

ASSEMBLY BILL

No. 1371

Introduced by Assembly Member Sharp-Collins

February 21, 2025

An act to repeal and add Section 6311 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1371, as introduced, Sharp-Collins. Occupational safety and health: employee refusal to perform hazardous tasks.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain safety and health standards, as specified, and charges the Division of Occupational Safety and Health in the Department of Industrial Relations with enforcement of the act. Existing law prohibits an employer from laying off or discharging an employee for refusing to perform work that would violate prescribed safety standards where the violation would create a real and apparent hazard to the employee or other employees. Existing law defines “employee” for purposes of those provisions to include a domestic work employee, except as specified.

This bill would revise and recast those provisions to, among other things, allow an employee, acting in good faith, to refuse to perform a task assigned by an employer if it would violate those prescribed safety standards or if the employee has a reasonable apprehension that the performance of the assigned task would result in injury or illness to the employee or other employees. The bill would make the employee’s refusal contingent on the employee or another employee, if reasonably practical, having communicated or attempted to notify the employer of the safety or health risk and the employer having failed

to provide a response that is reasonably calculated to allay the employee’s concerns. The bill would require the employer to pay the employee full wages during their scheduled work hours until, among other things, the employee can reasonably conclude that the task will no longer result in the risk of serious injury or illness to the employee or other employees. The bill would prohibit an employer from using an employee’s refusal to perform an assigned task as grounds for any disciplinary action, and would make certain retaliation protections applicable to the bill’s provisions. The bill would delete the provision defining “employee” to include a domestic work employee.

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. Section 6311 of the Labor Code is repealed.
- 2 ~~6311. No employee shall be laid off or discharged for refusing~~
- 3 ~~to perform work in the performance of which this code, including~~
- 4 ~~Section 6400, any occupational safety or health standard, or any~~
- 5 ~~safety order of the division or standards board will be violated,~~
- 6 ~~where the violation would create a real and apparent hazard to the~~
- 7 ~~employee or their fellow employees. Any employee who is laid~~
- 8 ~~off or discharged in violation of this section or is otherwise not~~
- 9 ~~paid because the employee refused to perform work in the~~
- 10 ~~performance of which this code, any occupational safety or health~~
- 11 ~~standard, or any safety order of the division or standards board~~
- 12 ~~will be violated and where the violation would create a real and~~
- 13 ~~apparent hazard to the employee or their fellow employees shall~~
- 14 ~~have a right of action for wages for the time the employee is~~
- 15 ~~without work as a result of the layoff or discharge. Notwithstanding~~
- 16 ~~Section 6303 or other law, as used in this section, “employee”~~
- 17 ~~includes a domestic work employee, except for a person who~~
- 18 ~~performs household domestic service that is publicly funded,~~
- 19 ~~including publicly funded household domestic service provided~~
- 20 ~~to a recipient, client, or beneficiary with a share of cost in that~~
- 21 ~~service.~~
- 22 SEC. 2. Section 6311 is added to the Labor Code, to read:
- 23 6311. (a) For purposes of this section:
- 24 (1) “Injury or illness” means an abnormal condition or disorder.
- 25 “Injury” includes, but is not limited to, a cut, fracture, sprain, or

1 amputation. “Illness” means both acute and chronic illnesses,
2 including, but not limited to, a respiratory disorder, poisoning, or
3 heat illness.

4 (2) “Hazard” means a condition, practice, or act that could result
5 in an injury or illness to an employee.

6 (b) An employee, acting in good faith, may refuse to perform
7 a task assigned by an employer if all of the following apply:

8 (1) Either of the following apply:

9 (A) The performance of that task will violate this code, any
10 occupational safety or health standard, or any safety order of the
11 division or the standards board, where the violation would create
12 a real and apparent hazard to the employee or their fellow
13 employees.

14 (B) The employee has a reasonable apprehension that the
15 performance of the assigned task would result in injury or illness
16 to the employee or other employees.

17 (2) Insofar as it is reasonably practicable, the employee or any
18 other employee has communicated or otherwise attempted to notify
19 the employer of the safety or health risk.

20 (3) The employer has failed to provide a response that is
21 reasonably calculated to allay the employee’s concerns regarding
22 the safety or health risk associated with the assigned task.

23 (c) For purposes of this section, an employee shall be considered
24 to be acting in good faith if, under the same circumstances, a
25 reasonable person would conclude that the performance of the
26 assigned task would result in serious injury or illness to the
27 employee or other employees.

28 (d) (1) An employee or prospective employee who has exercised
29 the right to refuse to perform a task assigned by an employer as
30 afforded by this section shall receive full wages, as provided in
31 paragraph (2), if the employee satisfies both of the following
32 conditions:

33 (A) The employee has refused to perform the assigned task in
34 accordance with this section.

35 (B) The employee has not been assigned a different task the
36 performance of which would not pose a risk to the health and safety
37 of the employee.

38 (2) The employee shall continue to receive full wages during
39 their scheduled work hours until the employer has notified the
40 employee that the hazard has been abated and the employee can

1 reasonably conclude that the task will no longer result in the risk
2 of serious injury or illness to the employee or other employees.

3 (e) (1) An employee who is laid off or discharged because the
4 employee has exercised the rights afforded by this section shall
5 have a right of action for wages for the time the employee is
6 without work as a result of the layoff or discharge.

7 (2) An employee who is not paid for their scheduled work hours
8 in violation of paragraph (2) of subdivision (d) shall have a right
9 of action for those wages.

10 (f) An employee's refusal to perform an assigned task in
11 accordance with this section shall not be grounds for any
12 disciplinary action, for dismissal or suspension from employment,
13 or for any other adverse employment action.

14 (g) Any employee who has exercised the right to refuse to
15 perform a task assigned by an employer as afforded by this section
16 shall be covered by retaliation protections specified in Sections
17 98.6 and 1102.5.