



**LEGISLATION AND
COMMUNICATIONS UNIT**

1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

March 29, 2021

Honorable Melissa Hurtado
Chair, Senate Committee on Human Services
1020 N Street, Room 521
Sacramento, CA 95814

**RE: SB 639 (Durazo): Minimum Wages: Persons with Disabilities –
SPONSOR**

Dear Senator Hurtado:

Disability Rights California is pleased to sponsor SB 639, a bill that prohibits employers from paying people with disabilities less than the minimum wage and transitions persons with intellectual or developmental disabilities to integrated, competitive employment. This bill is scheduled for hearing before Senate Human Services Committee on April 6, 2021.

SB 639 addresses historic barriers to gainful employment for people with disabilities by prohibiting the California Labor Commission from issuing employers a new license that allows for the payment of subminimum wage to employees with disabilities beginning in 2022, and requires the state to develop a plan to assist subminimum wage employees achieve gainful employment. The bill requires workers with disabilities to be paid at least minimum wage by 2024.

Section 14(c) of the Fair Labor Standards Act allows the state to issue special certificates to employers to allow them to pay employees with disabilities less than the minimum wage based on the purported impact that the employee's disability has on their ability to perform a job. This is premised on the antiquated theory that wages should be downwardly adjusted for employees whose disabilities make them unable to work in

typical work settings because they are not as productive as their peers without disabilities. This assumption was made prior to civil rights laws that protect employees with disabilities from discrimination in employment¹. The failure to provide qualified employees with disabilities reasonable accommodations that do not create an undue hardship on the employer is one form of employment discrimination under the Americans with Disabilities Act.²

Some argue that sheltered workshops where subminimum wage is commonly used provide a valuable way for adults with severe disabilities to build their self-esteem and be productive. Such segregated programs, however, are ineffective at transitioning employees into the general workforce.³ What is more, unemployment rates among people with disabilities remain disproportionately high. In 2019, California ranked 22nd in the nation for its employment of people with disabilities. People with disabilities experienced employment rates at 36.9 percent compared to 75.6 percent for their peers. Additionally, people with disabilities also represent a larger portion of the population not included in the labor force. Nationally, about 8 in 10 were not in the labor force in 2019, compared with about 3 in 10 of those with no disability. Further, there are over 5,000 Californians with disabilities who work in segregated settings and are paid as low as 15 cents an hour for their work.⁴

The subminimum wage not only relegates many highly capable, ambitious workers into menial, unfulfilling and below-poverty vocational experiences, it also reduces our expectations about work and wages for all people with disabilities. Every improper placement of a person with a disability into a subminimum wage position reinforces stereotypes and barriers for disabled workers in California.

If passed, SB 639 would bring California in alignment with the states of Alaska, Connecticut, Maryland, Nevada, New Hampshire, New York, Oregon, Texas, and Washington, and various municipalities that have

¹ (42 U.S.C. §12112(a))

² Reasonable accommodations is defined to “may include- (A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and (B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.” (42 U.S.C. §12111(9)).

³ National Council on Disability.

<https://ncd.gov/publications/2012/August232012#:~:text=This%20provision%20allows%20employers%20certified,workers%20in%20the%20United%20States>.

⁴ U.S. Commission on Civil Rights. Report: Subminimum Wages: Impacts on the Civil Rights of People with Disabilities. <https://www.usccr.gov/pubs/briefing-reports/2020-09-17-Subminimum-Wages.php>

already ended the exploitative practice of paying workers a subminimum wage. For these reasons, Disability Rights California is proud to sponsor SB 639.

Sincerely,

A handwritten signature in black ink that reads "Gregory Cramer". The signature is written in a cursive style with a large initial 'G'.

Gregory Cramer
Senior Legislative Advocate
Disability Rights California

cc: Honorable Members of the Senate Human Services Committee
Honorable María Elena Durazo
Jennifer Richard, Chief of Staff to Senator Durazo,
Jennifer.Richard@sen.ca.gov