

JANITORIAL TRAILER BILL LANGUAGE

Section 1420 of the Labor Code is amended to read:

For purposes of this part:

(a)(1) "Covered worker" means a janitor, including any individual predominantly working, whether as an employee, independent contractor, or franchisee, as a janitor, as that term is defined in the Service Contract Act Directory of Occupations maintained by the United States Department of Labor.

(2) "Covered worker" does not include any individual whose work duties are predominantly final cleanup of debris, grounds, and buildings near the completion of a construction, alteration, demolition, installation, or repair work project, including, but not limited to, street cleaners.

(b) "Current and valid registration" means an active registration pursuant to this part that is not expired or revoked.

(c) "Department" means the Department of Industrial Relations.

(d) "Director" means the Director of Industrial Relations.

(e)(1) "Employer" means any person or entity that employs at least one **employee and covered worker or otherwise engages by contract, subcontract, or franchise agreement for the provision of janitorial services by** one or more covered workers ~~and that enters into contracts, subcontracts, or franchise arrangements to provide janitorial services~~. The term "employer" includes the term "covered successor employer" **but does not include an entity that is the recipient of the janitorial services.**

(2) "Covered successor employer" means an employer who meets one or more of the following criteria:

(A) Uses substantially the same equipment, supervisors, and workforce to offer substantially the same services to substantially the same clients as a predecessor employer, unless the employer maintains the same workforce pursuant to Chapter 4.5 (commencing with Section 1060) of Part 3. In addition, an employer who has operated with a current and valid registration for at least the preceding three years shall not be considered a covered successor employer for using substantially the same equipment, supervisors, and workforce to substantially the same clients, if all of the following apply:

(i) The individuals in the workforce were not referred or supplied for employment by the predecessor employer to the successor employer.

(ii) The successor employer has not had any interest in, or connection with, the operation, ownership, management, or control of the business of the predecessor employer within the preceding three years.

(B) Shares in the ownership, management, control of the workforce, or interrelations of business operations with the predecessor employer.

(C) Is an immediate family member of any owner, partner, officer, licensee, or director of the predecessor employer or of any person who had a financial interest in the predecessor employer. "Immediate family member" means a spouse, parent, sibling, son, daughter, uncle, aunt, niece, nephew, grandparent, grandson, granddaughter, mother-in-law, father-in-law, brother-in-law, sister-in-law, or cousin.

(f) "Commissioner" means the Labor Commissioner of the Division of Labor Standards Enforcement of the department.

(g) "Supervisor" has the same meaning as in subdivision (t) of Section 12926 of the Government Code.

Section 1421 of the Labor Code is amended to read:

Every employer shall keep accurate records for three years, showing all of the following:

(a) The names and addresses of all employees engaged in rendering **actual janitorial** services for any business of the employer.

(b) The hours worked daily by ~~each employee~~ **such employees**, including the times the employee begins and ends each work period.

(c) The wage and wage rate paid each payroll period.

(d) The age of all minor employees.

(e) Any other conditions of employment.

(f) The names, addresses, periods of work, and compensation paid to all other "covered workers" as defined in subdivision (a) of Section 1420.

Section 1428 of the Labor Code is amended to read:

An employer shall not conduct any **janitorial** business without complying with the registration requirements of this part. The commissioner may revoke a registration if he or she finds an employer to be out of compliance with any requirement of this part or to have failed to satisfy any of the conditions of Section 1429.

Section 1429 of the Labor Code is amended to read:

The Division of Labor Standards Enforcement shall not approve the registration of any employer until all of the following conditions are satisfied:

(a) The employer has executed a written application, in a form prescribed by the commissioner and subscribed and sworn to by the employer containing the following:

(1) The name of the business entity and, if applicable, its fictitious or "doing business as" name.

(2) The form of the business entity and, if a corporation, all of the following:

(A) The date of incorporation.

(B) The state in which incorporated.

(C) If a foreign corporation, the date the articles of incorporation were filed with the California Secretary of State.

(D) Whether the corporation is in good standing with the California Secretary of State.

(3) The federal employer identification number (FEIN) and the state employer identification number (SEIN) of the business.

(4) The address of the business and the telephone number and, if applicable, the addresses and telephone numbers of any branch locations.

(5) Whether the application is for a new or renewal registration and, if the application is for a renewal, the prior registration number.

(6) The names, residential addresses, telephone numbers, and social security **or taxpayer identification** numbers of the following persons:

(A) All corporate officers, if the business entity is a corporation.

(B) All persons exercising management responsibility in the applicant's office, regardless of form of business entity.

(C) All persons, except bona fide employees on regular salaries, who have a financial interest of 10 percent or more in the business, regardless of the form of business entity, and the actual percent owned by each of those persons.

(7) The policy number, effective date, expiration date, and name and address of the carrier of the applicant business' current workers' compensation coverage.

(8) (A) Whether the employer and any persons named in response to subparagraph (A), (B), or (C) of paragraph (6) presently:

(i) Owe any unpaid wages.

(ii) Have unpaid judgments outstanding.

(iii) Have any liens or suits pending in court against himself or herself.

(iv) Owe payroll taxes, or personal, partnership, or corporate income taxes, Social Security taxes, or disability insurance.

(B) An applicant who answers affirmatively to any item described in subparagraph (A) shall provide, as part of the application, additional information on the unpaid amounts, including the name and address of the party owed, the amount owed, and any existing payment arrangements.

(9) (A) Whether the employer and any persons named in response to subparagraph (A), (B), or (C) of paragraph (6) have ever been cited or assessed any penalty for violating any provision of this code.

(B) An applicant who answers affirmatively to any item described in subparagraph (A) shall provide additional information, as part of the application, on the date, nature of citation, amount of penalties assessed for each citation, and the disposition of the citation, if any. The application shall describe any appeal filed. If the citation was not appealed, or if it was upheld on appeal, the applicant shall state whether the penalty assessment was paid.

(10) Effective January 1, 2020, all new applications for registration and renewal of registration shall ~~complete~~ **demonstrate completion of** the sexual violence and harassment prevention training requirements prescribed by the division and developed pursuant to Section 1429.5 **by providing a written attestation to the Labor Commissioner that such training has been provided as required.**

(11) Such other information as the commissioner requires for the administration and enforcement of this part.

(b) The employer has paid a registration fee to the Division of Labor Standards Enforcement pursuant to Section 1427.

(c) Notwithstanding any other law, violation of this section shall not be a crime.

Section 1429.5 of the Labor Code is amended to read:

The Division of Labor Standards Enforcement shall establish a biennial in-person sexual violence and harassment prevention training requirement for ~~employees~~**workers** and employers covered by this part by January 1, 2019. **The training shall be consistent with the training requirements of Section 12950.1 of the Government Code, and any subsequent amendments thereto.** To assist in developing these standards, the director shall convene an advisory committee to recommend requirements for a sexual harassment prevention training program. The advisory committee shall be composed of representatives of the Division of Labor Standards Enforcement, the Division of Occupational Safety and Health, and the Department of Fair Employment and Housing, and shall also include representatives from a recognized or certified collective bargaining agent that represents janitorial workers, employers, labor-management groups in the janitorial industry, sexual assault victims advocacy groups, and other related subject matter experts. The director shall convene the advisory committee no later than July 1, 2017. The advisory committee shall consider the requirements of Section 12950.1 of the Government Code when developing the recommended standard. The Division of Labor Standards Enforcement shall propose the requirements for the sexual violence and harassment prevention training requirement no later than January 1, 2018.

Section 1430 of the Labor Code is amended to read:

The Division of Labor Standards Enforcement shall not register or renew the registration of an employer in any of the following circumstances:

(a) The employer has not fully satisfied any final judgment for unpaid wages due to an employee or former employee of a business for which the employer is required to register under this **chapter part**.

(b) The employer has failed to remit the proper amount of contributions required by the Unemployment Insurance Code or the Employment Development Department has made an assessment for those unpaid contributions against the employer that has become final and the employer has not fully paid the amount of delinquency for those unpaid contributions.

(c) The employer has failed to remit the amount of Social Security and Medicare tax contributions required by the Federal Insurance Contributions Act (FICA) to the Internal Revenue Service and the employer has not fully paid the amount or delinquency for those unpaid contributions.

(d) The employer has not fully satisfied any final judgment for a violation of Section 12940 of the Government Code for a business for which the employer is required to register under this part.

(e) The employer has not fully satisfied any final judgment for failing to secure valid workers' compensation coverage as required by Section 3700.

Section 1434 of the Labor Code is amended to read:

A successor employer is liable for any wages, **damages**, and penalties its predecessor employer owes to any of the predecessor employer's former ~~employee or employees~~ **workforce**, if the successor employer meets any of the following criteria:

(a) Uses substantially the same workforce to offer substantially the same services as the predecessor employer. This factor does not apply to employers who maintain the same workforce pursuant to Chapter 4.5 (commencing with Section 1060) of Part 3.

(b) Shares in the ownership, management, control of the labor relations, or interrelations of business operations with the predecessor employer.

(c) Employs in a managerial capacity any person who directly or indirectly controlled the wages, hours, or working conditions of the affected ~~employees~~ **workforce** of the predecessor employer.

(d) Is an immediate family member of any owner, partner, officer, or director of the predecessor employer of any person who had a financial interest in the predecessor employer.