

AMENDED IN ASSEMBLY MARCH 26, 2003

AMENDED IN ASSEMBLY MARCH 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 244

Introduced by Assembly Member Maze

(Principal coauthor: Assembly Member Aghazarian)

(Coauthors: Assembly Members Bates, Benoit, Bogh, Campbell, Cogdill, Cox, Dutton, Haynes, Houston, Leslie, Pacheco, Plescia, Runner, and Wyland)

(Coauthors: Senators Aanestad, Ashburn, Johnson, Knight, Margett, Morrow, and Oller)

February 3, 2003

~~An act to amend Sections 510, 554, 556, and 1182.1 of, to add Section 1183.5 to, and to repeal Sections 500, 511, 512, 513, 514, 515.5, 515.6, and 517 of, An act to amend Section 514 of the Labor Code, relating to wages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 244, as amended, Maze. Wages: overtime.

Existing law provides that, except for an employee working an alternative workweek schedule and for certain occupations, hours worked in excess of 8 hours a day, in excess of 40 hours a week, and the first 8 hours worked on a 7th day of work are to be compensated at a rate at least 1½ times the regular rate of pay, and hours worked in excess of 12 hours a day and in excess of 8 hours on the 7th day of work are to be compensated at a rate at least twice the regular rate of pay. Employers are subject to civil penalties for violating these

requirements. The Labor Commissioner is authorized to issue citations for violations.

~~This bill would provide that parties may agree as to the number of hours that constitute a day’s work. It would remove the requirement that work in excess of 8 hours a day, in excess of 40 hours a week, and the first 8 hours on the 7th day of work are to be compensated at no less than 1½ times the regular rate of pay, and hours worked in excess of 12 hours a day and in excess of 8 hours on the 7th day of work are to be compensated at no less than twice the regular rate of pay. The bill would also provide that any employer who intends to use a flexible scheduling technique, as permitted by an order of the Industrial Welfare Commission, is required to make full written disclosure to all employees.~~

This bill would exempt from existing law employees employed by small businesses, as defined.

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

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

- 1 ~~SECTION 1.—Section 500 of the Labor Code is repealed.~~
- 2 ~~SECTION 1. Section 514 of the Labor Code is amended to~~
- 3 ~~read:~~
- 4 ~~514. Sections 510 and 511 do not apply to an:~~
- 5 ~~(a) An employee covered by a valid collective bargaining~~
- 6 ~~agreement if the agreement expressly provides for the wages,~~
- 7 ~~hours of work, and working conditions of the employees, and if the~~
- 8 ~~agreement provides premium wage rates for all overtime hours~~
- 9 ~~worked and a regular hourly rate of pay for those employees of not~~
- 10 ~~less than 30 percent more than the state minimum wage.~~
- 11 ~~(b) An employee employed by a small business. For purposes~~
- 12 ~~of this section, “small business” means any private employer~~
- 13 ~~employing fewer than 25 employees.~~
- 14 ~~SEC. 2.—Section 510 of the Labor Code is amended to read:~~
- 15 ~~510.—Eight hours of labor constitutes a day’s work unless it is~~
- 16 ~~otherwise expressly stipulated by the parties to a contract. Time~~
- 17 ~~spent commuting to and from the first place at which an~~
- 18 ~~employee’s presence is required by the employer shall not be~~
- 19 ~~considered to be a part of a day’s work, when the employee~~
- 20 ~~commutes in a vehicle that is owned, leased, or subsidized by the~~



1 employer and is used for the purpose of ridesharing, as defined in
2 Section 522 of the Vehicle Code.

3 This section does not affect, change, or limit an employer's
4 liability under the workers' compensation law.

5 SEC. 3. Section 511 of the Labor Code is repealed.

6 SEC. 4. Section 512 of the Labor Code is repealed.

7 SEC. 5. Section 513 of the Labor Code is repealed.

8 SEC. 6. Section 514 of the Labor Code is repealed.

9 SEC. 7. Section 515.5 of the Labor Code is repealed.

10 SEC. 8. Section 515.6 of the Labor Code is repealed.

11 SEC. 9. Section 517 of the Labor Code is repealed.

12 SEC. 10. Section 554 of the Labor Code is amended to read:

13 554. (a) This chapter shall not apply to any cases of
14 emergency nor to work performed in the necessary care of animals,
15 crops, or agricultural lands, nor to work performed in the
16 protection of life or property from loss or destruction, nor to any
17 common carrier engaged in or connected with the movement of
18 trains. Nor shall the provisions of this chapter apply when the
19 employer and a labor organization representing employees of the
20 employer have entered into a valid collective bargaining
21 agreement respecting the hours of work of the employees. Nothing
22 in this chapter shall be construed to prevent an accumulation of
23 days of rest when the nature of the employment reasonably
24 requires that the employee work seven or more consecutive days,
25 if in each calendar month the employee receives days of rest
26 equivalent to one day's rest in seven. The requirement respecting
27 the equivalent of one day's rest in seven shall apply,
28 notwithstanding the other provisions of this chapter relating to
29 collective bargaining agreements, where the employer and a labor
30 organization representing employees of the employer have entered
31 into a valid collective bargaining agreement respecting the hours
32 of work of the employees, unless the agreement expressly provides
33 otherwise.

34 (b) In addition to the exceptions specified in subdivision (a),
35 the Chief of the Division of Labor Standards Enforcement may,
36 when in his or her judgment hardship will result, exempt any
37 employer or employees from the provisions of this chapter.
38 Nothing contained herein shall affect contracts in existence on the
39 effective date of this amendment.

40 SEC. 11. Section 556 of the Labor Code is amended to read:



1 556. ~~This chapter shall not apply to any employer or~~
2 ~~employee when the total hours of employment do not exceed 30~~
3 ~~hours in any week or six hours in any one day thereof.~~

4 SEC. 12. ~~Section 1182.1 of the Labor Code is amended to~~
5 ~~read:~~

6 1182.1. ~~Any action taken by the commission pursuant to~~
7 ~~Section 1182 shall be published in at least one newspaper in each~~
8 ~~of the Cities of Los Angeles, Sacramento, Oakland, San Jose,~~
9 ~~Fresno, San Diego, and San Francisco. A summary of the action~~
10 ~~taken and notice of where the complete text of the new or amended~~
11 ~~order may be obtained may be published in lieu of the complete~~
12 ~~text when the commission determines summary and notice will~~
13 ~~adequately inform the public. The statement as to the basis of the~~
14 ~~order need not be published.~~

15 SEC. 13. ~~Section 1183.5 is added to the Labor Code, to read:~~

16 1183.5. (a) ~~Any employer who intends to use a flexible~~
17 ~~scheduling technique, as permitted by an order of the Industrial~~
18 ~~Welfare Commission, requiring a vote of the affected employees~~
19 ~~shall make a full disclosure in writing to each of the affected~~
20 ~~employees. The notice shall include the effects of the proposed~~
21 ~~scheduling, including the employees' wages, hours, and benefits.~~
22 ~~The employer shall not be required to distribute the notice to~~
23 ~~employees on a leave of absence for any cause.~~

24 (b) ~~Within the health care industry, the disclosure shall include~~
25 ~~meetings, duly noticed, for the specific purpose of discussing the~~
26 ~~effects of flexible scheduling.~~

27 (c) ~~Failure to comply with this section shall make the election~~
28 ~~null and void.~~

