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AB-1607 Gender discrimination: notification. (2019-2020)

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Assembly Bill No. 1607

CHAPTER 293

An act to amend Sections 51.6 and 55.63 of the Civil Code, relating to civil rights.

[Approved by Governor September 12, 2019. Filed with Secretary of State September 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, Boerner Horvath. Gender discrimination: notification.

Existing law prohibits a business establishment from discriminating against a person because of the person's gender with respect to the price charged for services of similar or like kind. Existing law also requires specified business establishments to disclose in writing the pricing for each standard service, as defined, to display, in a specified manner, a sign stating that it is illegal to base pricing on gender and that a complete price list is available upon request, and to display, in a specified manner, a price list, and to provide the customer with a copy of the complete price list upon request. Existing law requires the Department of Consumer Affairs to develop a pamphlet or other informational materials to explain a business establishment's rights and obligations under these provisions. Existing law requires the department to provide the pamphlet or other informational materials to affected business establishments at specified times and to make the pamphlet or other informational materials available on the department's internet website.

This bill would, commencing January 1, 2021, require a city, county, or city and county that issues local business licenses to provide written notification in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean of the above provisions to the licensee at the time the business license is issued or renewed. The bill would declare that it addresses a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities. By requiring local agencies to comply with these requirements, this bill would impose a state-mandated local program.

The bill would require the Department of Consumer Affairs to develop, by October 1, 2020, a written notification of the above provisions in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean and would require the notification to be available for download from the department's internet website. The bill would authorize a city, county, or city and county to provide the department's written notification to a business and to increase the fee for a business license to cover the reasonable cost of providing the notice. The bill would, commencing October 1, 2020, require the department to provide the pamphlet and other informational materials in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The bill would require the department to subsequently revise the pamphlet and notice, as necessary.

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 51.6 of the Civil Code is amended to read:

51.6. (a) This section shall be known, and may be cited, as the Gender Tax Repeal Act of 1995.

(b) No business establishment of any kind whatsoever may discriminate, with respect to the price charged for services of similar or like kind, against a person because of the person's gender.

(c) Nothing in subdivision (b) prohibits price differences based specifically upon the amount of time, difficulty, or cost of providing the services.

(d) Except as provided in subdivision (f), the remedies for a violation of this section are the remedies provided in subdivision (a) of Section 52. However, an action under this section is independent of any other remedy or procedure that may be available to an aggrieved party.

(e) This act does not alter or affect the provisions of the Health and Safety Code, the Insurance Code, or other laws that govern health care service plan or insurer underwriting or rating practices.

(f) (1) The following business establishments shall clearly and conspicuously disclose to the customer in writing the pricing for each standard service provided:

(A) Tailors or businesses providing aftermarket clothing alterations.

(B) Barbers or hair salons.

(C) Dry cleaners and laundries providing services to individuals.

(2) The price list shall be posted in an area conspicuous to customers. Posted price lists shall be in no less than 14-point boldface type and clearly and completely display pricing for every standard service offered by the business under paragraph (1).

(3) The business establishment shall provide the customer with a complete written price list upon request.

(4) The business establishment shall display in a conspicuous place at least one clearly visible sign, printed in no less than 24-point boldface type, which reads: "CALIFORNIA LAW PROHIBITS ANY BUSINESS ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."

(5) A business establishment that fails to correct a violation of this subdivision within 30 days of receiving written notice of the violation is liable for a civil penalty of one thousand dollars (\$1,000).

(6) For the purposes of this subdivision, "standard service" means the 15 most frequently requested services provided by the business.

(g) (1) Commencing January 1, 2021, a city, county, or city and county that issues business licenses shall provide a business, at the time the business is issued the license or when the license is renewed, written notice of these provisions in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. In order to comply with this paragraph, a city, county, or city and county may provide the business with the notice created by the Department of Consumer Affairs under subdivision (b) of Section 55.63.

(2) A city, county, or city and county that issues business licenses may increase the fee for that license in an amount not to exceed the reasonable costs of providing the written notice above.

(h) The Legislature finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

SEC. 2. Section 55.63 of the Civil Code is amended to read:

55.63. (a) (1) On or before January 1, 2019, the Department of Consumer Affairs shall develop a pamphlet or other informational materials for use by the following business establishments: tailors and businesses providing aftermarket clothing alterations; barbers and hair salons; and dry cleaners and laundries providing services to individuals. The pamphlet shall explain the business' rights and obligations under Section 51.6 in clear and concise language. Specifically, the pamphlet shall explain that the business is prohibited from charging different prices for services of similar or like kind based on the customer's gender, unless the

price difference is based upon the amount of time, difficulty, or cost of providing the services and that the business shall disclose a price list and sign in the manner prescribed in subdivision (f) of Section 51.6. The pamphlet shall explain that a business has 30 days to correct any violation of the posting requirements in subdivision (f) of Section 51.6 and that a business that fails to correct within 30 days of receiving notice of the violation is liable for a civil penalty of one thousand dollars (\$1,000). The department may include any other information that would help the business comply with Section 51.6. The department shall subsequently revise the pamphlet, as necessary.

(2) The department shall provide the pamphlet or other informational materials required by paragraph (1) to an affected business establishment at the time that the business establishment applies for or renews a license, at the time of any inspection, or at both times. The department shall post a copy of the pamphlet or other informational materials on its internet website.

(3) Commencing October 1, 2020, the department shall provide the pamphlet and other informational materials required by paragraph (1) in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(b) By October 1, 2020, the department shall develop a written notice explaining the requirements and obligations specified in Section 51.6. The notice shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean. The department shall post a copy of the notice in each language on its internet website in a format available for download. The department shall subsequently revise the notice, as necessary.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.