

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**PROPOSED PETITION DECISION OF THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
(PETITION FILE NO. 548)****INTRODUCTION**

The Occupational Safety and Health Standards Board (Board) received a petition on July 14, 2015, from Dennis J. Evans, Chief Executive Officer, Toss Business Solutions, LLC (Petitioner). The Petitioner requests the Board to amend the General Industry Safety Orders to add requirements for all California businesses to utilize the Occupational Health and Safety Pundits' - Safety Management System (OHSP-SMS) to reduce injuries and their associated costs.

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 states that the OHSP-SMS "[is] designed to eliminate contributory negligence known to be the cause [of] work-related accidents and injuries throughout the U.S." The Petitioner defines contributory negligence as "the physical activity causing [work] related calamities and loss of life affecting employee[s] and their families and the employer's bottom line." He asserts that the Safety Pundits' curriculum will make employers aware of the latest advances in employee safety technology, helping to reduce workplace injury.

DIVISION'S EVALUATION

The Division submitted an evaluation report for Petition File No. 548 dated September 21, 2015, recommending that the Petitioner's request be denied, citing a lack of necessity for the OHSP-SMS to be added to Title 8. The Division points out that Section 3203 already requires many of OHSP-SMS's requirements and that the OHSP-SMS is one of many tools available to identify and correct workplace hazards. Furthermore, according to the Division, the Petitioner fails to explain why the "Safety Pundit" licensing requirement is necessary when a variety of nationally-recognized safety and health certification programs already exist.

STAFF'S EVALUATION

A thorough review of the Petition and follow up material supplied to the Division and Board has not led Board staff to a clear understanding of the Petitioner's request. At times the Petition appears to imply that liability for accidents should be placed on the injured worker, referred to as "contributory negligence," while at other times the application seems to be more focused on reducing the costs of workers compensation claims.

Board staff infers that the Petitioner seeks to require California employers to attend an intensive training course, which will educate safety professionals on methods to help employees work more safely. After successful completion of the course, a safety professional would obtain the designation "Safety Pundit."

Board staff applauds the Petitioner's efforts in controlling and reducing workplace injuries and illnesses, and shares his enthusiasm for making California workplaces safer. Board staff asserts that the existing Injury and Illness Prevention Program allows for a variety of strategies to reduce injuries in the workplace and that due to the diversity of California workplaces, no single solution should be prescribed. The Petitioner's program is available to any employer as an option for combatting injuries and their associated costs, but Board staff does not feel that the program should be imposed on California employers through specific regulation.

The existence of a variety of strategies for combatting workplace injuries and illnesses is beneficial to the overall safety and health of California workplaces. Based on the foregoing discussion, Board staff recommends that the Petition be denied.

CONCLUSION AND ORDER

Having carefully read and considered the Petition, Division Evaluation, and Board Staff Evaluation, the Petition is hereby DENIED.