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Headline Summary

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Disabled Access Suits

The state Senate passed SB 1186 to discourage "drive-by" lawsuits over disabled access at California building and businesses. The bill now goes to the Assembly for consideration.

SB 1186, the latest attempt to deal with compliance with the federal Americans with Disabilities Act, would ban "demand" letters that some lawyers send to extract quick cash settlements from business owners. It would also require notice letters for any alleged construction-related violations giving business owners 30 days to fix the problem.

The bill is sponsored by Democratic majority leader Steinberg and former Republican leader Dutton.

WatchDog

Guarding the Business of Print

June 2012

Eating In The Workplace

The *California Code of Regulations*, Title 8, Section 3368 ("General Industry Safety Orders"), provides guidelines for employers, including printers, who allow employees to eat on the company's premises. The guidelines read as follows: "Food and beverages shall not be stored or consumed in a toilet room or in an area where they may be contaminated by any toxic material."

In the past, Cal/OSHA has cited a couple of printers for violating this guideline. It is especially concerned about employers who allow employees to eat while working at the press since there are often toxics, albeit at low-percentages, in some of the materials used. The employer must establish rules that employees should not consume food or beverages when directly in contact with equipment or near materials with which they are working—for example, directly on the press or at the press or near open containers of hazardous or toxic materials.

Postal Reform Activity

Senate Majority Leader Harry Reid (D-Nev.) cited seniors' love of junk mail in urging passage of a United States Postal Service (USPS) reform bill.

In his opening speech on Wednesday, Reid called on the Senate to quickly move forward on the passage of S. 1789, the 21st Century Postal Service Act, which restructures pension plans for Postal Service employees as well as allows the USPS to access overpayments in the Federal Employee Retirement System. "Madam President," Reid said to Sen. Kirsten Gillibrand (D-N.Y.), the presiding officer of the Senate, "I'll come home tonight here to my home in Washington and there'll be some mail there. A lot of it is what some people refer to as junk mail, but for the people who are sending that mail, it's very important.

"And when talking about seniors, seniors love getting junk mail. It's sometimes their only way of communicating or feeling like they're part of the real world," Reid continued.

The Senate bill focuses on letting the USPS restructure retirement payments that Democrats say have landed the service in the red.

In February, USPS management spelled out a five-year plan to cut \$20 billion in costs and restore long-term viability. The plan required ending mandatory Saturday delivery, downsizing a bloated network of mail-processing facilities and restructuring the employee health insurance program. The Senate bill enacts none of these reforms.

The bill now goes to the House for action, where insiders believe it will go nowhere in the Republican-controlled House, whose approach to is much closer to the USPS proposal to get the agency back in the black.

Newspapers Oppose Postal Service Proposal

You probably don't know about the controversy between the Newspaper Association of America and the U.S. Postal Service (Postal Service) over a Postal Service proposed Negotiated Services Agreement that would give one company, Valassis, over a 20 percent discount on "new" advertising mail pieces beyond what it mails now.

The discounts would apply to qualifying mail that includes advertising inserts from national retailers of durable and semi-durable goods. These ad inserts are currently often delivered through newspapers' free-standing insert programs.

The Newspaper Association of America and several of its local affiliates, including the California Newspaper Publishers Association, has asked the Postmaster General to withdraw the proposal until its full impact on the marketplace for local advertising and the potential negative impact on postal revenues is studied.

The proposal is currently being reviewed by the Postal Regulatory Commission, which will either approve or reject it sometime in the next few weeks.

Source: California Newspaper Publishers Association

Landfill Diversion Plan

CalRecycle has released its report on strategies for getting to the 75 percent diversion goal under AB 341 (Chesbro) passed last year.

The report outlines strategies such Extended Producer Responsibility, commercial recycling, source reduction, funding, and more. CalRecycle will hold a series of workshops and working groups to discuss these issues over the next 18 months.

For more information on the report, please see www.calrecycle.ca.gov/75Percent/

New Tax Rates - July 1, 2012

Voters in the City of Fort Bragg and Santa Clara County have approved new district taxes that are effective July 1, 2012. Fort Bragg's new rates apply only within the incorporated limits of the city. The tax rates outside the incorporated city limits will remain the same. Santa Clara County is the only countywide increase. The City of Campbell (Santa Clara County) will have a code and rate change as a result of an existing district tax in that city.

Area	Old Rate	New Rate
City of Fort Bragg (Mendocino County)	7.875%	8.375%
Santa Clara County	8.250%	8.375%
City of Campbell* (Santa Clara County)	8.50%	8.625%

More on Meal Periods

One of the core issues in *Brinker Restaurant Corporation v. Superior Court* addressed employers' obligations to provide to non-exempt employees with a meal period of not less than 30 minutes for work lasting more than five hours, and provide two meal periods for work in excess of 10 hours.

The Court concluded that employers "must afford employees uninterrupted half-hour periods in which they are relieved of any duty or employer control and are free to come and go as they please."

The Court also found that employers need not ensure the employee does not work and need not "police" meal breaks. If an employee continues to work on their own accord, premium pay is not owed. Yet the Court also concluded that the employer is liable for straight-time or overtime pay if the employer "knew or should have known" that the employee worked through the meal period. In other words, you have to pay employees when you "suffer or permit" employees to work. It is here that we probably will see future litigation of employer violations of meal periods.

The decision reinforces the importance of adopting and maintaining clear written policies regarding meal (and rest) periods, such as notices, time keeping, and regularly scheduled lunch periods.

Expanding Family Leave

AB 2039 (Swanson; D-Alameda) significantly expands the type of individuals or circumstances under which employees can take a 12-week, protected leave of absence under California's Family Rights Act (CFRA), as well as creates an even further disconnect with the federal Family and Medical Leave Act (FMLA).

Currently, CFRA requires an employer with 50 or more employees to allow an employee who has worked at least 1,250 hours to take up to 12 weeks of leave in a 12-month period for his or her own serious medical condition, for the birth or placement of a child, or to care for the serious medical condition of a child, (under 18 years of age or adult dependent), spouse, or parent (includes step-parents as well as individuals who stand in place of a parent to the child.

AB 2039 seeks to expand CFRA by allowing an employee a protected leave to care for adult children, parents-in-law, grandparents and siblings. The initial intent of CFRA was to provide a balance between an individual's work life and personal life. This proposed change, however, would disrupt that balance and have a negative impact on California employers.

