

AMENDED IN SENATE MARCH 23, 2022

AMENDED IN SENATE MARCH 15, 2022

SENATE BILL

No. 1044

Introduced by Senator Durazo
(Coauthors: Senators Gonzalez, Leyva, and Wiener)
(Coauthor: Assembly Member Stone)

February 15, 2022

An act to add Chapter 11 (commencing with Section 1139) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Durazo. Employers: state of emergency or emergency condition: retaliation.

Existing law establishes within the Department of Industrial Relations the Division of Labor Standards Enforcement, under the direction of the Labor Commissioner. Existing law authorizes the division to enforce the Labor Code and all labor laws of the state the enforcement of which is not specifically vested in any other officer, board, or commission. Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

This bill would prohibit an employer, in the event of a state of emergency or an emergency condition, as defined, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee feels unsafe. The bill would also prohibit an employer from preventing any employee from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing

the safety of the situation, or communicating a person to confirm their safety. *The bill would require an employee to notify the employer of the state of emergency or emergency condition requiring the employee to leave or refuse to report to the workplace, as specified. The bill would clarify that these provisions are not intended to apply when an official state of emergency remains in place but emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worker, or the worker’s home have ceased.*

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. Chapter 11 (commencing with Section 1139) is
2 added to Part 3 of Division 2 of the Labor Code, to read:

3
4 CHAPTER 11. ~~STATE~~ STATES OF EMERGENCY AND EMERGENCY
5 CONDITIONS
6

7 1139. (a) As used in this section, “state of emergency” means
8 the existence of any of the ~~following~~: *following that is declared*
9 *after enactment of this section, is in the county where a worker*
10 *lives or works, and poses an imminent and ongoing risk of harm*
11 *to the worker, the worker’s home, or the worker’s workplace:*

12 (1) A Presidential declaration of a major disaster or emergency,
13 caused by natural forces, in accordance with the federal Robert T.
14 Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.
15 Sec. 5121 et seq.).

16 (2) Pursuant to Chapter 7 (commencing with Section 8550) of
17 Division 1 of Title 2 of the Government Code, a declared state of
18 emergency or local emergency due to conditions of disaster or
19 extreme peril to the safety of persons or property within the affected
20 area caused by natural forces.

21 (3) A federal, state, regional, or county alert of imminent threat
22 to life or property due to a natural disaster or emergency.

23 (b) As used in this section, “emergency condition” means the
24 existence of either of the following:

25 (1) An event that poses serious danger to the structure of a
26 workplace or to a worker’s immediate health and safety.

1 (2) An order to evacuate a workplace, a worker’s home, or the
2 school of a worker’s child.

3 (c) In the event of a state of emergency or an emergency
4 condition, an employer shall not do either of the following:

5 (1) Take or threaten adverse action against any employee for
6 refusing to report to, or leaving, a workplace within the affected
7 area because the employee feels unsafe.

8 (2) Prevent any employee from accessing the employee’s mobile
9 device or other communications device for seeking emergency
10 assistance, assessing the safety of the situation, or communicating
11 with a person to verify their safety.

12 *(d) (1) When feasible, an employee shall notify the employer*
13 *of the state of emergency or emergency condition requiring the*
14 *employee to leave or refuse to report to the workplace prior to*
15 *leaving or refusing to report.*

16 *(2) When prior notice described by paragraph (1) is not feasible,*
17 *the employee shall notify the employer of the state of emergency*
18 *or emergency condition that required the employee to leave or*
19 *refuse to report to the workplace after leaving or refusing to report.*

20 *(e) This section is not intended to apply when an official state*
21 *of emergency remains in place but emergency conditions that pose*
22 *an imminent and ongoing risk of harm to the workplace, the*
23 *worker, or the worker’s home have ceased.*