

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1136**

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**Introduced by Assembly Member Swanson**

February 18, 2011

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An act to add Section 6403.5 to the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Swanson. Employment safety: health facilities. Existing law regulates the operation of health facilities.

Existing law, the California Occupational Safety and Health Act of 1973, establishes certain safety and other responsibilities of employers and employees, including the requirement that employers provide safety devices or safeguards reasonably necessary to render the employment safe.

*This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel.*

This bill would require an employer to have a ~~zero lift/safe~~ *safe* patient handling policy for patient care units, *to develop an injury prevention plan*, and to provide trained lift teams or staff trained in safe lifting techniques in each general acute care hospital. The policy would require the replacement of manual lifting and transferring of patients with powered patient transfer devices, lifting devices, or lift teams, as specified. *Each hospital would be responsible for developing its own needs assessment policy to determine whether a patient lift, reposition, or transfer requires the use of a lift team or powered lifting device.*

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

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

1     SECTION 1. *This act shall be known and cited as the Hospital*  
2 *Patient and Health Care Worker Injury Protection Act.*

3     SEC. 2. *The Legislature finds and declares the following:*

4     (a) *In 2008, there were 36,130 occupational musculoskeletal*  
5 *disorder (MSD) cases in private industry where the source of injury*  
6 *or illness was a health care patient or resident of a health care*  
7 *facility. This accounted for 11 percent of the 317,440 total cases*  
8 *of MSDs that resulted in a least one lost day from work in 2008.*  
9 *Almost all (98 percent) of the cases involving patient handling*  
10 *occurred within the health care and social assistance industry,*  
11 *composing 55 percent of the 64,300 total MSD cases in that*  
12 *industry.*

13     (b) *For MSD cases involving patient handling, almost all (99*  
14 *percent) were the result of overexertion. A sprain, strain, or tear*  
15 *was the type of injury that was incurred in 84 percent of the MSD*  
16 *cases involving patient handling.*

17     (c) *Nursing aides, orderlies and attendants incurred*  
18 *occupational injuries or illnesses in 52 percent of the MSD cases*  
19 *involving health care patients. Registered nurses accounted for*  
20 *16 percent and home health aides for another 6 percent. Other*  
21 *occupations with MSD cases involving health care patients*  
22 *included licensed practical and licensed vocational nurses;*  
23 *emergency medical technicians and paramedics; personal and*  
24 *home care aides; health care support workers; radiologic*  
25 *technologists and technicians; and medical and health services*  
26 *managers.*

27     (d) *Over 12 percent of the nursing workforce leaves the bedside*  
28 *due to back injuries each year. California’s nursing workforce is*  
29 *aging at the same time patient acuity and obesity is rising. It is*  
30 *imperative that we protect our registered nurses and other health*  
31 *care workers from injury, and provide patients with safe and*  
32 *appropriate care. At a cost of between sixty thousand dollars*  
33 *(\$60,000) and one-hundred forty thousand dollars (\$140,000) to*  
34 *train and orient each new nurse, preventing turnover from injuries*  
35 *will save hospitals money.*

1 SECTION 1.

2 SEC. 3. Section 6403.5 is added to the Labor Code, to read:

3 6403.5. (a) An employer shall maintain a ~~zero lift/safe~~ *safe*  
4 patient handling policy at all times for all patient care units, and  
5 shall provide trained lift teams or other support staff trained in safe  
6 lifting techniques in each general acute care hospital. The employer  
7 shall provide training to health care workers on ~~appropriate use of~~  
8 ~~lifting devices and equipment, body mechanics, and the use of~~  
9 ~~lifting devices to handle patients safely.~~ *all of the following:*

10 (1) *The appropriate use of lifting devices and equipment.*

11 (2) *The five areas of body exposure: vertical, lateral, bariatric,*  
12 *repositioning, and ambulation.*

13 (3) *The use of lifting devices to handle patients safely.*

14 (b) As the coordinator of care, the registered nurse shall be  
15 responsible for the observation and direction of patient lifts and  
16 mobilization, and shall participate as needed in patient handling  
17 in accord with the nurse's job description.

18 (c) For the purposes of this chapter, "~~zero lift/safe~~ *safe* patient  
19 handling policy" means a policy that requires replacement of  
20 manual lifting and transferring of patients with powered patient  
21 transfer devices, lifting devices, or lift teams, consistent with the  
22 employer's safety policies and the professional judgment and  
23 clinical assessment of the registered nurse.

24 (d) *As part of the injury and illness prevention programs*  
25 *required by Section 3203 of Title 8 of the California Code of*  
26 *Regulations, or any successor law or regulation, employers shall*  
27 *adopt a patient protection and health care worker back and*  
28 *musculoskeletal injury prevention plan. The plan shall include a*  
29 *safe patient handling policy component reflected in professional*  
30 *occupational safety guidelines for the protection of patients and*  
31 *health care workers in health care facilities.*

32 (e) *Included in the injury and illness prevention programs, each*  
33 *general acute care hospital shall develop its own individual lift,*  
34 *repositioning, and transfer needs assessment to determine if a*  
35 *patient requires the use of a lift team and specialized equipment*  
36 *for patient lifts, repositioning, and transfers.*

37 (f) *Patients identified as being at risk of injury due to a lift,*  
38 *repositionings, or transfer, as well as patient lifts, repositionings,*  
39 *or transfers identified, using the individual hospital's own needs*  
40 *assessment, as having potential for placing health care workers*

1 *at risk of being injured while lifting, repositioning, or transferring*  
2 *a patient, shall require a lift team or specialized equipment to lift,*  
3 *reposition, or transfer the patient.*

4 *(g) For patients not at risk for injury due to a lift, repositioning,*  
5 *or transfer, and patient lifts, repositionings, or transfers identified,*  
6 *using the individual hospital's own needs assessment, as having*  
7 *little or no potential for placing health care workers at risk of*  
8 *being injured, a lift team or specialized equipment to lift,*  
9 *reposition, or transfer the patient shall not be required.*

10 *(h) Lift team members may perform other duties as assigned*  
11 *during their shift.*

12 *(i) A health care worker who refuses to lift, reposition, or*  
13 *transfer a patient due to concerns about patient and worker safety*  
14 *and the lack of trained lift team personnel or equipment shall not,*  
15 *based upon the refusal, be the subject of disciplinary action by the*  
16 *hospital or any of its managers or employees.*