

Amendment No. 840

Assembly Amendment to Senate Bill No. 146 First Reprint (BDR 53-629)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JMM/MSN



Date: 5/20/2015

S.B. No. 146—Revises provisions relating to the payment of wages to certain employees. (BDR 53-629)



SENATE BILL NO. 146—SENATORS PARKS AND SPEARMAN

FEBRUARY 12, 2015

JOINT SPONSOR: ASSEMBLYWOMAN BUSTAMANTE ADAMS

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the payment of wages to certain employees. (BDR 53-629)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to wages; authorizing certain employers and employees to enter into a written agreement to exclude from an employee's wages payment for certain specified periods; exempting certain employees from the requirement that an employer pay the employee overtime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an employer to pay an employee wages for each hour the employee works. (NRS 608.016) Existing federal regulations allow employees who work shifts of 24 hours or more to agree to not be paid for a sleeping period not to exceed 8 hours under certain circumstances. (29 C.F.R. § 785.22) ~~(This)~~ Section 1.3 of this bill provides that an employee who is employed in a certain residential facility and who works for 24 hours or more may agree to not be paid for a sleeping period not to exceed 8 hours if adequate sleeping facilities are provided by the employer.

Existing federal regulations authorize an employer and a domestic service employee who resides in the household of the employer for which he or she works to enter into an agreement to exclude certain periods from the calculation of the hours for which the employee is entitled to receive wages. (29 C.F.R. § 552.102) Section 1.7 of this bill authorizes an employer and a domestic service employee to enter into such an agreement consistent with federal law.

Existing state and federal laws provide certain exceptions to the requirement that an employer pay an employee overtime. (29 U.S.C. § 213(b)(21), NRS 608.018) Section 2.5 of this bill provides an exemption under state law from these requirements for a domestic service employee who resides in the household in which he or she works.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 608 of NRS is hereby amended by adding thereto ~~to a new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. *1. If an employee specified in paragraph (a) of subsection 3 is required to be on duty for 24 hours or more, the employer and employee may agree in writing to exclude from the employee's wages a regularly scheduled sleeping period not to exceed 8 hours if adequate sleeping facilities are furnished by the employer.*

2. If the sleeping period is interrupted by any call for service by the employer, the interruption must be counted as hours worked. If the sleeping period is interrupted by any call for service by the employer to such an extent that the sleeping period is less than 5 hours, the employee must be paid for the entire sleeping period.

3. The provisions of subsections 1 and 2:

(a) Apply only to an employee who is on duty at a residential facility for a group of similarly situated persons who require supervision, care or other assistance from employees at the residential facility; and

(b) Do not apply to a firefighter, a member of a rescue or emergency services crew or a peace officer, including, without limitation, a correctional officer.

4. As used in this section:

(a) "A group of similarly situated persons" includes, without limitation, a group of:

(1) Persons with a mental illness;

(2) Persons with a physical disability;

(3) Persons with an intellectual disability;

(4) Persons who are elderly;

(5) Persons recovering from alcohol or drug abuse;

(6) Children in foster care; and

(7) Children in a program to address emotional or behavioral problems.

(b) "On duty" means any period during which an employee is working or is required to remain on the premises of the employer.

(c) "Residential facility" means:

(1) A dormitory, any structure similar to a dormitory or any structure similar to a private residence in which a group of similarly situated persons reside for the purpose of receiving supervision, care or other assistance from employees on duty at the residential facility. Any such dormitory or structure similar to a dormitory may include a studio apartment for the use of the employees.

(2) In the case of a program for children to address emotional or behavioral problems, any structure which provides for residential living for the children and employees.

Sec. 1.7. 1. A domestic service employee who resides in the household in which he or she works may agree in writing to exclude from his or her wages any sleeping period, meal period or free time.

2. If the sleeping period, meal period or free time is interrupted by any call for service by the employer, the interruption must be counted as hours worked.

3. If there is a significant deviation from the agreement entered into pursuant to subsection 1, the employer must not exclude from the wages of the domestic service employee any sleeping period, meal period or free time unless

the domestic service employee and the employer enter into a new agreement that accurately accounts for all hours worked by the domestic service employee.

4. As used in this section:

(a) "Domestic service employee" means a natural person who is paid by an employer to perform work of a domestic nature for the household of the employer, including, without limitation, housekeeping, housecleaning, cooking, laundering, nanny services, caretaking of sick, convalescing or elderly persons, gardening or chauffeuring. The term does not include persons who provide services on a casual, irregular or intermittent basis or persons who are employed by a third-party service or agency.

(b) "Free time" means a period of time, sufficient in duration for a domestic service employee to make meaningful use of the time, during which the domestic service employee has complete freedom from all duties and is free to leave the household of the employer or stay within the household solely for personal pursuits.

(c) "Household" means the premises of the residence of an employer and includes, without limitation, any living quarters on the property of the employer.

Sec. 2. NRS 608.016 is hereby amended to read as follows:

608.016 ~~1.Am~~ Except as otherwise provided in ~~section 1~~ sections 1.3 and 1.7 of this act, an employer shall pay to the employee wages for each hour the employee works. An employer shall not require an employee to work without wages during a trial or break-in period.

Sec. 2.5. NRS 608.018 is hereby amended to read as follows:

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) Employees in a retail or service business if their regular rate is more than 1 1/2 times the minimum wage, and more than half their compensation for a representative period comes from commissions on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than 1 month;

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

- 1 (j) Drivers of taxicabs or limousines;
2 (k) Agricultural employees;
3 (l) Employees of business enterprises having a gross sales volume of less than
4 \$250,000 per year;
5 (m) Any salesperson or mechanic primarily engaged in selling or servicing
6 automobiles, trucks or farm equipment; ~~and~~
7 (n) A mechanic or worker for any hours to which the provisions of subsection
8 3 or 4 of NRS 338.020 apply. ~~and~~ and
9 (o) A domestic service employee who resides in the household where he or
10 she works.
11

Sec. 3. This act becomes effective on July 1, 2015.