

AMENDED IN ASSEMBLY MAY 24, 2013  
AMENDED IN ASSEMBLY MARCH 19, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 241**

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**Introduced by Assembly Member Ammiano**

February 6, 2013

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An act to amend Sections 3351, 3352, 3551, 3708, and 3715 of, and to add Part 4.5 (commencing with Section 1450) to Division 2 of, the Labor Code, relating to domestic work employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as amended, Ammiano. Domestic work employees: labor standards.

(1) Existing law regulates the wages, hours, and working conditions of any man, woman, and minor employed in any occupation, trade, or industry, whether compensation is measured by time, piece, or otherwise, except as specified. Existing law creates the Industrial Welfare Commission and authorizes it to adopt rules, regulations, and orders to ensure that employers comply with those provisions. Existing law makes violations of certain of these provisions a misdemeanor.

This bill would specially regulate the wages, hours, and working conditions of domestic work employees, as defined, with specified exceptions. The bill would define domestic work as services related to the care of persons in private households or maintenance of private households or their premises, which would include childcare providers, caregivers of people with disabilities, sick, convalescing, or elderly persons, house cleaners, housekeepers, maids, and other household occupations. The bill would provide an overtime compensation rate for

domestic work employees, with specified exceptions. The bill would expressly apply Wage Order No. 15-2001 of the Industrial Welfare Commission, with specified exceptions, to a domestic work employee, except that the new domestic work provisions established by this bill will prevail over provisions that afford less protection. The bill would prescribe standards for determining whether travel time spent by a personal attendant, as defined, accompanying a domestic work employer are to be considered hours worked. The bill would further establish standards for sleeping periods, including accommodations for a domestic work employee who is required to sleep in a private household and would apply provisions regarding meal and rest breaks, as specified, to personal attendants. ~~The bill would require that a domestic worker, after one year of work with the same employer, receive paid days of rest in each calendar year that would be compensated at the employee's regular rate of pay and calculated pursuant to a specified method related to the number of hours worked in an average week.~~ The bill would require the Division of Labor Standards Enforcement to enforce these provisions. The bill would also provide a domestic work employee a private right of action to enforce these provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

~~(2) Existing law requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of and in the course of employment. The failure to secure workers' compensation as required by the workers' compensation law is a misdemeanor. Under existing law, employers of persons who engage in specified types of household domestic service and who work less than a specified number of hours are excluded from that definition of employer and are therefore excluded from the requirement to secure the payment of workers' compensation, as specified. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~This bill would remove that exclusion and require all domestic work employers, as defined, to secure the payment of workers' compensation and would make conforming changes. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) As recognized by the State of California in Resolution  
4 Chapter 119 of the Statutes of 2010, it is the policy of the state to  
5 encourage and protect the rights of domestic work employees.

6 (b) California's domestic workers, which includes housekeepers,  
7 nannies, and caregivers for children, persons with disabilities, and  
8 the elderly, work in private households to care for the health, safety,  
9 and well-being of the most important aspects of Californians' lives:  
10 their families and homes.

11 (c) Domestic workers play a critical role in California's  
12 economy, working to ensure the health and prosperity of California  
13 families and freeing others to participate in the workforce, which  
14 is increasingly necessary in these difficult economic times. The  
15 labor of domestic workers is central to the ongoing prosperity of  
16 the state but, despite the value of their work, domestic workers  
17 have not received the same protection under state laws as workers  
18 in other industries. Although domestic workers labor to support  
19 families and children of their own, and often are primary income  
20 earners, many earn low wages and live below the poverty line.

21 (d) Because domestic workers care for the most important  
22 elements of their employers' lives, their families and homes, it is  
23 in the interest of employees, employers, and the people of the State  
24 of California to ensure that the rights of domestic workers are  
25 respected, protected, and enforced.

26 (e) The vast majority of domestic workers are women of color  
27 and immigrants and are particularly vulnerable to unlawful  
28 employment practices. Domestic workers usually work alone,  
29 behind closed doors, and out of the public eye, leaving them  
30 isolated, vulnerable to abuse and exploitation by some employers,  
31 and unable to advocate collectively for better working conditions.  
32 Many domestic workers labor under harsh conditions and work  
33 long hours for low wages without any benefits. For those who are

1 live-in employees, when terminated, they lose not only their jobs  
2 but their homes. This bill recognizes that many personal attendants  
3 have positive working relationships with their employers. However,  
4 it must also be recognized that there are other situations where  
5 domestic workers are verbally and physically abused or sexually  
6 assaulted, forced to sleep in conditions unfit for human habitation,  
7 and stripped of their privacy and dignity.

8 (f) Many domestic workers are still excluded from the most  
9 basic protections afforded to the rest of the labor force under state  
10 and federal law, including the rights to fair wages, safe and healthy  
11 working conditions, ~~workers' compensation~~, and protection from  
12 discriminatory and abusive treatment. The treatment of domestic  
13 workers under federal and state laws has historically reflected  
14 stereotypical assumptions about the nature of domestic work,  
15 specifically that the relationship between employer and “servant”  
16 was “personal,” rather than commercial, in character, that  
17 employment within a household was not “real” productive work,  
18 and that women did not work to support their families.

19 (g) Recognizing that people with disabilities often need personal  
20 attendants in order to be active participants in work, community,  
21 social, and cultural life, this bill creates certain modifications to  
22 the definition of compensable hours worked to accommodate  
23 situations when out-of-town travel with a personal attendant is  
24 necessary. The bill further modifies the existing definition of  
25 compensable hours worked in Wage Order No. 15-2001 of the  
26 Industrial Welfare Commission to allow for an unpaid sleep period  
27 of up to eight hours for personal attendants under specified  
28 circumstances. Personal attendants, who have long been denied  
29 the right to take meal and rest breaks, will be afforded the  
30 protection of Sections 11 and 12 of Minimum Wage Order  
31 No. 15-2001, which includes a provision for on-duty meals when  
32 the nature of the work prevents an employee from being relieved  
33 of all duty.

34 (h) Given the limited legal protections historically provided to  
35 domestic workers, and bearing in mind the unique conditions and  
36 demands of this private, home-based industry, the Legislature, as  
37 an exercise of the police power of the State of California for the  
38 protection of the public welfare, prosperity, health, safety, and  
39 peace of its people, further finds that domestic workers are entitled  
40 to industry-specific protections and labor standards that eliminate

1 discriminatory provisions in the labor laws and guarantee domestic  
2 workers basic workplace rights to ensure that domestic workers  
3 are treated with equality, respect, and dignity.

4 SEC. 2. Part 4.5 (commencing with Section 1450) is added to  
5 Division 2 of the Labor Code, to read:

6  
7 PART 4.5. DOMESTIC WORK EMPLOYEES

8  
9 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

10  
11 1450. This part shall be known and may be cited as the  
12 Domestic Worker Bill of Rights.

13 1451. As used in this part, the following definitions apply:

14 (a) "Domestic work" means services related to the care of  
15 persons in private households or maintenance of private households  
16 or their premises. Domestic work occupations include childcare  
17 providers, caregivers of people with disabilities, sick, convalescing,  
18 or elderly persons, house cleaners, housekeepers, maids, and other  
19 household occupations.

20 (b) (1) "Domestic work employee" means an individual who  
21 performs domestic work and includes live-in domestic work  
22 employees and personal attendants.

23 (2) "Domestic work employee" does not include any of the  
24 following:

25 (A) Any person who performs services through the In-Home  
26 Supportive Services program under Article 7 (commencing with  
27 Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare  
28 and Institutions Code.

29 (B) Any person who is the parent, grandparent, spouse, sibling,  
30 child, or legally adopted child of the domestic work employer.

31 (C) Any person under 18 years of age who is employed as a  
32 babysitter for a minor child of the domestic work employer in the  
33 employer's home.

34 (D) Any person employed as a casual babysitter for a minor  
35 child in the domestic employer's home. A casual babysitter is a  
36 person whose employment is irregular and intermittent and who  
37 does not work more than six hours per week caring for the same  
38 minor child or children. If a person who performs babysitting  
39 services on an irregular and intermittent basis does a significant  
40 amount of work other than supervising, feeding, and dressing a

1 child, this exemption shall not apply and the person shall be  
2 considered a domestic work employee. A person who is a casual  
3 babysitter who is over 18 years of age retains the right to payment  
4 of minimum wage for all hours worked, pursuant to Wage Order  
5 No. 15-2001 of the Industrial Welfare Commission.

6 (E) Any person employed by a licensed health facility, as  
7 defined in Section 1250 of the Health and Safety Code.

8 (F) Any person who is employed by, or contracts with, an  
9 organization vendored or contracted through a regional center or  
10 the State Department of Developmental Services pursuant to the  
11 Lanterman Developmental Disabilities Services Act (Division 4.5  
12 (commencing with Section 4500) of the Welfare and Institutions  
13 Code) and the California Early Intervention Services Act (Title  
14 14 (commencing with Section 95000) of the Government Code)  
15 to provide services and support for persons with developmental  
16 disabilities, as defined in Section 4512 of the Welfare and  
17 Institutions Code, when funding for those services is provided  
18 through the State Department of Developmental Services.

19 (G) Any person who provides child care and who, pursuant to  
20 subdivision (d) or (f) of Section 1596.792 of the Health and Safety  
21 Code, is exempt from the licensing requirements of Chapters 3.4  
22 (commencing with Section 1596.70), 3.5 (commencing with  
23 Section 1596.90), and 3.6 (commencing with Section 1597.30) of  
24 Division 2 of the Health and Safety Code, if the parent or guardian  
25 of the child to whom child care is provided receives child care and  
26 development services pursuant to any program authorized under  
27 the Child Care and Development Services Act (Chapter 2  
28 (commencing with Section 8200) of Part 6 of Division 1 of Title  
29 1 of the Education Code) or the California Work Opportunity and  
30 Responsibility to Kids Act (Chapter 2 (commencing with Section  
31 11200) of Part 3 of Division 9 of the Welfare and Institutions  
32 Code).

33 (c) (1) “Domestic work employer” means a person, including  
34 corporate officers or executives, who directly or indirectly, or  
35 through an agent or any other person, including through the  
36 services of a third-party employer, temporary service, or staffing  
37 agency or similar entity, employs or exercises control over the  
38 wages, hours, or working conditions of a domestic work employee.

39 (2) “Domestic work employer” does not include any of the  
40 following:

1 (A) The State of California or an individual who receives  
2 domestic work services through the In-Home Supportive Services  
3 program under Article 7 (commencing with Section 12300) of  
4 Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions  
5 Code or who is eligible for that program based on his or her  
6 income.

7 (B) An employment agency that complies with Section  
8 1812.5095 of the Civil Code and that operates solely to procure,  
9 offer, refer, provide, or attempt to provide work to domestic  
10 workers if the relationship between the employment agency and  
11 the domestic workers for whom the agency procures, offers, refers,  
12 provides, or attempts to provide domestic work is characterized  
13 by all of the factors listed in subdivision (b) of Section 1812.5095  
14 of the Civil Code and Section 687.2 of the Unemployment  
15 Insurance Code.

16 (C) A licensed health facility, as defined in Section 1250 of the  
17 Health and Safety Code.

18 (d) “Emergency” means an unpredictable or unavoidable  
19 occurrence of a serious nature that occurs unexpectedly requiring  
20 immediate action.

21 (e) “Hours worked” means the time during which a domestic  
22 work employee is subject to the control of a domestic work  
23 employer and includes all time the domestic work employee is  
24 suffered or permitted to work, whether or not required to do so.

25 (f) “Live-in domestic work employee” means an employee who  
26 resides in the domestic work employer’s household at least five  
27 days per week and for whom the employer makes sleep  
28 accommodations available in compliance with Section 1457.

29 (g) “Personal attendant” means any person employed by a  
30 private party or employed by any third-party employer recognized  
31 in the health care industry to work in a private household, to  
32 supervise, feed, or dress a person who, by reason of advanced age,  
33 physical disability, or mental deficiency, needs supervision. A  
34 person is a personal attendant only if no significant amount of  
35 work other than the foregoing is required. For purposes of this  
36 subdivision, no significant amount of work means that the work  
37 did not exceed 20 percent of the total weekly hours worked.

38 1452. The Division of Labor Standards Enforcement shall  
39 enforce this part.

1 1453. (a) Any domestic work employee aggrieved by a  
2 violation of this part may bring an administrative action pursuant  
3 to Section 98 or may bring a civil action in a court of competent  
4 jurisdiction against the domestic work employer violating this part.

5 (b) A domestic work employee who brings an action pursuant  
6 to this section and prevails shall be entitled to any legal or equitable  
7 relief permitted by law as may be appropriate to remedy the  
8 violation. A domestic work employee bringing a civil action  
9 pursuant to this section shall also be entitled to an award of  
10 reasonable attorney's fees and costs, including expert witness fees.

11 (c) The rights and remedies specified in this part are cumulative  
12 and nonexclusive and are in addition to any other rights or remedies  
13 afforded by contract or under other provisions of law. If a provision  
14 of Wage Order No. 15-2001 of the Industrial Welfare Commission  
15 or any other provision of law affords less protection to a domestic  
16 work employee, this part shall prevail. If a provision of Wage  
17 Order No. 15-2001 of the Industrial Welfare Commission or any  
18 other provision of law affords more protection to a domestic work  
19 employee, the wage order shall prevail.

20 (d) Notwithstanding any provision of this code or Section 340  
21 of the Code of Civil Procedure, to commence an action for a  
22 violation of this part a domestic work employee shall file an  
23 administrative or civil complaint within three years of the violation.  
24

## 25 CHAPTER 2. DOMESTIC WORK EMPLOYEE RIGHTS

26  
27 1454. A domestic work employee shall be compensated  
28 pursuant to Section 510, except as provided in Section 1455 or  
29 1456.

30 1455. (a) A domestic work employee who is a live-in employee  
31 or is required to be on duty for 24 consecutive hours or more shall  
32 have a minimum of eight consecutive hours for uninterrupted sleep,  
33 except in an emergency. Any time worked during an emergency  
34 interruption constitutes hours worked.

35 (b) If a domestic work employee is a live-in employee or is  
36 required to be on duty for 24 consecutive hours or more, the  
37 domestic work employer and the domestic work employee may  
38 agree in writing to exclude from hours worked a bona fide regularly  
39 scheduled sleeping period of not more than eight hours for  
40 uninterrupted sleep from hours worked, provided that the employee



1 has eight hours free of duty and available for continuous,  
2 uninterrupted sleep and the domestic work employer otherwise  
3 complies with this section and Section 1457. Absent a written  
4 agreement, the eight hours available for sleep shall constitute hours  
5 worked.

6 1456. If a domestic work employer who is a person with a  
7 disability needs to be accompanied by a personal attendant when  
8 traveling out of town, all time spent accompanying the employer  
9 in transit, and all time attending to, or carrying out, directives of  
10 the employer constitutes hours worked. Periods during which the  
11 personal attendant is completely relieved of duty, is not required  
12 to be at the same location as the employer, and that are long enough  
13 to enable the attendant to use the time effectively for his or her  
14 own purposes do not constitute hours worked. The employer and  
15 the employee may agree to exclude from hours worked a bona fide  
16 sleeping period of not more than eight hours, provided that there  
17 is a written agreement and the employee has eight hours free of  
18 duty and available for continuous, uninterrupted sleep.

19 1457. Any domestic work employee who is required to sleep  
20 in the private household of his or her employer shall be provided  
21 sleeping accommodations that are adequate, decent, and sanitary  
22 according to usual customary standards. These domestic work  
23 employees shall be provided a room separate from any household  
24 resident and shall not be required to share a bed.

25 1458. Sections 11 and 12 of Wage Order No. 15-2001 of the  
26 Industrial Welfare Commission shall apply to a personal attendant.

27 1460. A domestic work employer shall permit a domestic work  
28 employee who works five hours or more a day to choose the food  
29 he or she eats and to prepare his or her own meals. A domestic  
30 work employer shall permit a domestic work employee to use the  
31 job site's kitchen facilities and kitchen appliances without charge  
32 or deduction from pay. If a domestic work employee is informed  
33 that a person in the household has bona fide health issues related  
34 to food, including, but not limited to, food allergies, or has religious  
35 or dietary restrictions which make presence of some foods  
36 unacceptable, the employee shall not eat or prepare that food in  
37 the household.

38 ~~1461. After one year of work with the same employer, a~~  
39 ~~domestic worker shall be entitled to paid days of rest in each~~

1 calendar year that shall be compensated at the employee's regular  
2 rate of pay and calculated as follows:

3 (a) ~~If the employee worked an average of fewer than a total of~~  
4 ~~20 hours per week for an employer over the last year, the employee~~  
5 ~~is entitled to one day of paid rest from that employer for the~~  
6 ~~calendar year, as long as the employee is not employed on a casual~~  
7 ~~basis. Employment on a casual basis, for purposes of this section,~~  
8 ~~is work that is intermittent or irregular.~~

9 (b) ~~If the employee worked an average of 20 but fewer than 30~~  
10 ~~hours per week for an employer over the last year, the employee~~  
11 ~~is entitled to two days of paid rest from that employer for the~~  
12 ~~calendar year.~~

13 (c) ~~If the employee worked an average of 30 or more hours per~~  
14 ~~week for an employer, the employee is entitled to three days of~~  
15 ~~paid rest for the calendar year from that employer.~~

16 (d) ~~If an employee is terminated or quits without having used~~  
17 ~~all paid days of rest, the unused paid days of rest shall be paid to~~  
18 ~~the employee as wages at the final rate of pay. An employee shall~~  
19 ~~carry over accrued unused paid days of rest from one year to the~~  
20 ~~next.~~

21 ~~SEC. 3. Section 3351 of the Labor Code is amended to read:~~

22 ~~3351. "Employee" means every person in the service of an~~  
23 ~~employer under any appointment or contract of hire or~~  
24 ~~apprenticeship, express or implied, oral or written, whether lawfully~~  
25 ~~or unlawfully employed, and includes:~~

26 ~~(a) Aliens and minors.~~

27 ~~(b) All elected and appointed paid public officers.~~

28 ~~(c) All officers and members of boards of directors of~~  
29 ~~quasi-public or private corporations while rendering actual service~~  
30 ~~for the corporations for pay; provided that, where the officers and~~  
31 ~~directors of the private corporation are the sole shareholders~~  
32 ~~thereof, the corporation and the officers and directors shall come~~  
33 ~~under the compensation provisions of this division only by election~~  
34 ~~as provided in subdivision (a) of Section 4151.~~

35 ~~(d) A person employed by the owner or occupant of a residential~~  
36 ~~dwelling whose duties are incidental to the ownership,~~  
37 ~~maintenance, or use of the dwelling, including the care and~~  
38 ~~supervision of children, persons of advanced age, or persons with~~  
39 ~~physical or mental disabilities, or whose duties are personal and~~

1 not in the course of the trade, business, profession, or occupation  
2 of the owner or occupant.

3 (e) ~~All persons incarcerated in a state penal or correctional  
4 institution while engaged in assigned work or employment or  
5 engaged in work performed under contract.~~

6 (f) ~~All working members of a partnership or limited liability  
7 company receiving wages irrespective of profits from the  
8 partnership or limited liability company, provided that where the  
9 working members of the partnership or limited liability company  
10 are general partners or managers, the partnership or limited liability  
11 company and the partners or managers shall come under the  
12 compensation provisions of this division only by election as  
13 provided in subdivision (a) of Section 4151. If a private corporation  
14 is a general partner or manager, “working members of a partnership  
15 or limited liability company” shall include the corporation and the  
16 officers and directors of the corporation, provided that the officers  
17 and directors are the sole shareholders of the corporation. If a  
18 limited liability company is a partner or member, “working  
19 members of the partnership or limited liability company” shall  
20 include the managers of the limited liability company.~~

21 (g) ~~For the purposes of subdivisions (e) and (f), the persons  
22 holding the power to revoke a trust as to shares of a private  
23 corporation or as to general partnership or limited liability company  
24 interests held in the trust, shall be deemed to be the shareholders  
25 of the private corporation, or the general partners of the partnership,  
26 or the managers of the limited liability company.~~

27 ~~SEC. 4. Section 3352 of the Labor Code is amended to read:~~

28 ~~3352. “Employee” excludes the following:~~

29 (a) ~~Any person defined in subdivision (d) of Section 3351 who  
30 is employed by his or her parent, spouse, or child.~~

31 (b) ~~Any person performing services in return for aid or  
32 sustenance only, received from any religious, charitable, or relief  
33 organization.~~

34 (c) ~~Any person holding an appointment as deputy clerk or deputy  
35 sheriff appointed for his or her own convenience, and who receives  
36 no compensation from the county or municipal corporation or from  
37 the citizens thereof for his or her services as the deputy. This  
38 exclusion is operative only as to employment by the county or  
39 municipal corporation and does not deprive any person so  
40 deputized from recourse against a private person employing him~~

1 or her for injury occurring in the course of and arising out of the  
2 employment.

3 ~~(d) Any person performing voluntary services at or for a  
4 recreational camp, hut, or lodge operated by a nonprofit  
5 organization, exempt from federal income tax under Section 501  
6 of the Internal Revenue Code, of which he or she or a member of  
7 his or her family is a member and who receives no compensation  
8 for those services other than meals, lodging, or transportation.~~

9 ~~(e) Any person performing voluntary service as a ski patrolman  
10 who receives no compensation for those services other than meals  
11 or lodging or the use of ski tow or ski lift facilities.~~

12 ~~(f) Any person employed by a ski lift operator to work at a snow  
13 ski area who is relieved of and not performing any prescribed  
14 duties, while participating in recreational activities on his or her  
15 own initiative.~~

16 ~~(g) Any person, other than a regular employee, participating in  
17 sports or athletics who receives no compensation for the  
18 participation other than the use of athletic equipment, uniforms,  
19 transportation, travel, meals, lodgings, or other expenses incidental  
20 thereto.~~

21 ~~(h) Any person performing voluntary service for a public agency  
22 or a private, nonprofit organization who receives no remuneration  
23 for the services other than meals, transportation, lodging, or  
24 reimbursement for incidental expenses.~~

25 ~~(i) Any person, other than a regular employee, performing  
26 officiating services relating to amateur sporting events sponsored  
27 by any public agency or private, nonprofit organization, who  
28 receives no remuneration for these services other than a stipend  
29 for each day of service no greater than the amount established by  
30 the Department of Human Resources as a per diem expense for  
31 employees or officers of the state. The stipend shall be presumed  
32 to cover incidental expenses involved in officiating, including, but  
33 not limited to, meals, transportation, lodging, rule books and  
34 courses, uniforms, and appropriate equipment.~~

35 ~~(j) Any student participating as an athlete in amateur sporting  
36 events sponsored by any public agency, public or private nonprofit  
37 college, university or school, who receives no remuneration for  
38 the participation other than the use of athletic equipment, uniforms,  
39 transportation, travel, meals, lodgings, scholarships, grants-in-aid,  
40 or other expenses incidental thereto.~~

1 ~~(k) Any law enforcement officer who is regularly employed by~~  
2 ~~a local or state law enforcement agency in an adjoining state and~~  
3 ~~who is deputized to work under the supervision of a California~~  
4 ~~peace officer pursuant to paragraph (4) of subdivision (a) of Section~~  
5 ~~832.6 of the Penal Code.~~

6 ~~(l) Any law enforcement officer who is regularly employed by~~  
7 ~~the Oregon State Police, the Nevada Department of Motor Vehicles~~  
8 ~~and Public Safety, or the Arizona Department of Public Safety and~~  
9 ~~who is acting as a peace officer in this state pursuant to subdivision~~  
10 ~~(a) of Section 830.32 of the Penal Code.~~

11 ~~(m) Any person, other than a regular employee, performing~~  
12 ~~services as a sports official for an entity sponsoring an~~  
13 ~~intercollegiate or interscholastic sports event, or any person~~  
14 ~~performing services as a sports official for a public agency, public~~  
15 ~~entity, or a private nonprofit organization, which public agency,~~  
16 ~~public entity, or private nonprofit organization sponsors an amateur~~  
17 ~~sports event. For purposes of this subdivision, "sports official"~~  
18 ~~includes an umpire, referee, judge, scorekeeper, timekeeper, or~~  
19 ~~other person who is a neutral participant in a sports event.~~

20 ~~(n) Any person who is an owner-builder, as defined in~~  
21 ~~subdivision (a) of Section 50692 of the Health and Safety Code,~~  
22 ~~who is participating in a mutual self-help housing program, as~~  
23 ~~defined in Section 50087 of the Health and Safety Code, sponsored~~  
24 ~~by a nonprofit corporation.~~

25 ~~SEC. 5. Section 3551 of the Labor Code is amended to read:~~

26 ~~3551. (a) Every employer subject to the compensation~~  
27 ~~provisions of this code, shall give every new employee, either at~~  
28 ~~the time the employee is hired or by the end of the first pay period,~~  
29 ~~written notice of the information contained in Section 3550. The~~  
30 ~~content of the notice required by this section shall be prescribed~~  
31 ~~by the administrative director after consultation with the~~  
32 ~~Commission on Health and Safety and Workers' Compensation.~~

33 ~~(b) The notice required by this section shall be easily~~  
34 ~~understandable and available in both English and Spanish. In~~  
35 ~~addition to the information contained in Section 3550, the content~~  
36 ~~of the notice required by this section shall include:~~

37 ~~(1) Generally, how to obtain appropriate medical care for a job~~  
38 ~~injury.~~

39 ~~(2) The role and function of the primary treating physician.~~

1     ~~(3) A form that the employee may use as an optional method~~  
2     ~~for notifying the employer of the name of the employee's "personal~~  
3     ~~physician," as defined by Section 4600, or "personal chiropractor,"~~  
4     ~~as defined by Section 4601.~~

5     ~~(e) The content of the notice required by this section shall be~~  
6     ~~made available to employers and insurers by the administrative~~  
7     ~~director. Insurers shall provide this notice to each of their~~  
8     ~~policyholders, with advice concerning the requirements of this~~  
9     ~~section and the penalties for a failure to provide this notice to all~~  
10    ~~employees.~~

11    ~~SEC. 6. Section 3708 of the Labor Code is amended to read:~~

12    ~~3708. In such action it is presumed that the injury to the~~  
13    ~~employee was a direct result and grew out of the negligence of the~~  
14    ~~employer, and the burden of proof is upon the employer, to rebut~~  
15    ~~the presumption of negligence. It is not a defense to the employer~~  
16    ~~that the employee was guilty of contributory negligence, or~~  
17    ~~assumed the risk of the hazard complained of, or that the injury~~  
18    ~~was caused by the negligence of a fellow servant. No contract or~~  
19    ~~regulation shall restore to the employer any of the foregoing~~  
20    ~~defenses.~~

21    ~~SEC. 7. Section 3715 of the Labor Code is amended to read:~~

22    ~~3715. (a) Any employee whose employer has failed to secure~~  
23    ~~the payment of compensation as required by this division, or his~~  
24    ~~or her dependents in case death has ensued, may, in addition to~~  
25    ~~proceeding against his or her employer by civil action in the courts~~  
26    ~~as provided in Section 3706, file his or her application with the~~  
27    ~~appeals board for compensation and the appeals board shall hear~~  
28    ~~and determine the application for compensation in like manner as~~  
29    ~~in other claims and shall make the award to the claimant as he or~~  
30    ~~she would be entitled to receive if the employer had secured the~~  
31    ~~payment of compensation as required, and the employer shall pay~~  
32    ~~the award in the manner and amount fixed thereby or shall furnish~~  
33    ~~to the appeals board a bond, in any amount and with any sureties~~  
34    ~~as the appeals board requires, to pay the employee the award in~~  
35    ~~the manner and amount fixed thereby.~~

36    ~~(b) (1) In any claim in which it is alleged that the employer has~~  
37    ~~failed to secure the payment of compensation, the director, only~~  
38    ~~for purposes of this section and Section 3720, shall determine, on~~  
39    ~~the basis of the evidence available to him or her, whether the~~  
40    ~~employer was prima facie illegally uninsured. A finding that the~~

1 employer was prima facie illegally uninsured shall be made when  
2 the director determines that there is sufficient evidence to constitute  
3 a prima facie case that the employer employed an employee on  
4 the date of the alleged injury and had failed to secure the payment  
5 of compensation, and that the employee was injured arising out  
6 of, and occurring in the course of, the employment.

7 (2) Failure of the employer to furnish within 10 days the written  
8 statement in response to a written demand for a written statement  
9 prescribed in Section 3711, addressed to the employer at its address  
10 as shown on the official address record of the appeals board, shall  
11 constitute in itself sufficient evidence for a prima facie case that  
12 the employer failed to secure the payment of compensation.

13 (3) A written denial by the insurer named in the statement  
14 furnished by the employer as prescribed in Section 3711, that the  
15 employer was so insured as claimed, or the nonexistence of a valid  
16 certificate of consent to self-insure for the time of the claimed  
17 injury, if the statement furnished by the employer claims the  
18 employer was self-insured, shall constitute in itself sufficient  
19 evidence for a prima facie case that the employer had failed to  
20 secure the payment of compensation.

21 (4) The nonexistence of a record of the employer's insurance  
22 with the Workers' Compensation Insurance Rating Bureau shall  
23 constitute in itself sufficient evidence for a prima facie case that  
24 the employer failed to secure the payment of compensation.

25 (5) The un rebutted written declaration under penalty of perjury  
26 by the injured employee, or applicant other than the employee,  
27 that the employee was employed by the employer at the time of  
28 the injury, and that he or she was injured in the course of his or  
29 her employment, shall constitute, in itself, sufficient evidence for  
30 a prima facie case that the employer employed the employee at  
31 the time of the injury, and that the employee was injured arising  
32 out of, and occurring in the course of, the employment.

33 (e) (1) When the director determines that an employer was  
34 prima facie illegally uninsured, the director shall mail a written  
35 notice of the determination to the employer at his or her address  
36 as shown on the official address record of the appeals board, and  
37 to any other more recent address the director may possess. The  
38 notice shall advise the employer of its right to appeal the finding,  
39 and that a lien may be placed against the employer's and any parent

1 corporation's property, or the property of substantial shareholders  
2 of a corporate employer as defined by Section 3717.

3 ~~(2) Any employer aggrieved by a finding of the director that it  
4 was prima facie illegally uninsured may appeal the finding by  
5 filing a petition before the appeals board. The petition shall be  
6 filed within 20 days after the finding is issued. The appeals board  
7 shall hold a hearing on the petition within 20 days after the petition  
8 is filed with the appeals board. The appeals board shall have  
9 exclusive jurisdiction to determine appeals of the findings by the  
10 director, and no court of this state has jurisdiction to review, annul,  
11 or suspend the findings or the liens created thereunder, except as  
12 provided by Article 2 (commencing with Section 5950) of Chapter  
13 7 of Part 4 of Division 4.~~

14 ~~(d) (1) Any claim brought against an employer under this  
15 section may be resolved by the director by compromise and release  
16 or stipulated findings and award as long as the appeals board has  
17 acquired jurisdiction over the employer and the employer has been  
18 given notice and an opportunity to object.~~

19 ~~(2) Notice may be given by service on the employer of an  
20 appeals board notice of intention to approve the compromise and  
21 release or stipulated findings and award. The employer shall have  
22 20 days after service of the notice of intention to file an objection  
23 with the appeals board and show good cause therefor.~~

24 ~~(3) If the employer objects, the appeals board shall determine  
25 if there is good cause for the objection.~~

26 ~~(4) If appeals board finds good cause for the objection, the  
27 director may proceed with the compromise and release or stipulated  
28 findings and award if doing so best serves the interest of the  
29 Uninsured Employers Fund, but shall have no cause of action  
30 against the employer under Section 3717 unless the appeals board  
31 case is tried to its conclusion and the employer is found liable.~~

32 ~~(5) If appeals board does not find good cause for the objection,  
33 and the compromise and release or stipulated findings and award  
34 is approved, the Uninsured Employers Fund shall have a cause of  
35 action against the employer pursuant to Section 3717.~~

36 ~~(e) The director may adopt regulations to implement and  
37 interpret the procedures provided for in this section.~~

38 ~~SEC. 8.~~

39 ~~SEC. 3. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because~~



1 the only costs that may be incurred by a local agency or school  
2 district will be incurred because this act creates a new crime or  
3 infraction, eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section 17556 of  
5 the Government Code, or changes the definition of a crime within  
6 the meaning of Section 6 of Article XIII B of the California  
7 Constitution.

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