
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair

2019 - 2020 Regular Session

SB 1257 (Durazo) - Domestic service employees: employment safety standards

Version: June 2, 2020

Urgency: No

Hearing Date: June 9, 2020

Policy Vote: L., P.E. & R. 4 - 0

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SB 1257 would (1) remove the “household domestic service” exemption from the Occupational Safety and Health Act definition of employment (thereby applying all of its requirements and obligations on domestic service employers), and (2) authorize the Department of Industrial Relation’s (DIR’s) Division of Occupational Safety and Health (Cal/OSHA) to enforce occupational safety and health laws to protect domestic service employees at private residential dwellings.

Fiscal Impact: DIR indicates that it would incur annual costs in the millions of dollars to implement the provisions of the bill (Labor Enforcement and Compliance Fund).

Background: Under current law, employers in the State have a legal obligation to provide and maintain a safe and healthful workplace for their employees. Specifically, employers must have a written Injury and Illness Prevention Program that must be developed and effectively implemented. Additionally, Cal/OSHA (1) has a duty and authority to investigate a workplace for safety and welfare of employees, on its own motion or upon complaints, and (2) is required to annually compile data pertaining to complaints received and citations issued and post it on its website. Current law exempts household domestic service from requirements described above.

There are reportedly over 300,000 domestic workers who work as housekeepers, nannies, and caregivers in private homes in California, and two million households in the State rely on domestic workers, a figure that is expected to increase sharply during the next decade.

Proposed Law: This bill would, among other things, do the following:

- Remove the “household domestic service” exemption from the Occupational Safety and Health Act definition of employment, consequently applying all of its requirements and obligations on domestic service employers.
- With respect to Cal/OSHA investigations of occupational safety and health, specify that in the case where the place of employment is a residential dwelling and the employee is a domestic service employee, the chief of the division or their authorized representative shall initiate telephone contact with the employer as soon as possible, but not later than three working days after receipt of a complaint charging a serious violation, and not later than 14 calendar days after receipt of a complaint charging a nonserious violation.

- Specify that when telephone contact is successfully made, the chief of the division or their authorized representative shall perform specified duties.
- Direct a domestic worker employer subject to investigation to both (1) provide to the division, within 14 days of the employer's receipt of the division's letter, a letter describing the results of the employer's investigation of the alleged hazard and a description of all actions taken, in the process of being taken, or planned to be taken, by the employer to abate the alleged hazard, including any applicable measurements or monitoring results, invoices for equipment purchased, and photographs or video that document correction of the alleged hazard, and (2) provide a copy of the division's letter to the employee, and all subsequent correspondence from and to the employer, to the affected employee, or prominently post the letter and correspondence in the method prescribed by subdivision (a) of Section 6318.
- Require DIR to convene an advisory committee, as specified, to evaluate whether there is a need to develop industry-specific regulations related to household domestic service.

Related Legislation:

- AB 2658 (Burke, 2020) would make it a crime for a person, after receiving notice to evacuate or leave, to willfully and knowingly direct an employee to remain in, or enter, an area closed under prescribed provisions of law due to a menace to the public health or safety. The bill would define "employee" for this purpose to include a person receiving employment for household domestic service. This bill is pending on the Assembly Floor.
- SB 1015 (Leyva, Chapter 315, Statutes of 2016) deleted the January 1, 2017 repeal date on the provisions under the Domestic Worker Bill of Rights which requires the payment overtime compensation for domestic workers after 9 hours in one day or after 45 hours a week, thereby making the requirement permanent.
- AB 241 (Ammiano, Chapter 374, Statutes of 2013): This bill enacted the "Domestic Worker Bill of Rights" to provide protections and regulate the wages, hours, and working conditions of domestic work employees. Specifically providing overtime compensation to domestic work employees who are personal attendants after nine hours worked in a day and after 45 hours worked in a workweek. These provisions included a January 1, 2017 sunset date.
- AB 889 (Ammiano, 2012, Vetoed): This bill would have required, no later than January 1, 2014, DIR to adopt regulations governing the working conditions of domestic work employees, as defined.

Staff Comments: As noted previously, this bill would delete the household domestic service exception from the Labor Code, thus granting Cal/OSHA jurisdiction over the employment of domestic service workers at residential dwellings.

DIR indicates that the fiscal impact associated with the bill's proposed advisory committee would be absorbable. However, the department notes that it cannot estimate the cost of the remainder of bill with any degree of reliability. Census data indicate that there are currently 11.5 million households in the State. Any household may hire a domestic worker at any given time and thus be subject to the enforcement authority of Cal/OSHA. DIR's Division of Labor Standards Enforcement (DLSE) would exercise its retaliation protection jurisdiction to the extent that it was needed with respect to the safety and health of domestic workers. Thus, DIR would require staff and resources to investigate complaints and potential retaliation (including the costs associated with seeking and obtaining court orders for the cases where employers refuse to allow Cal/OSHA to enter their homes to conduct investigations). Finally, DIR anticipates additional costs related to litigation. The aggregate sum of these cost drivers is expected to be in the millions of dollars annually.

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