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AB-2437 Barbering and cosmetology: establishments: posting notice. (2015-2016)

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Assembly Bill No. 2437

CHAPTER 357

An act to add Section 7353.4 to the Business and Professions Code, and to add Section 98.10 to the Labor Code, relating to barbering and cosmetology.

[Approved by Governor September 14, 2016. Filed with Secretary of State September 14, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2437, Ting. Barbering and cosmetology: establishments: posting notice.

(1) The Barbering and Cosmetology Act provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. That act requires the board to inspect an establishment within 90 days after issuing the establishment a license and requires the board to maintain a program of random and targeted inspections of establishments, as specified. A violation of the Barbering and Cosmetology Act is a misdemeanor unless a specific penalty is otherwise provided.

This bill would require, on and after July 1, 2017, an establishment licensed by the board to post a notice in English, Spanish, Vietnamese, and Korean regarding workplace rights and wage and hour laws, as described in paragraph (2), in a conspicuous location in clear view of employees and where similar notices are customarily posted. The bill would require the board to inspect an establishment for compliance with that requirement when it conducts the above-mentioned inspection, and would provide that a violation of that posting requirement is punishable as an administrative fine.

(2) Existing law creates the Division of Labor Standards Enforcement within the Department of Industrial Relations, and vests the division with the general duty of enforcing labor laws, including those relating to wage claims and employer retaliation. Existing law provides that the Labor Commissioner is the Chief of the Division of Labor Standards Enforcement.

This bill would require the Labor Commissioner, on or before June 1, 2017, to create a model posting notice in English, Spanish, Vietnamese, and Korean pertaining to the workplace rights and wage and hour laws for employees of establishments licensed under the Barbering and Cosmetology Act. The bill would require the model posting notice to be developed using plain language and would require the commissioner to post the notice in all of the specified languages on the commissioner's Internet Web site, as specified. The bill would require the notice to contain, at a minimum, certain information, including laws regarding overtime compensation. The bill would require the model notice to be translated into specified languages.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7353.4 is added to the Business and Professions Code, to read:

7353.4. (a) On and after July 1, 2017, an establishment licensed by the board shall, upon availability of the posting notice developed by the Labor Commissioner pursuant to Section 98.10 of the Labor Code, post that notice in a manner that complies with the requirements of Section 98.10 of the Labor Code in a conspicuous location in clear view of employees and where similar notices are customarily posted. The notice shall be posted in English, Spanish, Vietnamese, and Korean.

(b) The board shall inspect for compliance with this posting requirement when it conducts an inspection pursuant to Section 7353.

(c) A violation of this section shall be punished by an administrative fine established pursuant to Section 7407 and shall not be punished as a misdemeanor under Section 7404.1.

SEC. 2. Section 98.10 is added to the Labor Code, immediately following Section 98.9, to read:

98.10. (a) On or before June 1, 2017, the Labor Commissioner shall develop a model notice pertaining to workplace rights and wage and hour laws for employees of establishments licensed under Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code. The model posting notice shall be developed using plain language, and in all languages listed in subdivision (c), and be accessible on the Labor Commissioner's Internet Web site so that it is reasonably accessible to an establishment that must comply with Section 7353.4 of the Business and Professions Code.

(b) The model notice shall include information, including, but not limited to, all of the following:

(1) Misclassification of an employee as an independent contractor.

(2) Wage and hour laws, including, but not limited to, minimum wage, overtime compensation, meal periods, and rest periods.

(3) Tip or gratuity distribution.

(4) How to report violations of the law.

(5) Business expense reimbursement.

(6) Protection from retaliation.

(c) The model notice shall include full text translations in Spanish, Vietnamese, and Korean.