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AB-2588 Educational programs and training: costs: employees and applicants providing direct patient care. (2019-2020)

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Assembly Bill No. 2588

CHAPTER 351

An act to add Section 2802.1 to the Labor Code, relating to employment.

[Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2588, Kalra. Educational programs and training: costs: employees and applicants providing direct patient care.

Existing law requires an employer to indemnify the employer's employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of the employee's duties, or of the employee's obedience to the employer's directions, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

This bill would provide that the expense or cost of any employer-provided or employer-required educational program or training, as defined, for an employee providing direct patient care or an applicant for direct patient care employment constitutes a necessary expenditure or loss incurred by the employee in direct consequence of the discharge of the employee's duties. The bill would make these provisions only applicable to applicants for employment and employees providing direct patient care for an employer for a general acute care hospital, as defined. The bill would prohibit an employer, or any person acting on behalf of the employer, from retaliating against an applicant for employment or employee for refusing to enter into a contract or agreement that violates these provisions. The bill would require a court to award a prevailing plaintiff in any action brought pursuant to these provisions reasonable attorney's fees and costs. The bill would state that the above provisions are declaratory of and clarify existing law with respect to employer-required training for employees.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Labor Code requires all employers to pay for costs necessary for workers to perform their job duties and costs incurred because they followed the directions of their employer.

(b) It is important to protect applicants for employment from employers that are imposing these costs on those applicants to avoid complying with California labor law.

(c) The state should make it unlawful for applicants for employment that provide or seek to provide direct patient care to incur the cost for required educational programs or training.

SEC. 2. Section 2802.1 is added to the Labor Code, to read:

2802.1. (a) (1) Section 2802 applies to any expense or cost of any employer-provided or employer-required educational program or training for an employee providing direct patient care or an applicant for direct patient care employment. Those expenses or costs shall constitute a necessary expenditure or loss incurred by the employee in direct consequence of the discharge of the employee's duties, as that phrase is used in Section 2802.

(2) For purposes of this section, "employer-provided or employer-required educational program or training" includes, but is not limited to, residencies, orientations, or competency validations necessary for direct patient care employment. "Employer-provided or employer-required educational program or training" does not include either of the following:

(A) Requirements for a license, registration, or certification necessary to legally practice in a specific employee classification to provide direct patient care.

(B) Education or training that is voluntarily undertaken by the employee or applicant solely at their discretion.

(b) An employer, or any person acting on behalf of the employer, shall not retaliate against an applicant for employment or employee for refusing to enter into a contract or agreement that violates subdivision (a).

(c) This section shall only apply to applicants for employment and employees providing direct patient care for an employer for a "general acute care hospital," as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(d) In addition to injunctive relief and any other remedies available, a court shall award, in any action brought pursuant to this section, a prevailing plaintiff reasonable attorney's fees and costs.

(e) This section is declaratory of and clarifies existing law with respect to employer-required training for employees.