

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1066**

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**Introduced by Assembly ~~Member Gonzalez~~ Members Gonzalez, Bonta, Cristina Garcia, Roger Hernández, Jones-Sawyer, McCarty, and Thurmond**

*(Principal coauthor: Senator Hall)*

*(Coauthors: Assembly Members Chiu, Chu, Gatto, Lopez, Medina, Mark Stone, Ting, and Weber)*

*(Coauthors: Senators Allen, Block, Mitchell, and Monning)*

February 26, 2015

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An act to amend Section 554 of, and to add Chapter 6 (commencing with Section 857) to Part 2 of Division 2 of, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1066, as amended, Gonzalez. Agricultural workers: wages, hours, and working conditions.

Existing law sets wage, hour, meal break requirements, and other working conditions for employees and requires an employer to pay overtime wages as specified to an employee who works in excess of a workday or workweek, as defined, and imposes criminal penalties for the violation of these requirements. Existing law exempts agricultural employees from these requirements. Under existing law, the function

of the Department of Industrial Relations is to, among other things, foster, promote, and develop the welfare of the wage earners of California, to improve their working conditions, and to advance their opportunities for profitable employment.

This bill would remove the exemption for agricultural employees regarding hours, meal breaks, and other working conditions, including specified wage requirements, and would create a schedule that would phase in overtime requirements for agricultural workers, as defined, over the course of 4 years, from 2019 to 2022, inclusive. Beginning January 1, 2022, the bill would require any work performed by a person, employed in an agricultural occupation, in excess of 12 hours in one day to be compensated at the rate of no less than twice the employee’s regular rate of pay. The bill would authorize the Governor to delay the implementation of these overtime pay provisions if the Governor also suspends the implementation of a scheduled state minimum wage increase, as specified. The bill would require the Department of Industrial Relations to update a specified wage order for consistency with these ~~provisions~~ *provisions, as specified*.

The bill would create a state-mandated local program by including agricultural employees as a class of employees protected by criminal penalties under existing law.

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. Section 554 of the Labor Code is amended to
- 2 read:
- 3 554. (a) Sections 551 and 552 do not apply to cases of
- 4 emergency or to work performed in the protection of life or
- 5 property from loss or destruction, or to any common carrier
- 6 engaged in or connected with the movement of trains. Nothing in
- 7 this chapter shall be construed to prevent an accumulation of days
- 8 of rest when the nature of the employment reasonably requires
- 9 that the employee work seven or more consecutive days, if in each

1 calendar month the employee receives days of rest equivalent to  
 2 one day’s rest in seven. The requirement respecting the equivalent  
 3 of one day’s rest in seven shall apply, notwithstanding the other  
 4 provisions of this chapter relating to collective bargaining  
 5 agreements, where the employer and a labor organization  
 6 representing employees of the employer have entered into a valid  
 7 collective bargaining agreement respecting the hours of work of  
 8 the employees, unless the agreement expressly provides otherwise.

9 (b) In addition to the exceptions specified in subdivision (a),  
 10 the Chief of the Division of Labor Standards Enforcement may,  
 11 when in his or her judgment hardship will result, exempt any  
 12 employer or employees from the provisions of Sections 551 and  
 13 552.

14 SEC. 2. Chapter 6 (commencing with Section 857) is added  
 15 to Part 2 of Division 2 of the Labor Code, to read:

16  
 17 CHAPTER 6. AGRICULTURE  
 18

19 857. This chapter shall be known and may be cited as the  
 20 Phase-In Overtime for Agricultural Workers Act of 2016.

21 858. The Legislature finds and declares all of the following:

22 (a) Agricultural employees engage in back-breaking work every  
 23 day.

24 (b) Few occupations in today’s America are as physically  
 25 demanding and exhausting as agricultural work.

26 (c) In 1938, the United States Congress enacted the federal Fair  
 27 Labor Standards Act of 1938 (29 U.S.C. Sec. 201 et seq.), which  
 28 excluded agricultural workers from wage protections and overtime  
 29 compensation requirements.

30 (d) It is the intent of the Legislature to enact the Phase-In  
 31 Overtime for Agricultural Workers Act of 2016 to provide any  
 32 person employed in an agricultural occupation in California, as  
 33 defined in Order No. 14-2001 of the Industrial Welfare  
 34 Commission (revised 07-2014) with an opportunity to earn  
 35 overtime compensation under the same standards as millions of  
 36 other Californians.

37 859. For purposes of this chapter, “employed in an agricultural  
 38 occupation” has the same meaning as in Order No.14-2001 of the  
 39 Industrial Welfare Commission (revised 07-2014).

1 860. Notwithstanding any other provision of law, including  
2 Chapter 1 (commencing with Section 500):

3 (a) Commencing January 1, 2019, any person employed in an  
4 agricultural occupation shall not be employed more than nine and  
5 one-half hours in any one workday or work in excess of 55 hours  
6 in any one workweek, unless the employee receives one and  
7 one-half times that employee's regular rate of pay for all hours  
8 worked over nine and one-half hours in any workday or over 55  
9 hours in any workweek.

10 (b) Commencing January 1, 2020, any person employed in an  
11 agricultural occupation shall not be employed more than nine hours  
12 in any one workday or work in excess of 50 hours in any one  
13 workweek, unless the employee receives one and one-half times  
14 that employee's regular rate of pay for all hours worked over nine  
15 hours in any workday or over 50 hours in any workweek.

16 (c) Commencing January 1, 2021, any person employed in an  
17 agricultural occupation shall not be employed more than eight and  
18 one-half hours in any one workday or work in excess of 45 hours  
19 in any one workweek, unless the employee receives one and  
20 one-half times that employee's regular rate of pay for all hours  
21 worked over eight and one-half hours in any workday or over 45  
22 hours in any workweek.

23 (d) Commencing January 1, 2022, any person employed in an  
24 agricultural occupation shall not be employed more than eight  
25 hours in any one workday or work in excess of 40 hours in any  
26 one workweek, unless the employee receives one and one-half  
27 times that employee's regular rate of pay for all hours worked over  
28 eight hours in any workday or over 40 hours in any workweek.

29 861. Except as set forth in Section 860 and subdivision (a) of  
30 Section 862, all other provisions of Chapter 1 (commencing with  
31 Section 500) regarding compensation for overtime work shall apply  
32 to workers in an agricultural occupation commencing January 1,  
33 2017.

34 862. (a) Beginning January 1, 2022, and consistent with  
35 Section 510, any work performed by a person, employed in an  
36 agricultural occupation, in excess of 12 hours in one day shall be  
37 compensated at the rate of no less than twice the employee's regular  
38 rate of pay.

39 (b) Consistent with Section 861, notwithstanding subdivision  
40 (a) or Section 863, the other provisions of Section 510 shall be

1 applicable to workers in an agricultural occupation commencing  
2 January 1, 2019.

3 863. (a) Notwithstanding Section 860 or 862, the Governor  
4 may temporarily suspend scheduled phase in overtime requirements  
5 set forth in Section 860, or subdivision (a) of Section 862 only if  
6 the Governor suspends scheduled minimum wage increases  
7 pursuant to clause (i) of subparagraph (A) of, and subparagraph  
8 (B) of, paragraph (3) of subdivision (d) of Section 1182.12.

9 (b) If the Governor makes a final determination to temporarily  
10 suspend scheduled phase in overtime requirements set forth in  
11 Section 860 or subdivision (a) of Section 862 for the following  
12 year, all implementation dates applicable to Section 860 and  
13 subdivision (a) of Section 862 that are suspended subsequent to  
14 the September 1 final determination date, consistent with clause  
15 (i) of subparagraph (A) of, and subparagraph (B) of, paragraph (3)  
16 of subdivision (d) of Section 1182.12, shall be postponed by an  
17 additional year, but the full implementation of the overtime  
18 requirements set forth in Section 860 or subdivision (a) of Section  
19 862 shall in no event be later than January 1, 2022. The Governor's  
20 temporary suspension under this section shall be by proclamation.

21 (c) The Governor's authority to suspend the scheduled overtime  
22 requirements under this section shall end upon the phase in of the  
23 overtime requirements contained in subdivision (d) of Section 860  
24 or the phase in of the overtime requirements contained in  
25 subdivision (a) of Section 862.

26 864. The Department of Industrial Relations shall update Wage  
27 Order No. 14-2001 to be consistent with this chapter, except that  
28 ~~the any existing provision in Wage Order 14-2001 provision for~~  
29 ~~payment of double the employee's regular rate of pay for all hours~~  
30 ~~worked over eight hours on the seventh day of work in the~~  
31 ~~workweek shall continue to apply. providing greater protections~~  
32 ~~or benefits to agricultural employees shall continue in full force~~  
33 ~~and effect, notwithstanding any provision of this chapter.~~

34 SEC. 3. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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