SEPTEMBER 5, 2023 | LEGISLATIVE & STANDARDS BOARD UPDATES

SB 553 – California Workplace Violence Prevention Bill Nears Becoming Law

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The California Legislature introduced SB 553 – workplace violence: restraining orders and workplace violence prevention – earlier this year despite Cal/OSHA's regulation on Workplace Violence Prevention in General Industry (WPV Standard) nearing the last stages of the rulemaking process.

SB 553's original version tracked the current Cal/OSHA Violence Prevention in Health Care Standard (8 CCR 3342) instead of the Cal/OSHA General Industry WPV Standard. This was problematic because SB 553 had more extensive requirements than the Cal/OSHA draft WPV Standard. It also included retail-specific provisions on shoplifter training and a prohibition on requiring workers who are not dedicated safety personnel from confronting suspected active shoplifters.

However, last week the bill was amended to align more closely with the draft Cal/OSHA WPV Standard. The bill passed committee on Friday and will now go to a full vote in the California Legislature. The latest version of the bill includes the following:

- **Operative January 1, 2024** – amends California Labor Code Section 6401.7 to include as an Injury and Illness Prevention Plan (IIPP) required element "a workplace violence prevention plan conforming to the elements to the requirements of California Labor Code Section 6401.9."
- **Operative July 1, 2024** – adds California Labor Code Section 6401.9 which will require ***all*** California employers (unless they fall under one of the few exemptions) to establish, implement, and maintain an effective workplace violence prevention plan that includes the following (in summary):
  - Names or job titles of the persons responsible for implementing the plan.
  - Effective procedures to obtain active involvement of employees and authorized employee representatives in developing and implementing the plan.
  - Methods the employer will use to coordinate implementation of the plan with other employers.
  - Effective procedures for the employer to accept and respond to reports of workplace violence.
  - Effective procedures to ensure that supervisory and nonsupervisory employees comply with the plan.
  - Effective procedures to communicate with employees regarding workplace violence matters.
  - Effective procedures to respond to actual or potential workplace violence emergencies.
  - Procedures to develop and provide training.
  - Procedures to identify and evaluate workplace violence hazards.

- Procedures to correct workplace violence hazards timely.
- Procedures for post incident response and investigation.
- Procedures to review the effectiveness of the plan and revise as needed.

In addition to the plan, employers will also be required to maintain a violent incident log and provide employee training.

- **Operative January 1, 2025** – allow collective bargaining representatives to seek workplace violence restraining orders on behalf of employees.

Further, not only will employers have to comply with this bill if it passes, but it is just the start of what employers will need to consider when developing their plan. Specifically, consideration will need to be given to overlap with the following laws:

- Workers' compensation laws, including potential exemptions to the exclusivity bar
- Privacy laws
- Fair Employment and Housing Act (FEHA), Americans with Disabilities Act (ADA), and related state laws and potential discrimination issues
- Premises liability
- Negligent hire, supervision, retention, and vicarious liability
- Accommodation for domestic violence victims
- Privilege and confidentiality
- Temporary restraining orders (TROs) and injunctions
- Use of technology and social media policies
- Employee search policies (physical & electronic)

To that end, CMC is hosting a Cal/OSHA and California Employment Law Summit on October 16th and 17th where we will cover this bill, and its ramifications, in detail. See below for more information and to register.

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Conn Maciel Carey LLP's Cal/OSHA and California Employment Law Summit is an in-person program presented by the California-based attorneys in CMC's national OSHA • Workplace Safety and Labor • Employment Practice Groups, to update California employers on important developments involving workplace safety and health issues in California.

Our Summit will include networking opportunities, open forums to collaborate with the CMC team and your fellow attendees, and panelist sessions to cover:

- New California OSH laws and regulations on the horizon
- Further insight into what is top of mind for Cal/OSHA based on recent Appeal Board decisions
- How California employment laws may be impacted by various workplace safety requirements
- Key decisions from the California courts and National Labor Relations Board that will affect California employers from wage and hour issues, to handbook reviews, and more

- Best practices for improving your company's workplace safety and health programs

Two Dates and Locations to Choose From

Registrants have the opportunity to join the program in Northern California on October 16th, or in Southern California on October 17th. Each day will consist of the program outlined in the agenda below. Continental breakfast, lunch, and program materials will be included with registration at both locations.

Click here for the full agenda **and to register for the Cal/OSHA and California Employment Law Summit.**