



General Assembly

Substitute Bill No. 393

February Session, 2016

* SB00393LAB__031416__ *

AN ACT CONCERNING DOMESTIC WORKERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 31-58 of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective January 1, 2017*):

4 (e) "Employee" means any individual employed or permitted to
5 work by an employer but shall not include any individual employed in
6 camps or resorts which are open no more than six months of the year,
7 [or in domestic service in or about a private home, except any
8 individual in domestic service employment as defined in the
9 regulations of the federal Fair Labor Standards Act,] or an individual
10 employed in a bona fide executive, administrative or professional
11 capacity as defined in the regulations of the Labor Commissioner or an
12 individual employed by the federal government, or any individual
13 engaged in the activities of an educational, charitable, religious,
14 scientific, historical, literary or nonprofit organization where the
15 employer-employee relationship does not, in fact, exist or where the
16 services rendered to such organizations are on a voluntary basis, or
17 any individual employed as a head resident or resident assistant by a
18 college or university, or any individual engaged in [baby sitting]
19 babysitting of an irregular and intermittent or a casual nature, or an
20 outside salesman as defined in the regulations of the federal Fair Labor

21 Standards Act, or any individual employed by a nonprofit theater,
22 provided such theater does not operate for more than seven months in
23 any calendar year, or a member of the armed forces of the state
24 performing military duty, as such terms are defined in section 27-61;

25 Sec. 2. Section 31-71f of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective January 1, 2017*):

27 (a) Each employer shall: (1) Advise his employees in writing, at the
28 time of hiring, of the rate of remuneration, hours of employment and
29 wage payment schedules, and (2) make available to his employees,
30 either in writing or through a posted notice maintained in a place
31 accessible to his employees, any employment practices and policies or
32 change therein with regard to wages, vacation pay, sick leave, health
33 and welfare benefits and comparable matters.

34 (b) Each employer employing a domestic worker, as defined in
35 section 6 of this act, shall advise the domestic worker in writing, at the
36 time of hiring, of: (1) The rate of remuneration, hours of employment
37 and wage payment schedules; (2) the job duties and responsibilities; (3)
38 the availability of sick leave, days of rest, vacation, personal days and
39 holidays, and whether such days are paid or unpaid, and the rate at
40 which such days accrue; (4) necessary or required modes of
41 transportation, and whether such transportation is provided, paid or
42 reimbursed; (5) the availability of health insurance, and whether it is
43 paid or reimbursed; (6) any applicable severance, yearly raises or other
44 forms of compensation; (7) whether the employer may charge any fees
45 or costs for board and lodging; and (8) any other rights afforded to
46 such domestic worker under the provisions of this section, section 53-
47 303e, as amended by this act, and sections 7 to 11, inclusive, of this act.

48 Sec. 3. Subdivision (9) of section 31-275 of the general statutes is
49 repealed and the following is substituted in lieu thereof (*Effective*
50 *January 1, 2017*):

51 (9) (A) "Employee" means any person who:

52 (i) Has entered into or works under any contract of service or
53 apprenticeship with an employer, whether the contract contemplated
54 the performance of duties within or without the state;

55 (ii) Is a sole proprietor or business partner who accepts the
56 provisions of this chapter in accordance with subdivision (10) of this
57 section;

58 (iii) Is elected to serve as a member of the General Assembly of this
59 state;

60 (iv) Is a salaried officer or paid member of any police department or
61 fire department;

62 (v) Is a volunteer police officer, whether the officer is designated as
63 special or auxiliary, upon vote of the legislative body of the town, city
64 or borough in which the officer serves;

65 (vi) Is an elected or appointed official or agent of any town, city or
66 borough in the state, upon vote of the proper authority of the town,
67 city or borough, including the elected or appointed official or agent,
68 irrespective of the manner in which he or she is appointed or
69 employed. Nothing in this subdivision shall be construed as affecting
70 any existing rights as to pensions which such persons or their
71 dependents had on July 1, 1927, or as preventing any existing custom
72 of paying the full salary of any such person during disability due to
73 injury arising out of and in the course of his or her employment;

74 (vii) Is a member of the armed forces of the state while in the
75 performance of military duty, whether paid or unpaid for such
76 military duty, in accordance with the provisions of section 27-17, 27-18
77 or 27-61; or

78 (viii) Is elected to serve as a probate judge for a probate district
79 established in section 45a-2.

80 (B) "Employee" shall not be construed to include:

81 (i) Any person to whom articles or material are given to be treated
82 in any way on premises not under the control or management of the
83 person who gave them out;

84 (ii) One whose employment is of a casual nature and who is
85 employed otherwise than for the purposes of the employer's trade or
86 business;

87 (iii) A member of the employer's family dwelling in his house; but,
88 if, in any contract of insurance, the wages or salary of a member of the
89 employer's family dwelling in his house is included in the payroll on
90 which the premium is based, then that person shall, if he sustains an
91 injury arising out of and in the course of his employment, be deemed
92 an employee and compensated in accordance with the provisions of
93 this chapter;

94 (iv) Any person engaged in [any type of service in or about a private
95 dwelling provided he is not regularly employed by the owner or
96 occupier over twenty-six hours per week] domestic service in or about
97 a private dwelling, except if the owner or occupier of such dwelling
98 has paid such person engaged in such domestic service one thousand
99 dollars or more in any calendar quarter in the current or preceding
100 calendar year such person shall be considered an employee. For
101 purposes of this clause, "domestic service" means any service provided
102 to the owner or occupier of a private dwelling for the operation or
103 maintenance of such dwelling and does not include service as an
104 employee in the pursuit of an employer's trade, occupation, profession,
105 enterprise or vocation;

106 (v) An employee of a corporation who is a corporate officer and
107 who elects to be excluded from coverage under this chapter by notice
108 in writing to his employer and to the commissioner; or

109 (vi) Any person who is not a resident of this state but is injured in
110 this state during the course of his employment, unless such person (I)
111 works for an employer who has a place of employment or a business

112 facility located in this state at which such person spends at least fifty
113 per cent of his employment time, or (II) works for an employer
114 pursuant to an employment contract to be performed primarily in this
115 state.

116 Sec. 4. Subdivision (10) of section 46a-51 of the 2016 supplement to
117 the general statutes is repealed and the following is substituted in lieu
118 thereof (*Effective January 1, 2017*):

119 (10) "Employer" includes the state and all political subdivisions
120 thereof and means any person or employer (A) with three or more
121 persons in such person's or employer's employ, or (B) employing a
122 domestic worker, as defined in section 6 of this act, without regard to
123 the total number of domestic workers in such person's or employer's
124 employ;

125 Sec. 5. Section 53-303e of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective January 1, 2017*):

127 (a) No employer shall compel any employee (1) engaged in any
128 commercial occupation, [or] (2) engaged in the work of any industrial
129 process, or (3) employed as a domestic worker, as defined in section 6
130 of this act, to work more than six days in any calendar week. An
131 employee's refusal to work more than six days in any calendar week
132 shall not constitute grounds for his or her dismissal.

133 (b) Any employee, who believes that his or her discharge was in
134 violation of subsection (a) of this section may appeal such discharge to
135 the State Board of Mediation and Arbitration. If said board finds that
136 the employee was discharged in violation of said subsection (a), it may
137 order whatever remedy will make the employee whole, including but
138 not limited to reinstatement to his or her former or a comparable
139 position.

140 (c) Notwithstanding the provisions of subsection (a) of this section,
141 a domestic worker may work seven days in any calendar week
142 provided (1) the domestic worker and his or her employer agree, in

143 writing, to such schedule, and (2) the domestic worker is compensated
144 at a rate of not less than one and one-half times his or her average
145 hourly salary for all hours worked on the seventh day.

146 [(c)] (d) Any person who violates any provision of this section shall
147 be fined not more than two hundred dollars.

148 Sec. 6. (NEW) (*Effective January 1, 2017*) For the purposes of this
149 section and sections 7 to 11, inclusive, of this act:

150 (1) "Domestic worker" means any individual or employee who is
151 paid or who is told he or she will be paid to perform work of a
152 domestic nature in or about a private dwelling, including, but not
153 limited to, housekeeping, home management, child care, caretaking of
154 individuals, including sick, convalescing and elderly individuals,
155 laundering, meal preparation, home companion services and other
156 household services for occupants of the private dwelling or the guests
157 of such occupants. Domestic worker does not include (A) a babysitter
158 whose employment is irregular and intermittent or of a casual nature,
159 or (B) a personal care attendant providing services pursuant to a state-
160 funded program, including, but not limited to, (i) the program for
161 individuals with acquired brain injuries, established pursuant to
162 section 17b-260a of the general statutes, (ii) the personal care assistance
163 program, established pursuant to section 17b-605a of the general
164 statutes, (iii) the Connecticut home care program for the elderly,
165 established pursuant to section 17b-342 of the general statutes, (iv) the
166 pilot program to provide home care services to disabled persons,
167 established pursuant to section 17b-617 of the general statutes, (v) the
168 individual and family support waiver program administered by the
169 Department of Developmental Services, and (vi) the comprehensive
170 waiver program administered by the Department of Developmental
171 Services;

172 (2) "Employer" means any owner or any person, partnership,
173 corporation, limited liability company or association of persons acting
174 directly as, or on behalf of, or in the interest of an employer in relation

175 to a domestic worker and shall include for the purposes of chapter 567
176 of the general statutes a (A) homemaker-companion agency, as defined
177 in section 20-670 of the general statutes, (B) registry, as defined in
178 section 20-670 of the general statutes, or (C) homemaker-home health
179 aide agency, as defined in section 19a-490 of the general statutes, that
180 refers a domestic worker to a consumer to provide (i) homemaker
181 services, (ii) companion services, or (iii) homemaker-home health aide
182 services;

183 (3) "Consumer" means an individual receiving homemaker services,
184 companion services or homemaker-home health aide services from a
185 homemaker-companion agency, registry or homemaker-home health
186 aide agency;

187 (4) "Homemaker services" means homemaker services, as defined in
188 section 20-670 of the general statutes;

189 (5) "Companion services" means companion services, as defined in
190 section 20-670 of the general statutes;

191 (6) "Homemaker-home health aide services" means homemaker-
192 home health aide services, as defined in section 19a-490 of the general
193 statutes;

194 (7) "Live-in domestic worker" means a domestic worker who resides
195 in or about an employer's private dwelling for at least four consecutive
196 twenty-four-hour periods during at least two consecutive weeks
197 within one calendar year;

198 (8) "Full-time employment" means an average working period of
199 forty hours or more per week within the previous month; and

200 (9) "Part-time employment" means an average working period of
201 less than forty hours per week within the previous month.

202 Sec. 7. (NEW) (*Effective January 1, 2017*) (a) Upon a domestic
203 worker's completion of one year of employment with an employer,

204 such employer shall provide (1) in the case of a domestic worker
205 engaged in part-time employment, seventy-two hours of paid leave,
206 annually, and (2) in the case of a domestic worker engaged in full-time
207 employment one hundred twenty hours of paid leave, annually. Such
208 paid leave shall accrue beginning January 1, 2017, or for a domestic
209 worker hired after said date, beginning on the domestic worker's date
210 of employment. A domestic worker may take such leave consecutively
211 or intermittently.

212 (b) Each domestic worker shall be entitled to carry over up to fifty-
213 six unused hours of paid leave from the current calendar year to the
214 following calendar year, except no domestic worker shall be entitled to
215 use more than the maximum number of hours of paid leave, as
216 described in subdivisions (1) and (2) of subsection (a) of this section, in
217 any calendar year.

218 (c) Each employer shall pay each domestic worker for paid leave at
219 a pay rate equal to the normal hourly wage for that domestic worker in
220 effect for the pay period during which the domestic worker uses paid
221 leave. For any domestic worker whose hourly wage varies depending
222 on the work performed by the domestic worker, the "normal hourly
223 wage" means the average hourly wage of the domestic worker in the
224 pay period prior to the one in which the domestic worker used paid
225 leave.

226 (d) Nothing in this section shall be construed to (1) prevent an
227 employer from providing more leave, whether paid or unpaid, than is
228 required under this section, (2) diminish any rights provided to any
229 domestic worker under the terms of the domestic worker's
230 employment, or (3) prevent an employer from complying with the
231 requirements of state or federal statutes, rules or regulations.

232 Sec. 8. (NEW) (*Effective January 1, 2017*) (a) No employer shall (1)
233 restrict or interfere with a domestic worker's private communications,
234 (2) seize, search or inspect the domestic worker's personal belongings,
235 or (3) engage in any conduct against a domestic worker that violates

236 subsection (a) of section 53a-192a of the general statutes or any other
237 section of the general statutes.

238 (b) No employer of a live-in domestic worker shall enter a live-in
239 domestic worker's designated living area in or about the employer's
240 private dwelling without such live-in domestic worker's informed and
241 voluntary consent, except the employer may enter such designated
242 living area if emergency repairs are required, provided (1) securing
243 such live-in domestic worker's consent within a reasonable time is not
244 feasible, and (2) the employer provides notice to the live-in domestic
245 worker that the employer entered the live-in domestic worker's
246 designated living area to conduct such emergency repairs within a
247 reasonable time after doing so.

248 (c) No employer of a domestic worker shall monitor a domestic
249 worker's activities or communications by any means other than direct
250 observation, including the use of a computer, telephone, wire, radio,
251 camera, electromagnetic, photoelectronic or photo-optical systems,
252 without such domestic worker's informed and voluntary consent,
253 except an employer may use such devices to monitor a domestic
254 worker while he or she is performing care-giving tasks including, but
255 not limited to, babysitting, child care and caretaking of sick,
256 convalescing or elderly individuals.

257 (d) A domestic worker who is required to utilize cleaning products
258 as part of his or her employment shall have the right to (1) alert his or
259 her employer to health hazards and allergies that the domestic worker
260 believes to be related to these cleaning products, (2) negotiate with his
261 or her employer regarding the substitution of alternative cleaning
262 products, and (3) substitute cleaning products he or she believes to be
263 less harmful to his or her health, or to the health of others, except
264 where the employer can demonstrate medical necessity for the use of a
265 particular cleaning product.

266 Sec. 9. (NEW) (*Effective January 1, 2017*) (a) (1) Except as otherwise
267 provided in subdivision (2) of this subsection, if a domestic worker has

268 been employed by an employer for a period of ninety days or longer,
269 such employer shall provide the domestic worker with written notice
270 prior to the termination of employment. Such notice shall be provided
271 not less than seven days prior to the effective date of such termination,
272 except, if such domestic worker is a live-in domestic worker, such
273 notice shall be provided not less than fourteen days prior to the
274 effective date of such termination.

275 (2) If a domestic worker has been employed by an employer for a
276 period of ninety days or longer, such employer may terminate such
277 domestic worker immediately and without written notice, provided
278 such employer compensates such domestic worker at a rate not less
279 than the amount the domestic worker would have earned had the
280 employer continued to employ such domestic worker after providing
281 notice of such termination pursuant to subdivision (1) of this
282 subsection.

283 (b) The provisions of subsection (a) of this section shall not apply to
284 any employer who terminates a domestic worker due to the domestic
285 worker's wilful misconduct in the course of his or her employment. For
286 the purposes of this subsection, "wilful misconduct" means deliberate
287 misconduct in wilful disregard of the employer's interest and shall
288 include any abuse, assault or other harmful or destructive conduct
289 committed by the domestic worker against the employer, the
290 employer's possessions, members of the employer's family, guests or
291 other individuals residing in or about the employer's private dwelling.

292 (c) Compensation provided in lieu of notice of termination pursuant
293 to subdivision (2) of subsection (a) of this section shall be provided
294 upon termination of the domestic worker. Such compensation shall not
295 release an employer from any obligation to make payments as may be
296 necessary to comply with chapter 567 of the general statutes or any
297 other applicable municipal, state or federal law.

298 Sec. 10. (NEW) (*Effective January 1, 2017*) No employer shall
299 discharge, discipline, penalize, retaliate against or in any manner

300 discriminate against any domestic worker because such domestic
301 worker has (1) complained to the employer, an authorized
302 representative of the domestic worker or any other person, (2) filed
303 any complaint or instituted or caused to be instituted any proceeding
304 under section 11 of this act or any other provision of the general
305 statutes, (3) has testified or is about to testify in any such proceeding,
306 or (4) exercised any right afforded to him or her by any provision of
307 section 31-71f of the general statutes, as amended by this act, section
308 53-303e of the general statutes, as amended by this act, or sections 7 to
309 11, inclusive, of this act.

310 Sec. 11. (NEW) (*Effective January 1, 2017*) (a) A domestic worker may
311 file a complaint with the Labor Commissioner alleging a violation of
312 any provision of section 31-71f of the general statutes, as amended by
313 this act, section 53-303e of the general statutes, as amended by this act,
314 or sections 7 to 10, inclusive, of this act. Upon receipt of the complaint,
315 the commissioner shall investigate such complaint and may hold a
316 hearing. After the hearing, the commissioner shall send each party a
317 written copy of his or her decision. A domestic worker who prevails in
318 such hearing shall be awarded reasonable attorney's fees and costs.

319 (b) If the commissioner finds a domestic worker has been aggrieved
320 by an employer's violation of any provision of section 31-71f of the
321 general statutes, as amended by this act, section 53-303e of the general
322 statutes, as amended by this act, or sections 7 to 10, inclusive, of this
323 act, the commissioner shall (1) levy against the employer a civil
324 penalty of up to five hundred dollars for the first violation and one
325 thousand dollars for each subsequent violation, and (2) award such
326 domestic worker all appropriate relief including rehiring or
327 reinstatement to his or her previous job, payment of back wages and
328 any interest due on such wages, compensation for the denial of days of
329 leave, reestablishment of employee benefits or any other remedies that
330 the commissioner may deem appropriate.

331 (c) Any party aggrieved by the decision of the commissioner may
332 appeal the decision to the Superior Court, in accordance with the

333 provisions of chapter 54 of the general statutes.

334 (d) The commissioner may request the Attorney General to bring an
335 action in the Superior Court to recover the penalties levied pursuant to
336 subsection (b) of this section.

337 (e) Nothing in this section shall prohibit a domestic worker from
338 filing a civil suit against an employer in a court of competent
339 jurisdiction to recover all appropriate relief including rehiring or
340 reinstatement to his or her previous job, payment of back wages and
341 any interest due on such wages, compensation for the denial of days of
342 leave, reestablishment of employee benefits or any other remedies that
343 the judge may deem appropriate.

344 (f) A third party that arranges for the employment or contracting of
345 a domestic worker shall be jointly and severally liable for a violation of
346 any provision of section 31-71f of the general statutes, as amended by
347 this act, section 53-303e of the general statutes, as amended by this act,
348 or sections 7 to 10, inclusive, of this act that occur in or about the
349 private dwelling to which the domestic worker was referred or sent by
350 such third party.

351 Sec. 12. (NEW) (*Effective from passage*) (a) The Labor Commissioner
352 may, subject to available appropriations, appoint a domestic work
353 outreach coordinator to develop and implement a multilingual
354 outreach and education program for domestic workers and employers
355 of domestic workers. Such program shall provide materials to
356 domestic workers and employers of domestic workers, including, but
357 not limited to, information about the rights of domestic workers in the
358 state, model employment agreements and educational materials for
359 employers detailing the responsibilities of such employers in relation
360 to domestic workers.

361 (b) The Labor Commissioner may, subject to available
362 appropriations, establish an interagency program coordinating
363 committee comprised of members that may include, but need not be

364 limited to, the domestic work outreach coordinator appointed
 365 pursuant to subsection (a) of this section, representatives of various
 366 employment agencies within the Labor Department and a
 367 representative of the Permanent Commission on the Status of Women.
 368 The interagency program coordinating committee shall coordinate the
 369 available public resources required to implement the provisions of this
 370 section.

371 (c) For the purpose of enforcing the provisions of section 31-71f of
 372 the general statutes, as amended by this act, section 53-303e of the
 373 general statutes, as amended by this act, and sections 7 to 11, inclusive,
 374 of this act, the Labor Commissioner may contract with community-
 375 based organizations and legal services organizations to (1) disseminate
 376 information to domestic workers or other types of employees
 377 concerning the protections afforded by said sections and the process
 378 by which domestic workers and other types of employees may file a
 379 complaint or pursue other legal action under the provisions of said
 380 sections or any applicable municipal, state or federal law; and (2)
 381 investigate, prepare and, if necessary, represent domestic workers and
 382 other types of employees in filing complaints pursuant to section 11 of
 383 this act and any other relevant provisions of the general statutes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017</i>	31-58(e)
Sec. 2	<i>January 1, 2017</i>	31-71f
Sec. 3	<i>January 1, 2017</i>	31-275(9)
Sec. 4	<i>January 1, 2017</i>	46a-51(10)
Sec. 5	<i>January 1, 2017</i>	53-303e
Sec. 6	<i>January 1, 2017</i>	New section
Sec. 7	<i>January 1, 2017</i>	New section
Sec. 8	<i>January 1, 2017</i>	New section
Sec. 9	<i>January 1, 2017</i>	New section
Sec. 10	<i>January 1, 2017</i>	New section
Sec. 11	<i>January 1, 2017</i>	New section
Sec. 12	<i>from passage</i>	New section

Statement of Legislative Commissioners:

In Section 7(a) subdivisions (1) and (2), "part-time domestic worker" and "full-time domestic worker" were changed to "domestic worker engaged in part-time employment" and "domestic worker engaged in full-time employment" for clarity and consistency; Section 10 subdivision (4) was rewritten for clarity; Section 11(f) was rewritten for clarity; and in Section 12(c)(2), "domestic employees" was changed to "domestic workers and other types of employees" for clarity and consistency.

LAB *Joint Favorable Subst. -LCO*