

AMENDED IN SENATE JULY 1, 2013  
AMENDED IN ASSEMBLY MAY 24, 2013  
AMENDED IN ASSEMBLY MARCH 19, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 241**

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**Introduced by Assembly Member Ammiano**

February 6, 2013

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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 241, as amended, Ammiano. Domestic work employees: labor standards.

(1) 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 as specified. Existing law creates the Industrial Welfare Commission and authorizes it to adopt rules, regulations, and orders to ensure that employers comply with those provisions. *Wage Order No. 15-2001 of the commission regulates wages, hours, and working conditions for household occupations.* Existing law makes violations of certain of these provisions a misdemeanor.

This bill would *enact the Domestic Worker Bill of Rights to specially regulate the wages, hours, and working conditions of certain domestic work employees, as defined, with specified exceptions employees.* The bill would define *various terms for the purposes of the act, including defining domestic work as to mean services related to the care of persons in private households or maintenance of private households or their*

premises, which would include childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids, and other household occupations. The bill would provide an overtime compensation rate for *those* domestic work employees, with specified exceptions. The bill would ~~expressly apply Wage Order No. 15-2001 of the Industrial Welfare Commission, with specified exceptions, to a domestic work employee, except that the new domestic work provisions established by this bill will prevail over provisions that afford less protection prevail if a provision of the household occupations wage order or any other provision of law affords less protection to a domestic work employee, and that wage order or provision of law would prevail if the wage order or any other provision of law affords more protection to a domestic work employee.~~ The bill would prescribe standards for determining whether ~~travel~~ time spent by a personal attendant, ~~as defined, attendant who is a domestic work employee, when traveling out of town~~ accompanying a domestic work employer ~~are to be considered who is a person with a disability, constitutes~~ hours worked. The bill would further establish standards for sleeping periods, including accommodations for a domestic work employee who is required to sleep in ~~a~~ *the* private household of the employer, and would apply provisions of the household occupations wage order regarding meal and rest ~~breaks, as specified, breaks~~ to personal attendants *who are domestic work employees*. The bill would require the Division of Labor Standards Enforcement to enforce these provisions. The bill would also provide a domestic work employee a private right of action to enforce these provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(2) 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.

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

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

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

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

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

9 (c) Domestic workers play a critical role in California’s  
10 economy, working to ensure the health and prosperity of California  
11 families and freeing others to participate in the workforce, which  
12 is increasingly necessary in these difficult economic times. The  
13 labor of domestic workers is central to the ongoing prosperity of  
14 the state but, despite the value of their work, domestic workers  
15 have not received the same protection under state laws as workers  
16 in other industries. Although domestic workers labor to support  
17 families and children of their own, and often are primary income  
18 earners, many earn low wages and live below the poverty line.

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

24 (e) The vast majority of domestic workers are women of color  
25 and immigrants ~~and~~ *who* are particularly vulnerable to unlawful  
26 employment practices. Domestic workers usually work alone,  
27 behind closed doors, and out of the public eye, leaving them  
28 isolated, vulnerable to abuse and exploitation by some employers,  
29 and unable to advocate collectively for better working conditions.  
30 Many domestic workers labor under harsh conditions and work  
31 long hours for low wages without any benefits. For those who are  
32 live-in employees, when terminated, they lose not only their jobs  
33 but their homes. This bill recognizes that many personal attendants  
34 have positive working relationships with their employers. However,  
35 it must also be recognized that there are other situations where  
36 domestic workers are verbally and physically abused or sexually  
37 assaulted, forced to sleep in conditions unfit for human habitation,  
38 and stripped of their privacy and dignity.

39 (f) Many domestic workers are still excluded from the most  
40 basic protections afforded to the rest of the labor force under state

1 and federal law, including the rights to fair wages, safe and healthy  
2 working conditions, and protection from discriminatory and abusive  
3 treatment. The treatment of domestic workers under federal and  
4 state laws has historically reflected stereotypical assumptions about  
5 the nature of domestic work, specifically that the relationship  
6 between employer and “servant” was “personal,” rather than  
7 commercial, in character, that employment within a household  
8 was not “real” productive work, and that women did not work to  
9 support their families.

10 (g) Recognizing that people with disabilities often need personal  
11 attendants in order to be active participants in work, community,  
12 social, and cultural life, this bill creates certain modifications to  
13 the definition of compensable hours worked to accommodate  
14 situations when out-of-town travel with a personal attendant is  
15 necessary. The bill further modifies the existing definition of  
16 compensable hours worked in Wage Order No. 15-2001 of the  
17 Industrial Welfare Commission to allow for an unpaid sleep period  
18 of up to eight hours for ~~personal attendants~~ *domestic work*  
19 *employees who are live-in employees or who are required to be*  
20 *on duty for 24 consecutive hours or more*, under specified  
21 circumstances. ~~Personal~~ *Domestic work employees who are*  
22 *personal attendants*, who have long been denied the right to take  
23 meal and rest breaks, will be afforded the protection of Sections  
24 11 and 12 of ~~Minimum~~ Wage Order No. 15-2001, which includes  
25 a provision for on-duty meals when the nature of the work prevents  
26 an employee from being relieved of all duty.

27 (h) Given the limited legal protections historically provided to  
28 domestic workers, and bearing in mind the unique conditions and  
29 demands of this private, home-based industry, the Legislature, as  
30 an exercise of the police power of the State of California for the  
31 protection of the public welfare, prosperity, health, safety, and  
32 peace of its people, further finds that domestic workers are entitled  
33 to industry-specific protections and labor standards that eliminate  
34 discriminatory provisions in the labor laws and guarantee domestic  
35 workers basic workplace rights to ensure that domestic workers  
36 are treated with equality, respect, and dignity.

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

1           PART 4.5. DOMESTIC WORK EMPLOYEES

2  
3           CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

4  
5       1450. This part shall be known and may be cited as the  
6 Domestic Worker Bill of Rights.

7       1451. As used in this part, the following definitions apply:

8       (a) (1) “Domestic work” means services related to the care of  
9 persons in private households or maintenance of private households  
10 or their premises. Domestic work occupations include childcare  
11 providers, caregivers of people with disabilities, sick, convalescing,  
12 or elderly persons, house cleaners, housekeepers, maids, and other  
13 household occupations.

14       (2) “Domestic work” does not include care of persons in  
15 facilities providing board or lodging in addition to medical,  
16 nursing, convalescent, aged, or child care, including, but not  
17 limited to, residential care facilities for the elderly.

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

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

23       (A) Any person who performs services through the In-Home  
24 Supportive Services program under Article 7 (commencing with  
25 Section 12300) of Chapter 3 of Part 3 of Division 9 of, *and Sections*  
26 *14132.95, 14132.952, and 14132.956 of, the Welfare and*  
27 *Institutions Code.*

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

30       (C) Any person under 18 years of age who is employed as a  
31 babysitter for a minor child of the domestic work employer in the  
32 employer’s home.

33       (D) Any person employed as a casual babysitter for a minor  
34 child in the domestic employer’s home. A casual babysitter is a  
35 person whose employment is irregular and intermittent and who  
36 does not work more than *an average of* six hours per week *in any*  
37 *given month* caring for the same minor child or children. If a person  
38 who performs babysitting services on an irregular and intermittent  
39 basis does a significant amount of work other than supervising,  
40 feeding, and dressing a child, this exemption shall not apply and

1 the person shall be considered a domestic work employee. A person  
2 who is a casual babysitter who is over 18 years of age retains the  
3 right to payment of minimum wage for all hours worked, pursuant  
4 to Wage Order No. 15-2001 of the Industrial Welfare Commission.

5 (E) Any person employed by a licensed health facility, as  
6 defined in Section 1250 of the Health and Safety Code.

7 (F) Any person who is employed *pursuant to a voucher issued*  
8 *through a regional center or who is employed by, or contracts*  
9 *with, an organization vendored or contracted through a regional*  
10 *center or the State Department of Developmental Services pursuant*  
11 *to the Lanterman Developmental Disabilities Services Act*  
12 *(Division 4.5 (commencing with Section 4500) of the Welfare and*  
13 *Institutions Code) and or the California Early Intervention Services*  
14 *Act (Title 14 (commencing with Section 95000) of the Government*  
15 *Code) to provide services and support for persons with*  
16 *developmental disabilities, as defined in Section 4512 of the*  
17 *Welfare and Institutions Code, when any funding for those services*  
18 *is provided through the State Department of Developmental*  
19 *Services.*

20 (G) Any person who provides child care and who, pursuant to  
21 subdivision (d) or (f) of Section 1596.792 of the Health and Safety  
22 Code, is exempt from the licensing requirements of Chapters 3.4  
23 (commencing with Section 1596.70), 3.5 (commencing with  
24 Section 1596.90), and 3.6 (commencing with Section 1597.30) of  
25 Division 2 of the Health and Safety Code, if the parent or guardian  
26 of the child to whom child care is provided receives child care and  
27 development services pursuant to any program authorized under  
28 the Child Care and Development Services Act (Chapter 2  
29 (commencing with Section 8200) of Part 6 of Division 1 of Title  
30 1 of the Education Code) or the California Work Opportunity and  
31 Responsibility to Kids Act (Chapter 2 (commencing with Section  
32 11200) of Part 3 of Division 9 of the Welfare and Institutions  
33 Code).

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

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

3 (A) The State of California or an individual who receives  
4 domestic work services through the In-Home Supportive Services  
5 program under Article 7 (commencing with Section 12300) of  
6 Chapter 3 of Part 3 of Division 9 of, *and Sections 14132.95,*  
7 *14132.952, and 14132.956 of,* the Welfare and Institutions Code  
8 or who is eligible for that program based on his or her income.

9 (B) An employment agency that complies with Section  
10 1812.5095 of the Civil Code and that operates solely to procure,  
11 offer, refer, provide, or attempt to provide work to domestic  
12 workers if the relationship between the employment agency and  
13 the domestic workers for whom the agency procures, offers, refers,  
14 provides, or attempts to provide domestic work is characterized  
15 by all of the factors listed in subdivision (b) of Section 1812.5095  
16 of the Civil Code and Section 687.2 of the Unemployment  
17 Insurance Code.

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

20 (d) “Emergency” means an unpredictable or unavoidable  
21 occurrence of a serious nature that occurs unexpectedly requiring  
22 immediate action.

23 (e) “Hours worked” means the time during which a domestic  
24 work employee is subject to the control of a domestic work  
25 employer and includes all time the domestic work employee is  
26 suffered or permitted to work, whether or not required to do so.

27 (f) “Live-in domestic work employee” means an employee who  
28 resides in the domestic work employer’s household at least five  
29 days per week and for whom the employer makes sleep  
30 accommodations available in compliance with Section 1457.

31 (g) “Personal attendant” means any person employed by a  
32 ~~private party householder or employed by any third-party employer~~  
33 recognized in the health care industry to work in a private  
34 household, to supervise, feed, or dress a *child, or a person who;*  
35 *by reason of advanced age, physical disability, or mental*  
36 ~~deficiency, deficiency~~ *needs supervision. A person is a* *The status*  
37 *of personal attendant only if shall apply when* no significant amount  
38 of work other than the foregoing is required. For purposes of this  
39 subdivision, ~~no~~ “no significant amount of ~~work work~~” means that

1 ~~the~~ work *other than the foregoing* did not exceed 20 percent of  
 2 the total weekly hours worked.

3 1452. The Division of Labor Standards Enforcement shall  
 4 enforce this part.

5 1453. (a) Any domestic work employee aggrieved by a  
 6 violation of this part may bring an administrative action pursuant  
 7 to Section 98 or may bring a civil action in a court of competent  
 8 jurisdiction against the domestic work employer violating this part.

9 (b) A domestic work employee who brings an action pursuant  
 10 to this section and prevails shall be entitled to any legal or equitable  
 11 relief permitted by law as may be appropriate to remedy the  
 12 violation. A domestic work employee bringing a civil action  
 13 pursuant to this section shall also be entitled to an award of  
 14 reasonable attorney’s fees and costs, including expert witness fees.

15 (c) The rights and remedies specified in this part are cumulative  
 16 and nonexclusive and are in addition to any other rights or remedies  
 17 afforded by contract or under other provisions of law. If a provision  
 18 of Wage Order No. 15-2001 of the Industrial Welfare Commission  
 19 or any other provision of law affords less protection to a domestic  
 20 work employee, this part shall prevail. If a provision of Wage  
 21 Order No. 15-2001 of the Industrial Welfare Commission or any  
 22 other provision of law affords more protection to a domestic work  
 23 employee, the wage order *or provision of law* shall prevail.

24 (d) Notwithstanding any provision of this code or Section 340  
 25 of the Code of Civil Procedure, to commence an action for a  
 26 violation of this part a domestic work employee shall file an  
 27 administrative or civil complaint within three years of the violation.

28

29 CHAPTER 2. DOMESTIC WORK EMPLOYEE RIGHTS

30

31 1454. A domestic work employee shall be compensated  
 32 pursuant to Section 510 *for all hours worked*, except as provided  
 33 in Section 1455 or 1456.

34 1455. (a) A domestic work employee who is a live-in employee  
 35 or is required to be on duty for 24 consecutive hours or more shall  
 36 have a minimum of eight consecutive hours for uninterrupted sleep,  
 37 except in an emergency. ~~Any time worked during an emergency~~  
 38 ~~interruption constitutes hours worked.~~

39 (b) If a domestic work employee is a live-in employee or is  
 40 required to be on duty for 24 consecutive hours or more, the

1 domestic work employer and the domestic work employee may  
2 agree in writing to exclude from hours worked a bona fide regularly  
3 scheduled sleeping period of not more than eight hours for  
4 uninterrupted sleep from hours worked, provided that the employee  
5 has eight hours free of duty and available for continuous,  
6 uninterrupted sleep and the domestic work employer otherwise  
7 complies with this section and Section 1457. *If the sleeping period*  
8 *is interrupted by an emergency, only time spent working during*  
9 *the emergency constitutes hours worked.* Absent a written  
10 agreement, the eight hours available for sleep shall constitute hours  
11 worked.

12 1456. If a domestic work employer who is a person with a  
13 disability needs to be accompanied by a personal attendant *who is*  
14 *a domestic work employee* when traveling out of town, all time  
15 spent accompanying the employer in transit, and all time attending  
16 ~~to, or carrying out, directives to or under the control~~ of the  
17 employer constitutes hours worked. Periods during which the  
18 personal attendant is completely relieved of duty, is not required  
19 to be at the same location as the employer, and that are long enough  
20 to enable the attendant to use the time effectively for his or her  
21 own purposes do not constitute hours worked. The employer and  
22 the employee may agree to exclude from hours worked a bona fide  
23 sleeping period of not more than eight hours, provided that there  
24 is a written agreement and the employee has eight hours free of  
25 duty and available for continuous, uninterrupted sleep.

26 1457. Any domestic work employee who is required to sleep  
27 in the private household of his or her employer shall be provided  
28 sleeping accommodations *for full-time occupancy* that are adequate,  
29 decent, and sanitary according to usual customary standards. ~~These~~  
30 ~~A domestic work employees~~ *employee* shall be provided a room  
31 separate from any household resident and shall not be required to  
32 share a bed.

33 1458. Sections 11 and 12 of Wage Order No. 15-2001 of the  
34 Industrial Welfare Commission shall apply to a personal attendant  
35 *who is a domestic work employee.*

36 1460. A domestic work employer shall permit a domestic work  
37 employee who works five hours or more a day to choose the food  
38 he or she eats and to prepare his or her own meals. A domestic  
39 work employer shall permit a domestic work employee to use the  
40 job site's kitchen facilities and kitchen appliances without charge

1 or deduction from pay. If a domestic work employee is informed  
2 that a person in the household has bona fide health issues related  
3 to food, including, but not limited to, food allergies, or has religious  
4 or dietary restrictions ~~which~~ *that* make presence of some foods  
5 unacceptable, the employee shall not eat or prepare that food in  
6 the household.

7 SEC. 3. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.