

California Assembly Bill 2774 (AB2774): Serious Violations

Assembly Bill 2774 (AB 2774), a California law which became effective on January 1, 2011, is causing many businesses to rethink their approach to hazard prevention. AB 2774 in large part clarifies the definition of a "serious violation" in the California Labor Code and describes the procedures Cal/OSHA must follow in its enforcement efforts. Zenith believes that every incident is predictable, preventable, and unacceptable, and that by doing the right things, a company reduces the probability of a citation with serious violations, and in this way protect businesses from the financial consequences of workplace injuries.

SERIOUS VIOLATIONS

There are two major differences created by the change:

1. The definition of a **serious violation** now requires:
 - That there is a **realistic possibility** that death or serious physical harm could result from the hazard
 - That there is an **actual hazard** as opposed to a potential hazard
 - That **serious physical harm** could result from the hazard. The definition of serious physical harm now includes
 - **loss of efficiency**, where a body part or functioning of an organ results in permanent and significantly reduced efficiency
 - **any hospitalization** for purposes other than observation, regardless of duration.
2. In preparation for issuing a citation with a serious violation, Cal/OSHA now requires its compliance officers to fill out a **form** documenting the above. Prior to issuing the citation, Cal/OSHA will send the form to the employer, allowing the employer to provide additional information showing

why the violation is not serious. Cal/OSHA will review and consider the new information before issuing the citation.

In addition, AB 2774 identifies a number of factors which Cal/OSHA must consider before issuing a "serious violation" citation. These factors include:

- the type of training the employer provides its employees and supervisors relative to the hazard
- the procedures the employer has in place for discovering, controlling and correcting the hazard or similar hazards
- the employer's supervision of employees exposed or potentially exposed to the hazard
- the employer's procedures for communicating its health and safety rules and programs to employees.

PREVENTION OF SERIOUS HAZARDS AND VIOLATIONS

We believe that an effective safety program (injury and illness prevention program) is the cornerstone of preventing serious hazards, and the implementation of these programs, including all applicable hazard control programs, will reduce the likelihood of serious violations. To better understand the elements of an effective safety program, refer to Zenith's Risk Management Bulletin #116, Safety Program (Injury and Illness Prevention): Zenith's Guide to Developing an Effective Program.

Your Zenith Safety and Health consultant is available to assist you with development of your safety and health program. The consultant will focus on injury and illness prevention, addressing the most serious hazards first. For additional information or assistance, contact your Zenith Safety and Health consultant.