

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Website address: www.dir.ca.gov/oshsb**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 511)****INTRODUCTION**

The Occupational Safety and Health Standards Board (Board) received a petition on September 8, 2009, from Nina S. Duren (Petitioner). The Petitioner requests the Board to amend Title 8, California Code of Regulations, Sections 3650(t)(33) and 3653(a) of the General Industry Safety Orders (GISO), concerning requirements that seat belts be used when provided and that seat belts be provided on all equipment where rollover protection is installed.

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 must be referred to the Division for evaluation, and the Division has 60 days after receipt to submit a report on the proposal.

SUMMARY

The Petitioner listed the following reasons for the petition:

1. Due to the restricting nature of safety belts which limit the range of motion, forklift operators are unable to comply with Section 3650(t)(12) which requires that the operator look in the direction of travel and not move a vehicle until certain that all persons are in the clear.
2. Forklift operators spend the majority of their workday driving in reverse due to their vision being obstructed by the load they are carrying, especially if the load is large. Driving in reverse while being restrained by a seat belt causes back and neck pain and may ultimately cause long-term back and neck injuries.
3. Certain jobs require the operator to mount and dismount the forklift frequently. The use of seatbelts interferes with the performance of required tasks in a timely manner and adversely impacts productivity.

The Petitioner reasons that since job descriptions vary between companies, safety belt usage should be left to the discretion of the company based on individual job descriptions and requirements.

DIVISION'S EVALUATION

The Division's evaluation report dated November 24, 2009, states that each of the Petitioner's concerns has been adequately addressed through the advisory committee process and responses to comments in the Final Statement of Reasons presented before the Standards Board prior to adoption of the subject standards.

Based on the above, the Division believes the petition should be denied.

STAFF'S EVALUATION

The sections of the GISO which are the subject of this Petition stem from a rulemaking that was initiated by Petition No. 429. The concerns raised by this Petition (No. 511) have all been addressed within the context of the rulemaking process which amended these sections in March 2009.

In that prior rulemaking, the Board concluded that the weight of scientific evidence demonstrated that operator restraint systems reduce the operator's risk of serious injuries and death in the event of a tip-over and therefore, that no further modification of the rulemaking proposal was necessary. This does not mean that seat belts, when installed or used incorrectly, do not cause the problems cited by the Petitioner; however, the consensus expressed in the course of the rulemaking process was that these problems can be largely mitigated through such means as swivel seats, airplane-type seat belts, and other similar modifications.

It is noteworthy that the American National Standards Institute/Industrial Truck Standards Development Foundation (ANSI/ITDSF) B56.1-2005, Section 7.41 prescribes that operator restraint systems shall not unduly restrict the operation of the truck, e.g., the operator's mounting, dismounting, movement and/or visibility. Board staff also takes note that Federal OSHA interpretations and directives require that seat belts, when provided, shall be used by the operator.

Board staff has considered the Applicant's petition to make the provisions for the use of seat belts discretionary. However, for the reasons stated above, Board staff recommends that the Petition be denied.

CONCLUSION AND ORDER

The Occupational Safety and Health Standards Board has considered the petition of Nina S. Duren (Petitioner) to make requested changes to Sections 3650(t)(33) and 3653(a) of the General Industry Safety Orders concerning requirements that seat belts be used when provided and that seat belts be provided on all equipment where rollover protection is installed. The Board has also considered the recommendations of the Division and Board staff. For reasons stated in the preceding discussion, the Petition is hereby DENIED.