STATE OF CALIFORNIA
PETE WILSON, Governor
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT
*LEGAL SECTION*
455 Golden Gate Avenue, Room 3166
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H. THOMAS CADELL, JR., *Chief Counsel*

February 16, 1994

Alfred Klein, Esq.
121 West Lexington Dr., 5th Floor
Glendale, CA 91203-2203

Re: **Uniform Requirements**

Dear Mr. Klein:

The Labor Commissioner, Victoria Bradshaw, has asked this office to respond to your letter of February 2, 1994, seeking an opinion regarding uniform requirements under the California Industrial Welfare Commission Orders.

Because of the nature of your client's business, it is necessary that the employees pass through a metal detector at the end of the workday in an attempt to alleviate theft. Your client has asked the employees not to wear any metal in their clothing but has found that many workers wear clothing (including undergarments and shoes) which use some metal.

Your question is whether it would be permissible for your client to insist that all workers pass through a metal detector before beginning their workday with the employer reserving the right to send home without pay any employee who is wearing any metal in their clothing, including zippers, bras and shoes.

You state that in your opinion the requirement your client wishes to impose would actually encourage casual clothing which many other employers would consider inappropriate, such as sweat pants with drawstring tops and pajama bottoms with buttons rather than a zipper. You also point out that pants with plastic zippers are available and sports bras without metal are readily available at discount outlets. Many ahtletic or other casual footwear such as house slippers, do not have metal either, as you note.

Thus, you argue, the types of items required would not be exclusive to the workplace but would have common personal utility.

The Industrial Welfare Commission has provided that when uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. As you know, the IWC has defined the term uniform to include "wearing apparel and accessories of distinctive design or color." (See Section 9(A) of the IWC Orders) In enforcing this language, the DLSE has opined that the requirement that the workers in a restaurant wear "Hawaiian" shirts was covered by the definition of the word "uniform".

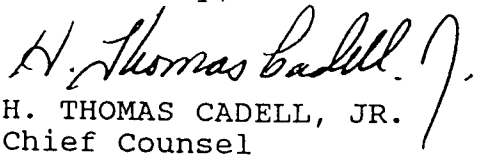
There is no doubt that your client has a valid reason for insisting that the workers be subject to search by metal detector. Additionally, of course, as you state, house slippers, pajama bottoms or sweat pants could have a personal utility. However, not all persons would find a use for house slippers, pajama bottoms or sweat pants any more than all persons would find a use for Hawaiian shirts. As you can see, the question is not whether the particular wearing apparel or accessory has some value outside the employment, but whether the wearing apparel is required by the employer as a condition of employment.

The requirement by your client that the employees must wear clothing which does not contain metal would obligate the employer to pay for the clothing.

The IWC Orders contemplate that certain employment may require a change of clothing. (See IWC Orders, section 13) Your client may suggest that the employees wear clothing that contains no metal; for those workers who do not meet the qualifications, the client could provide dressing rooms and metal-free clothing which the workers may utilize.

Thank you for your interest in California labor laws. We hope that this opinion letter adequately addresses the issue you raised in your letter of February 2nd.

Yours truly,



H. THOMAS CADELL, JR.
Chief Counsel

c.c. Victoria Bradshaw