

AMENDED IN SENATE JULY 8, 2020
AMENDED IN ASSEMBLY JUNE 10, 2020
AMENDED IN ASSEMBLY JUNE 4, 2020
AMENDED IN ASSEMBLY MAY 11, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2043

**Introduced by Assembly Members Robert Rivas, Eduardo Garcia,
and Gonzalez
(Principal coauthor: Assembly Member Kalra)
(Coauthor: Assembly Member Bonta)**

February 3, 2020

An act to add and repeal Section 6725 of the Labor Code, relating to ~~employment~~, *employment*, and *declaring the urgency thereof, to take effect immediately*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2043, as amended, Robert Rivas. Occupational safety and health: agricultural employers and employees: COVID-19 response.

Existing law, the California Occupational Safety and Health Act of 1973, provides the Division of Occupational Safety and Health within the Department of Industrial Relations with the power, jurisdiction, and supervision over all employment and places of employment necessary to enforce and administer all occupational health and safety laws and standards and to protect employees. Under the act, the Occupational Safety and Health Standards Board within the division is authorized to adopt, amend, or repeal occupational safety and health standards and orders. ~~The act requires an employer to, among other things, provide~~

safety devices and safeguards reasonably adequate to render the place of employment safe. A violation of the act under specific circumstances is a crime.

This bill would require the division to ~~disseminate to agricultural employers~~ *disseminate, in both English and Spanish*, information on best practices for COVID-19 infection ~~prevention~~, *prevention, as specified*, consistent with the ~~guidance documents disseminated by the division, either on its own or in coordination with another state agency;~~ *Guidance Documents available on the division's internet website*, including, but not limited to, the ~~guidance document~~ *Guidance Document* entitled, "Cal/OSHA Safety and Health Guidance: COVID-19 Infection Prevention for Agricultural Employers and Employees." ~~The bill would require the division to disseminate this information commencing on January 1, 2021, and whenever the guidance documents are updated, in both English and Spanish. The bill would also require the division or its designee to work collaboratively with community organizations and organizations representing employees and employers to conduct a targeted statewide outreach campaign, including targeted at agricultural employees, to assist with the statewide dissemination of the best practices information and to educate employees on any COVID-19-related employment benefits to which they are entitled, including access to paid sick leave and workers' compensation. The bill would require the campaign to include public service announcements on local Spanish radio stations and the distribution of workplace signs. The bill would require agricultural employers to implement the provisions of the guidance documents as they are put forth and updated by the division. The bill would require the division to propose to the standards board for its review and adoption emergency standards for COVID-19 infection prevention, as specified, applicable to agricultural employers and employees, as defined, and would authorize the standards board to adopt emergency regulations to implement these provisions. the division each month to compile and report, via its internet website, information relating to complaints involving a workplace of agricultural employees, any investigation by the division of those workplaces, and the findings or result of any investigation, as specified.~~ The bill would repeal these provisions when the state of emergency has been terminated by proclamation of the Governor or by concurrent resolution of the Legislature, ~~as specified; or on January 1, 2022, whichever is later.~~ By expanding the definition of an existing crime, this bill would impose a state-mandated local

~~program. specified. The bill would also direct the division to enforce the Guidance Documents to the extent any specific Guidance Document applies to any specific workplace and to the extent the division has existing regulatory authority.~~

~~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.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. The California Legislature directs the Division
2 of Occupational Safety and Health, within the Department of
3 Industrial Relations, to enforce Guidance Documents as defined
4 in Section 6725 of the Labor Code to the extent any specific
5 Guidance Document applies to any specific workplace and to the
6 extent the division has authority under Title 8 of the California
7 Code of Regulations.

8 ~~SECTION 1.~~

9 SEC. 2. Section 6725 is added to the Labor Code, to read:

10 6725. (a) For purposes of this section, the following terms
11 have the following meanings:

12 (1) The term “agricultural employee” means a person employed
13 in any of the following:

14 (A) An agricultural occupation, as defined in Wage Order No.
15 14 of the Industrial Welfare Commission.

16 (B) An industry preparing agricultural products for the market,
17 on the farm, as defined in Wage Order No. 13 of the Industrial
18 Welfare Commission.

19 (C) An industry handling products after harvest, as defined in
20 Wage Order No. 8 of the Industrial Welfare Commission.

21 (2) ~~“Guidance documents”~~ Documents” means the documents
22 ~~disseminated by the division, either on its own or in coordination~~
23 ~~with another state agency, pertaining to novel coronavirus~~
24 ~~(COVID-19) infection prevention for agricultural employees,~~

~~including the following documents:~~ *following documents available on the division's internet website:*

(A) Cal/OSHA Interim General Guidelines on Protecting Workers from COVID-19.

(B) Cal/OSHA Safety and Health Guidance: COVID-19 Infection Prevention for Agricultural Employers and Employees.

(C) COVID-19 Industry Guidance: Food Packing and Processing, issued by the division, the State Department of Public Health, and the Department of Food and Agriculture.

(D) COVID-19 Industry Guidance: Agriculture and Livestock, issued by the division, the State Department of Public Health, and the Department of Food and Agriculture.

(E) *Any other guidance or guidelines made available on the division's internet website pertaining to novel coronavirus (COVID-19) infection prevention for agricultural employees.*

~~(b) The Commencing on the effective date of this section, the division shall disseminate~~ *disseminate, in both English and Spanish, information on best practices for COVID-19 infection prevention, consistent with the guidance documents, to agricultural employers commencing on January 1, 2021, and whenever the guidance documents are updated, in both English and Spanish. The division or its designee, Guidance Documents. The information shall be designed to be easily understood by agricultural employees from a variety of ethnic and cultural backgrounds, including by using pictograms. The information shall, where possible, provide contact information for the division that employees can use to report workplace safety complaints. The information shall be made widely and easily accessible, including in both digital and physical formats and via the division's internet website.*

~~(c) The division, working collaboratively with community organizations, organizations and organizations representing employees and employers, shall conduct a targeted statewide outreach campaign, including, but not targeted at agricultural employees, to assist with the statewide dissemination of the best practices information described in subdivision (b) and to educate employees on any COVID-19-related employment benefits to which they are entitled, including access to paid sick leave and workers' compensation. The campaign shall include, but shall not be limited to, public service announcements on local Spanish radio stations and the distribution of workplace signs.~~

1 ~~(e) Agricultural employers shall implement the provisions of~~
2 ~~the guidance documents as they are put forth and updated by the~~
3 ~~division.~~

4 ~~(d) (1) The division shall propose to the Occupational Safety~~
5 ~~and Health Standards Board for the board's review and adoption~~
6 ~~emergency standards for COVID-19 infection prevention applicable~~
7 ~~to agricultural employers and employees. The standards shall~~
8 ~~include, but shall not be limited to, sanitation practices, personal~~
9 ~~protective equipment, and physical distancing requirements. The~~
10 ~~standards shall be at least as effective as the requirements included~~
11 ~~in the guidance documents.~~

12 ~~(2) The standards board may adopt regulations to implement~~
13 ~~this subdivision. The adoption, amendment, repeal, or readoption~~
14 ~~of a regulation authorized by this section is deemed to address an~~
15 ~~emergency, for purposes of Sections 11346.1 and 11349.6 of the~~
16 ~~Government Code, and the standards board is hereby exempted~~
17 ~~for this purpose from the requirements of subdivision (b) of Section~~
18 ~~11346.1 of the Government Code.~~

19 ~~(e) Nothing in this section shall prohibit a local government~~
20 ~~from issuing COVID-19 infection prevention guidance that~~
21 ~~provides greater protections for agricultural employees.~~

22 ~~(d) Each month the division shall compile and report, via its~~
23 ~~internet website, statistics and summary descriptive information~~
24 ~~relating to complaints received by the division involving a~~
25 ~~workplace of agricultural employees, any investigation by the~~
26 ~~division of those workplaces, and the findings or result of any~~
27 ~~investigation, including, but not limited to, whether the division's~~
28 ~~response to a complaint involved an onsite inspection or only a~~
29 ~~letter to the employer.~~

30 ~~(f)~~

31 ~~(e) This section shall remain in effect until the state of~~
32 ~~emergency has been terminated by proclamation of the Governor~~
33 ~~or by concurrent resolution of the Legislature declaring it at an~~
34 ~~end, pursuant to Section 8629 of the Government Code, or until~~
35 ~~January 1, 2022, whichever is later, and as of that date is repealed.~~

36 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution because~~
38 ~~the only costs that may be incurred by a local agency or school~~
39 ~~district will be incurred because this act creates a new crime or~~
40 ~~infraction, eliminates a crime or infraction, or changes the penalty~~

1 ~~for a crime or infraction, within the meaning of Section 17556 of~~
2 ~~the Government Code, or changes the definition of a crime within~~
3 ~~the meaning of Section 6 of Article XIII B of the California~~
4 ~~Constitution.~~

5 *SEC. 3. This act is an urgency statute necessary for the*
6 *immediate preservation of the public peace, health, or safety within*
7 *the meaning of Article IV of the California Constitution and shall*
8 *go into immediate effect. The facts constituting the necessity are:*

9 *In order to provide agricultural employees and employers access*
10 *to current safety and health guidelines in response to the novel*
11 *coronavirus (COVID-19) outbreak as soon as possible, it is*
12 *necessary that this measure take effect immediately.*