

**Senate Bill No. 530**

CHAPTER 722

An act to amend Section 12950.1 of the Government Code, and to amend Section 3073.9 of, and to add Chapter 4.3 (commencing with Section 107.5) to Division 1 of, the Labor Code, relating to employment.

[Approved by Governor October 10, 2019. Filed with Secretary of State October 10, 2019.]

legislative counsel's digest

SB 530, Galgiani. Construction industry: discrimination and harassment  
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and working conditions for apprentice agreements in the building and construction trades and for firefighter occupations, and to issue rules and regulations governing equal opportunities in apprenticeship affirmative action programs which include women and minorities in apprenticeship and other on-the-job training, and criteria for selection procedures, as specified.

(3) Existing law prohibits a building and construction trades apprenticeship program from discriminating against an apprentice or applicant for apprenticeship on the basis of certain enumerated categories, including, race, sex, religious creed, or national origin, with regard to acceptance into, or participation in, the program, as specified. Existing law requires the apprenticeship program to develop and implement procedures to ensure that its apprentices are not harassed or discriminated against. Existing law requires the apprenticeship program to provide antiharassment and antidiscrimination training to all apprentices, instructors, and employees of the apprenticeship program, as specified. Existing law authorizes the council to issue rules and regulations as necessary to implement these provisions.

(4) This bill would authorize a building and construction trades apprenticeship program to provide prevention of harassment training programs for journey-level workers, and would require the apprenticeship program to maintain certain records and to issue a certificate of completion to the apprentice or journey-level worker.

(5) This bill would extend to January 1, 2021, the date on which an employer identified in paragraph (1) is required to begin providing training to seasonal, temporary, or other employees hired to work for less than 6 months.

(6) The bill would authorize an employer that employs workers pursuant to a multiemployer collective bargaining agreement in the construction industry to satisfy the el w

online training course. The bill would prohibit an apprenticeship program, a labor management training trust, or a labor management cooperation committee from incurring any liability for providing training and education or for maintaining records pursuant to the above-described provisions. The bill would define terms for these purposes.

(7) This bill would require the Division of Labor Standards Enforcement to develop recommendations for an industry-specific harassment and discrimination prevention policy and training standard for use by employers in the construction industry, as defined. The bill would require the Director of Industrial Relations to convene an advisory committee by March 1, 2020, consisting of specified representatives from the construction industry and state agencies to assist the Division of Labor Standards Enforcement in developing the policy. The bill would require the Division of Labor Standards Enforcement to report to the Legislature by January 1, 2021, with recommendations for a harassment and discrimination prevention policy and training standard for the construction industry and recommendations for legislation to implement such a standard.

and expertise in the prevention of harassment, discrimination, and retaliation. The department shall provide a method for employees who have completed the training to sav

(h) (1) For purposes of this section only, “employer” means any person regularly employing five or more persons or regularly receiving the services of five or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities.

(2) For purposes of this section, “abusive conduct” means conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets,

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a committee that is established pursuant to Section 175a of Title 29 of the United States Code.

(2) For purposes of this subdivision, “multiemployer collective bargaining agreement” means a bona fide collective bargaining agreement to which multiple employers are signatory, including predecessor and successor agreements.

(3) An employer shall require verification that an employee has undergone prevention of harassment training pursuant to this subdivision within the past two years. The employer shall provide prevention of harassment training pursuant to subdivision (a) for any employee for whom verification cannot be obtained.

(4) A state-approved apprenticeship program, labor management training trust, or labor management cooperation committee shall maintain a certificate of completion of training for each person to whom the cate of completj1 d Tw0 Tc21 60 606.053 Tm562retr201m51past twain64m

(6) An apprenticeship program, labor management training trust, or labor management cooperation committee may also provide training by use of the online training courses referenced in subdivision (j).

(7) An apprenticeship program, labor management training trust, or labor management cooperation committee shall not incur any liability for providing prevention of harassment training or for maintaining records pursuant to this subdivision.

SEC. 2. Chapter 4.3 (commencing with Section 107.5) is added to Division 1 of the Labor Code, to read:

#### Chapter 4.3. Discrimination and Harassment Prevention in the Construction Industry

107.5. (a) The Division of Labor Standards Enforcement shall develop recommendations for an industry-specific harassment and discrimination prevention policy and training standard for use by employers in the construction industry. For purposes of this subdivision, “in the construction industry” means performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The training standard shall focus on preventing harassment and discrimination in the construction industry on the basis of sex, race, and national origin, in addition to the other categories protected under Section 12940 of the Government Code.

(b) To assist in developing this standard, the Director of Industrial Relations shall convene an advisory committee to recommend minimum standards for a harassment and discrimination prevention policy and training program specific to the construction industry. The advisory committee shall be composed of representatives from recognized or certified collective bargaining agents that represent construction workers, construction industry employers or employer associations, labor-management groups in the construction industry, nonprofit organizations that represent women in the construction industry, and other related subject matter experts, and shall also include representatives of the Division of Labor Standards Enforcement, the Division of Occupational Safety and Health, and the Department of Fair Employment and Housing. The director shall convene the advisory committee no later than March 1, 2020. The advisory committee shall consider the requirements of Section 12950.1 of the Government Code when developing the recommended minimum standard.

(c) The Division of Labor Standards Enforcement shall provide a report to the Legislature by no later than January 1, 2021, in compliance with Section 9795 of the Government Code, with recommendations for an industry-specific harassment and discrimination prevention policy and training standard for use by employers in the construction industry and

recommendations for legislation that would need to be enacted to implement such a standard.

SEC. 3. Section 3073.9 of the Labor Code is amended to read:

3073.9. (a) No building and construction trades apprenticeship program shall discriminate against any apprentice or applicant for apprenticeship on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age for individuals over forty years of age, military or veteran status, or sexual orientation with regard to all of the following:

- (1) Recruitment, outreach, and selection procedures.
- (2) Hiring or placement, upgrading, periodic advancement, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring.
- (3) Rotation among work processes.
- (4) Imposition of penalties or other disciplinary action.
- (5) Rates of pay or any other form of compensation and changes in compensation.
- (6) Conditions of work.
- (7) Hours of work and hours of training provided.
- (8) Job assignments.
- (9) Leaves of absence, sick leave, or any other leave.
- (10) Any other benefit, term, condition, or privilege associated with apprenticeship.

(b) In implementing this section, the division and the Administrator of Apprenticeship shall look to the legal standards, defenses, and exceptions applied under the Fair Employment and Housing Act, its implementing regulations, and any interpretive guidance issued by the Department of Fair Employment and Housing in determining whether a building and construction trades apprenticeship program has engaged in a practice prohibited by subdivision (a).

(c) Each building and construction trades apprenticeship program shall take affirmative steps to provide equal opportunity in apprenticeship, including:

(1) The apprenticeship program shall designate one or more individuals with appropriate authority under the program, such as an apprenticeship coordinator, to be responsible and accountable for overseeing the program's commitment to equal opportunity in apprenticeship. The designees shall have the resources of, support of, and access to, the apprenticeship program leadership, to ensure effective implementation. The designees will be responsible for all of the following:

- (A) Monitoring all apprenticeship activity to ensure compliance with the nondiscrimination obligations required by this section.
  - (B) Maintaining records required under this section.
  - (C) Generating and submitting reports as may be required by the division.
- (2) The apprenticeship program shall inform all applicants for apprenticeship, apprentices, instructors, and employees of the apprenticeship



program of its commitment to equal opportunity. The apprenticeship program shall require that apprentices, instructors, and employees of the apprenticeship program take the necessary action to aid the apprenticeship program in meeting its nondiscrimination obligations under this section. The apprenticeship program, at a minimum, shall do all of the following:

(A) Publish its equal opportunity pledge set forth in subdivision (c) in the program's apprenticeship standards, and in appropriate publications, such as apprentice and employee handbooks, policy manuals, newsletters, or other documents disseminated by the apprenticeship program that otherwise describe the nature of the program.

(B) Post its equal opportunity pledge set forth in subdivision (c) on bulletin boards, including through electronic media, such that it is accessible to apprentices and applicants for apprenticeship.

(C) Conduct orientation and periodic information sessions for apprentices, instructors, and employees of the apprenticeship program to inform and remind such individuals of the apprenticeship program's equal employment opportunity policy, and to provide the training required by subparagraph (A) of paragraph (4).

(D) Provide annual notice to any contractor that employs apprentices of the apprenticeship program's commitment to equal opportunity and the contractor's obligation to ensure that apprentices it employs are not harassed or discriminated against on any of the bases described in subdivision (a).

(E) Maintain records necessary to demonstrate compliance with these requirements, including records of complaints, and make them available to the Division of Apprenticeship Standards upon request.

(3) The apprenticeship program shall implement measures to ensure that its outreach and recruitment efforts for apprentices extend to all persons available for apprenticeship within the apprenticeship program's relevant recruitment area without regard to the characteristics described in subdivision (a).

(4) The apprenticeship program shall develop and implement procedures to ensure that its apprentices are not harassed or discriminated against on any of the bases described in subdivision (a), and to ensure that its apprenticeship program is free from intimidation and retaliation. To promote an environment in which all apprentices feel safe, welcomed, and treated fairly, the apprenticeship program shall ensure all of the following steps are taken:

(A) Providing antiharassment and antidiscrimination training to all apprentices, instructors, and employees of the apprenticeship program. This training shall not be a mere transmittal of information, but shall include participation by trainees, such as attending a training session in person or completing interactive training online. The training content shall include, at a minimum, communication of the following:

(i) That discriminatory or harassing conduct will not be tolerated.

(ii) The definition of discrimination and harassment and the types of conduct that constitute unlawful discrimination and harassment.

(iii) The complaint procedures established by the apprenticeship program as described in subparagraph (C).

(iv) The procedure for filing a complaint with the Administrator of Apprenticeship pursuant to Section 201 of Title 8 of the California Code of Regulations.

(B) Making all facilities and apprenticeship activities available without regard to the characteristics described in subdivision (a) of this section except that if the apprenticeship program provides restrooms or changing facilities, the apprenticeship program may provide separate or all-gender toilets and changing facilities, provided that all individuals have equal access to facilities consistent with their gender identity.

(C) Establishing and implementing procedures for handling and resolving internal complaints about harassment or discrimination, including, but not limited to, the following:

(i) Designation of an individual or individuals responsible to receive complaints by apprentices of harassment or discrimination.

(ii) Procedures for prompt, thorough, and impartial investigation of complaints.

(iii) Procedures to protect the confidentiality of complaints to the extent possible and consistent with law.

(iv) Policies for immediate and appropriate corrective action when the program determines that harassment or discrimination has occurred, including policies for denying the dispatch of apprentices to, or revoking the training certification of, contractors that have been found by the apprenticeship program to have engaged in or permitted harassment of or discrimination against apprentices.

(v) Protections against retaliation for apprentices who haProtections agee3ent or discrimination.

or journey-level worker attendance, and shall issue a certificate of completion to the apprentice or journey-level worker.

(g) The California Apprenticeship Council may issue rules and regulations as necessary to implement this section, including about what records apprenticeship programs shall maintain to demonstrate compliance with the requirements of this section. The division shall comply with the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) (1) Existing registered b