

PANE & PANE ASSOCIATES, INC.

April 7, 2011

MEMO TO: California Bus Association

FROM: Josh Pane and Donna Wetterer Pane
pane@cwo.com (916) 835-3036 or (916) 447-8982

RE: Legislative Update: Week of April 4, 2011

There have been a number of bills amended since our last legislative update. Many of them became new bills after amendments were added to what were previously "spot bills". The bills we've added and summarized to the update below are: **AB 462, AB 470, AB 807, SB 125, SB 211, SB 570 and SB 719.** Please let us know of any concerns about these newly added bills.

2011 Legislation

AB 45 (Hill-D)) Charter-party carriers of passengers: alcoholic beverages: open containers.
(A-3/29/2010) **Sponsor: Author Staff: Graceila Castillo (916) 319-2019**

Summary: The Passenger Charter-party Carriers' Act, except as specified, requires the driver of any limousine for hire operated by a charter-party carrier of passengers (carrier) under a valid certificate or permit to comply with prescribed requirements relating to alcoholic beverages, including ascertaining whether any passenger is under the age of 21 years, reading to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, requiring such a passenger to sign the statement, and, if a minor passenger, after signing the statement, is found to be, or to have been, consuming any alcoholic beverage during the course of the ride, immediately terminating the contract of hire and returning the passenger to the point of origin. The act also subjects the carrier to specified civil penalties, based on the number of offenses, for conviction of a driver, or any officer, director, agent, or employee of the carrier, of a violation of the Vehicle Code that prohibits storage of an opened container of an alcoholic beverage in a motor vehicle. This bill would expand the application of those alcoholic beverage provisions concerning passengers under the age of 21 years by applying those requirements to the driver of any vehicle used in the transportation of passengers for hire operated by a permitted or certificated carrier. The bill would make the 3rd or subsequent violation of the open container prohibition by a driver of any vehicle used in the transportation of passengers for hire operating under a valid certificate or permit a misdemeanor.

STATUS: Passed Assembly Utilities and Commerce on April 4th 15-0; to Appropriations.
CBA Position: OPPOSE UNLESS AMENDED (The author has pending amendments that we circulated to the CBA Board and are awaiting feedback as to whether your concerns are addressed)

AB 128 (Logue-R) Air Resources Board: Alternative actions to assessing penalties
(I-1-11-11) **Sponsor: author Staff: David Kruckenberg (916) 319-2003**

Summary: This bill would authorize the state board, in lieu of assessing penalties for a violation of an air pollution control law administered by the state board, to require a person who has violated that law to spend an amount equivalent to the amount that would have been assessed for the violation toward actions to comply with the air pollution control law that was violated or toward a supplemental environmental project.

STATUS: Assembly Natural Resources; no date.
CBA Position: Support (taken at February 11th Board meeting)

AB 135 (Hagman-R) Air Resources Board: Membership: small business owner (I-1-12-11) Sponsor: National Federation of Independent Businesses Staff: Lauren Dominguez (916) 319-2060

Summary: This bill, until January 1, 2017, would require one appointed member of the state board to be a current owner of a small business, as defined, who has worked for, owned, or worked for and owned, that small business for at least 10 years.

STATUS: Assembly Natural Resources; no date.

CBA Position: Support (taken at February 11th Board meeting)

AB 325 (Lowenthal-D) Employee's right to bereavement leave. (I-2/10/11) Sponsor: CA Employment Lawyers' Association Staff: Dominic Bulone (916) 319-2054

Summary: Existing law provides employees with the right to take time off work without discharge or discrimination for a number of reasons. This bill would add the right to inquire about, request, and take time off for bereavement leave. The provisions of the bill would not apply to an employee who is covered by a valid collective bargaining agreement that provides for bereavement leave and other specified working conditions.

STATUS: Assembly Labor & Employment on April 13th.

AB 333 (Grove) California Global Warming Solutions Act of 2006: unemployment. (I-2/10/11) Sponsor: Author Staff: Rob Smith (916) 319-2032

Summary: This bill would require the state Air Resources Board to exempt from an emission reduction requirement adopted pursuant to the Global Warming Act an emissions source located within a county that on January 1, 2012, has an unemployment rate of 7% or greater, until that county's unemployment rate drops below 7% for 6 consecutive months.

STATUS: Assembly Natural Resources; no date.

AB 462 (Lowenthal-D) Air pollution: vehicular pollution. (A-3/22/11) Sponsor: South Coast Air Quality Management District Staff: Dominic Bulone ((16) 319-2054

Summary: Existing law authorizes an air pollution control district or a regional air quality management district, until January 1, 2015, to establish a fee of up to \$6 on the registration of motor vehicles registered in the district. Existing law requires the revenues from the first \$4 of the fee be used for specified purposes. Existing law requires that the revenues from the last \$2 of the fee be used for specified programs that the district determines remediate air pollution harms created by motor vehicles. This bill would additionally authorize a district based on that determination to use the last \$2 of the fee for programs to replace onboard natural gas tanks on school buses owned by a school district that are 14 years of age or older, with a funding amount of up to \$20,000 per bus and to enhance deteriorating natural gas fueling dispensers of fueling infrastructures operated by a school district, with a funding amount of up to \$500 per dispenser.

STATUS: Assembly Transportation on April 7th.

AB 470 (Halderman-R) Air pollution districts: fees: school bus retrofits (A-3/21/11)

Sponsor: Author Staff: Maggie Winn (916) 319-2029

Summary: Existing law authorizes specified air pollution control and air quality management districts to adopt a fee applicable to motor vehicles registered in counties within that district, and requires the fee to be collected by the Department of Motor Vehicles. Existing law, until January 1, 2015, authorizes the amount of the fee to be up to \$6. Existing law requires the revenues from the first \$4 of the fee to be used for specified purposes. Existing law requires that the revenues from the last \$2 of the fee to be used for specified programs that the

district determines remediate air pollution harms created by motor vehicles, including purchases of new school buses pursuant to the State Air Resources Board's Lower-Emission School Bus Program. This bill would additionally authorize a district based on that determination to use the last \$2 of the fee to retrofit existing school buses pursuant to the State Air Resources Board's Lower-Emission School Bus Program.

STATUS: Assembly Transportation; hearing cancelled at author's request.

AB 537 (Williams)-D Vehicles: commercial vehicles: weight restriction: State Route 154.

(I-2/16/11) Sponsor: Santa Barbara CAG Staff: Erin Baum ((16) 319-2035

Summary: This bill would prohibit, with specified exemptions, the operation of a commercial vehicle with 3 or more axles, or a gross vehicle weight or a combined gross weight of 9,000 pounds or more on the segment of State Route 154 (SR-154) that is located between the State Route 101 and SR-154 intersection in the City of Santa Barbara and SR-154 and State Route 246 intersection in the County of Santa Barbara. The bill would provide that, upon conviction, a violation of the above prohibition is subject to a fine based on the weight of the vehicle or \$1,000, whichever is greater.

STATUS: Assembly Transportation; no date.

AB 807 (Solorio-D) Vehicles: drivers employed by a business: periodic reports (A-4/6/11)

Sponsor: Orange Co. Transportation Authority Staff: Alejandro Huerta (916) 319-2069

Summary: Existing law requires the prospective employer of a driver who drives a specified vehicle, including a vehicle for which the driver is required to have a class A or B license, to obtain a report showing the driver's current public record as recorded by the Department of Motor Vehicles, and the employer of the driver to obtain an additional periodic report at least every 12 months. Existing law requires that those reports be presented upon request or upon demand, as applicable, to an authorized representative of the Department of the California Highway Patrol during regular business hours. This bill would require that the prospective employer of a taxicab transportation service, as specified, also obtain the report and that the employer of the taxicab transportation service additionally obtain a periodic report from the department at least every 12 months. The bill would require that the reports be presented upon request or upon demand, as applicable, to an authorized representative of the administrative agency responsible for issuing permits to taxicab transportation services during regular business hours.

STATUS: Assembly Floor.

AB 1332 (Donnelly) State Air Resources Board: abolishment. (I-2/18/11) Sponsor: Author

Staff: Kelly Shaw (916) 319-2-59

Summary: This bill would abolish the State Air Resources Board and transfer its authority, duties, powers, purposes, responsibilities, and jurisdiction to the California Environmental Protection Agency.

STATUS: Assembly Natural Resources on April 25th.

SB 125 (Emmerson-D) Vehicles: toll highways of vehicular crossings: evading toll payments

(A-3/14/11) Sponsor: CA Toll Operators Committee Staff: Teresa Trujillo (916) 651-4037

Summary: This bill would authorize a law enforcement officer to impound, or cause to be impounded, a vehicle that is registered to a chronic evader of toll payments, as defined, until all outstanding tolls and all required penalties are paid to the issuing agency.

STATUS: Assembly Transportation & Housing on April 26th.

SB 129 (Leno-D) Medical marijuana: qualified patients and primary caregivers: employment discrimination. (I-1/27/11) Sponsor: Americans for Safe Access Staff: Barry Steinhart (916) 651-4003

Summary: This bill, notwithstanding existing law, would declare it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person, if the discrimination is based upon the person's status as a qualified patient or a positive drug test for marijuana, except as specified. The bill would authorize a person who has suffered discrimination in violation of the bill to institute and prosecute a civil action for damages, injunctive relief, reasonable attorney's fees and costs, any other appropriate equitable relief, as specified, and any other relief the court may deem proper. The bill would not prohibit an employer from terminating the employment of, or taking other corrective action against, an employee who is impaired on the property or premises of the place of employment, or during the hours of employment, because of the medical use of marijuana.

STATUS: Passed Senate Judiciary on April 6th; to Senate Floor

SB 144 (Wyland-R) Employment: meal periods. (I-2/1/11) Sponsor: Author Staff none yet assigned. THIS IS A SPOT BILL THAT MAY NOT BE MOVED THIS YEAR.

Summary: Existing law requires an employer to provide an employee with one meal period during a work period of more than 5 hours and 2 meal periods during a work period of 10 hours, as prescribed. This "Spot Bill" would make non-substantive changes to these provisions.

STATUS: Awaiting committee assignment.

SB 211 (Emmerson-R) California Global Warming Solutions Act of 2006: tire inflation regulation: enforcement (A-3/14/11) Sponsor: Author Staff: Teresa Trujillo (916) 651-4037

Summary: Pursuant to the California Global Warming Solutions Act of 2006, the state board adopted a regulation requiring automobile service providers, by September 1, 2010, among other things, to check and inflate vehicle tires to the recommended pressure rating when performing automobile maintenance or repair services. This bill would authorize a tire pressure gauge used to meet the requirements of this regulation to be accurate within a range of plus or minus 2 pounds per square inch of pressure (2 psi) . The bill would limit penalties for a violation of the requirements of the regulation to a civil penalty of not more than \$20 for the first offense and not more than \$50 for each subsequent offense. The bill would prohibit the imposition of a civil or criminal penalty upon a customer of an automobile service provider for a violation of the requirements of the regulation.

STATUS: Senate Environmental Quality on May 2nd.

SB 316 (Emmerson-R) Meal periods: exemption: transportation industry. (I-2/14/11) Sponsor: UPS Staff: Teresa Trujillo (916) 651-4037

Summary: Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees. This bill would add employees employed in the transportation industry, as defined, to the list of employees exempt from the above provisions.

STATUS: Senate Labor & Industrial Relations; no date.

SB 319 (Wyland-R) Meal and rest periods: exceptions. (I-2/14/11) Sponsor: National Armored Car Assn. Staff: Julie Hooper (916) 651-4039

Summary: Existing law prohibits, with specified exceptions, an employer from requiring any employee to work during a meal or rest period mandated by an applicable order of the Industrial Welfare Commission. Existing law requires, with specified exceptions, employers to provide meal and rest periods to employees during work periods of specified duration. This bill would exempt from these provisions an employee in the transportation industry whose work places him or her inside an armored car in shifts during a workday.

STATUS: Senate Labor & Industrial Relations; no date.

SB 389 (Dutton-R) Employment: meal periods. (I-2/15/11)

Sponsor: Author Staff: Anissa Nachman (916) 651-4031

Summary: This bill would revise the statutory requirements for the provision of meal periods to specify that the requirements apply only to employees subject to the meal period provisions of an order of the IWC. The statutory requirements for providing the meal periods would be revised to specify that a meal period based on working more than 5 hours in a workday is required to be provided before the employee completes 6 hours of work, unless the existing waiver provision is invoked. The waiver provision for the 2nd meal period would be changed to provide an exception for different provisions within specified IWC wage orders, and to permit the employer and employee to agree to waive either the first or the 2nd meal period if the employee otherwise is entitled to 2 meal periods. The bill also would specify conditions under which on-duty meal periods are permitted. The meal period provisions of a valid collective bargaining agreement would be required to be implemented for covered employees rather than the statutory requirements. The bill would require that orders of the IWC be interpreted in a manner consistent with this section, and would require the Department of Industrial Relations to amend and republish specified IWC wage orders to be consistent with the revised meal period requirements.

STATUS: Senate Labor & Industrial Relations; no date.

SB 570 (Rubio-D) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD): high polluter vehicles: school buses (A-3/21/11) Sponsor: SUVUAPCD Staff: Jessica Golly (916) 651-4016

Summary: Existing law, until January 1, 2013, requires the San Joaquin Valley Unified Air Pollution Control District (district) to develop and administer, in consultation with the State Air Resources Board, a voluntary program to remove high polluter vehicles within the district by exchanging high polluter vehicles in the district for donated vehicles, as provided. This bill would repeal these provisions, and instead require the district to administer, until January 1, 2014, a voluntary program to replace high emitting school buses in the San Joaquin Valley. By imposing duties on a local air district, the bill would impose a state-mandated local program.

STATUS: Senate Transportation & Housing on April 12th.

SB 719 (Vargas-D) Vehicles: motor carrier of property: insurance (A-3/24/11) Sponsor: Author

Staff: Ermalinda Ruiz (916) 651-4040

Summary: This bill would authorize the director of the department to initiate a rulemaking process, upon making a finding that the minimum coverage requirements are insufficient, to alter, by regulation, the required coverage amounts to better reflect market conditions, costs, and operational risks. The bill would also authorize the director to alter the minimum coverage requirements for motor carriers based on the time, place, and manner of their operations, including a motor carrier's operations while operating off of a public highway if that operation is being conducted pursuant to its motor carrier permit.

STATUS: Senate Transportation & Housing; no date.

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Also, there have been a great number of bills introduced to deal with the greenhouse gas issue and

AB 32. Also there have been a number of bills introduced this year to address the over 28,000 pages of state regulations that are on the books. Below is a list of a few of those bills that address state regulations we will be following on this issue:

SB 366 (Calderon-D) Regulations: agency review. Set 4/12/11 Senate Governmental Organization

SB 396 (Huff-R) Regulations: review process. Set 4/12/11 Senate Governmental Organization

SB 400 (Dutton-R) Regulations: impact on businesses. Set 4/12/11 Senate Governmental Organization

SB 401 (Fuller-R) Regulations: repeal provisions. Set 4/12/11 Senate Governmental Organization

AB 535 (Morrell-R) Regulations: 5-year review and report. Set May 3rd Assembly Bus. & Professions.

As always, please don't hesitate to contact us if you have any questions or need additional information at (916) 447-8982 or pane@cwo.com.

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