

AMENDED IN SENATE JUNE 2, 2020
AMENDED IN SENATE MARCH 26, 2020

SENATE BILL

No. 1257

Introduced by Senator Durazo

February 21, 2020

An act to amend Sections 6303 and 6314 ~~of~~ *of, and to add Section 6305.1 to*, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1257, as amended, Durazo. Domestic service employees: employment safety standards.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified. *Existing law charges the Division of Occupational Safety and Health within the Department of Industrial Relations with enforcement of the act, subject to oversight by the Chief of the Division of Occupational Safety (chief).* Under existing law, employment related to household domestic service is excluded from the provisions of the act.

This bill would remove the exclusion for household domestic service from these occupational safety provisions. *The bill would require the chief or a representative of the chief to convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to household domestic service. The bill would require the committee to include an equal number of representatives of household domestic service employees and employers.*

Existing law authorizes the ~~Chief of the Division of Occupational Safety and Health within the Department of Industrial Relations (chief)~~ *chief* and all qualified and authorized division inspectors and

investigators to have free access to any place of employment to make an investigation or inspection during regular working hours, and at other reasonable times when necessary, for the protection of safety and health.

This bill would, when the workplace is a residential dwelling, require the chief or their representative to contact the employer in response to an alleged violation received from a domestic service employee within a specified timeframe, depending upon whether the reported violation is considered a serious violation. The bill would require the chief or their representative to provide specified notice to the employer about the alleged violation and to investigate the violation, as specified. The bill would require the employer to provide specified information to the division regarding mitigation efforts to correct the violation and to provide copies of all correspondence received from the division to the domestic service 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 6303 of the Labor Code is amended to
2 read:

3 6303. (a) "Place of employment" means any place, and the
4 premises appurtenant thereto, where employment is carried on,
5 except a place where the health and safety jurisdiction is vested
6 by law in, and actively exercised by, any state or federal agency
7 other than the division.

8 (b) "Employment" includes the carrying on of any trade,
9 enterprise, project, industry, business, occupation, or work,
10 including all excavation, demolition, and construction work, or
11 any process or operation in any way related thereto, in which any
12 person is engaged or permitted to work for hire.

13 (c) "Employment," for purposes of this division only, also
14 includes volunteer firefighting when covered by Division 4
15 (commencing with Section 3200) pursuant to Section 3361.

16 (d) Subdivision (c) shall become operative on January 1, 2004.

17 SEC. 2. Section 6305.1 is added to the Labor Code, to read:
18 6305.1. *The Chief of the Division of Occupational Safety and*
19 *Health, or a representative of the chief, shall convene an advisory*
20 *committee to evaluate whether there is a need to develop*
21 *industry-specific regulations related to household domestic service.*

1 *The advisory committee shall include an equal number of*
2 *representatives of household domestic service employees and*
3 *employers.*

4 ~~SEC. 2.~~

5 SEC. 3. Section 6314 of the Labor Code is amended to read:

6 6314. (a) To make an investigation or inspection, the chief of
7 the division and all qualified divisional inspectors and investigators
8 authorized by the chief shall, upon presenting appropriate
9 credentials to the employer, have free access to any place of
10 employment to investigate and inspect during regular working
11 hours, and at other reasonable times when necessary for the
12 protection of safety and health, and within reasonable limits and
13 in a reasonable manner. The chief or their authorized representative
14 may, during the course of any investigation or inspection, obtain
15 any statistics, information, or any physical materials in the
16 possession of the employer that are directly related to the purpose
17 of the investigation or inspection, conduct any tests necessary to
18 the investigation or inspection, and take photographs. Photographs
19 taken by the division during the course of any investigation or
20 inspection shall be considered to be confidential information
21 pursuant to the provisions of Section 6322, and shall not be deemed
22 to be public records for purposes of the California Public Records
23 Act.

24 (b) If permission to investigate or inspect the place of
25 employment is refused, or the facts or circumstances reasonably
26 justify the failure to seek permission, the chief or their authorized
27 representative may obtain an inspection warrant pursuant to the
28 provisions of Title 13 (commencing with Section 1822.50) of the
29 Code of Civil Procedure. Cause for the issuance of a warrant shall
30 be deemed to exist if there has been an industrial accident, injury,
31 or illness reported, if any complaint that violations of occupational
32 safety and health standards exist at the place of employment has
33 been received by the division, or if the place of employment to be
34 inspected has been chosen on the basis of specific neutral criteria
35 contained in a general administrative plan for the enforcement of
36 this division.

37 (c) The chief and their authorized representatives may issue
38 subpoenas to compel the attendance of witnesses and the
39 production of books, papers, records, and physical materials,
40 administer oaths, examine witnesses under oath, take verification

1 or proof of written materials, and take depositions and affidavits
2 for the purpose of carrying out the duties of the division.

3 (d) In the course of any investigation or inspection of an
4 employer or place of employment by an authorized representative
5 of the division, a representative of the employer and a
6 representative authorized by their employees shall have an
7 opportunity to accompany them on the tour of inspection. Any
8 employee or employer, or their authorized representatives, shall
9 have the right to discuss safety and health violations or safety and
10 health problems with the inspector privately during the course of
11 an investigation or inspection. Where there is no authorized
12 employee representative, the chief or their authorized
13 representatives shall consult with a reasonable number of
14 employees concerning matters of health and safety of the place of
15 employment.

16 (e) During any investigation of an industrial accident or
17 occupational illness conducted by the division pursuant to the
18 provisions of Section 6313, the chief or their authorized
19 representative may issue an order to preserve physical materials
20 or the accident site as they were at the time the accident or illness
21 occurred if, in the opinion of the division, it is necessary to do so
22 in order to determine the cause or causes of the accident or illness,
23 and the evidence is in potential danger of being removed, altered,
24 or tampered with. Under these circumstances, the division shall
25 issue that order in a manner that will avoid, to the extent possible,
26 any interference with normal business operations.

27 A conspicuous notice that an order has been issued shall be
28 prepared by the division and shall be posted by the employer in
29 the area or on the article to be preserved. The order shall be limited
30 to the immediate area and the machines, devices, apparatus, or
31 equipment directly associated with the accident or illness.

32 Any person who knowingly violates an order issued by the
33 division pursuant to this subdivision shall, upon conviction, be
34 punished by a fine of not more than five thousand dollars (\$5,000).

35 (f) (1) In the case where the place of employment is a residential
36 dwelling and the employee is a domestic service employee, the
37 chief of the division or their authorized representative shall initiate
38 telephone contact with the employer as soon as possible, but not
39 later than three working days after receipt of a complaint charging

1 a serious violation, and not later than 14 calendar days after receipt
2 of a complaint charging a nonserious violation.

3 (2) When telephone contact is successfully made, the chief of
4 the division or their authorized representative shall do all of the
5 following:

6 (A) Notify the employer of the existence of any alleged unsafe
7 or unhealthful conditions.

8 (B) Describe the alleged hazard and any specific regulatory
9 standard alleged to have been violated.

10 (C) Inform the employer that they are required, pursuant to
11 Section 6401.7, to investigate and abate any hazard discovered
12 during the investigation.

13 (D) Inform the employer by letter sent by facsimile or email,
14 or by certified mail if the employer cannot receive facsimile or
15 email, of each alleged hazard and each specific standard alleged
16 to have been violated.

17 (E) Inform the employer that if the division determines that the
18 ~~employer's~~ *employer's* response is unsatisfactory for any reason,
19 the division shall seek permission from the employer to enter the
20 residential dwelling to investigate the matter, and, if permission
21 is denied, may secure a court order to conduct an onsite inspection
22 of the residential dwelling.

23 (F) Provide the complainant with copies of the regulation alleged
24 to have been violated, the ~~division's~~ *division's* letter to the
25 employer, and all subsequent correspondence concerning the
26 investigation of any alleged hazards.

27 (3) An employer subject to investigation shall do both of the
28 following:

29 (A) Provide to the division, within 14 days of the ~~employer's~~
30 *employer's* receipt of the ~~division's~~ *division's* letter, a letter
31 describing the results of the ~~employer's~~ *employer's* investigation
32 of the alleged hazard and a description of all actions taken, in the
33 process of being taken, or planned to be taken, by the employer to
34 abate the alleged hazard, including any applicable measurements
35 or monitoring results, invoices for equipment purchased, and
36 photographs or video that document correction of the alleged
37 hazard.

38 (B) Provide a copy of the ~~division's~~ *division's* letter to the
39 employee, and all subsequent correspondence from and to the
40 employer, to the affected employee, or prominently post the letter

- 1 and correspondence in the method prescribed by subdivision (a)
- 2 of Section 6318.

O