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SB-490 Wages: Barbering and Cosmetology Act: licensees. (2017-2018)

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Senate Bill No. 490

CHAPTER 831

An act to add Section 204.11 to the Labor Code, relating to employment.

[Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 490, Bradford. Wages: Barbering and Cosmetology Act: licensees.

Existing law requires, with certain exceptions, that all wages be paid twice during each calendar month on days designated in advance by the employer as the regular paydays and requires the minimum wage for all industries to be \$10. Existing law makes it a crime for any person to willfully refuse to pay wages due and payable after demand has been made. 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, which is within the Department of Consumer Affairs.

This bill would require commission wages paid to any employee who is licensed under the Barbering and Cosmetology Act to be due and payable at least twice during each calendar month on a day designated in advance by the employer as the regular payday and would authorize the employee and employer to agree to a commission in addition to the base hourly rate. The bill would provide that commission wages are wages paid to an employee who is licensed under that act for providing services for which a license is required when paid as a percentage or a flat sum portion of the sums paid to the employee by the client receiving the service, and for selling goods, provided that the employee is paid a regular base hourly rate of at least 2 times the state minimum wage rate in addition to commissions paid. The bill would specify that the employee may be compensated for rest and recovery periods at a rate of pay not less than the employee's regular base hourly rate. By expanding the scope of an existing crime, this bill would result in a state-mandated local program.

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.

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

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

SECTION 1. Section 204.11 is added to the Labor Code, to read:

204.11. Commission wages paid to any employee who is licensed pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code) are due and payable at least twice during each calendar month on a day designated in advance by the employer as the regular payday. For any employee who is licensed

pursuant to the Barbering and Cosmetology Act (Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code), wages that are paid to that employee for providing services for which such a license is required, when paid as a percentage or a flat sum portion of the sums paid to the employer by the client recipient of such service, and for selling goods, constitute commissions, provided that the employee is paid, in every pay period in which hours are worked, a regular base hourly rate of at least two times the state minimum wage rate for all hours worked in addition to commissions paid. The employee and employer may agree to a commission in addition to the base hourly rate. An employee may be compensated for rest and recovery periods at a rate of pay not less than the employee's regular base hourly rate. Nothing in this section shall be interpreted to limit any rights or remedies otherwise available under state or federal law, including the right to overtime compensation.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.