

ASSEMBLY BILL

No. 2757

**Introduced by Assembly Members Gonzalez, Bonta, Cristina
Garcia, and Roger Hernández**

(Principal coauthor: Senator Hall)

**(Coauthors: Assembly Members Calderon, Campos, Chiu, Chu,
Gipson, Jones-Sawyer, Lopez, McCarty, Medina, Santiago, Mark
Stone, Thurmond, and Ting)**

(Coauthors: Senators Beall, Block, Hancock, Lara, Leno, Liu, and
Mitchell)

February 19, 2016

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 2757, as introduced, 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.

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 2017 to 2020, inclusive.

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 ~~shall do not apply to any cases~~
4 ~~of emergency nor or to work performed in the protection of life~~
5 ~~or property from loss or destruction, nor or to any common carrier~~
6 ~~engaged in or connected with the movement of trains. This chapter,~~
7 ~~with the exception of Section 558, shall not apply to any person~~
8 ~~employed in an agricultural occupation, as defined in Order No.~~
9 ~~14-80 (operative January 1, 1998) of the Industrial Welfare~~
10 ~~Commission.~~ Nothing in this chapter shall be construed to prevent
11 an accumulation of days of rest when the nature of the employment
12 reasonably requires that the employee work seven or more
13 consecutive days, if in each calendar month the employee receives
14 days of rest equivalent to one day’s rest in seven. The requirement
15 respecting the equivalent of one day’s rest in seven shall apply,
16 notwithstanding the other provisions of this chapter relating to
17 collective bargaining agreements, where the employer and a labor
18 organization representing employees of the employer have entered
19 into a valid collective bargaining agreement respecting the hours
20 of work of the employees, unless the agreement expressly provides
21 otherwise.

22 (b) In addition to the exceptions specified in subdivision (a),
23 the Chief of the Division of Labor Standards Enforcement may,
24 when in his or her judgment hardship will result, exempt any
25 employer or employees from the provisions of Sections 551 and
26 552.

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

3
4 CHAPTER 6. AGRICULTURE

5
6 857. This chapter shall be known and may be cited as the
7 Phase-In Overtime for Agricultural Workers Act of 2016.

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

9 (a) Agricultural employees engage in back-breaking work every
10 day.

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

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

17 (d) It is the intent of the Legislature to enact the Phase-In
18 Overtime for Agricultural Workers Act of 2016 to provide any
19 person employed in an agricultural occupation in California, as
20 defined in Order No. 14-2001 of the Industrial Welfare
21 Commission (revised 07-2014) with an opportunity to earn
22 overtime compensation under the same standards as millions of
23 other Californians.

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

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

29 (a) Commencing July 1, 2017, any person employed in an
30 agricultural occupation shall not be employed more than nine and
31 one-half hours in any one workday or work in excess of 55 hours
32 in any one workweek, unless the employee receives one and
33 one-half times such employee’s regular rate of pay for all hours
34 worked over nine and one-half hours in any workday.

35 (b) Commencing January 1, 2018, any person employed in an
36 agricultural occupation shall not be employed more than nine hours
37 in any one workday or work in excess of 50 hours in any one
38 workweek, unless the employee receives one and one-half times
39 such employee’s regular rate of pay for all hours worked over nine
40 hours in any workday.

1 (c) Commencing January 1, 2019, any person employed in an
2 agricultural occupation shall not be employed more than eight and
3 one-half hours in any one workday or work in excess of 45 hours
4 in any one workweek, unless the employee receives one and
5 one-half times such employee’s regular rate of pay for all hours
6 worked over eight and one-half hours in any workday.

7 (d) Commencing January 1, 2020, any person employed in an
8 agricultural occupation shall not be employed more than eight
9 hours in any one workday or work in excess of 40 hours in any
10 one workweek, unless the employee receives one and one-half
11 times such employee’s regular rate of pay for all hours worked
12 over eight hours in any workday.

13 861. Except as set forth in Section 860, all other provisions of
14 Chapter 1 (commencing with Section 500) regarding compensation
15 for overtime work shall apply to workers in an agricultural
16 occupation commencing January 1, 2017.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.