
THIRD READING

Bill No: AB 2068
Author: Haney (D), et al.
Amended: 8/11/22 in Senate
Vote: 21

SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-0, 6/22/22
AYES: Cortese, Durazo, Laird, Newman
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 72-0, 5/19/22 (Consent) - See last page for vote

SUBJECT: Occupational safety and health: postings: spoken languages

SOURCE: United Food and Commercial Workers Western States Council

DIGEST: This bill 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 in each language in the top seven non-English languages indicated by the US Census.

ANALYSIS:

Existing law:

- 1) Assures, under the California Occupational Safety and Health Act, safe and healthful working conditions for all California workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)

- 2) Establishes the Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, propose, administer, and enforce occupational safety and health standards. (Labor Code §6300 et seq.)
- 3) Allows Cal/OSHA to declare and prescribe safety devices, safeguards, or other acts which might reasonably protect the life and safety of employees of every employment and place of employment in order to enforce occupational safety and health standards. (Labor Code §6308)
- 4) Requires Cal/OSHA to promptly issue an employer a citation if, upon investigation or inspection, Cal/OSHA believes that there is a violation of HSC §25910, Division 1, Chapter 6 (Commencing with §140) of the Labor Code, or any provision of Division 5 of the Labor Code. (Labor Code §6317)
- 5) Requires each citation issued under Labor Code §6317 and each special order or action pursuant to Labor Code §6308 to be prominently posted for 3 working days or until the unsafe condition specified has been abated, whichever is longer. If Cal/OSHA determines a serious violation has been abated upon inspection, the employer must post the notice indicating abatement for 3 working days. (Labor Code §6318)

This bill:

- 1) 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 Cal/OSHA in each language spoken by at least 5% of their workforce, including workers of a temporary employment agencies or staffing agency.
- 2) Requires that when a citation or special order or action is required to be posted, the employer shall also post an employee notification prepared by the Cal/OSHA. This employee notification must 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 must be posted 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) Requires that the employee notification required this bill must be made available in the top seven non-English languages used by limited-English-proficient adults in California, as determined by the most recent American Community Survey by the United States Census Bureau. If Punjabi is not included among these languages, the division shall also make the employee notification available in Punjabi.
- 4) States that the division shall enforce this bill by issuing a citation alleging a violation of this section and a notice of civil penalty in a manner consistent with Labor Code Section 6317. Any person who receives a citation and penalty may appeal the citation and penalty to the appeals board, as specified.
- 5) Adds the above provisions to a requirement that employers be assessed a civil penalty of up to \$12,471 for each violation of the posting provisions of this bill.

Comments

Need for this bill? AB 2068 expands existing law that requires postings about workplace safety violations to specify that these postings must be made in each language in the top seven non-English languages, as indicated by the US Census Bureau. In addition, the notice must be posted in Punjabi if Punjabi is not included in the top seven non-English languages. Existing laws on posting information that is vital to worker safety are meaningless if workers cannot understand the posters. Furthermore, this bill only adjusts laws around employers who have been cited by Cal/OSHA for workplace safety violations or who have been issued special orders about protective equipment or practices; these postings in particular are crucial for worker safety. AB 2068 could help improve workplace safety by making sure workers understand how to navigate potentially hazardous situations more effectively.

Related/Prior Legislation

SB 606 (Gonzalez, Chapter 336, Statutes of 2021) established a rebuttable presumption that an employer's written policy that violates specified health and safety regulations exists at all of an employer's worksites and adds a definition of "egregious violation" that carries specified additional penalties.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, DIR 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.

SUPPORT: (Verified 8/13/22)

United Food and Commercial Workers Western States Council (source)

AFSCME

California Alliance for Retired Americans

California Conference Board of the Amalgamated Transit Union

California Conference of Machinists

California IATSE Council

California Institute for Rural Studies

California Labor Federation, AFL-CIO

California Nurses Association

California Rural Legal Assistance Foundation

California School Employees Association

California State Council of Service Employees

California State Legislative Board, Sheet Metal, Air, Rail and Transportation
Workers - Transportation Division

California Teamsters Public Affairs Council

Californians for Pesticide Reform

Central California Environmental Justice Network

Centro Binacional Para El Desarrollo Indígena Oaxaqueno

Coleman Advocates for Children and Youth

Engineers and Scientists of California Local 20, IFPTE AFL-CIO & CLC

ILWU Local 26

Jobs with Justice San Francisco

Pesticide Action Network

UAW Local 2865

UAW Local 5810

Unite Here International Union, AFL-CIO

Utility Workers Union of America, Local 132

Utility Workers Union of America, Local 483

Utility Workers Union of America, Local 522

Worksafe

OPPOSITION: (Verified 8/13/22)

None received

ARGUMENTS IN SUPPORT: The United Food and Commercial Workers Western States Council, the sponsor of this bill, writes in support:

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.

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.

ASSEMBLY FLOOR: 72-0, 5/19/22

AYES: 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

NO VOTE RECORDED: Berman, Cervantes, Medina, Nazarian, Quirk-Silva, Blanca Rubio

Prepared by: Jake Ferrera / L., P.E. & R. / (916) 651-1556
8/15/22 12:58:08

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