

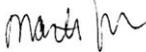


GREATER RIVERSIDE
CHAMBERS OF COMMERCE



April 25, 2017

TO: Assembly Appropriations Committee

FROM: California Chamber of Commerce 
Almond Alliance of California
Associated General Contractors
Association of California Egg Farmers
California Association of Wheat Growers
California Construction and Industrial Materials Association
California Farm Bureau Federation
California Framing Contractors Association
California Feed & Grain Association
California Manufacturers and Technology Association
California Pear Growers Association
California Professional Association of Specialty Contractors
California Seed Association
California State Floral Association
California Travel Association
California Warehouse Association
Camarillo Chamber of Commerce
Clovis Chamber of Commerce
Culver City Chamber
Greater Riverside Chamber of Commerce
National Federation of Independent Business
Oxnard Chamber of Commerce
Family Business Association of California
Pacific Egg and Poultry Association
Residential Contractor's Association
San Gabriel Valley Economic Partnership
The Chamber of the Santa Barbara Region
Torrance Area Chamber of Commerce
Western Growers
Western Steel Council

**SUBJECT: AB 978 (LIMÓN) EMPLOYMENT SAFETY: INJURY AND ILLNESS
PREVENTION PROGRAM
OPPOSE
SET FOR HEARING APRIL 26, 2017**

The California Chamber of Commerce and the listed organizations are **OPPOSED** to **AB 978 (Limón)**, as introduced February 16, 2017, because it circumvents the rulemaking process now underway to provide for access by employees to their employer's Illness and Injury Prevention Program (IIPP) and the bill allows unaffiliated organizations to access employer documents.

All employers are required by Cal/OSHA Regulations (Section 3203) and the California Labor Code (Section 6401.7) to establish, implement and maintain an effective written IIPP. The Cal/OSHA Standards Board is currently evaluating a public request (Petition file No. 562) to revise Section 3203 to include a specific provision that provides for employee access to the IIPP. AB 978 pre-empts this appropriate regulatory process.

In addition, AB 978 allows not only an employee to obtain a copy of the IIPP, but also an organization unaffiliated with the employer or the employee to be designated by the employee to request and receive a copy of the IIPP. A request of the IIPP by this outside organization would also require the employer to provide "all required attachments," a term that is not currently in statute and would be left open to interpretation. As we understand it, the author's intent is that "attachments" will include the employer's internal records related to implementation of the program, which are now exclusively provided to Cal/OSHA in an enforcement action or to plaintiff's in a legal action. Furthermore, when these records are requested during legal proceedings, the scope of the request is

limited by the laws governing Cal/OSHA investigations or litigation discovery laws. For example, Cal/OSHA document requests must not cause unreasonable disruptions to the employer's work. No such limiting provisions are included in AB 978.

AB 978 unwarrantedly expands the scope of what we currently understand is an employee representative and agree is appropriate; the employee's union representative recognized by the employer as such. AB 978, in contrast, regards as an employee representative anyone the employee designates - regardless of any connection the person has to the employee or to the employer. That person can request and receive a copy of the IIPP including its required attachments, whatever that vague and undefined term is ultimately determined to mean.

While the IIPP is generally a tool and resource for the employer and its supervisors to follow as a roadmap for safety in the workplace, from time to time employees may wish to review the program. To that end, we fully support the inclusion of explicit language to allow the employee to access the IIPP. However, we are opposed to the approach taken in this legislation because it will leave employers open to needless liability without due process protections. An employer is entitled to maintain confidential documents, as well as documents for the sole purpose of training employees for their safety in the workplace. An outside organization without legal standing should not be given access to the documents that must be provided to Cal/OSHA during an investigation, or to litigants during discovery.

Allowing an employee to authorize anyone for this purpose, especially without requiring disclosure to the employer, circumvents established pathways for legitimate requests for employer records and documents in situations where they are proven to be warranted. Furthermore, the number of requests that could be made and to which an employer would have to respond is unlimited, nor is there a limit to the scope of the workplace. The use of a designated representative, undisclosed to the employer, and with no limits could result in a "fishing expedition" in order to expose the employer to litigation and harassment.

For these and other reasons, the California Chamber of Commerce and the listed organizations **OPPOSE AB 978 (Limón)**.

cc: The Honorable Monique Limón
Camille Wagner, Office of the Governor
Luke Reidenbach, Assembly Appropriations Committee
Joshua White, Assembly Republican Caucus
District Offices, Members, Assembly Appropriations Committee

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