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GOLDEN STATE REPORT

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COUGH MEDICATION CONCERNS PROMPT HEARING IN SAN FRANCISCO

A subcommittee of the San Francisco Board of Supervisors held a hearing regarding the safety of cough and cold medications for children under the age of two.

The California Retailers Association, in a letter to Supervisor Michaela Alioto-Pier, discussed the need for more education of parents and caregivers of children under the age of 2 regarding cough and cold medications. The CRA letter stated, "We too are aware of the Department of Health and Human Services Centers for Disease Control and Prevention's January 12, 2007 'Morbidity and Mortality Weekly Report' reporting that an estimated 1,519 children under two years of age were treated in emergency rooms for adverse events associated with cough and cold medications. From these statistics and the follow-up reporting, it is unfortunately evident that the parents, guardians and/or caregivers of these children were not paying sufficient attention to the dosing instruction and information on the packaging, and in some cases prescription drug interactions caused problems."

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LEGISLATIVE UPDATE

The following is an update on employment related legislation.

Employment Discrimination

AB 14 (Laird) – This bill extends the prohibitions on discrimination in the Unruh Civil Rights Act to government-funded programs and businesses services.

Status: Assembly Floor

AB 435 (Brownley) – Requires employers to maintain wage and job classification records for 5 years; gives plaintiffs alleging wage discrimination up to 4 years to file lawsuits (current law allows 2 years), and up to 4 years to file for willful violations (3 years current law); and increases the statute of limitation for an employee to bring a civil action against an employer to recover wages from 2 years to 3 years.

Status: Assembly Appropriations Committee

SB 836 (Kuehl) – This bill prohibits discrimination in employment based on "familial status" which is defined as, "an individual who is or who will be caring for or supporting a family member."

Status: Senate Appropriations Committee

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EWASTE FEE BEGINS JULY 1 FOR PORTABLE DVD PLAYERS

New or refurbished portable DVD players with a liquid crystal display (LCD) measuring more than four inches diagonally will be subject to Ewaste Fees beginning July 1, 2007. Retailers must collect the fee for all such DVD players that are sold or leased.

The Ewaste Fee for DVD players will be \$6. Retailers are required to collect the fee and remit it to the Board of Equalization except that they are allowed to keep 3% of the fee to cover their expenses. More information on the Ewaste Fee can be found at <http://www.boe.ca.gov/sptaxprog/ewaste.htm>.

NEW WORK COMP PENALTIES SET

New penalties for unreasonably denying or delaying the payment of workers' compensation benefits will go into effect on May 26.



Up to \$400,000 in penalties may be assessed if it is established that an employer or insurer knowingly and unreasonably denies or delays workers' compensation payments with a frequency that demonstrates a general business practice.

A copy of the final regulation is available on the internet at http://www.dir.ca.gov/dwc/WCPropRegs/AdminPenalties_LC5814_6Regulations/5814_6FinalTextOfRegulations.pdf.

COMPLIANCE DATES SET FOR SAN FRANCISCO BAG ORDINANCE

Beginning October 20, 2007 grocery stores in San Francisco will have to cease using plastic bags unless they are compostable. Instead consumers will have to carry their groceries home in recyclable paper bags, reuseable bags or compostable plastic bags.

Pharmacies have an additional six months, or until April 20, 2008 to comply with the City and County's new ordinance.

Grocery stores are defined in the ordinance as full line, self-service supermarkets with gross annual sales of \$2 million or more. Only pharmacies with five or more locations within San Francisco are subject to the ban on non-compostable plastic bags. Pharmacies located within hospitals are excluded.

PLASTIC BAG RECYCLING HELP AIM OF NEW WEBSITE

The American Chemistry Council in association with Moore Recycling Associates, Inc. has launched an information website to help businesses and the general public recycle plastic bags.

The web site provides consumers, municipalities and businesses in California an opportunity to identify grocery stores and other recovery facility locations that collect plastic bags and film for recycling. Additional highlights of the web site include a film identification section, information on how to set up a collection program, a markets database, and tools to determine the cost-effectiveness of an onsite plastic film recovery program.

The website is www.plasticbagrecycling.org.

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The CRA letter also advised, “The Consumer Healthcare Products Assn has worked to develop materials that can be used in a variety of settings to “get the word out”. Perhaps the Board of Supervisors can provide leadership to bring this information to those most likely to interact with parents of small children: physicians, especially pediatricians; children’s nonprofit organizations, school nurses, the WIC Program (Women, Infants and Children food nutrition program, which uses nonprofit local entities to provide food coupons and counseling to pregnant women and women with children under 5 years); child care centers and child care in-home operators.”

The hearing was attended by several medical professionals who testified that these types of medications have never been tested by the federal Food and Drug Administration on children under 2 years of age. They also believed that an education campaign starting with new mothers would be the best way to remedy the situation.

While no definitive course of action was proposed by the Supervisors who attended the meeting, Supervisor Alioto-Pier may introduce an ordinance that requires additional signage at retail. CRA will continue to monitor the situation and give input as needed.

GOVERNOR PROPOSING TO PRIVATIZE LOTTERY

Governor Arnold Schwarzenegger will propose to turn the California Lottery over to a private company in his revised budget.

Under the proposal, the lottery would be leased to a private company for 40 years in exchange for a lump sum payment or a series of payments. The plan could bring California up to \$37 billion.

According to a Los Angeles Times article, other states have considered and rejected similar proposals to privatize their state lotteries.

California’s budget is projected to be about \$1 billion in the red for the coming year with more money needed in the near future to pay off bond debt. The money California received from the lease of the lottery would more than take care of California’s fiscal shortfall.

The proposal would require a vote of the electorate as well as approval of the legislature.



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Wage and Hour

AB 448 (Arambula) - This bill permits employees to recover liquidated damages in complaints brought before the Labor Commission alleging payment of less than the state minimum wage.

Status: Assembly Floor

AB 504 (Swanson) – This bill requires a private employer convicted of a crime involving fraud, misrepresentation, or misconduct during (and in furtherance of) a lockout to make restitution to the locked-out employees of any wages and benefits they would have received had there been no lockout.

Status: Assembly Floor

AB 1425 (Davis) – This bill, for employees of temporary service employers, requires that wages be paid at the next payday when the employee’s assignment ends and the employee is ready to take another assignment. Wages are due within 24 hours if the employee is terminated.

Status: Assembly Labor and Employment Committee

SB 622 (Padilla) – This bill makes it unlawful to willfully misclassify workers as independent contractors and establishes civil penalties for such willful misclassification.

Status: Senate Appropriations Suspense File

Miscellaneous

AB 613 (Tran) – This bill requires every regulation and notice posted in the workplace or at the jobsite pursuant to state law be written in plain language that is easily understood by both the employer and every employee.

Status: Assembly Labor and Employment Committee

AB 652 (Maze) – This bill prohibits an employer from discharging a worker or refusing to hire an applicant on the basis that the employee or applicant keeps a

firearm legally stored in his or her vehicle out of public view.

Status: Assembly Labor and Employment Committee

AB 1043 (Swanson) – This bill prohibits any choice of law clause, venue-selection clause, or forum-selection clause in binding employment materials that are imposed on an employee as a condition of employment.

Status: Assembly Judiciary Committee

AB 1501 (Niello) – This bill deletes the 2-hour requirement for sexual harassment training of supervisors and deletes the requirement that trainers be experts in the prevention of harassment, discrimination and retaliation.

Status: Assembly Labor and Employment Committee

AB 1707 (Labor Committee) - This bill allows both current and former employees to inspect and copy their personnel records. Employers are required to keep personnel records for at least four years after an employee’s termination of employment.

Status: Assembly Appropriations Committee

SB 180 (Migden) – This bill permits agricultural workers to select their representatives for collective bargaining by submitting a petition to the Labor Relations Board along with representation cards from a majority of the bargaining unit in favor of the petition. The bill also increases the penalties on employers engaged in unfair labor practices, and it allows affected employees to collect back pay and double back pay as liquidated damages in some instances.

Status: Senate Appropriations Committee