

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 394

Introduced by Assembly Member Silva

February 14, 2011

An act to add Chapter 0.5 (commencing with Section 1170) to Part 4 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as amended, Silva. Employment regulation: volunteers.

Existing law prescribes wages, hours, and working conditions for all employees in the state, not including any individual employed as an outside salesman or participating in a national service program, as specified. Existing law provides a system for the imposition of criminal and civil sanctions against a person violating statutes and regulations of the state relating to the employment of minors, as defined, in various activities and occupations. Existing law prescribes the maximum number of hours per day and per week that an employer may employ a minor.

This bill would exempt an individual who renders services as a volunteer, *as defined*, from those provisions. ~~The bill would define the term "volunteer" for those purposes as an individual who, without promise or expectation of compensation, but solely for his or her personal purpose or pleasure, performs work for an organization that is exempt from taxation pursuant to a specified provision of federal law or for a resource conservation district formed pursuant to specified state statutory provisions.~~

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

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

1 SECTION 1. Chapter 0.5 (commencing with Section 1170) is
2 added to Part 4 of Division 2 of the Labor Code, to read:

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CHAPTER 0.5. GENERAL PROVISIONS

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6 1170. (a) This part does not apply to an individual who renders
7 services as a volunteer.

8 (b) For purposes of this part, “volunteer” means an individual
9 who, without promise or expectation of compensation, but solely
10 for his or her personal purpose or pleasure, performs work for an
11 organization that is exempt from taxation pursuant to Section
12 501(c) of the United States Internal Revenue Code (26 U.S.C. Sec.
13 501(c)) or for a resource conservation district formed pursuant to
14 Division 9 (commencing with Section 9001) of the Public
15 Resources Code.

16 (1) *An individual shall be considered a volunteer for purposes*
17 *of this part only when his or her services are offered freely and*
18 *without pressure and coercion, direct or implied, from an employer.*

19 (2) *An individual may receive reasonable meals, lodging,*
20 *transportation, and incidental expenses or nominal nonmonetary*
21 *awards without losing volunteer status for purposes of this part*
22 *if, in the entire context of the situation, those benefits and payments*
23 *are not a substitute form of compensation for work performed.*

24 (3) *An individual shall not be considered a volunteer for*
25 *purposes of this part if he or she is otherwise employed for*
26 *compensation for performing the same or similar services either*
27 *by the organization for which the volunteer services are performed*
28 *or by a subsidiary or affiliated entity.*

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