

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 669**

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**Introduced by Assembly Member Daly**

February 25, 2015

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An act to amend Section ~~1182.12 of the Labor Code, 3306 of the Unemployment Insurance Code~~, relating to ~~minimum wage. unemployment insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 669, as amended, Daly. Minimum wage: ~~qualifying tipped employees.~~ *Unemployment and disability compensation: family temporary disability insurance.*

*Under existing law, the family temporary disability insurance program provides up to 6 weeks of wage replacement benefits to workers who take time off work to care for a seriously ill child, spouse, parent, domestic partner, or to bond with a new child. Existing law also requires that an individual claiming disability benefits establish medical eligibility by filing a claim supported by a certificate of a treating physician or practitioner that establishes, among other things, the condition of the family member. Existing law authorizes the Director of Employment Development to require the care recipient to submit to reasonable examinations for the purpose of determining whether a serious health condition exists and the necessity and duration of the worker's care of the recipient.*

*This bill would require the director, prior to ordering an additional examination, to review all available medical records of the recipient*

*to determine whether an additional examination is necessary if the care recipient's personal physician has examined the recipient within the previous 60 days and states that an additional examination would constitute a hardship for the recipient.*

Existing law requires that, on and after July 1, 2014, the minimum wage for all industries be not less than \$9 per hour. Existing law further requires that on and after January 1, 2016, the minimum wage for all industries be not less than \$10 per hour.

This bill would establish the minimum wage for a qualifying tipped employee, on and after January 1, 2016, at \$10 per hour. The bill would define "qualifying tipped employee" to mean an employee who regularly receives income from wages at a rate equal to at least 150% of the minimum wage, as described. The bill would define "wages" for these purposes to mean all remuneration for services performed by an employee for his or her employer, including tips received by an employee in the course of his or her employment.

The bill would require an employer, if in any month a qualifying tipped employee receives income from wages at a rate of less than 150% of the minimum wage, as described, to pay the qualifying tipped employee an amount equal to the difference, if any, between the minimum wage per hour for qualifying tipped employees and the minimum wage per hour for all other employees, multiplied by the total number of hours worked by the qualifying tipped employee during that month. The bill would require an employer, if it elects to pay its qualifying tipped employees the minimum wage for qualifying tipped employees rather than the minimum wage for all other employees, to pay all other employees a minimum wage equal to 110% of the minimum wage for all other employees or 110% of the applicable local minimum wage, whichever is greater. The bill would also exempt an employer from paying a qualifying tipped employee a minimum wage established by a local ordinance that is greater than the minimum wage required for all other employees if the qualifying tipped employee is guaranteed an hourly rate of compensation by his or her employer, in each pay period, from wages that equal or exceed 150% of the minimum wage established by that local ordinance.

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

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

1     *SECTION 1. Section 3306 of the Unemployment Insurance*  
2     *Code is amended to read:*

3     3306. (a) The director may request additional medical evidence  
4     to supplement the first or any continued claim if the additional  
5     evidence can be procured without additional cost to the care  
6     recipient. The director may require that the additional evidence  
7     include any or all of the following information:

8         (1) Identification of diagnoses.

9         (2) Identification of symptoms.

10        (3) A statement setting forth the facts of the care recipient's  
11     serious health condition that warrants the participation of the  
12     employee. The statement shall be completed by any of the  
13     following people:

14         (A) The physician or practitioner treating the care recipient.

15         (B) The registrar, authorized medical officer, or other duly  
16     authorized official of the hospital or health facility treating the  
17     care recipient.

18         (C) An examining physician or other representative of the  
19     department.

20     (b) Except as provided in Section 2709, the director may require  
21     the care recipient to submit to reasonable examinations for the  
22     purpose of determining all of the following:

23         (1) Whether a serious health condition exists.

24         (2) Whether a care provider's participation is warranted.

25         (3) The period of time that the care provider's participation is  
26     warranted.

27     (c) *Notwithstanding subdivision (b), if the personal physician*  
28     *of the care recipient certifies to the director that the physician has*  
29     *personally examined the care recipient within the previous 60*  
30     *days, and the additional examination proposed by the director*  
31     *would present a hardship on the care recipient, then the director,*  
32     *prior to issuing a final notice requiring the additional examination,*  
33     *shall examine all available medical records to determine if the*  
34     *additional examination is necessary.*

35     ~~SECTION 1. Section 1182.12 of the Labor Code is amended~~  
36     ~~to read:~~

37     ~~1182.12. (a) Notwithstanding any other provision of this part,~~  
38     ~~on and after July 1, 2014, the minimum wage for all industries~~

1 shall be not less than nine dollars (\$9) per hour, and on and after  
2 January 1, 2016, the minimum wage for all industries shall be not  
3 less than ten dollars (\$10) per hour.

4 (b) Notwithstanding subdivision (a), on and after January 1,  
5 2016, the minimum wage for a qualifying tipped employee shall  
6 be ten dollars (\$10) per hour.

7 (c) “Qualifying tipped employee” means an employee who  
8 regularly receives income from wages at a rate equal to at least  
9 150 percent of the minimum wage required by subdivision (a).

10 (d) A qualifying tipped employee regularly receives income at  
11 an hourly rate equal to at least 150 percent of the minimum wage  
12 required by subdivision (a) if the qualifying tipped employee’s  
13 total wages divided by total hours worked equals or exceeds 150  
14 percent of the minimum wage required by subdivision (a) in each  
15 of the two pay periods preceding the current pay period.

16 (e) If, in any month, a qualifying tipped employee receives  
17 income at a rate of less than 150 percent of the minimum wage  
18 required by subdivision (a), the employer shall pay the qualifying  
19 tipped employee an amount equal to the difference, if any, between  
20 the minimum wage required by subdivision (b) and the minimum  
21 wage for all other employees, as required by subdivision (a),  
22 multiplied by the total number of hours worked by the qualifying  
23 tipped employee during that month.

24 (f) If an employer elects to pay its qualifying tipped employees  
25 the minimum wage in subdivision (b) rather than the minimum  
26 wage in subdivision (a), the employer shall pay all other employees  
27 a minimum wage equal to 110 percent of the minimum wage in  
28 subdivision (a) or 110 percent of the applicable local minimum  
29 wage, whichever is greater.

30 (g) A local ordinance establishing a minimum wage in excess  
31 of the amount required by subdivision (a) shall not apply to a  
32 qualifying tipped employee guaranteed an hourly rate of  
33 compensation by his or her employer, in each pay period, from  
34 wages that equal or exceed 150 percent of the amount required by  
35 that local ordinance.

36 (h) For purposes of this section, the term “wages” shall have  
37 the meaning set forth in Section 13009 of the Unemployment  
38 Insurance Code.

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