

Senate Bill No. 464

CHAPTER 760

An act to amend, repeal, and add Section 12999 of the Government Code, relating to civil rights.

[Approved by Governor October 13, 2025. Filed with Secretary
of State October 13, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 464, Smallwood-Cuevas. Employer pay data.

Existing law establishes the Civil Rights Department within the Business, Consumer Services, and Housing Agency to enforce civil rights laws with respect to housing and employment and to protect and safeguard the right of all persons to obtain and hold employment without discrimination based on specified characteristics or status.

Existing law requires a private employer that has 100 or more employees to submit an annual pay data report to the Civil Rights Department that includes the number of employees by race, ethnicity, and sex in 10 specified job categories, the number of employees by race, ethnicity, and sex whose pay falls within federal pay bands, within each job category the median and mean hourly rate for employees having any combination of those characteristics, and the total number of hours worked by each employee counted in each pay band during the "Reporting Year," as specified.

This bill would require an employer to collect and store any demographic information gathered by an employer or labor contractor for the purpose of submitting the pay data report separately from employees' personnel records, and, beginning January 1, 2027, increase the number of job categories, as specified above, to 23.

Existing law authorizes the department, if it does not receive the pay data report, to seek an order requiring an employer to comply with these provisions. Existing law provides that upon the request of the department, a court may impose a civil penalty upon any employer for failure to file the required report, which shall be payable to the Civil Rights Enforcement and Litigation Fund.

This bill would require a court to impose a civil penalty against an employer that fails to file the report if requested to do so by the department.

The people of the State of California do enact as follows:

SECTION 1. Section 12999 of the Government Code is amended to read:

12999. (a) (1) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the “Reporting Year.”

(2) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees hired through labor contractors within the prior calendar year shall submit a separate pay data report to the department covering the employees hired through labor contractors in the prior calendar year. The private employer shall also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor shall supply all necessary pay data to the private employer.

(3) Any demographic information gathered by an employer or labor contractor pursuant to this section shall be collected and stored separately from employees’ personnel records.

(b) The pay data report shall include the following information:

(1) The number of employees by race, ethnicity, and sex in each of the following job categories:

(A) Executive or senior level officials and managers.

(B) First or mid-level officials and managers.

(C) Professionals.

(D) Technicians.

(E) Sales workers.

(F) Administrative support workers.

(G) Craft workers.

(H) Operatives.

(I) Laborers and helpers.

(J) Service workers.

(2) The number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey.

(3) Within each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate.

(4) For purposes of establishing the numbers required to be reported under paragraph (1), an employer shall create a “snapshot” that counts all of the individuals in each job category by race, ethnicity, and sex, employed during a single pay period of the employer’s choice between October 1 and December 31 of the “Reporting Year.”

(5) For purposes of establishing the numbers to be reported under paragraphs (2) and (3), the employer shall calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the “snapshot,” for the entire “Reporting Year,” regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the “Reporting Year” fell within each pay band.

(6) The employer shall include in the report the total number of hours worked by each employee counted in each pay band during the “Reporting Year.”

(7) The report shall include the employer’s North American Industry Classification System (NAICS) code.

(c) For employers with multiple establishments, the employer shall submit a report covering each establishment.

(d) The report shall include a section for employers to provide clarifying remarks regarding any of the information provided. An employer is not required to provide clarifying remarks.

(e) The information required by this section shall be made available in a format that allows the department to search and sort the information using readily available software.

(f) If the department does not receive the required report from an employer, the department may seek an order requiring the employer to comply with these requirements and shall be entitled to recover the costs associated with seeking the order for compliance. Upon request by the department, a court shall impose a civil penalty not to exceed one hundred dollars (\$100) per employee upon any employer who fails to file the required report and not to exceed two hundred dollars (\$200) per employee upon any employer for a subsequent failure to file the required report. Any penalty under this subdivision shall be payable to the Civil Rights Enforcement and Litigation Fund established under Section 12907. If the employer is unable to submit a complete and accurate report because a labor contractor has not provided the pay data as required under paragraph (2) of subdivision (a), the court may apportion an appropriate amount of penalties to any labor contractor that has failed to provide the pay data to the employer.

(g) It shall be unlawful for any officer or employee of the department or the Division of Labor Standards Enforcement to make public in any manner whatever any individually identifiable information obtained pursuant to their authority under this section prior to the institution of an investigation or enforcement proceeding by the Division of Labor Standards Enforcement or the department under Section 1197.5 of the Labor Code or Section 12940 involving that information, and only to the extent necessary for purposes of the enforcement proceeding. For the purposes of this section, “individually identifiable information” means data submitted pursuant to this section that is associated with a specific person or business.

(h) Any individually identifiable information submitted to the department pursuant to this section shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(i) Notwithstanding subdivision (g), the department may develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority under this section, provided that the aggregate reports are reasonably calculated to prevent the association of any data with any individual business or person.

(j) The department shall maintain pay data reports for not less than 10 years.

(k) For purposes of this section, the following definitions shall apply:

(1) “Employee” means an individual on an employer’s payroll, including a part-time individual, and for whom the employer is required to withhold federal social security taxes from that individual’s wages.

(2) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business.

(3) “Establishment” means an economic unit producing goods or services.

(l) Upon request by the department, no later than 60 days from the date of the request, the Employment Development Department shall provide the department with the names and addresses of all businesses with 100 or more employees in order to ensure compliance with this section.

(m) The amendments made to this section by Senate Bill 1162 of the 2021–22 Regular Session of the Legislature shall not affect the requirement of employers to file reports in 2021 and 2022 pursuant to this section as it read on December 31, 2022, or the department’s authority to pursue those employers on and after January 1, 2023.

(n) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 2. Section 12999 is added to the Government Code, to read:

12999. (a) (1) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees shall submit a pay data report to the department covering the prior calendar year, which, for purposes of this section, shall be referred to as the “Reporting Year.”

(2) On or before the second Wednesday of May 2023, and on or before the second Wednesday of May of each year thereafter, a private employer that has 100 or more employees hired through labor contractors within the prior calendar year shall submit a separate pay data report to the department covering the employees hired through labor contractors in the prior calendar year. The private employer shall also disclose on the pay data report the ownership names of all labor contractors used to supply employees. A labor contractor shall supply all necessary pay data to the private employer.

(3) Any demographic information gathered by an employer or labor contractor pursuant to this section shall be collected and stored separately from employees’ personnel records.

(b) The pay data report shall include the following information:

(1) The number of employees by race, ethnicity, and sex in each of the following job categories:

(A) Chief executives.

(B) Management occupations, except chief executives.

(C) Business and financial operations occupations.

(D) Computer and mathematical occupations.

(E) Architecture and engineering occupations.

(F) Life, physical, and social science occupations.

- (G) Community and social science occupations.
- (H) Legal occupations.
- (I) Educational instruction and library occupations.
- (J) Art, design, entertainment, sports, and media occupations.
- (K) Health care practitioners and technical occupations.
- (L) Health care support occupations.
- (M) Protective service occupations.
- (N) Food preparation and serving-related occupations.
- (O) Building and ground cleaning and maintenance occupations.
- (P) Personal care and service occupations.
- (Q) Sales and related occupations.
- (R) Office and administrative support occupations.
- (S) Farming, fishing, and forestry occupations.
- (T) Construction and extraction occupations.
- (U) Installation, maintenance, and repair occupations.
- (V) Production occupations.
- (W) Transportation and material moving occupations.

(2) The number of employees by race, ethnicity, and sex, whose annual earnings fall within each of the pay bands used by the United States Bureau of Labor Statistics in the Occupational Employment Statistics survey.

(3) Within each job category, for each combination of race, ethnicity, and sex, the median and mean hourly rate.

(4) For purposes of establishing the numbers required to be reported under paragraph (1), an employer shall create a “snapshot” that counts all of the individuals in each job category by race, ethnicity, and sex, employed during a single pay period of the employer’s choice between October 1 and December 31 of the “Reporting Year.”

(5) For purposes of establishing the numbers to be reported under paragraphs (2) and (3), the employer shall calculate the total earnings, as shown on the Internal Revenue Service Form W-2, for each employee in the “snapshot,” for the entire “Reporting Year,” regardless of whether or not an employee worked for the full calendar year. The employer shall tabulate and report the number of employees whose W-2 earnings during the “Reporting Year” fell within each pay band.

(6) The employer shall include in the report the total number of hours worked by each employee counted in each pay band during the “Reporting Year.”

(7) The report shall include the employer’s North American Industry Classification System (NAICS) code.

(c) For employers with multiple establishments, the employer shall submit a report covering each establishment.

(d) The report shall include a section for employers to provide clarifying remarks regarding any of the information provided. An employer is not required to provide clarifying remarks.

(e) The information required by this section shall be made available in a format that allows the department to search and sort the information using readily available software.

(f) If the department does not receive the required report from an employer, the department may seek an order requiring the employer to comply with these requirements and shall be entitled to recover the costs associated with seeking the order for compliance. Upon request by the department, a court shall impose a civil penalty not to exceed one hundred dollars (\$100) per employee upon any employer who fails to file the required report and not to exceed two hundred dollars (\$200) per employee upon any employer for a subsequent failure to file the required report. Any penalty under this subdivision shall be payable to the Civil Rights Enforcement and Litigation Fund established under Section 12907. If the employer is unable to submit a complete and accurate report because a labor contractor has not provided the pay data as required under paragraph (2) of subdivision (a), the court may apportion an appropriate amount of penalties to any labor contractor that has failed to provide the pay data to the employer.

(g) It shall be unlawful for any officer or employee of the department or the Division of Labor Standards Enforcement to make public in any manner whatever any individually identifiable information obtained pursuant to their authority under this section prior to the institution of an investigation or enforcement proceeding by the Division of Labor Standards Enforcement or the department under Section 1197.5 of the Labor Code or Section 12940 involving that information, and only to the extent necessary for purposes of the enforcement proceeding. For the purposes of this section, “individually identifiable information” means data submitted pursuant to this section that is associated with a specific person or business.

(h) Any individually identifiable information submitted to the department pursuant to this section shall be considered confidential information and not subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1).

(i) Notwithstanding subdivision (g), the department may develop, publish on an annual basis, and publicize aggregate reports based on the data obtained pursuant to their authority under this section, provided that the aggregate reports are reasonably calculated to prevent the association of any data with any individual business or person.

(j) The department shall maintain pay data reports for not less than 10 years.

(k) For purposes of this section, the following definitions shall apply:

(1) “Employee” means an individual on an employer’s payroll, including a part-time individual, and for whom the employer is required to withhold federal social security taxes from that individual’s wages.

(2) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business.

(3) “Establishment” means an economic unit producing goods or services.

(l) Upon request by the department, no later than 60 days from the date of the request, the Employment Development Department shall provide the department with the names and addresses of all businesses with 100 or more employees in order to ensure compliance with this section.

(m) The amendments made to this section by Senate Bill 1162 of the 2021–22 Regular Session of the Legislature shall not affect the requirement of employers to file reports in 2021 and 2022 pursuant to this section as it read on December 31, 2022, or the department’s authority to pursue those employers on and after January 1, 2023.

(n) This section shall become operative on January 1, 2027.

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