

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 540)****INTRODUCTION**

The Occupational Safety and Health Standards Board (Board) received a petition on February 15, 2014, from Larry Bornstein (Petitioner). The Petitioner requests the Board to amend Title 8, California Code of Regulations, Subchapter 7, General Industry Safety Orders, to address risk factors associated with musculoskeletal injuries when employees manually retrieve shopping carts from parking lots.

Labor Code section 142.2 permits interested persons to propose new or revised regulations concerning occupational safety and health and requires the Board to consider such proposals, and render a decision no later than six months following receipt. Further, as required by Labor Code section 147, any proposed occupational safety or health standard received by the Board from a source other than the Division of Occupational Safety and Health (Division) must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit an evaluation regarding the proposal.

SUMMARY

The Petitioner has noted the use of electric cart pushers by some stores to facilitate moving carts and lessen the bodily strain on the worker as an alternative to manually pushing and/or pulling carts.

DIVISION'S EVALUATION

The Division's evaluation report dated May 21, 2014, states that there are ergonomic risk factors associated with cart retrieval, such as the force or physical effort as noted by the Petitioner. Employers have the option of deciding which methods to use such as equipment, work practices, and procedures to address ergonomic risk factors. Whether certain work activities put an employee at risk of injury depends on the duration, frequency, and magnitude of the employee's exposure to the risk factors in the activity.

These risk factors as well as other job hazards identified in the workplace are required to be addressed and evaluated by employers and, if necessary, corrected through the employer's Injury and Illness Prevention Program (IIPP).

Current Title 8 regulations, Section 3203 already require employers to identify and correct job hazards, such as those associated with manual cart retrieval, as well as provide training through the IIPP. Consequently, the Division recommends that this petition be denied.

STAFF'S EVALUATION

Board staff prepared an evaluation dated March 26, 2014, which states that California has existing standards that may address the concern of the Petitioner. One is California Code of Regulations, Title 8, Section 5110, which address repetitive motion injury (RMI). If this section applies to an establishment, the employer is required to establish and implement a program that minimizes RMI. The program includes worksite evaluation(s), implementation of control measures and providing training to employees.

Another Title 8 regulation that potentially addresses this problem is Section 3203, which governs the IIPP. The IIPP regulation requires employers to identify and correct hazards in the workplace. It is a performance based standard allowing the employer to use its judgment in correcting the hazards. The potential musculoskeletal hazard from retrieving the carts can be addressed by the employer by implementing a variety of control measures such as, but not limited to:

- (1) Periodically inspecting the carts
- (2) Repairing or replacing carts that are not functioning properly
- (3) Training employees on the proper way to retrieve carts. This may include retrieving fewer carts at a time or using electric cart pushers.

There is no evidence that the use of electrical cart pushers is necessary or optimum in all situations. The current provisions of Section 3203 and 5110 allow the use of such devices or other options, and since there is no clear evidence that these existing regulations do not address this situation adequately, the need for a new prescriptive regulation is not apparent. For these reasons, Board staff recommends that this petition be denied.

CONCLUSION AND ORDER

The Board has considered the Petition and the recommendations of the Division and Board staff. For reasons stated in the preceding discussion, the petition is hereby DENIED.