

**Introduced by Senator Padilla**February 21, 2014

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An act to amend Section 6401.7 of the Labor Code, relating to occupational safety and health.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1299, as introduced, Padilla. Injury prevention programs.

Existing law requires an employer to establish, implement, and maintain an effective injury prevention program, as prescribed.

This bill would make a nonsubstantive change to that provision.

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. Section 6401.7 of the Labor Code is amended to  
2     read:

3     6401.7. (a) ~~Every~~ *Each* employer shall establish, implement,  
4     and maintain an effective injury prevention program. The program  
5     shall be written, except as provided in subdivision (e), and shall  
6     include, but not be limited to, the following elements:

7     (1) Identification of the person or persons responsible for  
8     implementing the program.

9     (2) The employer's system for identifying and evaluating  
10    workplace hazards, including scheduled periodic inspections to  
11    identify unsafe conditions and work practices.

12    (3) The employer's methods and procedures for correcting  
13    unsafe or unhealthy conditions and work practices in a timely  
14    manner.

1 (4) An occupational health and safety training program designed  
2 to instruct employees in general safe and healthy work practices  
3 and to provide specific instruction with respect to hazards specific  
4 to each employee's job assignment.

5 (5) The employer's system for communicating with employees  
6 on occupational health and safety matters, including provisions  
7 designed to encourage employees to inform the employer of  
8 hazards at the worksite without fear of reprisal.

9 (6) The employer's system for ensuring that employees comply  
10 with safe and healthy work practices, which may include  
11 disciplinary action.

12 (b) The employer shall correct unsafe and unhealthy conditions  
13 and work practices in a timely manner based on the severity of the  
14 hazard.

15 (c) The employer shall train all employees when the training  
16 program is first established, all new employees, and all employees  
17 given a new job assignment, and shall train employees whenever  
18 new substances, processes, procedures, or equipment are introduced  
19 to the workplace and represent a new hazard, and whenever the  
20 employer receives notification of a new or previously unrecognized  
21 hazard. An employer in the construction industry who is required  
22 to be licensed under Chapter 9 (commencing with Section 7000)  
23 of Division 3 of the Business and Professions Code may use  
24 employee training provided to the employer's employees under a  
25 construction industry occupational safety and health training  
26 program approved by the division to comply with the requirements  
27 of subdivision (a) relating to employee training, and shall only be  
28 required to provide training on hazards specific to an employee's  
29 job duties.

30 (d) The employer shall keep appropriate records of steps taken  
31 to implement and maintain the program. An employer in the  
32 construction industry who is required to be licensed under Chapter  
33 9 (commencing with Section 7000) of Division 3 of the Business  
34 and Professions Code may use records relating to employee training  
35 provided to the employer in connection with an occupational safety  
36 and health training program approved by the division to comply  
37 with this subdivision, and shall only be required to keep records  
38 of those steps taken to implement and maintain the program with  
39 respect to hazards specific to an employee's job duties.

1 (e) (1) The standards board shall adopt a standard setting forth  
2 the employer's duties under this section, on or before January 1,  
3 1991, consistent with the requirements specified in subdivisions  
4 (a), (b), (c), and (d). The standards board, in adopting the standard,  
5 shall include substantial compliance criteria for use in evaluating  
6 an employer's injury prevention program. The board may adopt  
7 less stringent criteria for employers with few employees and for  
8 employers in industries with insignificant occupational safety or  
9 health hazards.

10 (2) Notwithstanding subdivision (a), for employers with fewer  
11 than 20 employees who are in industries that are not on a  
12 designated list of high hazard industries and who have a workers'  
13 compensation experience modification rate of 1.1 or less, and for  
14 any employers with fewer than 20 employees who are in industries  
15 that are on a designated list of low hazard industries, the board  
16 shall adopt a standard setting forth the employer's duties under  
17 this section consistent with the requirements specified in  
18 subdivisions (a), (b), and (c), except that the standard shall only  
19 require written documentation to the extent of documenting the  
20 person or persons responsible for implementing the program  
21 pursuant to paragraph (1) of subdivision (a), keeping a record of  
22 periodic inspections pursuant to paragraph (2) of subdivision (a),  
23 and keeping a record of employee training pursuant to paragraph  
24 (4) of subdivision (a). To any extent beyond the specifications of  
25 this subdivision, the standard shall not require the employer to  
26 keep the records specified in subdivision (d).

27 (3) (A) The division shall establish a list of high hazard  
28 industries using the methods prescribed in Section 6314.1 for  
29 identifying and targeting employers in high hazard industries. For  
30 purposes of this subdivision, the "designated list of high hazard  
31 industries" shall be the list established pursuant to this paragraph.

32 (B) For the purpose of implementing this subdivision, the  
33 Department of Industrial Relations shall periodically review, and  
34 as necessary revise, the list.

35 (4) For the purpose of implementing this subdivision, the  
36 Department of Industrial Relations shall also establish a list of low  
37 hazard industries, and shall periodically review, and as necessary  
38 revise, that list.

39 (f) The standard adopted pursuant to subdivision (e) shall  
40 specifically permit employer and employee occupational safety

1 and health committees to be included in the employer's injury  
2 prevention program. The board shall establish criteria for use in  
3 evaluating employer and employee occupational safety and health  
4 committees. The criteria shall include minimum duties, including  
5 the following:

6 (1) Review of the employer's periodic, scheduled worksite  
7 inspections; investigation of causes of incidents resulting in injury,  
8 illness, or exposure to hazardous substances; and investigation of  
9 any alleged hazardous condition brought to the attention of any  
10 committee member. When determined necessary by the committee,  
11 the committee may conduct its own inspections and investigations.

12 (2) (A) Upon request from the division, verification of  
13 abatement action taken by the employer as specified in division  
14 citations.

15 (B) If an employer's occupational safety and health committee  
16 meets the criteria established by the board, it shall be presumed to  
17 be in substantial compliance with paragraph (5) of subdivision (a).

18 (g) The division shall adopt regulations specifying the  
19 procedures for selecting employee representatives for  
20 employer-employee occupational health and safety committees  
21 when these procedures are not specified in an applicable collective  
22 bargaining agreement. No employee or employee organization  
23 shall be held liable for any act or omission in connection with a  
24 health and safety committee.

25 (h) The employer's injury prevention program, as required by  
26 this section, shall cover all of the employer's employees and all  
27 other workers who the employer controls or directs and directly  
28 supervises on the job to the extent these workers are exposed to  
29 worksite and job assignment specific hazards. Nothing in this  
30 subdivision shall affect the obligations of a contractor or other  
31 employer that controls or directs and directly supervises its own  
32 employees on the job.

33 (i) When a contractor supplies its employee to a state agency  
34 employer on a temporary basis, the state agency employer may  
35 assess a fee upon the contractor to reimburse the state agency for  
36 the additional costs, if any, of including the contract employee  
37 within the state agency's injury prevention program.

38 (j) (1) The division shall prepare a Model Injury and Illness  
39 Prevention Program for Non-High-Hazard Employment, and shall  
40 make copies of the model program prepared pursuant to this

subdivision available to employers, upon request, for posting in the workplace. An employer who adopts and implements the model program prepared by the division pursuant to this paragraph in good faith shall not be assessed a civil penalty for the first citation for a violation of this section issued after the employer's adoption and implementation of the model program.

(2) For purposes of this subdivision, the division shall establish a list of non-high-hazard industries in California. These industries, identified by their Standard Industrial Classification Codes, as published by the United States Office of Management and Budget in the Manual of Standard Industrial Classification Codes, 1987 Edition, are apparel and accessory stores (Code 56), eating and drinking places (Code 58), miscellaneous retail (Code 59), finance, insurance, and real estate (Codes 60–67), personal services (Code 72), business services (Code 73), motion pictures (Code 78) except motion picture production and allied services (Code 781), legal services (Code 81), educational services (Code 82), social services (Code 83), museums, art galleries, and botanical and zoological gardens (Code 84), membership organizations (Code 86), engineering, accounting, research, management, and related services (Code 87), private households (Code 88), and miscellaneous services (Code 89). To further identify industries that may be included on the list, the division shall also consider data from a rating organization, as defined in Section 11750.1 of the Insurance Code, and all other appropriate information. The list shall be established by June 30, 1994, and shall be reviewed, and as necessary revised, biennially.

(3) The division shall prepare a Model Injury and Illness Prevention Program for Employers in Industries with Intermittent Employment, and shall determine which industries have historically utilized seasonal or intermittent employees. An employer in an industry determined by the division to have historically utilized seasonal or intermittent employees shall be deemed to have complied with the requirements of subdivision (a) with respect to a written injury prevention program if the employer adopts the model program prepared by the division pursuant to this paragraph and complies with any instructions relating thereto.

(k) With respect to any county, city, city and county, or district, or any public or quasi-public corporation or public agency therein, including any public entity, other than a state agency, that is a

1 member of, or created by, a joint powers agreement, subdivision  
2 (d) shall not apply.  
3 (l) Every workers' compensation insurer shall conduct a review,  
4 including a written report as specified below, of the injury and  
5 illness prevention program (IIPP) of each of its insureds with an  
6 experience modification of 2.0 or greater within six months of the  
7 commencement of the initial insurance policy term. The review  
8 shall determine whether the insured has implemented all of the  
9 required components of the IIPP, and evaluate their effectiveness.  
10 The training component of the IIPP shall be evaluated to determine  
11 whether training is provided to line employees, supervisors, and  
12 upper level management, and effectively imparts the information  
13 and skills each of these groups needs to ensure that all of the  
14 insured's specific health and safety issues are fully addressed by  
15 the insured. The reviewer shall prepare a detailed written report  
16 specifying the findings of the review and all recommended changes  
17 deemed necessary to make the IIPP effective. The reviewer shall  
18 be or work under the direction of a licensed California professional  
19 engineer, certified safety professional, or a certified industrial  
20 hygienist.