

AMENDED IN ASSEMBLY MAY 3, 2017
AMENDED IN ASSEMBLY APRIL 24, 2017
AMENDED IN ASSEMBLY MARCH 22, 2017
AMENDED IN ASSEMBLY MARCH 8, 2017
AMENDED IN ASSEMBLY FEBRUARY 14, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 263

**Introduced by Assembly Member Rodriguez
(Coauthors: Assembly Members Bocanegra, Kalra, and Thurmond)**

January 31, 2017

An act to add Section 1797.123 to the Health and Safety Code, and to add Sections 226.9 and 226.10 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 263, as amended, Rodriguez. Emergency medical services workers: rights and working conditions.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical service systems and plans and establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state activities concerning emergency medical services. Existing law provides that emergency medical personnel have specified due process rights when they are subject to suspension or termination for disciplinary cause or reason, as defined.

Existing law prohibits an employer from requiring an employee to work during a meal or rest or recovery period mandated by an applicable statute, or an applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

This bill would require an employer that provides emergency medical services as part of an emergency medical services system or plan to authorize and permit its employees engaged in prehospital emergency services to take prescribed rest periods. This bill also would require the employer to provide these employees with prescribed meal periods.

Existing law establishes the Occupational Safety and Health Standards Board within the Department of Industrial Relations, and authorizes the board to adopt, amend, or repeal occupational safety and health standards and orders. Existing law, the California Occupational Safety and Health Act of 1973, requires the standards board to adopt standards developed by the Division of Occupational Safety and Health that require specified licensed hospitals to adopt a workplace violence prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior, but prohibits this provision from being interpreted to preclude the standards board from adopting standards that require other employers to adopt plans to protect employees from workplace violence, including workplace violence prevention plans that include elements or requirements additional to, or broader in scope than, those described in the provision.

This bill would require an EMS provider, as defined, to send the information contained in the violent incident log it is required to maintain under a specified regulation to the Emergency Medical Services Authority. The bill would require the authority, on or before January 1, 2019, and annually thereafter, to post a report on its Internet Web site containing this information. The bill would prohibit these provisions from altering or amending the existing reporting and recordkeeping requirements of EMS providers imposed by the specified regulation.

The bill would exempt certain public employers from these provisions.

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 1797.123 is added to the Health and
- 2 Safety Code, to read:

1 1797.123. (a) An EMS provider shall send to the authority the
2 information that the EMS provider is required to record in its
3 violent incident log pursuant to subdivision (d) of Section 3342
4 of Title 8 of the California Code of Regulations, as it existed on
5 April 1, 2017.

6 (b) On or before January 1, 2019, and annually thereafter, the
7 authority, in a manner that protects patient and employee
8 confidentiality, shall post a report on its Internet Web site
9 containing the information it received in the previous calendar
10 year pursuant to subdivision (a).

11 (c) For purposes of this section, “EMS provider” means an
12 employer that provides prehospital emergency medical services
13 as part of an emergency medical services system or plan but shall
14 not include the state or any political subdivision thereof, including
15 any city, county, or special district, in its capacity as the direct
16 employer of an EMS employee.

17 (d) Nothing in this section shall alter or amend existing reporting
18 and recordkeeping requirements of EMS providers required by
19 Section 3342 of Title 8 of the California Code of Regulations, as
20 it existed on April 1, 2017.

21 SEC. 2. Section 226.9 is added to the Labor Code, to read:

22 226.9. (a) An employer that provides emergency medical
23 services as part of an emergency medical services system or plan,
24 as defined in Division 2.5 (commencing with Section 1797) of the
25 Health and Safety Code, shall authorize and permit its employees
26 engaged in prehospital emergency services to take rest periods,
27 which, to the extent practicable, shall be in the middle of each
28 work period. The duration of the authorized rest period shall be
29 based on the total hours worked daily at the rate of 10 minutes net
30 rest time per four hours or major fraction thereof. However, a rest
31 period need not be authorized for an employee whose total daily
32 work time is less than three and one-half hours. Authorized rest
33 period time shall be counted as hours worked for which there shall
34 be no deduction from wages.

35 (b) During the authorized rest period set forth in subdivision
36 (a), an employer shall relieve an employee of all duties and
37 relinquish control over how the employee spends his or her time,
38 ~~and shall not require that the employee remain on call.~~ *except that*
39 *an employer may require employees to monitor pagers, radios,*
40 *station alert boxes, intercoms, cellular telephones, or other*

1 *communication methods during rest or recovery periods, to provide*
 2 *for the public health and welfare.*

3 (c) (1) An employer may interrupt a rest period under this
 4 section requiring an employee to terminate a rest period and resume
 5 work if either of the following occur:

6 (A) The employer receives an emergency call in response to
 7 which the operators of the emergency vehicle in which the
 8 employee works would sound a siren and make visible the vehicle’s
 9 emergency lights.

10 (B) An unforeseeable, natural, or man-made disaster.

11 (2) In the event that a rest period is interrupted pursuant to
 12 paragraph (1), the employer shall pay the employee one hour of
 13 pay at the employee’s regular rate of compensation for each
 14 workday during which the rest period is interrupted, and shall
 15 provide an equivalent rest period as soon as practicable thereafter
 16 during the employee’s shift.

17 (d) An employer described in subdivision (a) shall include, as
 18 part of the itemized statement the employer is required to furnish
 19 pursuant to subdivision (a) of Section 226, the total hours or pay
 20 owed to the employee on account of an interrupted rest period as
 21 set forth in subdivision (c), as well as the total hours or pay owed
 22 to the employee on account of a rest period missed for any other
 23 reason.

24 (e) This section shall not apply to employees directly employed
 25 by the state or any political subdivision thereof, including any city,
 26 county, or special district.

27 SEC. 3. Section 226.10 is added to the Labor Code, to read:

28 226.10. (a) An employer that provides emergency medical
 29 services as part of an emergency medical services system or plan,
 30 as defined in Division 2.5 (commencing with Section 1797) of the
 31 Health and Safety Code, shall provide an employee engaged in
 32 prehospital emergency services for a work period of more than
 33 five hours per day with a meal period of not less than 30 minutes,
 34 except that if the total work period per day of the employee is no
 35 more than six hours, the meal period may be waived by mutual
 36 consent of both the employer and employee.

37 (b) During the meal period set forth in subdivision (a), an
 38 employer ~~must~~ shall relieve an employee of all duties and
 39 relinquish control over how the employee spends his or her time,
 40 ~~and shall not require that the employee remain on call. except that~~

1 *an employer may require employees to monitor pagers, radios,*
2 *station alert boxes, intercoms, cellular telephones, or other*
3 *communication methods during rest or recovery periods, to provide*
4 *for the public health and welfare.*

5 (c) (1) An employer may interrupt a meal period under this
6 section requiring an employee to terminate a meal period and
7 resume work if either of the following occurs:

8 (A) The employer receives an emergency call in response to
9 which the operators of the emergency vehicle in which the
10 employee works would sound a siren and make visible the vehicle's
11 emergency lights.

12 (B) An unforeseeable, natural, or man-made disaster.

13 (2) In the event that a meal period is interrupted pursuant to
14 paragraph (1), the employer shall pay the employee one hour of
15 pay at the employee's regular rate of compensation for each
16 workday during which the ~~rest~~ meal period is interrupted, and shall
17 provide an equivalent meal period as soon as practicable thereafter
18 during the employee's shift. This subdivision shall apply regardless
19 of whether the employee and employer have entered into a written
20 agreement regarding an "on duty" meal period described in
21 paragraph (C) of Section 11 of Wage Order 9 of the Industrial
22 Welfare Commission (8 Cal. Code Regs. 11090).

23 (d) An employer described in subdivision (a) shall keep accurate
24 time records showing when an employee begins and ends each
25 meal period regardless of whether the period is interrupted. The
26 records shall be available for inspection by the employee upon
27 reasonable request.

28 (e) An employer described in subdivision (a) shall include, as
29 part of the itemized statement the employer is required to furnish
30 pursuant to subdivision (a) of Section 226, the total hours or pay
31 owed to the employee on account of an interrupted meal period as
32 set forth in subdivision (c), as well as the total hours or pay owed
33 to the employee on account of a meal period missed for any other
34 reason.

35 (f) This section shall not apply to employees directly employed
36 by the state or any political subdivision thereof, including any city,
37 county, or special district.

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