

Senate Bill No. 399

CHAPTER 670

An act to add Chapter 9 (commencing with Section 1137) to Part 3 of Division 2 of the Labor Code, relating to employment.

[Approved by Governor September 27, 2024. Filed with Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 399, Wahab. Employer communications: intimidation.

Existing law, the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975, provides that it is the policy of the state to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing to negotiate the terms and conditions of their employment, and to be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives, self-organization, or other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Other existing law relating to employment prohibits employers from making, adopting, or enforcing rules, regulations, or policies that forbid or prevent employees from engaging or participating in politics or from becoming candidates for public office, and from controlling or directing, or tending to control or direct, the political activities or affiliations of employees.

This bill, except as specified, would prohibit an employer from subjecting, or threatening to subject, an employee to discharge, discrimination, retaliation, or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's opinion about religious or political matters and would require an employee who refuses to attend a meeting as described to continue to be paid, as specified. The bill would impose a civil penalty of \$500 on an employer who violates these provisions.

The bill would authorize the Labor Commissioner to enforce the bill's provisions. The bill would also authorize any employee who has suffered a violation of the bill's provisions to bring a civil action, as specified, and to petition for injunctive relief.

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

SECTION 1. Chapter 9 (commencing with Section 1137) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 9. EMPLOYER INTIMIDATION

1137. (a) This chapter shall be known, and may be cited, as the “California Worker Freedom from Employer Intimidation Act.”

(b) As used in this section, the following definitions apply:

(1) “Employee” means any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

(2) “Employer” means any individual, partnership, association, corporation, or any agent, representative, designee, or person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer’s consent and shall include all branches of state government, or the several counties, cities and counties, and municipalities thereof, or any other political subdivision of the state, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.

(3) “Political matters” means matters relating to elections for political office, political parties, legislation, regulation, and the decision to join or support any political party or political or labor organization.

(4) “Religious matters” means matters relating to religious affiliation and practice and the decision to join or support any religious organization or association.

(c) An employer, except as provided in subdivisions (g) and (h), shall not subject, or threaten to subject, an employee to discharge, discrimination, retaliation, or any other adverse action because the employee declines to attend an employer-sponsored meeting or affirmatively declines to participate in, receive, or listen to any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer’s opinion about religious or political matters. An employee who is working at the time of the meeting and elects not to attend a meeting described in this subdivision shall continue to be paid while the meeting is held.

(d) In addition to any other remedy, an employer who violates this section shall be subject to a civil penalty of five hundred dollars (\$500) per employee for each violation.

(e) The Labor Commissioner may enforce this section, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate a violation or maintain the status quo pending the completion of a full investigation or hearing through the procedures set forth in Section 98.3, 98.7, 98.74, or 1197.1, including issuing a citation against an employer who violates this section and filing a civil action. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations

and civil penalties issued by the Labor Commissioner shall be the same as those set out in Section 98.74 or 1197.1, as applicable.

(f) (1) Alternatively to subdivision (e), any employee who has suffered a violation of subdivision (c) may bring a civil action in a court of competent jurisdiction for damages caused by that adverse action, including punitive damages.

(2) In any civil action brought pursuant to paragraph (1), an employee or their exclusive representative may petition the superior court in any county wherein the violation in question is alleged to have occurred, or wherein the person resides or transacts business, for appropriate temporary or preliminary injunctive relief.

(g) This section does not prohibit any of the following:

(1) An employer from communicating to its employees any information that the employer is required by law to communicate, but only to the extent of that legal requirement.

(2) An employer from communicating to its employees any information that is necessary for those employees to perform their job duties.

(3) An institution of higher education, or any agent, representative, or designee of that institution, from meeting with or participating in any communications with its employees that are part of coursework, any symposia, or an academic program at that institution.

(4) An employer that is a public entity from communicating to its employees any information related to a policy of the public entity or any law or regulation that the public entity is responsible for administering.

(h) This section does not apply to any of the following:

(1) A religious corporation, entity, association, educational institution, or society that is exempt from the requirements of Title VII of the Civil Rights Act of 1964 (Public Law 88-352) pursuant to 42 U.S.C. 2000e-1(a) or is exempt from employment discrimination protections of state law, including, but not limited to, subdivision (d) of Section 12926 of the Government Code, except as provided in Section 12926.2 of the Government Code, and subdivision (d) of Section 98.6 of the Labor Code, with respect to speech on religious matters to employees who perform work connected with the activities undertaken by that religious corporation, entity, association, educational institution, or society.

(2) A political organization or party requiring its employees to attend an employer-sponsored meeting or to participate in any communications with the employer or its agents or representatives, the purpose of which is to communicate the employer's political tenets or purposes.

(3) An educational institution requiring a student or instructor to attend lectures on political or religious matters that are part of the regular coursework at the institution.

(4) A nonprofit, tax-exempt training program requiring a student or instructor to attend classroom instruction, complete fieldwork, or perform community service hours on political or religious matters as it relates to the mission of the training program or sponsor.

(5) An employer requiring employees to undergo training to comply with the employer's legal obligations, including obligations under civil rights laws and occupational safety and health laws.

(6) A public employer holding a new employee orientation, as defined in Section 3555.5 of the Government Code, or a provider holding an orientation as described in Section 12301.24 of the Welfare and Institutions Code.

(i) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.