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Senate Bill No. 1299

CHAPTER 842

An act to add Section 6401.8 to the Labor Code, relating to occupational safety and health.

[Approved by Governor September 29, 2014. Filed with Secretary of State September 29, 2014.]

Legislative Counsel's Digest

SB 1299, Padilla. Workplace violence prevention plans: hospitals. Existing law regulates the operation of health facilities, including hospitals. The California Occupational Safety and Health Act of 1973 imposes safety responsibilities on employers and employees, including the requirement that an employer establish, implement, and maintain an effective injury prevention program, and makes specified violations of these provisions a crime.

This bill would require the Occupational Safety and Health Standards Board, no later than July 1, 2016, to adopt standards developed by the Division of Occupational Safety and Health that require specified types of hospitals, including a general acute care hospital or an acute psychiatric hospital, to adopt a workplace violence prevention plan as a part of the hospital's injury and illness prevention plan to protect health

care workers and other facility personnel from aggressive and violent behavior. The bill would require the standards to include prescribed requirements for a plan. The bill would require the division, by January 1, 2017, and annually thereafter, to post a report on its Internet Web site containing specified information regarding violent incidents at hospitals. The bill would exempt certain state-operated hospitals from these provisions. Because this bill would expand the scope of a crime, the bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1.

Section 6401.8 is added to the Labor Code, to read:

6401.8.

(a) The standards board, no later than July 1, 2016, shall adopt standards developed by the division that require a hospital licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code, except as exempted by subdivision (d), to adopt a workplace violence prevention plan as a part of its injury and illness prevention plan to protect health care workers and other facility personnel from aggressive and violent behavior.

(b) The standards adopted pursuant to subdivision (a) shall include all of the following: (1) A requirement that the workplace violence prevention plan be in effect at all times in all patient care units, including inpatient and outpatient settings and clinics on the hospital's license. (2) A definition of workplace violence that includes, but is not limited to, both

of the following: (A) The use of physical force against a hospital employee by a patient or a person accompanying a patient that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury. (B) An incident involving the use of a firearm or other dangerous weapon, regardless of whether the employee sustains an injury. (3) A requirement that a workplace violence prevention plan include, but not be limited to, all of the following: (A) Personnel education and training policies that require all health care workers who provide direct care to patients to, at least annually, receive education and training that is designed to provide an opportunity for interactive questions and answers with a person knowledgeable about the workplace violence prevention plan. The education and training shall cover topics that include, but are not limited to, the following topics: (i) How to recognize potential for violence, and when and how to seek assistance to prevent or respond to violence. (ii) How to report violent incidents to law enforcement. (iii) Any resources available to employees for coping with incidents of violence, including, but not limited to, critical incident stress debriefing or employee assistance programs. (B) A system for responding to, and investigating violent incidents and situations involving violence or the risk of violence. (C) A system to, at least annually, assess and improve upon factors that may contribute to, or help prevent workplace violence, including, but not limited to, the following factors: (i) Staffing, including staffing patterns and patient classification systems that contribute to, or are insufficient to address, the risk of violence. (ii) Sufficiency of security systems, including alarms, emergency response, and security personnel availability. (iii) Job design, equipment, and facilities. (iv) Security risks associated with specific units, areas of the facility with uncontrolled access, late-night or early morning shifts, and employee security in areas surrounding the facility such as employee parking areas. (4) A requirement that all workplace violence prevention plans be developed in conjunction with affected employees, including their recognized collective bargaining agents, if any. (5) A requirement that all temporary

personnel be oriented to the workplace violence prevention plan. (6) Provisions prohibiting hospitals from disallowing an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs. (7) A requirement that hospitals document, and retain for a period of five years, a written record of any violent incident against a hospital employee, regardless of whether the employee sustains an injury, and regardless of whether the report is made by the employee who is the subject of the violent incident or any other employee. (8) A requirement that a hospital report violent incidents to the division. If the incident results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of hospital personnel, the hospital shall report the incident to the division within 24 hours. All other incidents of violence shall be reported to the division within 72 hours. (c) By January 1, 2017, and annually thereafter, the division, in a manner that protects patient and employee confidentiality, shall post a report on its Internet Web site containing information regarding violent incidents at hospitals, that includes, but is not limited to, the total number of reports, and which specific hospitals filed reports, pursuant to paragraph (8) of subdivision (b), the outcome of any related inspection or investigation, the citations levied against a hospital based on a violent incident, and recommendations of the division on the prevention of violent incidents at hospitals. (d) This section shall not apply to a hospital operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Corrections and Rehabilitation. (e) This section does not limit the authority of the standards board to adopt standards to protect employees from workplace violence. Nothing in this section shall be interpreted to preclude the standards board from adopting standards that require other employers, including, but not limited to, employers exempted from this section by subdivision (d), to adopt plans to protect employees from workplace violence. Nothing in this section shall be

interpreted to preclude the standards board from adopting standards that require an employer subject to this section, or any other employer, to adopt a workplace violence prevention plan that includes elements or requirements additional to, or broader in scope than, those described in this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.