



General Assembly

Amendment

February Session, 2016

LCO No. 4595



Offered by:
SEN. KANE, 32nd Dist.

To: Subst. Senate Bill No. 223

File No. 210

Cal. No. 180

**"AN ACT CONCERNING LIENS FOR UNPAID EMPLOYEE WAGES
AND DISCIPLINARY SUSPENSIONS FOR HARASSMENT OR
WORKPLACE VIOLENCE."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 31-231a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2016*):

5 (a) For a construction worker identified pursuant to regulations
6 adopted in accordance with subsection (c) of this section, the total
7 unemployment benefit rate for the individual's benefit year
8 commencing on or after April 1, 1996, shall be an amount equal to one
9 twenty-sixth, rounded to the next lower dollar, of his or her total
10 wages paid during that quarter of his or her current benefit year's base
11 period in which wages were the highest but not less than fifteen
12 dollars nor more than the maximum benefit rate as provided in
13 subsection (b) of this section.

14 (b) For an individual not included in subsection (a) of this section,
15 the individual's total unemployment benefit rate for his or her benefit
16 year commencing after September 30, 1967, shall be an amount equal
17 to one twenty-sixth, rounded to the next lower dollar, of the average of
18 his or her total wages, as defined in subdivision (1) of subsection (b) of
19 section 31-222, paid during the two quarters of his or her current
20 benefit year's base period in which such wages were highest but not
21 less than fifteen dollars, and commencing after October 1, 2016, shall
22 be an amount equal to one twenty-sixth, rounded to the next lower
23 dollar, of the average of his or her total wages, as defined in section 31-
24 222, paid during the four quarters of his or her current benefit year's
25 base period but not less than fifty dollars nor more than one hundred
26 fifty-six dollars in any benefit year commencing on or after the first
27 Sunday in July, 1982, nor more than sixty per cent rounded to the next
28 lower dollar of the average wage of production and related workers in
29 the state in any benefit year commencing on or after the first Sunday in
30 October, 1983, and provided the maximum benefit rate in any benefit
31 year commencing on or after the first Sunday in October, 1988, shall
32 not increase more than eighteen dollars in any benefit year, such
33 increase to be effective as of the first Sunday in October of such year,
34 and further provided the maximum benefit rate shall not increase in
35 benefit years 2016, 2017 and 2018. The average wage of production and
36 related workers in the state shall be determined by the administrator,
37 on or before August fifteenth annually, as of the year ended the
38 previous June thirtieth to be effective during the benefit year
39 commencing on or after the first Sunday of the following October and
40 shall be so determined in accordance with the standards for the
41 determination of average production wages established by the United
42 States Department of Labor, Bureau of Labor Statistics.

43 (c) The administrator shall adopt regulations pursuant to the
44 provisions of chapter 54 to implement the provisions of this section.
45 Such regulations shall specify the National Council on Compensation
46 Insurance employee classification codes which identify construction
47 workers covered by subsection (a) of this section and specify the

48 manner and format in which employers shall report the identification
49 of such workers to the administrator.

50 Sec. 2. Section 31-236 of the general statutes is repealed and the
51 following is substituted in lieu thereof (*Effective October 1, 2016*):

52 (a) An individual shall be ineligible for benefits:

53 (1) If the administrator finds that the individual has failed without
54 sufficient cause either to apply for available, suitable work when
55 directed so to do by the Public Employment Bureau or the
56 administrator, or to accept suitable employment when offered by the
57 Public Employment Bureau or by an employer, such ineligibility to
58 continue until such individual has returned to work and has earned at
59 least six times such individual's benefit rate. Suitable work means
60 either employment in the individual's usual occupation or field or
61 other work for which the individual is reasonably fitted, provided such
62 work is within a reasonable distance of the individual's residence. In
63 determining whether or not any work is suitable for an individual, the
64 administrator may consider the degree of risk involved to such
65 individual's health, safety and morals, such individual's physical
66 fitness and prior training and experience, such individual's skills, such
67 individual's previous wage level and such individual's length of
68 unemployment, but, notwithstanding any other provision of this
69 chapter, no work shall be deemed suitable nor shall benefits be denied
70 under this chapter to any otherwise eligible individual for refusing to
71 accept work under any of the following conditions: (A) If the position
72 offered is vacant due directly to a strike, lockout or other labor dispute;
73 (B) if the wages, hours or other conditions of work offered are
74 substantially less favorable to the individual than those prevailing for
75 similar work in the locality; (C) if, as a condition of being employed,
76 the individual would be required to join a company union or to resign
77 from or refrain from joining any bona fide labor organization; (D) if the
78 position offered is for work which commences or ends between the
79 hours of one and six o'clock in the morning if the administrator finds
80 that such work would constitute a high degree of risk to the health,

81 safety or morals of the individual, or would be beyond the physical
82 capabilities or fitness of the individual or there is no suitable
83 transportation available from the individual's home to or from the
84 individual's place of employment; or (E) if, as a condition of being
85 employed, the individual would be required to agree not to leave such
86 position if recalled by the individual's former employer;

87 (2) (A) If, in the opinion of the administrator, the individual has left
88 suitable work voluntarily and without good cause attributable to the
89 employer, until such individual has earned at least ten times such
90 individual's benefit rate, provided whenever an individual voluntarily
91 leaves part-time employment under conditions that would render the
92 individual ineligible for benefits, such individual's ineligibility shall be
93 limited as provided in subsection (b) of this section, if applicable, and
94 provided further, no individual shall be ineligible for benefits if the
95 individual leaves suitable work (i) for good cause attributable to the
96 employer, including leaving as a result of changes in conditions
97 created by the individual's employer, (ii) to care for the individual's
98 spouse, child, or parent with an illness or disability, as defined in
99 subdivision [(16)] (17) of this subsection, (iii) due to the discontinuance
100 of transportation, other than the individual's personally owned
101 vehicle, used to get to and from work, provided no reasonable
102 alternative transportation is available, (iv) to protect the individual, the
103 individual's child, the individual's spouse or the individual's parent
104 from becoming or remaining a victim of domestic violence, as defined
105 in section 17b-112a, provided such individual has made reasonable
106 efforts to preserve the employment, but the employer's account shall
107 not at any time be charged with respect to any voluntary leaving that
108 falls under subparagraph (A)(iv) of this subdivision, (v) for a
109 separation from employment that occurs on or after July 1, 2007, to
110 accompany a spouse who is on active duty with the armed forces of
111 the United States and is required to relocate by the armed forces, but
112 the employer's account shall not at any time be charged with respect to
113 any voluntary leaving that falls under subparagraph (A)(v) of this
114 subdivision, or (vi) to accompany such individual's spouse to a place

115 from which it is impractical for such individual to commute due to a
116 change in location of the spouse's employment, but the employer's
117 account shall not be charged with respect to any voluntary leaving
118 under subparagraph (A)(vi) of this subdivision; or (B) if, in the opinion
119 of the administrator, the individual has been discharged or suspended
120 for felonious conduct, conduct constituting larceny of property or
121 service, the value of which exceeds twenty-five dollars, or larceny of
122 currency, regardless of the value of such currency, wilful misconduct
123 in the course of the individual's employment, or participation in an
124 illegal strike, as determined by state or federal laws or regulations,
125 until such individual has earned at least ten times the individual's
126 benefit rate; provided an individual who (i) while on layoff from
127 regular work, accepts other employment and leaves such other
128 employment when recalled by the individual's former employer, (ii)
129 leaves work that is outside the individual's regular apprenticeable
130 trade to return to work in the individual's regular apprenticeable trade,
131 (iii) has left work solely by reason of governmental regulation or
132 statute, or (iv) leaves part-time work to accept full-time work, shall not
133 be ineligible on account of such leaving and the employer's account
134 shall not at any time be charged with respect to such separation, unless
135 such employer has elected payments in lieu of contributions;

136 (3) During any week in which the administrator finds that the
137 individual's total or partial unemployment is due to the existence of a
138 labor dispute other than a lockout at the factory, establishment or other
139 premises at which the individual is or has been employed, provided
140 the provisions of this subsection do not apply if it is shown to the
141 satisfaction of the administrator that (A) the individual is not
142 participating in or financing or directly interested in the labor dispute
143 that caused the unemployment, and (B) the individual does not belong
144 to a trade, class or organization of workers, members of which,
145 immediately before the commencement of the labor dispute, were
146 employed at the premises at which the labor dispute occurred, and are
147 participating in or financing or directly interested in the dispute; or (C)
148 the individual's unemployment is due to the existence of a lockout. A

149 lockout exists whether or not such action is to obtain for the employer
150 more advantageous terms when an employer (i) fails to provide
151 employment to its employees with whom the employer is engaged in a
152 labor dispute, either by physically closing its plant or informing its
153 employees that there will be no work until the labor dispute has
154 terminated, or (ii) makes an announcement that work will be available
155 after the expiration of the existing contract only under terms and
156 conditions that are less favorable to the employees than those current
157 immediately prior to such announcement; provided in either event the
158 recognized or certified bargaining agent shall have advised the
159 employer that the employees with whom the employer is engaged in
160 the labor dispute are ready, able and willing to continue working
161 pending the negotiation of a new contract under the terms and
162 conditions current immediately prior to such announcement;

163 (4) During any week with respect to which the individual has
164 received or is about to receive remuneration in the form of (A) wages
165 in lieu of notice or dismissal payments, including severance or
166 separation payment by an employer to an employee beyond the
167 employee's wages upon termination of the employment relationship,
168 unless the employee was required to waive or forfeit a right or claim
169 independently established by statute or common law, against the
170 employer as a condition of receiving the payment, or any payment by
171 way of compensation for loss of wages, or any other state or federal
172 unemployment benefits, except mustering out pay, terminal leave pay
173 or any allowance or compensation granted by the United States under
174 an Act of Congress to an ex-serviceperson in recognition of the ex-
175 serviceperson's former military service, or any service-connected pay
176 or compensation earned by an ex-serviceperson paid before or after
177 separation or discharge from active military service, or (B)
178 compensation for temporary disability under any workers'
179 compensation law;

180 (5) Repealed by P.A. 73-140;

181 (6) If the administrator finds that the individual has left

182 employment to attend a school, college or university as a regularly
183 enrolled student, such ineligibility to continue during such attendance;

184 (7) Repealed by P.A. 74-70, S. 2, 4;

185 (8) If the administrator finds that, having received benefits in a prior
186 benefit year, the individual has not again become employed and been
187 paid wages since the commencement of said prior benefit year in an
188 amount equal to the greater of three hundred dollars or five times the
189 individual's weekly benefit rate by an employer subject to the
190 provisions of this chapter or by an employer subject to the provisions
191 of any other state or federal unemployment compensation law;

192 (9) If the administrator finds that the individual has retired and that
193 such retirement was voluntary, until the individual has again become
194 employed and has been paid wages in an amount required as a
195 condition of eligibility as set forth in subdivision (3) of section 31-235;
196 except that the individual is not ineligible on account of such
197 retirement if the administrator finds (A) that the individual has retired
198 because (i) such individual's work has become unsuitable considering
199 such individual's physical condition and the degree of risk to such
200 individual's health and safety, and (ii) such individual has requested of
201 such individual's employer other work that is suitable, and (iii) such
202 individual's employer did not offer such individual such work, or (B)
203 that the individual has been involuntarily retired;

204 (10) Repealed by P.A. 77-426, S. 6, 19;

205 (11) Repealed by P.A. 77-426, S. 6, 19;

206 (12) Repealed by P.A. 77-426, S. 17, 19;

207 (13) If the administrator finds that, having been sentenced to a term
208 of imprisonment of thirty days or longer and having commenced
209 serving such sentence, the individual has been discharged or
210 suspended during such period of imprisonment, until such individual
211 has earned at least ten times such individual's benefit rate;

212 (14) If the administrator finds that the individual has been
213 discharged or suspended because the individual has been disqualified
214 under state or federal law from performing the work for which such
215 individual was hired as a result of a drug or alcohol testing program
216 mandated by and conducted in accordance with such law, until such
217 individual has earned at least ten times such individual's benefit rate;

218 (15) If the individual is a temporary employee of a temporary help
219 service and the individual refuses to accept suitable employment when
220 it is offered by such service upon completion of an assignment until
221 such individual has earned at least six times such individual's benefit
222 rate; [and]

223 (16) During any week in which the administrator finds that the
224 individual, having commenced a claim for benefits on or after January
225 1, 2017, has failed to post his or her resume on an online employment
226 exchange designated by the administrator and designed for employers
227 and job seekers in the state after the sixth consecutive week of
228 collecting benefits under this chapter. The administrator may adopt
229 regulations, in accordance with the provisions of chapter 54, to
230 implement the provisions of this subdivision; and

231 [(16)] (17) For purposes of subparagraph (A)(ii) of subdivision (2) of
232 this subsection, "illness or disability" means an illness or disability
233 diagnosed by a health care provider that necessitates care for the ill or
234 disabled person for a period of time longer than the employer is
235 willing to grant leave, paid or otherwise, and "health care provider"
236 means (A) a doctor of medicine or osteopathy who is authorized to
237 practice medicine or surgery by the state in which the doctor practices;
238 (B) a podiatrist, dentist, psychologist, optometrist or chiropractor
239 authorized to practice by the state in which such person practices and
240 performs within the scope of the authorized practice; (C) an advanced
241 practice registered nurse, nurse practitioner, nurse midwife or clinical
242 social worker authorized to practice by the state in which such person
243 practices and performs within the scope of the authorized practice; (D)
244 Christian Science practitioners listed with the First Church of Christ,

245 Scientist in Boston, Massachusetts; (E) any medical practitioner from
246 whom an employer or a group health plan's benefits manager will
247 accept certification of the existence of a serious health condition to
248 substantiate a claim for benefits; (F) a medical practitioner, in a practice
249 enumerated in subparagraphs (A) to (E), inclusive, of this subdivision,
250 who practices in a country other than the United States, who is
251 licensed to practice in accordance with the laws and regulations of that
252 country; or (G) such other health care provider as the Labor
253 Commissioner approves, performing within the scope of the
254 authorized practice. For purposes of subparagraph (B) of subdivision
255 (2) of this subsection, "wilful misconduct" means deliberate
256 misconduct in wilful disregard of the employer's interest, or a single
257 knowing violation of a reasonable and uniformly enforced rule or
258 policy of the employer, when reasonably applied, provided such
259 violation is not a result of the employee's incompetence and provided
260 further, in the case of absence from work, "wilful misconduct" means
261 an employee must be absent without either good cause for the absence
262 or notice to the employer which the employee could reasonably have
263 provided under the circumstances for three separate instances within a
264 twelve-month period. Except with respect to tardiness, for purposes of
265 subparagraph (B) of subdivision (2) of this subsection, each instance in
266 which an employee is absent for one day or two consecutive days
267 without either good cause for the absence or notice to the employer
268 which the employee could reasonably have provided under the
269 circumstances constitutes a "separate instance". For purposes of
270 subdivision (15) of this subsection, "temporary help service" means any
271 person conducting a business that consists of employing individuals
272 directly for the purpose of furnishing part-time or temporary help to
273 others; and "temporary employee" means an employee assigned to
274 work for a client of a temporary help service.

275 (b) Any individual who has voluntarily left part-time employment
276 under conditions which would otherwise render him or her ineligible
277 for benefits pursuant to subparagraph (A) of subdivision (2) of
278 subsection (a) of this section, who has not earned ten times his or her

279 benefit rate since such separation and who is otherwise eligible for
 280 benefits shall be eligible to receive benefits only as follows: (1) If such
 281 separation from the individual's part-time employment precedes a
 282 compensable separation, under the provisions of this chapter, from his
 283 or her full-time employment, he or she shall be eligible to receive an
 284 amount equal to the benefits attributable solely to the wages paid to
 285 him or her for any employment during his or her base period other
 286 than such part-time employment; or (2) if such separation from the
 287 individual's part-time employment follows a compensable separation,
 288 under the provisions of this chapter, from his or her full-time
 289 employment, he or she shall be eligible to receive an amount equal to
 290 the lesser of the partial unemployment benefits he or she would have
 291 received under section 31-229 but for such separation from his or her
 292 part-time employment or the partial unemployment benefits for which
 293 he or she would be eligible under section 31-229 based on any
 294 subsequent part-time employment. In no event may the employer who
 295 provided such part-time employment for the individual be charged for
 296 any benefits paid pursuant to the subsection. For purposes of this
 297 subsection, "full-time employment" means any job normally requiring
 298 thirty-five hours or more of service each week, and "part-time
 299 employment" means any job normally requiring less than thirty-five
 300 hours of service each week."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	31-231a
Sec. 2	October 1, 2016	31-236