

AMENDED IN SENATE AUGUST 22, 2012

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 889

Introduced by Assembly Members Ammiano and V. Manuel Pérez
(Coauthors: Assembly Members Allen, Cedillo, Fuentes, Ma, and
Monning)
(Coauthor: Senator De León)

February 17, 2011

An act to ~~amend Sections 226, 3351, 3352, 3551, 3708, and 3715 of,~~
~~to repeal Section 4156 of, and to add Part 4.5 (commencing with Section~~
1450) to Division 2 of; the Labor Code, relating to domestic work
employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 889, as amended, Ammiano. Domestic work employees.

Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except for individuals employed as outside salesmen and individuals participating in specified national service programs. Under existing law, the Industrial Welfare Commission within the Department

of Industrial Relations is authorized to adopt rules, regulations, and orders to ensure that employers comply with those provisions of law.

~~This bill would specially regulate the wages, hours, and working conditions of domestic work employees, as defined. Specifically, this bill would, among other things, provide a private right of action for a domestic work employee when those regulations are violated by his or her employer and provide an overtime compensation rate for domestic work employees. This bill would also expressly state that the provisions of Wage Order Number 15 of the Industrial Welfare Commission, with specified exceptions, apply to a domestic work employee, but would provide that these new domestic work provisions shall prevail over protections in that order or any other law that afford less protection to a domestic work employee.~~

~~Existing law requires an employer to provide its employees with specified information regarding their wages either semimonthly or at the time of each wage payment. Under existing law, this requirement does not apply to employers of persons who engage in specified types of household domestic service.~~

~~This bill would delete the exclusion for employers of persons who engage in specified types of household domestic service, thereby requiring those employers to provide the above-described information.~~

~~Existing law requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of and in the course of employment. The failure to secure workers' compensation as required by the workers' compensation law is a misdemeanor. Under existing law, employers of persons who engage in specified types of household domestic service and who work less than a specified number of hours are excluded from that definition of employer and are therefore excluded from the requirement to secure the payment of workers' compensation, as specified.~~

~~This bill would remove that exclusion and require all domestic work employers, as defined, to secure the payment of workers' compensation and would make conforming changes. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

This bill would require the Department of Industrial Relations, by January 1, 2014, to adopt regulations governing the working conditions of domestic work employees, as defined.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) As recognized by the State of California in Resolution
4 Chapter 119 of the Statutes of 2010, it is the policy of the state to
5 encourage and protect the rights of domestic work employees.
- 6 (b) California’s domestic workers, which includes housekeepers,
7 nannies, and caregivers for children, persons with disabilities, and
8 the elderly, work in private households to care for the health, safety,
9 and well-being of the most important aspects of Californians’ lives:
10 their families and homes.
- 11 (c) Domestic workers play a critical role in California’s
12 economy, working to ensure the health and prosperity of California
13 families and freeing others to participate in the workforce, which
14 is increasingly necessary in these difficult economic times. The
15 labor of domestic workers is central to the ongoing prosperity of
16 the state but, despite the value of their work, domestic workers
17 have not received the same protection under state laws as workers
18 in other industries. Most domestic workers labor to support families
19 and children of their own, and more than half are primary income
20 earners, but two-thirds of domestic workers earn low wages or
21 wages below the poverty line.
- 22 (d) Because domestic workers care for the most important
23 elements of their employers’ lives, their families and homes, it is
24 in the interest of employees, employers, and the people of the State
25 of California to ensure that the rights of domestic workers are
26 respected, protected, and enforced.
- 27 (e) The vast majority of domestic workers are women of color
28 and immigrants and are particularly vulnerable to unlawful
29 employment practices and abuses. Domestic workers usually work
30 alone, behind closed doors, and out of the public eye, leaving them
31 isolated, vulnerable to abuse and exploitation, and unable to
32 advocate collectively for better working conditions. Domestic

1 workers often labor under harsh conditions, work long hours for
 2 low wages without benefits or job security, and face termination
 3 without notice or severance pay, leaving many suddenly without
 4 both a job and a home. In the worst cases, domestic workers are
 5 verbally and physically abused or sexually assaulted, forced to
 6 sleep in conditions unfit for human habitation, and stripped of their
 7 privacy and dignity.

8 (f) Domestic workers are still excluded from the most basic
 9 protections afforded the rest of the labor force under state and
 10 federal law, including the rights to fair wages, safe and healthy
 11 working conditions, workers’ compensation, and protection from
 12 discriminatory and abusive treatment. The treatment of domestic
 13 workers under federal and state laws has historically reflected
 14 stereotypical assumptions about the nature of domestic work,
 15 specifically that the relationship between employer and “servant”
 16 was “personal,” rather than commercial, in character, that
 17 employment within a household was not “real” productive work,
 18 and that women did not work to support their families.

19 (g) Given the limited legal protections historically provided to
 20 domestic workers, and bearing in mind the unique conditions and
 21 demands of this private, home-based industry, the Legislature, as
 22 an exercise of the police power of the State of California for the
 23 protection of the public welfare, prosperity, health, safety, and
 24 peace of its people, further finds that domestic workers are entitled
 25 to industry-specific protections and labor standards that eliminate
 26 discriminatory provisions in the labor laws and guarantee domestic
 27 workers basic workplace rights to ensure that domestic workers
 28 are treated with equality, respect, and dignity.

29 *SEC. 2. Part 4.5 (commencing with Section 1450) is added to*
 30 *Division 2 of the Labor Code, to read:*

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32 *PART 4.5. DOMESTIC WORK EMPLOYEES*

33

34 *1450. For the purposes of this part, the following terms have*
 35 *the following meanings:*

36 (a) *“Domestic work” means services related to the care of*
 37 *persons in private households or maintenance of private*
 38 *households or their premises. Domestic work occupations include*
 39 *childcare providers; caregivers of sick, convalescing, or elderly*

1 *persons; house cleaners; housekeepers; maids; and other*
2 *household occupations.*

3 (b) (1) *“Domestic work employee” means an individual who*
4 *performs domestic work and includes live-in domestic work*
5 *employees and personal attendants.*

6 (2) *“Domestic work employee” does not include any of the*
7 *following:*

8 (A) *A person who performs services through the In-Home*
9 *Supportive Services program under Article 7 (commencing with*
10 *Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare*
11 *and Institutions Code.*

12 (B) *A person who is the parent, grandparent, spouse, sibling,*
13 *child, or legally adopted child of the domestic work employer.*

14 (C) *A person under 18 years of age who is employed as a*
15 *babysitter for a minor child of the domestic work employer.*

16 (D) *A person employed by a licensed health facility, as defined*
17 *in Section 1250 of the Health and Safety Code.*

18 (E) *The State of California or individuals who receive domestic*
19 *work services through the In-Home Supportive Services program*
20 *under Article 7 (commencing with Section 12300) of Chapter 3 of*
21 *Part 3 of Division 9 of the Welfare and Institutions Code.*

22 1451. (a) *Not later than January 1, 2014, the Department of*
23 *Industrial Relations shall adopt regulations governing the working*
24 *conditions of domestic work employees.*

25 (b) *The regulations adopted pursuant to this section shall*
26 *provide for all of the following:*

27 (1) *Overtime compensation.*

28 (2) *Meal and rest periods.*

29 (3) *Uninterrupted sleep periods and compensation for*
30 *interruptions.*

31 (c) *The Department of Industrial Relations may apply the*
32 *provisions of Industrial Welfare Commission Wage Order 15 to*
33 *domestic work employees.*

34 (d) *In adopting regulations pursuant to this section, the*
35 *Department of Industrial Relations shall do all of the following:*

36 (1) *Study the economic impact of the regulations.*

37 (2) *Review and consider federal policies regarding domestic*
38 *work employees.*

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All matter omitted in this version of the bill appears in the bill as amended in the Senate, July 12, 2011. (JR11)

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