

AMENDED IN ASSEMBLY APRIL 14, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2774**

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**Introduced by Committee on Labor and Employment (Swanson  
(Chair), Furutani, Monning, and Yamada)**

March 1, 2010

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An act to amend Section ~~6325~~ 6302 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2774, as amended, Committee on Labor and Employment. Occupational safety and health.

*Existing law authorizes the Department of Occupational Safety and Health to enforce health and safety standards in places of employment and to investigate and to issue a citation when an employer causes an employee to suffer or potentially suffer, among other things, "serious injury or illness" or "serious physical harm." Existing law defines a "serious injury or illness," generally, as a workplace injury or illness requiring hospitalization of more than 24 hours or resulting in the loss of a body member or in permanent disfigurement.*

*This bill would define "serious physical harm" to include most categories of a "serious injury or illness," but would also include those resulting in physical impairment of a part of the body or from the cumulative effect of multiple injuries or illnesses.*

~~Existing law, the California Occupational Safety and Health Act of 1973, establishes enforcement procedures for the requirements related to safe and healthful working conditions for Californians. The Division~~

~~of Occupational Safety and Health of the Department of Industrial Relations is charged with enforcing occupational health and safety laws, orders, and standards, including the investigation of alleged violations of those provisions:~~

~~Existing law requires the division, when it decides that a place of employment, machine, device, apparatus, or equipment constitutes an imminent hazard to employees, to prohibit entry to the workplace or use of the machine, device, apparatus, or equipment.~~

~~This bill would specify that a place of employment may be deemed dangerous because a particular machine, device, apparatus, or piece of equipment, as well as a condition or practice in a place of employment, constitutes an imminent hazard to employees.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: no.

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

- 1     SECTION 1. Section 6302 of the Labor Code is amended to
- 2     read:
- 3     6302. As used in this division:
- 4     (a) “Director” means the Director of Industrial Relations.
- 5     (b) “Department” means the Department of Industrial Relations.
- 6     (c) “Insurer” includes the State Compensation Insurance Fund
- 7     and any private company, corporation, mutual association, and
- 8     reciprocal or interinsurance exchange, authorized under the laws
- 9     of this state to insure employers against liability for compensation
- 10    under this part and under Division 4 (commencing with Section
- 11    3201), and any employer to whom a certificate of consent to
- 12    self-insure has been issued.
- 13    (d) “Division” means the Division of Occupational Safety and
- 14    Health.
- 15    (e) “Standards board” means the Occupational Safety and Health
- 16    Standards Board, within the department.
- 17    (f) “Appeals board” means the Occupational Safety and Health
- 18    Appeals Board, within the department.
- 19    (g) “Aquaculture” means a form of agriculture as defined in
- 20    Section 17 of the Fish and Game Code.
- 21    (h) “Serious injury or illness” means any injury or illness
- 22    occurring in a place of employment or in connection with any
- 23    employment which requires inpatient hospitalization for a period

1 in excess of 24 hours for other than medical observation or in  
2 which an employee suffers a loss of any member of the body or  
3 suffers any serious degree of permanent disfigurement, but does  
4 not include any injury or illness or death caused by the commission  
5 of a Penal Code violation, except the violation of Section 385 of  
6 the Penal Code, or an accident on a public street or highway.

7 (i) "Serious exposure" means any exposure of an employee to  
8 a hazardous substance when the exposure occurs as a result of an  
9 incident, accident, emergency, or exposure over time and is in a  
10 degree or amount sufficient to create a substantial probability that  
11 death or serious physical harm in the future could result from the  
12 exposure.

13 (j) (1) "*Serious physical harm*" means any injury or illness,  
14 specific or cumulative, occurring in the place or employment or  
15 in connection with any employment, which is the consequence of  
16 a condition, practice, means, method, operation, or process that  
17 meets any of the following:

18 (A) Requires inpatient hospitalization for a period in excess of  
19 24 hours for other than medical observation.

20 (B) Causes an employee to suffer the loss of any member of the  
21 body.

22 (C) Causes an employee to suffer any serious degree of  
23 permanent disfigurement.

24 (D) Could reasonably lead to impairment of a part of the body  
25 by substantially reducing its efficiency on or off the job for more  
26 than 24 hours.

27 (2) A single condition, practice, means, method, operation, or  
28 process can be properly classified as resulting in "serious physical  
29 harm."

30 ~~SECTION 1. Section 6325 of the Labor Code is amended to~~  
31 ~~read:~~

32 ~~6325. When, in the opinion of the division, a place of~~  
33 ~~employment is dangerous to employees because of a condition or~~  
34 ~~practice, or because a machine, device, apparatus, or piece of~~  
35 ~~equipment or any part thereof is in a dangerous condition, is not~~  
36 ~~properly guarded, or is dangerously placed so that the condition~~  
37 ~~or practice of the workplace or the machine, device, apparatus, or~~  
38 ~~piece of equipment constitutes an imminent hazard to employees,~~  
39 ~~entry therein, or the use thereof, as the case may be, shall be~~  
40 ~~prohibited by the division, and a conspicuous notice to that effect~~

1 shall be attached thereto. The prohibition of use shall be limited  
2 to the immediate area in which the imminent hazard exists, and  
3 the division shall not prohibit any entry in or use of a place of  
4 employment, machine, device, apparatus, or piece of equipment,  
5 or any part thereof, which is outside the area of imminent hazard.  
6 The notice shall not be removed except by an authorized  
7 representative of the division, nor until the place of employment,  
8 machine, device, apparatus, or equipment is made safe and the  
9 required safeguards or safety appliances or devices are provided.  
10 This section shall not prevent the entry or use with the division's  
11 knowledge and permission for the sole purpose of eliminating the  
12 dangerous conditions.

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