sexual harassment training
 14 and education to each supervisory employee in California once
 15 every two years. The training and education required by this
 16 section shall include information and practical guidance

1 regarding the federal and state statutory provisions concerning
2 the prohibition against and the prevention and correction of
3 sexual harassment and the remedies available to victims of sexual
4 harassment in employment. The training and education shall also
5 include practical examples aimed at instructing supervisors in the
6 prevention of harassment, discrimination, and retaliation, and
7 shall be presented by trainers or educators with knowledge and
8 expertise in the prevention of harassment, discrimination, and
9 retaliation.

10 (b) The state shall incorporate the training required by
11 subdivision (a) into the 80 hours of training provided to all new
12 supervisory employees pursuant to subdivision (b) of Section
13 19995.4, using existing resources.

14 (c) For purposes of this section only, “employer” means any
15 person regularly employing 50 or more persons or regularly
16 receiving the services of 50 or more persons providing services
17 pursuant to a contract, or any person acting as an agent of an
18 employer, directly or indirectly, the state, or any political or civil
19 subdivision of the state, and cities.

20 (d) Notwithstanding subdivisions (j) and (k) of Section 12940,
21 a claim that the training and education required by this section
22 did not reach a particular individual or individuals shall not in
23 and of itself result in the liability of any employer to any present
24 or former employee or applicant in any action alleging sexual
25 harassment. Conversely, an employer’s compliance with this
26 section does not insulate the employer from liability for sexual
27 harassment of any current or former employee or applicant.

28 (e) If an employer violates this section, the commission shall
29 issue an order requiring the employer to comply with these
30 requirements.

31 (f) The training and education required by this section is
32 intended to establish a minimum threshold and should not
33 discourage or relieve any employer from providing for longer,
34 more frequent, or more elaborate training and education
35 regarding workplace harassment or other forms of unlawful
36 discrimination in order to meet its obligations to take all
37 reasonable steps necessary to prevent and correct harassment and
38 discrimination.

39 SEC. 2. Section 204 of the Labor Code is amended to read:

1 204. (a) All wages, other than those mentioned in Section
 2 201, 202, 204.1, or 204.2, earned by any person in any
 3 employment are due and payable twice during each calendar
 4 month, on days designated in advance by the employer as the
 5 regular paydays. Labor performed between the 1st and 15th days,
 6 inclusive, of any calendar month shall be paid for between the
 7 16th and the 26th day of the month during which the labor was
 8 performed, and labor performed between the 16th and the last
 9 day, inclusive, of any calendar month, shall be paid for between
 10 the 1st and 10th day of the following month. However, salaries of
 11 executive, administrative, and professional employees of
 12 employers covered by the Fair Labor Standards Act, as set forth
 13 pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as
 14 amended through March 1, 1969, in Part 541 of Title 29 of the
 15 Code of Federal Regulations, as that part now reads or may be
 16 amended to read at any time hereafter, may be paid once a month
 17 on or before the 26th day of the month during which the labor
 18 was performed if the entire month's salaries, including the
 19 unearned portion between the date of payment and the last day of
 20 the month, are paid at that time.

21 (b) (1) Notwithstanding any other provision of this section, all
 22 wages earned for labor in excess of the normal work period shall
 23 be paid no later than the payday for the next regular payroll
 24 period.

25 (2) *An employer is in compliance with the requirements of*
 26 *subdivision (a) of Section 226 relating to total hours worked by*
 27 *the employee, if overtime hours worked in the current pay period*
 28 *are itemized as corrections on the paystub for the next regular*
 29 *pay period. Any corrections set out in a subsequently issued*
 30 *paystub shall state the inclusive dates of the pay period for which*
 31 *the employer is correcting its initial report of hours worked.*

32 (c) However, when employees are covered by a collective
 33 bargaining agreement that provides different pay arrangements,
 34 those arrangements shall apply to the covered employees.

35 (d) The requirements of this section shall be deemed satisfied
 36 by the payment of wages for weekly, biweekly, or semimonthly
 37 payroll if the wages are paid not more than seven calendar days
 38 following the close of the payroll period.

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