



June 23, 2020

The Honorable Toni G. Atkins  
 President Pro Tempore, California State Senate  
 State Capitol, Room 205  
 Sacramento, CA 95814

Re: SB 1399 (Durazo) – IN SUPPORT

Dear Senator Atkins:

Our organizations write as sponsors in support of Senate Bill 1399 (Durazo), a bill that is urgently needed to prevent wage theft against garment workers. During the novel coronavirus (COVID-19) pandemic, it is more important than ever to protect extremely vulnerable workers who are now experiencing the devastating impact of wage theft during a deadly viral outbreak. The bill's financial cost is more than justified by the millions of dollars in wages that it returns to workers, and the hundreds of millions of dollars it will generate for California taxpayers.

No industry is more rife with employment violations than the garment industry. Los Angeles has the highest concentration of garment industry workers in the country. Largely located south and east of downtown, some 2,000 manufacturers employ more than 40,000 people—mostly immigrant women—who work 10 to 12 hours a day cutting, sewing, and dyeing clothing from designer jeans to “fast fashion” runway knockoffs.

A landmark worker protection law when it was enacted in 1999, Assembly Bill 633 (Steinberg) sought to end wage theft in the garment industry. In the beginning, it did. However, in the 20 years since its passage, retailers and manufacturers have found countless ways to circumvent the law to avoid liability. As a result, thousands of workers in California continue to be exploited, experience wage theft due to subminimum wages, and are unable to recover the stolen wages they are owed.

Today, according to the UCLA Labor Center, garment workers in Los Angeles regularly work more than 12 hours per day and 60 to 70 hours per week while receiving only \$3-4 per hour—far less than California's \$12 per hour minimum wage—and no overtime pay. Overall, 88 percent of low-wage workers in Los Angeles experience at least one type of wage theft every week, losing an estimated \$26.2 million per week in LA County alone. Statewide, minimum wage violations rob our State's workers of nearly \$2 billion in annual earnings. SB 1399 puts that money where it belongs: in the hands of workers who will use it to stabilize vulnerable communities and improve California's overall economic health.

Garment industry wage theft also costs California taxpayers. Wage theft in Los Angeles alone costs the State and local governments between \$100 million and \$150 million annually. With more wage and hour violations than any other industry, the garment industry is responsible for a significant share of this lost revenue. A 2016 U.S. Department of Labor study found that 85% of 77 randomly selected garment contractors in Southern California were violating prevailing wage and hour laws. Meanwhile, in 2013, LA's cut-and-sew sector produced \$4.7 billion in total output, and LA County was responsible for more than a third of all apparel manufacturing shipments in the United States. At a time of unprecedented reliance on government economic intervention, Californians need SB 1399 to ensure our State has the resources it needs to get through this pandemic.

During the COVID-19 Public Health Emergency, many garment workers have lost their jobs almost overnight. Many of those who continue to work are now making Personal Protective Equipment (PPE) to prevent the spread of the disease. They have had to endure unsafe working conditions and wage theft under intensified circumstances presented by the Public Health Emergency. The impact on workers tends to fall into three scenarios:

1. Workers who lost their jobs and all prospects for income almost overnight due to Safer at Home Orders and the closure of all non-essential businesses. In response to these orders, most fashion brands canceled contracts with local manufacturers—sometimes without paying for current orders—with no regard for the impact upon garment workers. Workers were left without paid leave, severance, and some without final wages. Many workers are undocumented and ineligible for unemployment benefits or federal stimulus aid.
2. Workers who continued working for apparel factories in violation of Safer at Home Orders—behind locked doors and shuttered windows and without sanitizing measures. These workers endured life-threatening health hazards while earning sweatshop wages. The brands still contracting for this production are complicit in the exposure of workers to COVID-19 infection and the violation of their wage rights. Even as Safer at Home restrictions are lifted, many factories continue to flaunt public health and safety requirements for working conditions and do not pay garment workers for time spent sanitizing their workstations. Workers are forced to choose between loss of all wages or potential exposure to the virus.
3. Workers in factories that are making face masks and medical gowns. Most of these factories are taking only minimal measures to protect workers' health and continue to pay subminimum wages by using the piece rate—despite the essential and important nature of the work done by their laborers. Multiple Garment Worker Center members report they are producing PPE such as masks and medical gowns or scrubs, under conditions that violate city, county, and state wage and safety laws. Specifically, they report:
  - a. Extremely low piece rates—as little as ¢5 per mask—and wages as low as \$5.75 per hour;
  - b. Masks only provided every 2-3 days, and employers who do not ensure or require that masks are worn correctly;
  - c. No handwashing stations or sanitizer provided;
  - d. Cramped conditions that place workers fewer than 6 feet apart;
  - e. Closed doors and windows and no ventilation systems; and
  - f. No assurance of paid sick leave or paid family leave, nor right to return to work.

While some of this production is purchased by healthcare systems and companies with frontline workers, some is for fashion brands shifting their merchandise to include masks for individual sale. Just as with apparel production, these healthcare businesses, too, are complicit in the exposure of workers to potential infection, the violation of their wage rights, and forcing workers to choose between loss of all wages or potential exposure to a deadly virus.

Even before the COVID-19 Public Health Emergency, numerous retailers and manufacturers frustrated AB 633's original purpose. They have avoided liability for systemic abuse by creating layers of subcontracting, which has enabled retailers and manufacturers to claim that they do not fall under AB 633's definition of "garment manufacturer" and are therefore not liable for rampant and egregious wage violations. Until the original intent of AB 633 can be restored and upstream liability can be established, the unrelenting problem of wage theft in the garment industry will continue.

Adding to this problem is the onerous, abusive, and archaic way in which garment workers are paid: by the piece. Under this pay system, workers earn as little as \$0.03 per assembly operation (e.g., setting a seam, trimming a blouse) which is entirely too low to ever enable a worker to earn the minimum wage per hour. What's worse, workers often report they do not even know what they will earn from hour to hour and week to week, as rates are set and changed by employers, and it is common for employers to reduce already promised piece rates. Use of the piece rate therefore enables payment of subminimum wage. Moreover, the piece rate creates unsafe working conditions as garment workers must constantly race against the clock to complete as many items as possible. Particularly dangerous during a pandemic, the piece rate impedes workers' ability to sanitize workstations or wash their hands during unpaid breaks—hygiene measures that are vital in our fight to stop the spread of COVID-19.

SB 1399 will amend current law in three ways. It will: (1) expand liability, ensuring that retailers cannot use layers of contracting to avoid paying wages they owe; (2) prohibit paying garment workers by the "piece," thereby eliminating the most significant cause of wage theft and protecting worker health and safety; and (3) explicitly authorize the Labor Commissioner's Bureau of Field Enforcement (BOFE) to investigate and cite guarantors for wage theft.

SB 1399 is a timely and relevant policy solution to the problems of wage theft and unsafe workplaces in the garment industry at a time when garment workers are essential to the production of PPE. Expanding corporate accountability and increasing and strengthening BOFE's oversight powers along the entire supply chain is a basic but critical acknowledgment of garment workers' essential labor. Workers who are unemployed due to their factory's closure or workforce reduction will also be better protected with passage of SB 1399, which holds employers and all corporate actors along the supply chain responsible for previously unpaid wages. Finally, eliminating the piece rate removes an unworkable and unjust pay system, assures workers one legal minimum wage, and protects workers' health and safety by removing the disincentive to take breaks to carry out necessary sanitizing and handwashing protocols, eat, rest, and use the bathroom. SB 1399 is relevant and fundamentally needed now more than ever for this important and vulnerable workforce.

For these reasons and more, we are proud to sponsor and support SB 1399 and urge your support as this bill moves through the Senate.

Sincerely,

Dana Hadl  
Directing Attorney  
Bet Tzedek Legal Services

Marissa Nuncio  
Director  
Garment Worker Center

Michael Young  
Legislative Advocate  
California Labor Federation, AFL-CIO

Jessica Bartholow  
Policy Advocate  
Western Center on Law and Poverty

**Additional Organizations in Support of SB 1399:**

ACCE  
ACLU of Northern California  
ACLU of Southern California  
Asian Americans Advancing Justice –  
Los Angeles  
Bay Rising  
California Employment Lawyers  
Association (CELA)  
California Low Income Consumer  
Coalition  
California Domestic Workers Alliance  
California Latinas for Reproductive  
Justice  
California Rural Legal Aid Foundation  
Center for Workers Rights  
Chinese Progressive Association  
CLEAN Carwash Los Angeles  
Clergy & Laity United for Economic  
Justice (CLUE)  
Coalition for Human Immigrant Rights  
Los Angeles (CHIRLA)  
Coalition of California Welfare Rights  
Organizations  
Consumer Attorneys of California  
Courage Campaign  
Diane Diaz  
Eric Garcetti, Mayor of Los Angeles  
Fashion Revolution  
Food Chain Workers Alliance  
Friends Committee on Legislation of  
California  
International Labor Rights Forum (ILRF)  
Jewish Public Affairs Committee of  
California  
Kristine Kim, Global Supply Chain  
Specialist  
Los Angeles County Board of  
Supervisors

Los Angeles County Labor Federation  
La Raza Centro Legal  
Legal Aid at Work  
Maquiladora Health and Safety Support  
Network  
Misha Gill, Garment Production  
Specialist  
Nana Atelier  
National Council for Occupational Safety  
and Health (NCOSH)  
National Day Laborer Network  
National Employment Law Project  
(NELP)  
National Immigration Law Center  
Para Los Niños  
Partnership for Working Families  
Public Counsel  
Rebecca Blake Thompson, Ethical  
Supply Chain Specialist  
Remake  
SEIU California  
Sew Suay Shop  
Sisters of St. Joseph  
Southern California Coalition for  
Occupational Safety & Health  
UFCW Western States Council  
United Students Against Sweatshops  
(USAS)  
University of California, Berkeley  
University of California, Los Angeles  
Voices for Progress  
Wage Justice Center  
Warehouse Workers Center  
Workers United, Western States  
Regional Joint Board  
Worksafe

CC: Office of Senator Durazo (Author)  
Consultants