

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**ATTACHMENT NO. 3****INITIAL STATEMENT OF REASONS**

CALIFORNIA CODE OF REGULATIONS

TITLE 8: Chapter 4, Subchapter 7, Article 27, Sections 3700 and 3702
of the General Industry Safety Orders

Seatbelt Requirement for Farm Labor Vehicles**SUMMARY**

Section 3702 of the General Industry Safety Orders (GISO) requires vehicles used to transport employees to meet minimum design and equipment standards and includes requirements for such components as lamps, brakes, windshields, turn signals, passenger carrying capacities, and aisle and seat specifications. Because of the passage of AB 555 (1999) and AB 1165 (1999), the Labor Code now requires the Labor Commissioner to provide the California Highway Patrol (CHP) with a listing of all registered farm labor vehicles (FLV) and the California Vehicle Code (CVC) requires CHP to inspect the FLV to insure that, amongst other things, the FLV have seatbelts for each passenger. To retain consistency with the CVC, it is necessary to amend GISO Section 3702 to require the installation and use of seatbelts in farm labor vehicles. The Occupational Safety and Health Standards Board (Board) staff also propose to amend Section 3700 to add the definition for "farm labor vehicles" as applied in Section 3702. This amendment will enable the Division of Occupational Safety and Health (Division) to enforce the seatbelt requirement.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 3700. Definitions.**

Section 3700 consists of definitions for terminology used in Article 27 pertaining to the transportation of employees and materials.

The proposal adds the following definition to Section 3700, "Farm Labor Vehicle". Any motor vehicle designed, used, or maintained for the transportation of the driver and nine or more farm workers to or from a place of employment or employment-related activities.

EXCEPTION: (1) any vehicle carrying only members of the owner's or driver's immediate family, (2) any vehicle while being operated under specific authority granted by the Public Utilities Commission or under specific authority granted to a transit system by an authorized city or county agency, (3) any flat-bed truck, pickup, or dump truck operated in accordance with Section 3702(r)."

The proposed amendment to Section 3700 is necessary to clearly indicate the meaning and applications of the regulations contained in Section 3702.

Section 3702. Transporting Employees.

Section 3702 states that vehicles used to transport employees must meet specific requirements for lamps, brakes, windshields, turn signals, passenger carrying capacities, aisles and seats. The subsections of Section 3702 are editorially renumbered following the insertion of the proposed subsection 3702(h) to be consistent with existing Title 8 format. The proposed addition to subsection 3702(h) requires farm labor vehicles to be equipped at the driver and each passenger position with a seatbelt assembly, conforming to the specifications set forth in Sections 571.209 and 571.210 of Title 49 of the Code of Federal Regulations, and states that while the vehicle is in operation the driver and passengers must be properly restrained.

The proposed amendments are necessary to ensure that employees riding in farm labor vehicles are properly restrained during transit to prevent serious injury in the event of a motor vehicle accident.

DOCUMENTS RELIED UPON

California Vehicle Code, Sections 322 and 31405.

DOCUMENTS INCORPORATED BY REFERENCE

Title 49 of the Code of Federal Regulations, Section 571.209, Standard No. 209; Seat belt assemblies, and Section 571.210, Standard No. 210; Seat belt assembly anchorages.

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate the document by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

**REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE
IMPACT ON SMALL BUSINESSES**

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The requirements of the proposed Section 3702 are identical to requirements in the California Vehicle Code, which are already enforced by the California Highway Patrol. Consequently, this rulemaking is not expected to create a significant adverse fiscal impact upon farm labor employers.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a "new program or

higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.