



# "The Public Interest"

## Health/Safety and Environmental Issues

the PASMA way to shared knowledge

Public Agency Safety Management Association

May 30, 2013

**Front Page** Cal/OSHA news bytes from GOOGLE News

### Individual Highlights:

|                                 |   |
|---------------------------------|---|
| Assembly Bill 1277 Analysis     | 2 |
| Analysis Cont'd & New Standards | 3 |
| Cal/OSHA Data & Statistic       | 4 |

**Editor:** Dick Monod de Froideville, Retired  
- Cal/OSHA [Dmonod.pasma@gmail.com](mailto:Dmonod.pasma@gmail.com)

### PASMA NORTH & SOUTH

#### Contacts:

#### President PASMA South:

Ken Erwin, Safety & Security Manager,  
Irvine Ranch Water District (949)453-5785  
[Erwin@IRWD.com](mailto:Erwin@IRWD.com)

#### Vice President:

Paula Bouyounes  
Risk & Safety Manager, OC Water District  
(714) 378-3310  
[pbouyounes@ocwd.com](mailto:pbouyounes@ocwd.com)

#### Treasurer:

Glenn Newson, Risk Manager  
City of Orange (714) 532-6423  
[Gnewson@cityoforange.org](mailto:Gnewson@cityoforange.org)

#### Secretary: Anna Levina

Health & Safety Officer LA County Dept of  
Mental Health (213) 738-4430  
[alevina@dmh.lacounty.gov](mailto:alevina@dmh.lacounty.gov)

#### Legislative Affairs:

Bill Taylor, CSP Safety Manager  
City of Anaheim (714) 765-4399  
[btaylor@anaheim.net](mailto:btaylor@anaheim.net)

#### President PASMA North:

Stephen Hackett, Safety Officer  
Napa County (707) 259-8744  
[stephen.hackett@countyofnapa.org](mailto:stephen.hackett@countyofnapa.org)

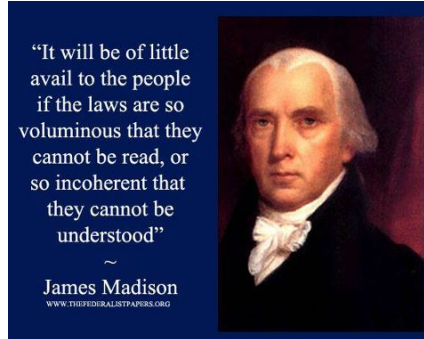
#### Vice President:

Treasurer: Gwen Ho Sing-Loy  
Public Services Operations Manager  
City of Walnut Creek (925) 256-3536  
[ghsl@walnut-creek.org](mailto:ghsl@walnut-creek.org)

#### Secretary: Charity Nicolas

Assistant Risk Manager-Loss Control  
Contra Costa County (925) 335-1463  
[Charity.Nicolas@riskm.cccounty.us](mailto:Charity.Nicolas@riskm.cccounty.us)

**"DANGER, DANGER, DANGER, Will Robinson"** – AB 1277 Cal/OSHA Game Changer on the Horizon. Read, digest and motivate into action. SEE PAGE 2



### Cal/OSHA News Bytes

#### Man in tree service accident identified

Paradise Post-May 7, 2013  
CAL OSHA is investigating. PG&E spokesman Paul Moreno confirmed that the tree service was doing contract work for PG&E. He didn't know ...

#### Disney's Space Mountain fine cut two-thirds

OCRegister (subscription)-May 9, 2013  
"The citations were re-evaluated and amended based on new information provided by Disney," Cal-OSHA Chief Ellen Widess said in a ...

#### MURRIETA: Riverside man killed in forklift accident at work

Press-Enterprise-by Michelle Klampe-May 13, 2013  
Toro worked for Integrity Rebar Placers, based in Perris, said Peter Melton, a spokesman for Cal/OSHA. Inspectors from the state Division of ...

#### Amgen hazmat fire burns worker in South San Francisco, officials say

San Jose Mercury News-May 15, 2013  
... was in the hazardous waste collection room of the facility at 1120 Veterans Blvd when the fire happened, Cal-Osha spokesman Peter Melton ...

#### Man Struck by Large Log in South Chico Dies

KHSL-May 23, 2013  
An initial investigation was conducted by Police and Fire personnel and the California Division of Occupational Health and Safety (Cal. OSHA) ...

#### Colton Security Guard Crushed by Gate, Dies

Patch.com  
... the scene, the coroner's office reported. The incident is under investigation by the San Bernardino Police Department and CAL-OSHA. Comment Recommend ...

#### Alta Bates Summit Medical Center in Oakland fined \$142,970 for ...

San Jose Mercury News-May 21, 2013  
Cal-OSHA said the system wasn't working properly. ... Cal-OSHA also faulted the hospital for not ensuring that employees use a respirator ...

#### Worker killed in accident at BNSF rail yard in San Bernardino

San Bernardino Sun-May 24, 2013  
... W. Fourth St. The man was not identified by authorities. Cal/OSHA and the National Transportation Safety Board are investigating the death.





**Please refer to the URL below for an entire copy of this document**

<http://www.legtrack.com/bill.html?bill=201320140AB1277>

Date of Hearing: April 24, 2013

**ASSEMBLY COMMITTEE ON LABOR AND EMPLOYMENT**

Roger Hernández, Chair

AB 1277 (Skinner) – As Amended: April 18, 2013

**SUBJECT:** Occupational safety and health.

**SUMMARY:** Revises various provisions of law related to the issuance and adjudication of citations for alleged violation of occupational safety and health laws. Specifically, this bill:

1. Provides that a hearing or other action on a request from a permanent or temporary variance from a standard shall be held after "affected" employees (as defined) or employee representatives are properly notified.
2. Provides that an affected employee has a right to due process when a permanent or temporary variance is sought and requires an employer to post a notice of the variance and provide the notice to each collective bargaining representative who represents an employee.
3. Provides that the Occupational Safety and Health Appeals Board (Appeals Board) shall liberally construe the provisions of current law in order to promote safe and healthy working conditions for the working men and women of this state.
4. Provides that the Appeals Board, in adjudicating appeals, shall apply the regulations adopted by the Department of Industrial Relations (DIR).
5. Recasts and revises provisions related to the filing of complaints to, among other things:
  - a) Specify that complaints may be filed and shall be investigated (as specified) by an employee or former employee, an employee or former employee's representative, a health and safety professional, a government agency representative, a joint labor-management committee, or an employer, as specified.
  - b) Revises the procedures and timeframes for the investigation of such complaints, as specified.
6. Specifies that the Division of Occupational Safety and Health (DOSH) shall also issue citations for alleged violations of the relevant provisions of the Labor Code, not just DOSH regulations or standards.
7. Revises provisions of existing law related to a \$5,000 penalty for failure to report a serious injury or illness or death as follows:
  - a) Clarifies that the report shall be made immediately, but no longer than eight hours after the employer knew or should have known of the death or serious injury or illness.
  - b) Specifies that the employer shall inform DOSH of all information in its possession, as specified, and requires the employer to inform DOSH if the employee subsequently dies, as specified.
  - c) Provides that, if the employer has never been subject to an inspection or investigation, the penalty may be reduced to not less than \$2,500 if there is documentation of any of the following:
    - i) The employer has 10 or fewer employees.
    - ii) The employer delayed in reporting to DOSH by no more than 48 hours.
    - iii) The employer delayed reporting by more than 48 hours, but states under penalty of perjury that specified other conditions were met.
  - d) Provides that the penalty may be increased if there is a finding of any of the following:
    - i) The employer failed to report a death.
    - ii) The employer did not provide documentation that the employee received prompt and adequate first aid, medical care, or both.
    - iii) The employer did not provide evidence that it had an effective injury and illness prevention program.
    - iv) The employer previously failed to report a serious injury or illness or death.
    - v) The employer interfered with DOSH's investigation, as specified.
  - e) Provides that the penalty shall not be decreased if DOSH determines that the failure to report timely impaired its investigation or that the employer did not ensure that the employee received prompt and adequate first aid, medical care, or both.
  - f) Provides that, in addition to any other penalty, an employer who willfully or repeatedly fails to report timely or who intentionally interferes with DOSH's investigation shall be subject to other specified existing penalties.

8. Provides that an affected employee (as defined) may appeal the terms and conditions of abatement in a citation or notice if a notice of appeal is filed by specified parties.
9. Requires the Appeals Board, upon a timely request as set forth in its regulations, to permit the following to participate as a party in an appeal:
  - a. An affected employee, as specified, including survivors if the employee is deceased.
  - b. A union that represents an affected employee.
  - c. A union that has a collective bargaining agreement with the employer.
10. Provides that parties shall have the right to participate in settlement discussions, may express an objection, and shall be timely informed of any settlement, as specified.
11. Provides that the rules of practice and procedure of the Appeals Board shall provide for the scheduling of hearings in a manner designed to minimize inconveniences to DOSH and all parties and witnesses who are required to attend the hearings.
12. Provides that the rules of practice and procedure of the Appeals Board shall provide for the completion of hearings without significant lapses in time if the hearings are not completed within the scheduled time.
13. Provides that at any time within 30 days after the service of any final order or decision made and filed by the Appeals Board, any person aggrieved directly or indirectly may petition the Appeals Board for reconsideration in respect to any matters determined or covered by the final order or decision, as specified.
14. Provides that a person who was not a party to the case prior to the Appeals Board issuing the decision after reconsideration who plans to seek judicial review of the decision pursuant to shall provide a written notice to the appeals board, including a statement that the person intends to seek judicial review of the decision, a brief statement regarding the nature of the challenge to the decision after reconsideration, and a request that the Appeals Board modify or rescind its decision.
15. Provides that he notice and statement shall be filed with the Appeals Board within 30 days of the order or decision and shall toll, for 30 days or until the Appeals Board acts, whichever is sooner, both the finality of the decision after reconsideration and the filing deadline. After receiving notice, the Appeals Board may rescind, modify, and reissue the decision after reconsideration, or deny the request either summarily or in writing with the reasons stating the basis for the denial. The Appeals Board's failure to act on the notice within 30 days shall be deemed a summary denial.
16. Makes other related technical and conforming changes to existing law.

FISCAL EFFECT: Unknown

**COMMENTS:** In general, this bill seeks to revise various provisions regarding citations issued by DOSH, the persons or entities who are authorized to participate as a party in an appeal before the Appeals Board, and the procedures that govern the Appeals Board in hearing and deciding appeals.

### Recently Approved Standards

**Effective Date: 04/01/2013**

Elevated Locations - Guardrail Exception for  
Portable Amusement Rides  
[Sections 3210 and 3900](#)

**Effective Date: 04/01/2013**

Horizontal Pull Saw (Radial Arm Saw) Guarding  
[Section 4309](#)

**Effective Date: 05/06/2013**

Globally Harmonized System Update to Hazard  
Communication – Health (Horcher)  
[Sections 1529, 1532 and 1532.1, Appendix B of  
Section 1532.1, Sections 1532.2, 1535, 5150, 5189,](#)

[5190, 5191, 5192, and 5194, Appendices A through  
G of Section 5194, Section 5198, and Appendix B of  
Section 5198, Sections 5200, 5201 and 5202,  
Appendix A of Section 5202, Sections 5206, 5207,  
5208, 5209, 5210, 5211, 5212, 5213, 5214, 5217,  
5218 and 5220](#)

**Effective Date: 07/01/2013**

The Securing of Poles During Removal Operation  
[Section 2940.8](#)

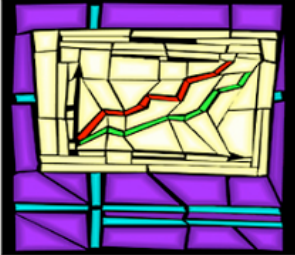
**Effective Date: 07/01/2013**

Federal OSHA Direct Final Rule - Head Protection  
[Section 3381](#)

Cal/OSHA Statistics & Data

| STANDARD | DESCRIPTION                      | TOT VIOL | SER VIOL | % SERIOUS      |               |
|----------|----------------------------------|----------|----------|----------------|---------------|
| 3203     | IIPP                             | 1709     | 80       | 4.7            |               |
| 3395     | Heat Illness Prevention          | 1379     | 75       | 5.4            |               |
| 1509     | Code Safe Practice Cnstrctn IIPP | 792      | 18       | 2.3            |               |
| 3314     | Lock Out/Tag Out                 | 522      | 168      | 32.2           |               |
| 5194     | Haz Com                          | 515      | 16       | 3.1            |               |
| 342      | Reporting Inj/Fat                | 492      | 2        | 0.4            |               |
| 5144     | Resp Protection                  | 338      | 11       | 3.3            |               |
| 6151     | Portable Fire Ext.               | 321      | 0        | 0              |               |
| 5162     | Emergency Eye Wash/Shower        | 253      | 70       | 27.7           |               |
| 461      | Permits - Air Tanks              | 238      | 0        | 0              |               |
| 3457     | Field Sanitation                 | 220      | 5        | 2.3            |               |
| 2340.16  | Work Space About Elec Equip.     | 211      | 2        | 0.9            |               |
| 3276     | Portable Ladders                 | 208      | 43       | 20.7           |               |
| 1512     | Construction - Emer Med Svcs     | 196      | 0        | 0              |               |
| 3650     | Industr. Trucks - Gen Req.       | 177      | 48       | 27.1           |               |
| 3668     | Power Ind. Trucks - Oper Trng    | 166      | 8        | 4.8            |               |
| 3328     | Mach & Equip Safe Oper.          | 158      | 45       | 28.5           |               |
| 5189     | Proc. Safety Mgt                 | 146      | 7        | 4.8            |               |
| 2500.08  | Flex Cords - Uses not permitted  | 140      | 1        | 0.7            |               |
| 5157     | Permit Req. Confined Space       | 137      | 31       | 22.6           |               |
| 1644     | Metal Scaffolds                  | 133      | 56       | 42.1           |               |
| 4650     | Comprsd. Gas Cylinders           | 132      | 27       | 20.5           |               |
| 5193     | Bloodborne Pathogens             | 131      | 20       | 15.3           |               |
| 3241     | Live Loads                       | 117      | 11       | 9.4            |               |
| 3577     | Abrasive Wheels - Protect Dev.   | 116      | 57       | 49.1           |               |
|          |                                  |          |          | <b>Average</b> | <b>13.116</b> |

**STATISTICS**  
A PRECISE AND LOGICAL  
METHOD FOR STATING A  
HALF TRUTH  
INACCURATELY



| Industry Group      | NAICS | Ind. Activity                     | DART |
|---------------------|-------|-----------------------------------|------|
| Construction        | 23813 | Framing Contretr                  | 5.4  |
| Manufacturing       | 3113  | Sugar/Confctn Mfg                 | 4.2  |
|                     | 31141 | Frozen Food Mfg                   | 5.9  |
|                     | 3116  | Animal Slaughter/Proc             | 4.2  |
|                     | 312   | Bev/Tobacco Mfg                   | 5    |
|                     | 313   | Textile Mills                     | 4.4  |
|                     | 321   | Wood Prod. Mfg                    | 4.1  |
|                     | 3272  | Glass/Glass Prod Mfg              | 5.1  |
|                     | 3315  | Foundries                         | 4.3  |
|                     | 3321  | Forging/Stamping                  | 4.2  |
|                     | 3328  | Coating, Engrvng, Heat Treat Etc. | 4.1  |
|                     | 3334  | Vent./Htng/AC Eq Mfg              | 4.7  |
|                     | 3362  | Motor Veh. Body/Trlr Mfg          | 4.5  |
|                     | 3366  | Ship & Boat Bldg                  | 4.6  |
|                     | 33712 | Household & Inst. Furn. Mfg       | 4.8  |
| Trnsprt/Warehousing | 481   | Air Transportation                | 6.8  |
|                     | 4883  | Support Activit for Water Trnsprt | 4.5  |
|                     | 492   | Couriers, Messengers              | 5.3  |
| Utilities           | 2213  | Water, Sewage & Other             | 5.4  |
| WasteMgt            | 5621  | Waste Collection                  | 4.2  |
| Accom/FoodServ      | 721   | Accommodation                     | 5    |

**correlation**  
**≠**  
**causation**

**Average DART for private sector employers in 2011 was 2.0.**  
**High Hazard Ind. Threshold is >200% or >4.0**