

Assembly Bill No. 2095

Passed the Assembly August 22, 2006

Chief Clerk of the Assembly

Passed the Senate August 16, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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 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.

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

SECTION 1. Section 12950.1 of the Government Code is amended to read:

12950.1. (a) By January 1, 2006, an employer having 50 or more employees shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees in California who are employed as of July 1, 2005, and to all new supervisory employees within six months of their assumption of a supervisory position. Any employer who has provided this training and education to a supervisory employee after January 1, 2003, is not required to provide training and education by the January 1, 2006, deadline. After January 1, 2006, each employer covered by this section shall provide sexual harassment training and education to each supervisory employee in California once every two years. The training and education required by this section shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

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

(c) For purposes of this section only, “employer” means any person regularly employing 50 or more persons or regularly receiving the services of 50 or more persons providing services pursuant to a contract, or any person acting as an agent of an

employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

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

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

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

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

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

unearned portion between the date of payment and the last day of the month, are paid at that time.

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

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

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

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

Approved _____, 2006

Governor