

## CONCURRENCE IN SENATE AMENDMENTS

AB 2068 (Haney)

As Amended August 11, 2022

Majority vote

**SUMMARY**

Original Committee of Reference: L. &amp; E.

Requires employers to post notices that they have received citations for specified Labor Code violations, and any special orders or actions issued to the employer by the Division of Occupational Safety and Health (Cal/OSHA), as specified, in each language of the top seven non-English languages used by limited-English-proficient adults in California, as determined by the United States Census Bureau.

**Senate Amendments**

Current Committee Recommendation: Concur

- 1) Delete prior version of this bill and instead require employers to post notices that they have received citations for specified Labor Code violations and any special orders or actions issued to the employer by Cal/OSHA in each language in the top seven non-English languages as determined by the US Census.
- 2) Require, when a citation or special order or action is required to be posted, the employer to also post an employee notification prepared by Cal/OSHA and requires the employee notification to contain all of the following:
  - a) Notice that the division investigated the workplace and found one or more workplace safety or health violations.
  - b) Notice that the investigation resulted in one or more citations or orders, which the employer is required to post at or near the place of the violation for three working days, or until the unsafe condition is corrected, whichever is longer.
  - c) Notice that the employer is required to communicate any hazards at the workplace to employees in a language and manner they understand.
  - d) Contact information for the division and the internet website where employees can search for citations against their employer.
- 3) Require the employee notification to be prominently posted by the employer at or near each place a violation referred to in the citation or order occurred and for all postings to be maintained for three working days, or until the unsafe working condition is abated, whichever is longer.
- 4) Require, if Punjabi is not included in the top seven non-English languages, as specified, that Cal/OSHA also make the notification available in Punjabi.
- 5) Permit Cal/OSHA to periodically review evaluate, and add to the list of languages based on additional data sources, including, but not limited to, information generated by state and local

government agencies, feedback from community-based organizations, labor organizations, and the division's own data tracking measures.

- 6) Require Cal/OSHA to enforce the requirements of this section by issuing a citation alleging a violation of this section and a notice of civil penalty, as specified.
  - a) Permit any person who receives a citation to appeal the citation and penalty to the appeals board, as specified.
- 7) Provide that this section does not preclude Cal/OSHA from promulgating additional posting requirements or other notifications to employees

## COMMENTS

A recent analysis by the UC Merced Community and Labor Center found that the six job sectors with the highest risk of COVID-19 spread were agriculture, food processing (including meatpacking), grocery or retail, restaurants/food services, janitorial/hospitality, manufacturing and warehouse/logistics.<sup>1</sup> Additionally, the analysis found that workers in high-risk job sectors were far more likely to be immigrants, particularly noncitizens.<sup>2</sup> Furthermore, the analysis determined that that industries with the highest pandemic-related deaths on average employ more immigrant workers, who are predominately from Latino, Black, and Asian-Pacific Islander communities.<sup>3</sup>

In order to reduce disparities between high-risk and non-high risk workers, and the increased rate of pandemic-related death among high risk workers, the analysis recommends that state agencies ensure robust enforcement of workplace health and safety standards across all industries and that agency staffing should also reflect the many languages spoken by workers in California's high risk industries.<sup>4</sup>

### According to the Author

"By closing a gap in current law, [this bill] will minimize language access barriers in the workplace, ensuring proper enforcement of health and safety laws, empowering immigrant workers, and providing for safer workplaces across California."

### Arguments in Support

The United Food and Commercial Workers Western States Council, co-sponsor of the bill, states, "Cal/OSHA is charged with the responsibility to protect and improve the health and safety of workers throughout California. However, significant language access barriers exist in current health and safety laws that disadvantage immigrant workers who do not understand and speak or read fluent English. Language access barriers at the workplace existed prior to the COVID-19 pandemic, but lack of employer compliance with COVID-19 health and safety laws exposed and exacerbated gaps in current law.

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<sup>1</sup> Juarez, Patino, Penalosa, Ramirez, Gutierrez, and Rodriguez-Mota. *FACT SHEET: The Pandemic's Toll on California Workers in High Risk Industries*. UC Merced Community and Labor Center, April 2021.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

Under current law, if Cal/OSHA believes that an employer violated any health and safety standards or regulations, the division can issue a citation. The citations describe the alleged violations, list any proposed penalties, and give a deadline for correcting the hazard. The Cal/OSHA citation, depending on the violation, must be posted by the employer at or near each place where the violation occurred or in a place readily seen by all employees, all postings must be posted for three working days or until the problem is corrected, whichever is longer.

However, current law does not require these workplace postings to be translated into a language spoken and understood by workers at the worksite. The Cal/OSHA complaint and investigatory process is a lengthy, time consuming process that requires active worker participation until a resolution is reached. Workers eagerly await a conclusion in the complaint process, but language access barriers leave workers confused and unaware of enforcement actions when workplace postings are posted in a language not understood by the majority of the workers. This gap in current law leaves immigrant and noncitizen workers in high-risk sectors vulnerable to exploitation. In order to provide a safer workplace environment, it is imperative there is an increase in worker outreach and information on enforcement actions in the language spoken by workers at the worksite. This ensures workers remain informed and understand critical workplace health and safety hazards and protections.

By closing a gap in current law, [this bill] will minimize language access barriers in the workplace, ensuring proper enforcement of health and safety laws, empowering immigrant workers, and providing for safer workplaces across California."

### **Arguments in Opposition**

None one file.

## **FISCAL COMMENTS**

According to the Senate Appropriations Committee, the Department of Industrial Relations would likely incur annual translation-related costs, minimally in the hundreds of thousands of dollars (Occupational Health and Safety Fund). Additionally, this bill would result in annual penalty revenue of an unknown, but probably minor, magnitude.

## **VOTES**

### **ASM LOCAL GOVERNMENT: 8-0-0**

**YES:** Aguiar-Curry, Lackey, Bloom, Boerner Horvath, Ramos, Luz Rivas, Robert Rivas, Voepel

### **ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0**

**YES:** Wicks, Seyarto, Carrillo, Gabriel, Kalra, Kiley, Quirk-Silva, Ward

### **ASM APPROPRIATIONS: 16-0-0**

**YES:** Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Eduardo Garcia, Jones-Sawyer, Quirk, Robert Rivas, Akilah Weber, Wilson

**ASSEMBLY FLOOR: 72-0-6**

**YES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

**ABS, ABST OR NV:** Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

**SENATE FLOOR: 31-8-1**

**YES:** Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

**NO:** Bates, Borgeas, Dahle, Grove, Melendez, Nielsen, Ochoa Bogh, Wilk

**ABS, ABST OR NV:** Jones

**ASM LABOR AND EMPLOYMENT: 5-2-0**

**YES:** Kalra, Haney, Jones-Sawyer, Reyes, Ward

**NO:** Flora, Seyarto

**UPDATED**

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