

Date of Hearing: March 15, 2022

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 1661 (Davies) – As Amended March 3, 2022

PROPOSED CONSENT

SUBJECT: HUMAN TRAFFICKING: NOTICE

KEY ISSUE: SHOULD HAIR, NAIL, ELECTROLYSIS, SKIN CARE, AND OTHER SIMILAR BUSINESSES BE REQUIRED TO POST NOTICES REGARDING HUMAN TRAFFICKING ON THEIR PREMISES?

SYNOPSIS

This bill augments the state's efforts to combat human trafficking by expanding the types of businesses and establishments required to post notices about human trafficking to include hair, nail, electrolysis, skin care, and other related businesses and establishments. Under existing law, these notices are required to be posted in a conspicuous place; contain information about human trafficking; and contain phone numbers of non-profit organizations to which a person could report human trafficking. Though human trafficking occurs in a range of industries, hair, nail, and skin care businesses have been found to be sites for labor trafficking. Trafficking may also occur among clients of such establishments. Arguably, barbers and cosmetologists may be uniquely positioned to recognize and report trafficking. By increasing awareness of trafficking hotlines, these notices are likely an effective method for combatting trafficking. Notably, the postings are required to contain the phone numbers of non-profit organizations but not law enforcement. This specification is especially important, as law enforcement is not always well-equipped to connect trafficking victims to crucial services and resources. For immigrants in particular, a fear of deportation may undermine the likelihood that they will report trafficking to law enforcement. Though postings are likely an important step for combatting trafficking, educational training of employees could enhance this effort. AB 1661 is supported by the Little Hoover Commission and Concerned Women for America Legislative Action Committee and has no opposition on file.

SUMMARY: Requires barbering and cosmetology businesses to post notices containing human trafficking information. Specifically, this bill requires hair, nail, electrolysis, and skin care and other regulated businesses or establishments to post a notice publicizing human trafficking resources in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.

EXISTING LAW:

- 1) Establishes, under federal law, the crimes of kidnapping in interstate or foreign commerce, peonage, slavery, involuntary servitude, forced labor, and trafficking in persons, and provides for criminal and civil penalties. (18 U.S.C. Secs. 1201, 1581-1597.)
- 2) Recognizes, under the federal Victims of Trafficking and Violence Protection Act of 2000, the prevalence of continued human trafficking domestically and abroad, and delineates

various federal actions to combat trafficking, punish perpetrators, and provide services to victims of trafficking. (22 U.S.C. Section 7101 *et seq.*)

- 3) Provides that any person who deprives or violates the personal liberty of another with the intent to effect or maintain prostitution, pimping, child pornography, extortion, obscene live conduct, or to obtain forced labor or services is guilty of human trafficking. (Penal Code Section 236.1.)
- 4) Provides for mandatory restitution and allows trafficking victims to bring a civil action against his or her trafficker. (Civil Code Section 52.5. All further statutory references are to the Civil Code, unless otherwise indicated.)
- 5) Mandates that all retailers and manufacturers doing business in the state who generate in excess of one hundred million dollars in "gross receipts" to publicly "disclose its efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale." (Section 1714.43.)
- 6) Requires the operators of bars, adult or sexually oriented businesses, massage businesses that are not licensed by a central massage licensing authority, specified airports, rail stations, bus stations, truck stops, emergency rooms with general acute care hospitals, urgent care centers, farm labor contractors, privately operated job recruitment centers, roadside rest stops, hotels, motels, and bed and breakfast inns to post a notice publicizing human trafficking resources and requires the notice to be posted in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted. (Section 52.6 (a).)
- 7) Requires the notice described above to conform to a specific format; contain specific language; contain the phone numbers of various human trafficking hotlines; and be posted in English, Spanish, and in one other language that is the most widely spoken language in the county where the establishment is located and for which translation is mandated by the federal Voting Rights Act of 1965. (Section 52.6 (b) – (c).)
- 8) Requires the California Department of Justice (DOJ) to develop a model notice that complies with the requirements described above, and to make a model notice available on the Department of Justice's website. (Section 52.6 (d).)
- 9) Requires a business or other establishment that operates intercity passenger rail or light rail stations, or bus stations to provide at least 20 minutes of training to employees who may interact with, or come into contact with, a victim of human trafficking or who are likely to receive, in the course of their employment, a report from another employee about suspected human trafficking, in recognizing the signs of human trafficking and how to report those signs to the appropriate law enforcement agency. A list of topics that must be covered in such training is further provided. (Section 52.6 (e) – (f).)
- 10) Provides that a business or establishment that fails to comply with the above posting requirements is liable for a civil penalty of five hundred dollars (\$500) for a first offense and one thousand dollars (\$1,000) for each subsequent offense. (Section 52.6 (h).)
- 11) Authorizes a government entity to bring an action to impose a civil penalty against a business or establishment that violates the posting requirement described above if a local or state

agency with authority to regulate that business or establishment has satisfied both of the following:

- a) Provided the business or establishment with reasonable notice of noncompliance, which informs the business or establishment that it is subject to a civil penalty if it does not correct the violation within 30 days from the date the notice is sent to the business or establishment.
 - b) Verified that the violation was not corrected within the 30-day period. (Section 52.6 (h).)
- 12) Declares that Section 52.6 does not prevent a local governing body from adopting and enforcing a local ordinance, rule, or regulation to prevent slavery or human trafficking. Declares that this section does not supersede or preempt a local ordinance, rule or regulation that duplicates or supplements the requirements in this section. (Section 52.6 (i).)
- 13) Requires hotels and motels to provide at least 20 minutes of classroom or other effective interactive training and education regarding human trafficking awareness and covering specified topics to each employee who is likely to interact or come into contact with victims of human trafficking and who is employed as of July 1, 2019, and as specified thereafter. (Government Code Section 12950.3.)
- 14) Specifies, under the Barbering and Cosmetology Act, practices that constitute the act of barbering, cosmetology, skin care, nail care, electrolysis, and hairstyling. (Business and Professions Code Section 7316.)
- 15) Establishes the State Board of Barbering and Cosmetology to regulate and license professions enumerated above. Specifies that the board shall establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board that impact licensees, including how to ensure licensees are aware of basic labor laws and how to ensure licensees have awareness about physical and sexual abuse their clients may be experiencing, including domestic violence, sexual assault, human trafficking, and elder abuse. (Business and Professions Code Sections 7301-7315.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill augments the state's efforts to combat human trafficking by expanding the types of businesses and establishments required to post notices about human trafficking to include hair, nail, electrolysis, skin care, and other related businesses and establishments regulated under the Barbering and Cosmetology Act. (Business and Professions Code Section 7301 *et seq.*) Existing law requires such notices be posted in a conspicuous place; contain information about human trafficking; and contain phone numbers of non-profit organizations to which a person could report human trafficking. The author states, regarding the purpose and necessity of the bill, the following:

Human trafficking is a global sinister enterprise that has ruined the lives of countless individuals. Too often victims are forgotten or never found. Part of the problem these victims go unfound is because the public has no idea how to spot individuals in their time of need. AB 1661 is a step in the right direction by updating our current notification laws to expand what types of businesses must display warning sign posters on their premises. With increased

awareness on the types of behaviors and signs to look for in any environment, we can help increase the number of victims we save or prevent from being victims altogether.

Scope of the human trafficking problem in general and in hair, nail, electrolysis, and skin care businesses. Human trafficking is a modern form of slavery that involves depriving or violating the personal liberty of another person with the intent to obtain forced labor or sex. Though recognized as a global problem, identifying trafficking is complex, making it difficult to estimate the full scale of the problem. For example, victims themselves may not recognize they are being trafficked, and law enforcement may lack the training to correctly identify that an individual is being trafficked. (Loyola Law School, *Strengthening Protections to Prevent Child Labor Trafficking*, accessible [here](#).)

Nevertheless, available data suggests that trafficking is a significant problem in California, especially within San Francisco, Santa Clara, Sacramento, Ventura, Los Angeles, Fresno, Alameda, and San Diego counties. (*Ibid.*) In 2020, the National Human Trafficking Hotline received more trafficking cases from California than any other state. (National Human Trafficking Hotline, *National Human Trafficking Hotline Data Report* (2020), accessible [here](#).)

With regard to labor trafficking specifically, the California's Governor's Office of Emergency Services reports that, between 2015 and 2019, 7,300 labor trafficking victims sought help from the human trafficking grant programs administered by the Office. (Little Hoover Commission, *Human Trafficking: Coordinating a California Response* (June 2020).)

The hair, nail, and skin care industries are among the myriad types of industries in which trafficking may occur. According to the U.S. State Department, trafficking spans industries, including salon services, massage parlors, hospitality, traveling sales crews, agriculture, janitorial services, construction, landscaping, restaurants, factories, care for persons with disabilities, retail, fairs and carnivals, peddling and begging, drug smuggling and distribution, religious institutions, child care, and domestic work. (United States Department of State, *Trafficking in Persons Report* (June 2021).) Anecdotally, cases of labor trafficking in nail salons have been identified across the country. These cases have often followed a similar pattern wherein immigrants are compelled to work without pay in a salon through physical abuse, intimidation, and exploitation. (See, e.g., Phillip W.d. Martin, *Nail Salons and Human Trafficking* (Dec. 2017) Huffington Post, accessible [here](#).)

Clients of hair, nail, and skin businesses may also be victims of trafficking. In response, industry groups and licensing boards have begun to train barbers and cosmetologists to recognize human trafficking. For example, one cosmetology company provides information to cosmetologists on how to recognize signs of trafficking among their clients, such as withdrawn or nervous behavior and bruising around the head and neck. (Behind the Chair, *Human Trafficking in Salons: Here's What You Need to Know* (Jan. 2020), accessible [here](#).) Within California, the State Board of Barbering and Cosmetology provides educational materials to licensees. These materials explain that barbers and cosmetologists are uniquely positioned to recognize signs of abuse due to the "intimate nature of many services provided and the close personal bonds that are often formed between a licensee and a client." Accordingly, these educational materials include a guide on how to recognize trafficking; a list of questions to ask potential trafficking victims; and the phone number for the National Human Trafficking Hotline. (California Board of Barbering and Cosmetology, *No Violence in Beauty: Physical and Sexual Abuse Awareness*, accessible [here](#), accessed March 4, 2022.)

Efficacy of notices and signs in combatting human trafficking. Currently, 25 states including California, have laws requiring establishments to post a trafficking notice containing the number of National Human Trafficking Hotline. (National Conference of State Legislatures, *Human Trafficking State Laws*, accessible [here](#).) By increasing awareness of trafficking and the hotline, such notices may be an effective method for combatting trafficking. The USC Gould Law School's International Human Rights Clinic notes that community awareness is a critical tool for combatting trafficking. (USC Gould International Human Rights Clinic, *Over-Policing Sex Trafficking: How U.S. Law Enforcement Should Reform Operations* (November 2021), accessible [here](#).) In focus groups conducted by Polaris, a non-profit dedicated to combatting human trafficking, victims of trafficking largely supported posting information about the National Human Trafficking Hotline numbers in areas where potential victims could access it. (Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking* (July 2018).) With regard to labor trafficking in particular, the Little Hoover Commission argues strongly for the need for increased public awareness of labor trafficking in order to increase both victim identification and crime prevention. In an interview with the Commission, District Attorney Nancy O'Malley told the group, "Government agencies cannot alone detect, report and investigate labor trafficking [and many] trafficking individuals do not realize their enslavement. We need the general public to be educated, aware of the signs of trafficking and have a place for reports to be made." (Little Hoover Commission, *Labor Trafficking: Strategies to Uncover this Hidden Crime* (Sep. 2020).

This bill would expand the types of establishments required to post notices about human trafficking to include hair, nail, electrolysis, and skin care businesses and other related establishments. By expanding this requirement to all businesses and establishments regulated by the Barbering and Cosmetology Act, this bill applies to establishments licensed under the California Board of Barbering and Cosmetology, which amounts to over 50,000 establishments, according to the Board's website: <https://www.barbercosmo.ca.gov/>. Such an expansion will likely increase awareness of how to report trafficking and potentially connect more trafficking victims to crucial services and support.

Reporting trafficking to non-profits, rather than law enforcement. Notably, the existing statute that this bill addresses (Civic Code Section 52.6) mandates that notices contain the phone numbers of two non-profit organizations: the National Human Trafficking Hotline and the California Coalition to Abolish Slavery and Trafficking. It does not mandate that postings encourage contacting law enforcement. For victims and witnesses of trafficking, contacting non-profit organizations provide a number of advantages over contacting law enforcement. A comprehensive report by the USC Gould School of Law finds that law enforcement is often not adequately trained in a trauma-informed, victim-centered approach to trafficking. Consequently, law enforcement does not always connect trafficking victims to crucial services and resources such as counseling, medical care, housing, legal services, and immigration services. In fact, the law enforcement operations may serve to traumatize victims and undermine the likelihood they will contact law enforcement for help. (USC Gould International Human Rights Clinic, *supra*.)

For immigrants, contacting non-profits may offer specific advantages. Due to fear of deportation, immigrants may be reluctant to report trafficking to law enforcement. (Little Hoover Commission, *Human Trafficking: Coordinating a California Response*, *supra*.) Additionally, about 25 percent of trafficking victims who sought services from California's Human Trafficking Victim Assistance (HV) Program do not identify English as their primary language. (Little Hoover Commission, *Labor Trafficking: Strategies to Help Victims and Bring Traffickers to*

Justice (Oct. 2020).) The National Human Trafficking Hotline can communicate with callers in over 200 languages.

Nevertheless, the non-profit organization may contact law enforcement based on the information provided in the call. The National Human Trafficking Hotline discloses that it will call law enforcement if the situation involves abuse of a minor or imminent danger. The California Coalition to Abolish Slavery and Trafficking asks callers for explicit consent to contact law enforcement.

Training and education are critical tools for combatting trafficking. Though notices are an important step for combatting trafficking, educational training of employees could enhance their efficacy. In a nationally representative survey, many respondents held incorrect beliefs about who trafficking victims are and the circumstances surrounding trafficking. (Vanessa Bouche et al., *Identifying Effective Counter-Trafficking Programs and Practices in the U.S.: Legislative, Legal, and Public Opinion Strategies that Work* (2016).) Reporting from members of the public is uncommon because many people are unable to recognize labor trafficking victims. (Little Hoover Commission, *Labor Trafficking: Strategies to Uncover this Hidden Crime*, *supra*.) Even among law enforcement, researchers have noted that trafficking victims are often mistaken for sex workers. (USC Gould International Human Rights Clinic, *supra*.) Myths about trafficking may have a disparate impact on marginalized groups. As argued in the *UCLA Law Review*, due to a history of racial profiling and stereotyping, law enforcement may be more likely to perceive trafficking victims as criminals, rather than victims of abuse, when they are people of color. (Cheryl Nelson Butler, *The Racial Roots of Human Trafficking* (2015) *UCLA Law Review*.)

Effective training could debunk myths about trafficking, increase the effectiveness of trafficking postings, and potentially lessen the disproportionate impact on people of color. *The author may wish to strengthen the impact of notices by expanding the types of businesses required to administer training and education about recognizing trafficking to employees.*

ARGUMENTS IN SUPPORT: In support of the bill, the Little Hoover Commission argues for the importance of public awareness to combat human trafficking:

In its 2020 report, *Labor Trafficking: Strategies to Uncover this Hidden Crime*, the Commission found that eradicating trafficking begins with effective detection – finding this crime wherever and whenever it occurs. Yet detecting labor trafficking is particularly daunting, as few understand the nature of the crime and to the unsuspecting observer, the work itself may appear legitimate. Broadly increasing public awareness of labor trafficking may help improve both victim identification and crime prevention, the Commission learned. To better detect this heinous abuse, the Commission urged California to promote efforts to alert the public to the existence of human trafficking in various sectors and industries.

Pending legislation. AB 1788 (Cunningham, 2022) would allow civil penalties to be imposed against a hotel if a supervisory employee of the hotel failed to report trafficking in the hotel to law enforcement, or if any employee of that hotel knowingly benefited from participating in a venture that the employee knew or should have known, consisted of sex trafficking activity.

AB 1820 (Arambula, 2022) would establish the Labor Trafficking Unit within Cal-OSHA to receive, investigate, and prosecute complaints alleging labor trafficking, as well as take steps to prevent labor trafficking.

AB 2553 (Grayson, et al. 2022) would establish a task force to examine collaborative models between governmental and nongovernmental organizations for protecting victims and survivors of trafficking; evaluate the progress of the state with regard to trafficking; and provide recommendations to strengthen efforts to address trafficking.

Recent similar or related legislation. SB 750 (Melendez, 2021) would have established a task force to collect and organize data on the nature and extent of trafficking of persons in California.

AB 2318 (Boerner Horvath, 2020) would have added short-term rentals to the list of businesses and establishments required to post human trafficking notices.

SB 630 (Stern), Chap. 57, Stats. 2019, clarified that state law does not prevent a local governing body from adopting and enforcing a local ordinance, rule, or regulation to prevent slavery or human trafficking.

SB 225 (Stern), Chap. 565, Stats 2017, updated language that is required to be included in human trafficking notices to include a number that can be texted for services and support.

AB 260 (Santiago), Chap. 547, Stats. 2017, included hotels, motels, and bed and breakfast inns in the list of establishments required to post human trafficking notices.

REGISTERED SUPPORT / OPPOSITION:

Support

Concerned Women for America Legislative Action Committee
Little Hoover Commission

Opposition

None on file

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