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NEW LAWS TO PROTECT JOB HEALTH AND SAFETY

The California legislature recently passed a bill that will significantly expand unions' abilities to protect the health and safety of their members while on the job.

The Hazardous Substances Information and Training Act requires that the manufacturers of any dangerous substance provide fact sheets on the hazards of their products to all firms that purchase them. These firms will then be required to provide copies of the information to employees and their representatives upon request.

The California law is one of a series of governmental acts designed to enhance workers' knowledge of the potential health hazards of their jobs, and thus to encourage collective bargaining initiatives for safer conditions. New York and Maine have passed laws similar to California's. And last May, the federal Occupational Safety and Health Administration issued a comprehensive standard requiring companies to allow workers access to company-maintained medical and toxic exposure records.

The recent California bill, dubbed the "workers right-to-know" bill, can be seen as part of the continuing impact of the sterilization of male workers by the pesticide DBCP in 1977. The direct employer of the workers claimed at subsequent governmental hearings that the manufacturer had not informed the employer of the toxic properties of the pesticide.

The bill is also in line with the views of those who claim that OSHA alone cannot protect American workers from the myriad of substances that pose threats to their health. OSHA's staff, for example, can inspect only ten percent of the firms in the hazardous manufacturing and construction sectors each year, while the type and degree of health hazards change constantly. Ensuring adequate job protections thus requires an informed and organized workforce as well as a government agency.

Fact Sheets for Every Hazard

In particular, the new bill SB 1874 requires that:

- Any manufacturer of a hazardous substance, or mixture containing a hazardous substance as an ingredient or an impurity, must provide California purchasers with a Material Safety Data Sheet on the substance.
- The State Division of Industrial Relations must be responsible for the definition of what substances are to be considered hazardous for the purposes of the Act, and maintain an up-to-date list of all covered substances.
- Material Safety Data Sheets must include the chemical name; common names; fire, explosion, and reactivity hazards; acute and chronic health effects or risks; symptoms; precautions; and emergency procedures for the substance.
- Material Safety Data Sheets may take the form of labels on containers.

--The State Occupational Safety and Health Standards Board must adopt a standard by July 1, 1981, that requires employers to inform their employees of the existence of the data sheets and of their right to inspect those sheets.

Access to Medical Records

The federal regulation mandating access on the part of employees to the medical records maintained by their employers is an essential step in the process of reorienting medical screening and care at the plant level from a cost-cutting program for management to a genuine service to the worker. It was promulgated as a result of the publicity gained by certain cases in which workers were not told of their worsening health conditions, in hopes of reducing Workers Compensation premiums or lawsuits against the company.

The new OSHA standard permits any worker to examine and copy an employer's records of exposure to toxic materials, personal medical records, and analyses based on these records. Access must be provided no later than 15 days after a request. Employers must maintain toxic exposure and data analyses for 30 years, and medical records for the duration of employment plus 30 years. Former employees of a company must also be allowed access to their files.

Exposure records include environmental and certain biological monitoring information, material safety data sheets where they exist, and industrial hygiene reports. Medical records include such items as medical histories, examination and test results, medical opinions and diagnoses, description of treatments and prescriptions, and employee medical complaints.

The crucial flaw in the OSHA standard, however, is that it does not provide for union access to medical records of represented employees without their consent. This hinders the success of epidemiological studies, in which the hazards of a substance may be identified by examining the medical records of the workers exposed to it. The standard also does not guarantee access of collective bargaining agents to employee exposure records, analyses based on exposure, and medical records unless the employees each give express written request.

These limits on the regulation, supposedly designed to protect the privacy of the individual worker, obstruct the ability of the workers' unions to use the information as part of a campaign to improve health and safety conditions. The AFL-CIO therefore filed suit against the standard immediately after its promulgation. The case is still pending.

- Jamie Robinson

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