



SB 606 (Gonzalez) – Workplace Safety Enforcement

SUMMARY

Senate Bill (SB) 606 will implement stronger enforcement measures for egregious and flagrant violations in order to keep workers safe as California continues to fight the spread of COVID-19.

EXISTING LAW

Current law requires the Division of Occupational Safety and Health (Cal/OSHA) to improve working conditions for California's workers and protect public health and safety through research, enforcement and regulation. Cal/OSHA has the authority to issue citations, special orders, and orders to take special action after an investigation of hazards in a workplace.

Under Federal Division of Occupational Safety and Health Administration (OSHA) policy, egregious employers can be subject to more punitive penalties for willful violations, if the employer intentionally or knowingly commits a violation with plain indifference to the law. These are the most severe citations Federal OSHA can issue.

BACKGROUND/PROBLEM

For many Californians, the Governor's shelter-in-place order in mid-March 2020, and subsequent health orders, have resulted in a move to working from home in order to reduce the spread of COVID-19. However, for most essential workers, working from home is not an option. More than 53% of low-wage workers are employed in frontline essential jobs compared to middle and high-wage workers at 39%. In these low-wage, frontline essential jobs, roughly 55% are Latino workers and 48% are Black workers, putting these two groups at greater risk for workplace exposure to COVID-19.¹

¹ UC Berkeley Labor Center. 2020. "Front-line Essential Jobs in California: A Profile of Job and Worker Characteristics."

According to Cal/OSHA, COVID-19 "has killed hundreds of workers in California and sickened thousands, and workers will continue to become ill and die until the pandemic subsides. COVID-19 is an occupational health emergency causing more deaths in less time than any other workplace crisis in the nearly fifty-year existence of Cal/OSHA."²

A University of California San Francisco study found that food and agriculture workers saw a 39% increase in deaths during the pandemic, transportation and logistics workers a 28% increase, facilities workers a 27% increase, and manufacturing workers a 23% increase. The study also found that Latino workers had a 36% increase in deaths during the pandemic and Black workers had a 28% increase, as compared to a 6% increase for white workers.³ A report from the Centers for Disease Control and Prevention found that Latino and Black patients represented nearly two thirds of COVID-19 deaths among people younger than 65. In Los Angeles County, the most recent surge in COVID-19 cases caused deaths among Latino residents to skyrocket more than 1,000% since the fall, triple the rate of white residents.⁴

While Cal/OSHA has attempted to respond to the unprecedented worker safety crisis, resources have been insufficient to effectively protect workers. Only one Cal/OSHA inspector is employed for every 103,000

<https://laborcenter.berkeley.edu/front-line-essential-jobs-in-california-a-profile-of-job-and-worker-characteristics/>

² California Department of Industrial Relation Division of Occupational Safety and Health. 2020. "Evaluation of Petition 583 to Adopt an Emergency Regulation to Protect Workers from COVID-19, and a Permanent Regulation to Protect Workers from Infectious Diseases"

² <https://www.dir.ca.gov/oshsb/documents/petition-583-dosheval.pdf>

³ medRxiv. 2021. "Excess mortality associated with the COVID-19 pandemic among Californians 18–65 years of age, by occupational sector and occupation: March through October 2020"

<https://www.medrxiv.org/content/10.1101/2021.01.21.21250266v1>

⁴ Insider. 2021. "COVID-19 deaths of Latinos in LA County are up 1,000% since November, new report says" <https://www.insider.com/latino-covid-19-deaths-in-la-county-up-1000-since-november>

workers—a dismal figure compared to numbers in nearby states such as Washington (one inspector per 28,000 workers) and Oregon (one inspector per 24,000 workers). Additionally, Cal/OSHA has 1 Spanish-speaking field inspector for every 200,000 Spanish-speaking workers in California, with over 5 million workers who speak Spanish and many of whom are monolingual Spanish speakers.

Existing law has caused gaps in enforcement that limit the agency's ability to hold large corporations accountable or to levy penalties equal to the underlying misconduct. Simply put, California needs more tools to address workplace spread, prevent additional outbreaks, and hold violators accountable in a timely manner.

SOLUTION

SB 606 is consistent with California's efforts to stop the spread of COVID-19 at the workplace and ensuring the safety of all workers. SB 606 will codify Federal OSHA's policy for egregious employers, giving Cal/OSHA the authority to impose minimum penalties per the number of exposed employees for willful violations, the most extreme of cases, where many workers have been knowingly harmed by an employer's failure to comply with health and safety laws. By setting higher penalties for violations associated with the safety of multiple employees, this bill will serve as an incentive for large corporations to comply with the law.

Additionally, SB 606 will provide Cal/OSHA with the authority to issue a corporatewide settlement agreement, for employers with more than one location, when their policies and procedures directly violate labor and health and safety standards. This authority will allow Cal/OSHA to maximize use of their limited resources when pursuing enforcement actions.

SUPPORT

California Labor Federation, AFL-CIO (sponsor)
UFCW – Western States Council (sponsor)
Worksafe (sponsor)
Alliance of Californians for Community Empowerment
Asian Americans Advancing Justice – California
California Alliance for Retired Americans
California Conference Board of the Amalgamated Transit Union
California Conference of Machinists
California Employment Lawyers Association
California Federation of Teachers

California Food & Farming Network
California Immigrant Policy Center
California Institute for Rural Studies
California Nurses Association/ National Nurses United
California Professional Firefighters
California Rural Legal Assistance Foundation
Californians for Pesticide Reform
Center on Policy Initiatives
Central California Environmental Justice Network
Central Coast Alliance United for Sustainable Economy
Centro Binacional para el Desarrollo Indígena Oaxaqueño
Ceres Community Project
Comite Civico del Valle, Inc.
Consumer Attorneys of California
Courage California
Ecology Center
Engineers and Scientists of California, IFPTE Local 20
Environmental Working Group
Equal Rights Advocates
Fibershed
Koreatown Immigrant Workers Alliance
La Raza Centro Legal
Latino Coalition for a Healthy California
Leadership Counsel for Justice and Accountability
Legal Aid at Work
Lideres Campesinas
Marin Food Policy Council
National Employment Law Project
National Union of Healthcare Workers
National Young Farmers Coalition
Pesticide Action Network
The Praxis Project
Professional and Technical Engineers, IFPTE Local 21
Public Advocates
Roots of Change
SMART-Transportation Division, California State Legislative Board
Transport Workers Union, California State Conference
UNITE HERE International Union, AFL-CIO
Utility Workers Union of America, AFL-CIO
Warehouse Worker Resource Center
Working Partnerships USA

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