

Governor Signs Legislation Extending Safety Related Retaliation Protection to Domestic Workers

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California law already prohibits employers from taking certain employment actions against an employee for refusing to work in some circumstances where there is a real or apparent safety hazard to the employee or other employees. On September 29, 2020, Governor Newsom signed [Assembly Bill 2568](#), which extends that protection to include domestic work employees or employees that perform household services for an individual, such as cleaning, household maintenance, cooking, laundry, ironing, provide care for others, or run household errands. Before the passage of this legislation, household domestic service workers were not viewed as having the same protections as other employees under California law because of how the concept of an employee was defined in California's labor code.

This law impacts both individuals and businesses who employ domestic service workers in three important ways. First, Labor Code section 6310 now explicitly prohibits employers from retaliating against domestic work employees who either (i) complain to a government agency responsible for ensuring employee health and safety (e.g., Division of Occupational Safety and Health ("Cal OSHA")); (ii) initiate or participate in a proceeding relating to employee health and safety (e.g., participate in a Cal OSHA investigation or inspection or participate in a health and safety committee); (iii) report a work-related fatality, injury, or illness; or (iv) request access to occupational injury or illness reports and records.

Second, Labor Code section 6311 prohibits employers from laying off or terminating domestic work employees who refuse to work in violation of an occupational health and safety law that creates a "real and apparent" hazard to the employee or to fellow employees. Labor Code section 6310 and 6311 exclude, however, employees who perform household domestic service that is publicly funded.

Third, Labor Code 6311.5 now prohibits employers from "willfully and knowingly" directing a domestic work employee to remain in or enter an area that poses a public health or safety concern. An employer's violation of this provision in the Labor Code constitutes a misdemeanor and is subject to criminal penalties under California's Penal Code.

Following the passage of this legislation, businesses, such as staffing agencies, who employ

nannies, childcare providers, caregivers, personal attendants, housekeepers, cooks, and other household workers can face significant liability for a violation of the Labor Code, including civil liability for damages from lost wages, and criminal penalties.

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