

Assembly Bill No. 889

Passed the Assembly August 30, 2012

Chief Clerk of the Assembly

Passed the Senate August 29, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) As recognized by the State of California in Resolution Chapter 119 of the Statutes of 2010, it is the policy of the state to encourage and protect the rights of domestic work employees.

(b) California's domestic workers, which includes housekeepers, nannies, and caregivers for children, persons with disabilities, and the elderly, work in private households to care for the health, safety, and well-being of the most important aspects of Californians' lives: their families and homes.

(c) Domestic workers play a critical role in California's economy, working to ensure the health and prosperity of California families and freeing others to participate in the workforce, which is increasingly necessary in these difficult economic times. The labor of domestic workers is central to the ongoing prosperity of the state but, despite the value of their work, domestic workers

have not received the same protection under state laws as workers in other industries. Most domestic workers labor to support families and children of their own, and more than half are primary income earners, but two-thirds of domestic workers earn low wages or wages below the poverty line.

(d) Because domestic workers care for the most important elements of their employers' lives, their families and homes, it is in the interest of employees, employers, and the people of the State of California to ensure that the rights of domestic workers are respected, protected, and enforced.

(e) The vast majority of domestic workers are women of color and immigrants and are particularly vulnerable to unlawful employment practices and abuses. Domestic workers usually work alone, behind closed doors, and out of the public eye, leaving them isolated, vulnerable to abuse and exploitation, and unable to advocate collectively for better working conditions. Domestic workers often labor under harsh conditions, work long hours for low wages without benefits or job security, and face termination without notice or severance pay, leaving many suddenly without both a job and a home. In the worst cases, domestic workers are verbally and physically abused or sexually assaulted, forced to sleep in conditions unfit for human habitation, and stripped of their privacy and dignity.

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

(g) Given the limited legal protections historically provided to domestic workers, and bearing in mind the unique conditions and demands of this private, home-based industry, the Legislature, as an exercise of the police power of the State of California for the protection of the public welfare, prosperity, health, safety, and peace of its people, further finds that domestic workers are entitled

to industry-specific protections and labor standards that eliminate discriminatory provisions in the labor laws and guarantee domestic workers basic workplace rights to ensure that domestic workers are treated with equality, respect, and dignity.

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

PART 4.5. DOMESTIC WORK EMPLOYEES

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

(a) “Domestic work” means services related to the care of persons in private households or maintenance of private households or their premises. Domestic work occupations include childcare providers; caregivers of sick, convalescing, or elderly persons; house cleaners; housekeepers; maids; and other household occupations.

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

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

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

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

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

(D) A person employed by a licensed health facility, as defined in Section 1250 of the Health and Safety Code, or by a health care system that includes an acute care hospital and other facilities that are related through common ownership or affiliation with the acute care hospital, within the meaning of Sections 150 and 5031 of the Corporations Code. Employees who are employed by entities that contract with a health care system to provide domestic work are not exempt from this part.

(E) A person who is employed by, or contracts with, an organization vendored or contracted through a regional center or

the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) or the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and support for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services.

(F) A person who provides child care and who, pursuant to subdivision (d) or (f) of Section 1596.792 of the Health and Safety Code, is exempt from the licensing requirements of Chapters 3.4 (commencing with Section 1596.70), 3.5 (commencing with Section 1596.90), and 3.6 (commencing with Section 1597.30) of Division 2 of the Health and Safety Code, if the parent or guardian of the child to whom child care is provided receives child care and development services pursuant to any program authorized under the Child Care and Development Services Act (Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education Code) or the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(c) (1) “Domestic work employer” means a person, including corporate officers or executives, who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary service, or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of a domestic work employee.

(2) “Domestic work employer” does not include any of the following:

(A) The State of California or individuals who receive domestic work services through the In-Home Supportive Services program under Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or individuals who meet income eligibility for that program.

(B) An employment agency that complies with Section 1812.5095 of the Civil Code and that operates solely to procure, offer, refer, provide, or attempt to provide work to domestic workers if the relationship between the employment agency and

the domestic workers for whom the agency procures, offers, refers, provides, or attempts to provide domestic work is characterized by all of the factors listed in subdivision (b) of Section 1812.5095 of the Civil Code and Section 687.2 of the Unemployment Insurance Code.

(C) A licensed health facility, as defined in Section 1250 of the Health and Safety Code.

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

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

- (1) Overtime compensation.
- (2) Meal and rest periods.
- (3) Uninterrupted sleep periods and compensation for interruptions.

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

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

(1) Study the economic impacts of the regulations, including both of the following:

(A) The impact on people with disabilities, including on their ability to remain in and return to communities with home- and community-based services and supports.

(B) The impact on minors who are eligible for services or support pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) or the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code), and their families, regardless of whether they are receiving services or support through or outside of those acts. The department shall take into account the income of the minors and their families and the expenses that they incur due to the minors' disabilities.

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

Approved _____, 2012

Governor