
UNFINISHED BUSINESS

Bill No: SB 686
Author: Durazo (D), et al.
Amended: 9/8/23
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 4/26/23
AYES: Cortese, Durazo, Laird, Smallwood-Cuevas
NOES: Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SENATE FLOOR: 24-8, 5/26/23
AYES: Allen, Archuleta, Ashby, Atkins, Becker, Bradford, Cortese, Durazo, Eggman, Gonzalez, Hurtado, Laird, Limón, McGuire, Menjivar, Newman, Padilla, Portantino, Roth, Skinner, Smallwood-Cuevas, Umberg, Wahab, Wiener
NOES: Dahle, Jones, Min, Nguyen, Niello, Ochoa Bogh, Seyarto, Wilk
NO VOTE RECORDED: Alvarado-Gil, Blakespear, Caballero, Dodd, Glazer, Grove, Rubio, Stern

ASSEMBLY FLOOR: 65-2, 9/13/23 - See last page for vote

SUBJECT: Domestic workers: occupational safety

SOURCE: California Domestic Workers Coalition
California Employment Lawyers Association
California Immigrant Policy Center
Equal Rights Advocates
Worksafe

DIGEST: This bill makes specified changes to occupational safety law as it pertains to domestic workers including removing the “household domestic service” exemption from the Occupational Safety and Health Act definition of employment;

requiring the Division of Occupational Safety and Health (Cal/OSHA) to adopt industry guidance to assist household domestic service employers understand their legal obligations that would now apply to them; and requiring all household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025.

Assembly Amendments strike Legislative findings and provisions that would have appropriated funds to establish a Household Domestic Services Employment Safety and Technical Assistance program to provide one-time grants and technical assistance to household domestic service employers, as specified, and make the effective date of the bill's provisions January 1, 2025.

ANALYSIS:

Existing law:

- 1) Assures, under the California Occupational Safety and Health Act (OSHA), safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)
- 2) Establishes the Cal/OSHA within the Department of Industrial Relations (DIR) to propose, administer, and enforce safety and health standards.(Labor Code §6300 et seq.)
- 3) Establishes within DIR, the Division of Fair Labor Standards Enforcement (DLSE) lead by the Labor Commissioner, tasked with administering and enforcing labor code provisions. (Labor Code §56)
- 4) Establishes the Occupational Safety and Health Standards Board, within DIR, to promote, adopt, and maintain reasonable and enforceable standards that will ensure a safe and healthful workplace for workers. (Labor Code §140-147.6)
- 5) Requires employers to establish, implement and maintain an effective Injury and Illness Prevention Program (IIPP) that is written and includes, among other things, the following elements (Labor Code §6401.7):
 - a) A system for identifying and evaluating workplace hazards.
 - b) Methods and procedures for correcting unsafe or unhealthy conditions.

- c) A training program, as specified.
 - d) A system for communicating on occupational health and safety matters, including provisions to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.
- 6) Requires that employers file a report with Cal/OSHA of every occupational injury or illness to each employee, as specified.(Labor Code §6409.1)
 - 7) Defines, for purposes of OSHA, “employment” to include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service. (Labor Code §6303)
 - 8) Defines “domestic work” as services related to the care of persons in private households or maintenance of private households or their premises. Domestic work occupations include childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids and other household occupations. (Labor Code §1451)
 - 9) Regulates, under the Domestic Worker Bill of Rights, the hours of work of certain domestic work employees by requiring overtime compensation for any hours worked over nine in one day or over 45 hours in a workweek, as specified. (Labor Code §1450-1454)
 - 10) Requires the chief of Cal/OSHA to convene an advisory committee for the purposes of creating voluntary guidance and making recommendations to DIR and the Legislature on policies the state may adopt to protect the health and safety of private household domestic service employees. (Labor Code §6305.1)
 - 11) States that in making these recommendations, the advisory group shall consider, among other things, how to protect the privacy of individuals who employ domestic workers in their private residences in the context of future potential enforcement of health and safety standards, orders, and regulations, including applicability to household domestic service employers of the existing civil monetary penalty structure for violations and consider the need to develop industry-specific requirements. (Labor Code §6305.1)

- 12) Requires the DLSE, upon appropriation, to establish and maintain an outreach and education program to promote awareness of, and compliance with, labor protections that affect the domestic work industry. (Labor Code §1455)

This bill:

- 1) Makes findings and declarations highlighting, among other things, the challenges faced by domestic workers and the need to remove the household domestic services exclusion from the definition of employment.
- 2) Amends, beginning January 1, 2025, the definition of “employment” under existing law to, except as specified, remove the household domestic service exception, thereby applying all OSHA provisions to domestic workers and their employers and include the carrying on of any trade, enterprise, project, industry, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged or permitted to work for hire, except household domestic service.
- 3) Specifies that “employment” does not include either of the following:
 - a) Household domestic service that is publicly funded, including service provided to a recipient, client, or beneficiary with a share of cost in that service, unless subject to Section 3342 or 5199 of Title 8 of the California Code of Regulations.
 - b) Family daycare homes, as defined.
- 4) Requires that Cal/OSHA, by January 1, 2025, adopt industry guidance to assist household domestic service employers on their legal obligations under existing occupational safety and health laws and regulations that will apply to them.
- 5) Requires household domestic services employers to comply with, and adhere to, all applicable occupational safety and health regulations by January 1, 2025.
- 6) Authorizes Cal/OSHA, if the division determines that additional industry-specific regulations are necessary, to propose those to the standards board for its review and the standards board shall adopt regulations by January 1, 2026.
- 7) Modifies the existing domestic worker outreach and education provisions to:

- a) Specify that CBOs will be responsible for developing and consulting with Cal/OSHA regarding the core education and outreach materials on health and safety standards, retaliation, and the division's workplace safety complaint and retaliation process, including specific issues that affect the domestic work industry differently.
- b) Specify that CBOs will be responsible for all costs related to the development, printing, advertising, or distribution of the materials.
- c) Require the materials to be translated into non-English languages, specified.
- d) Require the Chief of Cal/OSHA, representatives of the consultation services and enforcement branches and CBOs to meet quarterly, as specified, to coordinate efforts around outreach, education, and enforcement that will shape and inform the overall strategies.
- e) Specify that both the DLSE and Cal/OSHA shall not expend more than 5 percent of the budget allocation on the administration of the program.

Background

The concept of removing the domestic worker exclusion from the definition of "employment" for OSHA purposes has been the subject of several bills dating back to AB 889 (Ammiano, 2011). The first successful change to the industry was in 2013, when AB 241 (Ammiano, Chapter 374, Statutes of 2013) enacted the Domestic Worker Bill of Rights to regulate the hours of work of certain domestic work employees and provide an overtime compensation rate for these workers who were not previously entitled to overtime compensation. More recently, in 2019, SB 83 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2019) established the domestic worker outreach and education program within DLSE to, until July 1, 2024, promote awareness of, and compliance with, labor protections that affect the domestic work industry. In 2021, SB 321 (Durazo, Chapter 332, Statutes of 2021) required that Cal/OSHA convene an advisory committee to provide voluntary guidance and make recommendations on policies the state may adopt to protect the health and safety of privately funded household domestic service employees.

This year, AB 130 (Committee on Budget, Chapter 39, Statutes of 2023) deleted the sunset date on the outreach and education program thereby making those provisions permanent.

[NOTE: Please see the Senate Labor, Public Employment and Retirement Committee analysis on this bill for more background information on the history of the issue and prior legislation.]

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to Assembly Appropriations Committee:

- 1) Costs of approximately \$44 million in the first year and \$42 million annually thereafter to Cal/OSHA to adopt industry guidance, propose and adopt additional regulations if necessary, and provide enforcement of applicable regulations, although the amount of resources to be allocated to each duty is unclear. The Department of Finance’s analysis of this bill notes Cal/OSHA-related activities are traditionally funded from employer assessments, but “Because of the inability to assess a fee on private homeowners employing domestic service employees, it is assumed enforcement costs as a result of this bill will be borne by the General Fund.”
- 2) Ongoing cost pressures of an unknown, but likely minor, amount to Cal/OSHA by expanding the scope of the Education Program to require Cal/OSHA to consult and meet quarterly with CBOs regarding core materials and enforcement strategies. The Budget Act of 2023 appropriates \$35 million to Cal/OSHA to administer existing provisions of the Education Program, which is available for encumbrance and expenditure until June 30, 2029 (Labor and Workforce Development Fund).
- 3) Ongoing cost pressures of an unknown, but likely significant, amount to Cal/OSHA to provide one-time grants to employers under the TA Program (General Fund). Establishment of the TA Program is contingent on an appropriation, but funding for this purpose was not included in the Budget Act of 2023.

SUPPORT: (Verified 9/11/23)

California Domestic Workers Coalition (co-source)
California Employment Lawyers Association (co-source)
California Immigrant Policy Center (co-source)
Equal Rights Advocates (co-source)
National Union of Healthcare Workers (co-source)
Worksafe (co-source)
AAPIs for Civic Empowerment Education Fund

All Home
Asian Pacific Environmental Network
Bay Rising
Berkeley Labor and Occupational Health Program
Bet Tzedek Legal Services
Black Women for Wellness
Breast Cancer Prevention Partners
California Commission on Aging
California Labor Federation, AFL-CIO
California League of United Latin American Citizens
California Legislative Women's Caucus
California for a Healthy & Green Economy
California Rural Legal Assistance Foundation
California Work & Family Coalition
Caminante Cultural Foundation
Caring Across Generations
Catalyst Project
Change Californians for a Healthy and Green Economy
Chinese for Affirmative Action
Chinese Progressive Association
Clean Carwash Worker Center
Coalition for Humane Immigrant Rights
Day Worker Center of Mountain View
Disability Rights California
Dolores Street Community Services
El Centro Cultural De Mexico, Santa Ana
El/la Para Trans Latinas
Empowering Pacific Islander Communities
Filipino Advocates for Justice
Filipino Community Center
Filipino Migrant Center
First Mennonite Church of San Francisco
Gabriela Oakland
Grace End Child Poverty Institute
Grace Institute - End Child Poverty in California
Hand in Hand: the Domestic Employers Network
Impact Sport Philanthropy
Instituto De Educacion Popular Del Sur De California
Jobs with Justice San Francisco
La Colectiva de Mujeres, Dolores Street Community Services

Motivating Our Students Through Experience
Mujeres Unidas Y Activas
Multicultural Institute
National Domestic Workers Alliance
National Employment Law Project
National Women's Political Caucus of California
North Bay Jobs with Justice
North Bay Labor Council
Nuestras Manos
Or Shalom Jewish Community
Physicians for Social Responsibility - Los Angeles
Pilipino Association for Workers and Immigrants - South Bay
Pilipino Workers Center
Pomona Economic Opportunity Center
Raizes Collective
Restaurant Opportunities Center of Los Angeles
San Francisco Living Wage Coalition
SEIU California
Senior & Disability Action
Showing Up for Racial Justice Bay Area
Southern California Coalition for Occupational Safety and Health
The Restaurant Opportunities Center of Los Angeles
Trabajadores Unidos Workers United
UCLA Labor Center
UCLA Labor Occupational Safety & Health Program
US Academy for Training & Job Placement for Immigrant Community Services
Vision Y Compromiso
Voices for Progress
Warehouse Worker Resource Center
Women's Foundation California
Women's Voices for The Earth
Working Partnerships USA
Worksafe
34 individuals

OPPOSITION: (Verified 9/11/23)

None received

ARGUMENTS IN SUPPORT: According to the California Immigrant Policy Center, one of the co-sponsors of this bill, "In California, there are over 300,000

domestic workers, 75 percent of whom are immigrant women of color, who have been historically excluded from the most basic labor protections.” They argue that, “Climate accelerated disasters have also magnified the vulnerability and dangers that domestic workers and day laborers face on a daily basis. During the wildfires that devastated California, domestic workers and other household workers were asked to stay behind to fight fires, guard homes or pets, work in smoky conditions, and clean up toxic ash. Workers were further put at risk when employers failed to tell them that the homes they work in were under mandatory evacuation. The growing frequency and intensity of wildfires, flooding, and other extreme weather events make it imperative that legislators take immediate legislative action to protect the health and safety of these workers.

ASSEMBLY FLOOR: 65-2, 9/13/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Davies, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Rendon, Reyes, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Robert Rivas

NOES: Mathis, Sanchez

NO VOTE RECORDED: Bauer-Kahan, Chen, Megan Dahle, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Jim Patterson, Joe Patterson, Luz Rivas, Ta

Prepared by: Alma Perez-Schwab / L., P.E. & R. / (916) 651-1556
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