## New Uniform & Vehicle Logo Requirements for Health & Safety Providers

# Siren

Winter 2015

A Publication of the California Ambulance Association


## Attorney General Issues Opinion Regarding 201 Issues

CALIFORNIA AMBULANCE ASSOCIATION

## CAA *Vision*

Assure delivery of excellent pre-hospital care to the people of California by promoting recognized industry best practices.

## CAA *Mission*

- Serve as the voice and resource on behalf of private enterprise emergency and non-emergency ambulance services.
- Promote high quality, efficient and medically appropriate patient care.
- Advocate the value that pre-hospital care provides in achieving positive patient outcomes.
- Promote effective and fiscally responsible EMS systems and establish standards for system design.

## CAA *Leadership*



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## Table *of Contents*



## Editorial *Information*

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Circulation among California's private ambulance providers, elected officials and EMSA administrators.

# **Chair's** *Message*

**Richard Angotti** | *Chair of the Board*

With the holidays over and life returning to normal, it's time to get back to basics. The California Ambulance Association continues to focus on the private ambulance industry's main priority: keeping private ambulance alive in California. I'd like to thank Chris Micheli, our Legislative Advocate whom, over the next several weeks, will be reviewing the hundreds, maybe thousands, of bills that are introduced during this legislative session. He will determine which bills could have an impact on our businesses and then review them with the Legislative & Agency Relations Committee. If you are interested in participating on this committee, please send an e-mail to *info@the-caa.org*.

If you weren't able to join us for the 2014 Annual Convention & Reimbursement Conference, I'd like to provide a few highlights here. The CAA returned to the Bahia Resort Hotel in San Diego where the weather was beautiful and we were able to take advantage of the hotel's close proximity to the ocean by having our Annual Chair's Reception and Banquet aboard their sternwheeler. The Chair's Award of Excellence was presented to Eb Muncy of Desert Ambulance. The Commercial Member of the Year award was given to Lyn FaultLeRoy of DerManouel Insurance and Emeritus Recognition was given to past CAA Chair, Dana Solomon. At the end of the night, Helen Pierson passed the gavel to me and I was able to thank her for her hard work and dedication to the CAA. Thank you to all of our attendees, exhibitors, sponsors and speakers.

The Annual Stars of Life Celebration & Legislative Summit will be taking place on March 23rd and 24th in Sacramento at the Embassy Suites. Please consider nominating one or more Stars and participating in our Legislative Day at the Capitol. This is a great opportunity to get to know your Senators and Assembly Members and show them the great work that you are doing for your communities.

Thank you for reading. I hope to see you at a CAA event soon. ✱

# **Headquarters** *Report*

**Kim Ingersoll** | *Administrative Director*

Happy New Year! I hope your 2015 has gotten off to a great start. We've been keeping busy here at CAA Headquarters planning the 2015 Stars of Life Celebration & Legislative Summit, an Employment Law Update webinar and moving forward with retaining a new Executive Director.

First, please mark your calendars for March 23-24, 2015 for the Stars of Life Celebration & Legislative Summit in Sacramento. This is one of my favorite events of the year. It's so nice to meet your most outstanding employees and it's an honor to be a part of recognizing them for the heroic work they do on a daily basis. Please consider nominating at least one Star from your company this year. The reasons for nomination can be anything from a life-saving, heroic moment to a track record of providing excellent service to their patients every day. Please send us your Star of Life nomination information by March 6, 2015.

We are happy to have Michelman & Robinson attorney, Spencer Hamer present a webinar for us on February 20, 2015. Mr. Hamer will cover 2014 employment law developments in California that will include a recap of key cases, statutes and employment law events. We are happy to offer this webinar free of charge for CAA members. We appreciate your continued membership and hope you are able to attend this free webinar. We are always looking for relevant webinar topics so if there is something that you think would be of interest to our members, please let me know.

We would like to bring back the Member Profile articles in the *Siren* magazine. If you are interested in being featured in the *Siren*, please e-mail me at *kingersoll@the-caa.org* and I can provide you with the details.

Lastly, if you have already renewed your membership for 2015, THANK YOU! If you haven't, please do so soon. I'm happy to send you a copy of your renewal invoice. There's never a dull moment in the CAA and ambulance industry. We need your support and input. If we haven't seen you in a while, we'd love to see you at the Stars of Life event in March. Our members are not only welcome to attend all committee meetings on March 24th at the Embassy Suites in Sacramento, it's strongly encouraged.

Thank you for reading. I hope to see you in 2015. ✱

**Chris Micheli** | *Legislative Advocate*

# CAA Legislative Wrap-Up for 2014 Session

The CAA took positions on over two dozen bills that worked their way through the California Legislature during the 2014 Session. The following bills reached the Governor's Desk:

### SB 556 (Padilla)

SB 556 prohibits a person, firm, corporation, or association that is a nongovernmental entity and contracts to perform, on or after January 1, 2015, public health and safety labor or services for a public agency from displaying on a vehicle or uniform a logo, as defined, that reasonably could be interpreted as implying that the labor or services are being provided by employees of the public agency, unless the vehicle or uniform conspicuously displays specific disclosures. SB 556 prohibits a public agency from requiring a person or employee of a nongovernmental entity providing public health and safety labor or services under contract with the public agency to wear a badge containing the logo of the public agency. SB 556 prohibits a nongovernmental entity providing public health and safety labor or services under contract with a public agency from requiring a person or its employee to wear a badge containing the logo of the public agency. SB 556 defines the term "public health and safety labor or services" to mean fire protection services, rescue services, emergency medical services, hazardous material emergency response services, and ambulance services. SB 556 authorizes that these provisions may be enforced by the Consumers Legal Remedies Act.

- Signed into law; Chapter 832
- Adds Title 18 (commencing with Section 3273) to Part 4 of Division 3 to the Civil Code
- CAA opposed this bill and asked for a veto.

### SB 1211 (Padilla)

SB 1211 requires the office to develop a plan and timeline of target dates for testing, implementing, and operating a Next Generation 911 emergency communication system, including text to 911 service, throughout California. The bill would require the office, in determining the surcharge rate, to additionally include costs it expects to incur, consistent with the plan and timeline, to plan, test, implement, and operate Next Generation 911 technology and services, including text to 911 service. The bill would require the office, at least one month before determining the surcharge rate, to prepare a summary of the calculation of the proposed surcharge and make it available to the Legislature and the 911 Advisory Board, and on the office's Internet Web site.

- Signed into law; Chapter 926
- Adds Section 53121 to the Government Code

Continued on page 4

Continued from page 3

- CAA supported this bill and asked for a signature.

### AB 1522 (Gonzalez)

AB 1522 enacts the Healthy Workplaces, Healthy Families Act of 2014 to provide that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked. An employee would be entitled to use accrued sick days beginning on the 90th day of employment. The bill authorizes an employer to limit an employee's use of paid sick days to 24 hours or 3 days in each year of employment. The bill prohibits an employer from discriminating or retaliating against an employee who requests paid sick days. The bill requires employers to satisfy specified posting and notice and recordkeeping requirements. The bill would define terms for those purposes.

AB 1522 requires the Labor Commissioner to enforce these requirements, including the investigation, mitigation, and relief of violations of these requirements. The bill authorizes the Labor Commissioner to impose specified administrative fines for violations and would authorize the commissioner or the Attorney General to recover specified civil penalties against an offender who violated these provisions on behalf of the aggrieved, as well as attorney's fees, costs, and interest. AB 1522 does not apply to certain categories of employees that meet specified requirements.

- Signed into law; Chapter 317
- Amends Section 2810.5 of and adds Article 1.5 (commencing with Section 245) to Chapter 1 of Part 1 of Division 2 of the Labor Code
- CAA opposed this bill and asked for a veto.

### AB 1620 (Rodriguez)

AB 1620 would have established in state government the California Emergency Management and Disaster Preparedness Commission as a statewide executive-level commission to assess and improve the condition of the state's emergency preparedness, management, and disaster recovery capabilities. This bill would have required the commission to review and make recommendations on emergency management and disaster preparedness, including, but not limited to, the availability of adequate equipment, fuel, food, water, and other emergency supplies. This bill would have required the membership of the commission to include certain state officials or their designees, representatives of certain local governmental entities, and the President pro Tempore of the Senate and the Speaker of the Assembly, or their designees, as specified. This bill would have also authorized the Governor to appoint a representative of the American Red Cross to the commission.

- Vetoed by the Governor
- CAA had sought amendments to this bill.

### AB 1897 (Hernandez)

AB 1897 requires a client employer to share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for the payment of wages and the failure to obtain valid workers' compensation coverage. AB 1897 prohibits a client employer from shifting to the labor contractor legal duties or liabilities under workplace safety provisions with respect to workers provided by the labor contractor. AB 1897 defines a client employer as a business entity that obtains or is provided workers to perform labor within the usual course of business from a labor contractor, except as specified. AB 1897 defines a labor contractor as an individual or entity that supplies workers, either with or without a contract, to a client employer to perform labor within the client employer's usual course of business. AB 1897 exempts from the definition of labor contractor specified nonprofit, labor, and motion picture payroll services organizations and 3rd parties engaged in an employee leasing arrangement, as specified. AB 1897 specifies that it does not prohibit client employers and labor contractors from mutually contracting for otherwise lawful remedies for violations of its provisions by the other party. AB 1897 requires a client employer or labor contractor to provide to a requesting enforcement agency or department, and make available for copying, information within its possession, custody, or control required to verify compliance with applicable state laws. AB 1897 authorizes the Labor Commissioner, the Division of Occupational Safety and Health, and the Employment Development Department to adopt necessary regulations and rules to administer and enforce the bill's provisions. AB 1897 provides that waiver of its provisions is contrary to public policy, void, and unenforceable.

- Signed into law; Chapter 728
- Adds Labor Code Section 2810.3
- CAA opposed this bill and asked for a veto.

### AB 2577 (Cooley)

AB 2577 would have authorized the department to provide supplemental reimbursement under these provisions for the cost of paramedic services at a rate of payment equal to cost. AB 2577 also would have required the department to develop and implement an intergovernmental transfer (IGT) program in order to increase capitation payments to Medi-Cal managed care plans for covered ground emergency medical transportation services, as specified. The bill would have required the department to implement the IGT program on January 1, 2015, or a later date if otherwise required pursuant to any necessary federal approvals obtained. The bill would have provided that participation in the IGTs is voluntary on the part of the transferring entity and would require Medi-Cal managed care plans to pay 100% of any amount of increased capitation payments made to eligible providers

Continued on page 5

# Legislative *Update*

Continued from page 4

for providing and making available ground emergency medical transportation services.

- Vetoed by the Governor
- CAA was neutral on this bill.

### ACR 84 (Rodriguez)

This measure proclaimed the week of May 18, 2014, through May 24, 2014, as Emergency Medical Services Week.

- Chapter 53
- CAA supported this resolution.

### AJR 48 (Rodriguez)

This measure memorialized the President and Congress of the United States to enact legislation to authorize the National Emergency Medical Services Memorial Foundation to establish the National Emergency Medical Services Memorial in the District of Columbia.

- Chapter 166
- CAA supported this resolution. ✱

## CAA Pending *Members*

**CAA Printing Co-op**
*Commercial Member*

**Emergent Biosolutions**
*Commercial Member*

**Engineering Health, Inc.**
*Commercial Member*

**ESO Solutions**
*Commercial Member*

**LINE2design, Inc.**
*Commercial Member*

**PCG Health**
*Commercial Member*

Comments or questions about membership applications should be directed to: Kim Ingersoll: *kingersoll@the-caa.org.*

**R. Michael Scarano, Jr.**
*Foley & Lardner LLP*

# Attorney General Issues Opinion Regarding 201 Issues

On December 16, the California Attorney General (AG) issued an opinion regarding three key unresolved issues that are important to Local Emergency Medical Services Agencies (LEMSAs) and so-called "201 providers" which provide services in their jurisdictions. The opinion was requested six years ago by Los Angeles County counsel, who advises the County of Los Angeles in its role as a LEMSA.

The Opinion addresses the following issues:

(1) Whether cities and fire districts with 201 rights are required by a state regulation to have a written agreement with their LEMSA in order to participate in the EMS system. The AG opined that such an agreement is not required;

(2) Whether, by entering into a contract with its LEMSA or county, a 201 provider relinquishes its 201 provider's rights to continue providing prehospital emergency medical services. The AG opined that a provider does not relinquish its 201 rights by entering into such an agreement; and

(3) Whether contracts between a county and LEMSA or 201 provider for medical control and oversight of the 201 provider's services extinguishes the 201 provider's rights to continue providing prehospital EMS. Again, the AG answered in the negative.

As mentioned above, the Opinion was requested by the Los Angeles County Counsel, which advises the LA County EMS agency, and has had, for many years, disagreements over these issues with some of the 201 providers in its jurisdiction.

## Question 1

In answering the first question, the AG recounted the history of the EMS Act, focusing on Health & Safety Code section 1797.201. That statute provides, in pertinent part, that so-called "201 providers" (i.e., providers which have been providing services to their communities since June 1, 1981) are entitled to continue doing so until they give up those rights, either expressly by agreement or by acquiescence.

Title 22, California Code of Regulations, section 100168, requires that there be a written agreement between an "approved paramedic service provider" and a LEMSA to participate in the EMS system. More specifically, regulation 100168(b)(4) states: "An approved paramedic service provider shall ... [h]ave a written agreement with the LEMSA to participate in the EMS system and to comply with all applicable State regulations and local policies and procedures, including participation in the LEMSA's [EMS Quality Improvement Program] as specified in other regulations. Certain LEMSAs have historically taken the position that this section

Continued on page 7

Continued from page 6

applies to 201 providers as well as to other providers. Under this interpretation, any 201 provider that performs ALS must first enter into an agreement with the LEMSA authorizing it to do so. On the other hand, many 201 providers have historically taken the position that the regulation *does not* apply to them, and, therefore, no written agreement with the LEMSA is required for them to provide ALS. The AG concluded that 201 cities and fire districts are not required to enter into an agreement under section 100168 or any other statute or regulation in order to perform ALS.

The AG noted that "the state Emergency Medical Services Authority itself has interpreted regulation 100168 this way in its published reports and memoranda, and in advice letters to LEMSAs and fire departments. While the Authority has encouraged agreements between .201 providers and LEMSAs, it has declined to pronounce that such agreements are mandatory in order for .201 providers to participate in the EMS system. The Authority's interpretation of its own regulation is entitled to great weight." The AG therefore concluded, in response to the first question, that regulation section 100168 does not require 201 providers to have a written agreement with the LEMSA in order "to participate in the EMS system" as specified in that regulation.

## Question 2

The second issue was raised by the fact that some counties and regional LEMSAs have often contributed medical equipment and supplies – such as automatic external defibrillators, disaster caches, and narcotics for patients – to fire departments, including 201 providers. These supplies are generally accompanied by agreements between the agencies concerning the roles and responsibilities of each for the maintenance of the items provided, as well as training, reimbursement, and information sharing. The question raised by the AG was what effect do such agreements have on a 201 provider's 201 rights? The 201 providers have been concerned that by entering into such an agreement, they would be deemed to have relinquished their 201 rights.

The AG again applied rules of statutory construction, concluding that "such agreements do not constitute the concession of authority" by the 201 provider. The purpose of such agreements is to "enhance the quality or efficiency of prehospital EMS services by making specialized equipment more available to providers. If anything, agreements such as these demonstrate an understanding that the .201 provider will continue providing these services." Accordingly, the AG concluded that the contracts between a county and LEMSA or a 201 provider for county-supplied emergency medical equipment do not extinguish the 201 provider's rights to continue providing prehospital EMS.

## Question 3

Finally, the AG determined that section1797. 201 requires that 201 providers remain subject to "medical control" of the LEMSA, regardless of whether an agreement is in place. "Medical control" in this context is a broad term that includes coordinated dispatch, patient destination policies, patient care guidelines, and quality assurance requirements. The AG opined that "[w]here an EMS protocol relates to 'the provision of emergency medical care,' and not to 'purely internal administrative matters,' it is a valid subject of medical control." For this reason, the AG concluded, in response to the third question, that "a contract between a county or LEMSA and a .201 provider for medical control and oversight of the .201 provider does not extinguish the .201 provider's rights to continue providing prehospital emergency medical services."

## Conclusion

The Opinion is consistent with the views of the State EMS Authority, which has stated in letters and court testimony that 201 providers are not required to sign agreements with their counties or LEMSAs and that, if they do, they do not necessarily compromise their 201 rights. The Opinion will help create predictability regarding these issues and will thereby enhance stability. ✱

**Mark Corum**
*Hall Ambulance Service, Inc.*

# Nobody's Immune From the Impact of Drunk Driving

For Hall Ambulance Paramedic Relief Supervisor Armando Lazaro, the evening of November 15, 2014, seemed unremarkable compared to other shifts. He was going about his duties, which included picking up Kern County Firefighter Adam Bickford from a Bakersfield-area hospital, after assisting on a transport from Taft, to return him to station.

That is when, in an instant, things changed dramatically.

A drunk driver headed north on Highway 119 in Taft, California, crossed the center line, sideswiping a Toyota Corolla, and then colliding, nearly head-on, with the Hall Ambulance Paramedic Supervisor Unit. The first responder vehicle careened off the roadway, rolling multiple times before coming to rest upside down.

With seat belts fastened and air bags deployed, Lazaro and Bickford self-extricated from the vehicle and crawled to safety.

With certain calmness to his voice, Lazaro made contact with Hall Ambulance's Communications Center to report having been involved in a crash.

Irrespective of their own injuries, the paramedic and firefighter began the process of checking on the other victims.

Minutes later, a Hall Advanced Life Support Ambulance arrived, with the paramedic beginning his assessment of the scene – calling for two additional ground ambulances and Hall's MEDEVAC 1 to care for the patients.

Kern County Fire Engine 21 and Truck 21 arrived moments after the ambulance and immediately started to assist with scene management, extrication, packaging patients for transport and coordinating a landing zone for MEDEVAC 1.

Continued on page 9

Photo: Doug Keeler, *Taft Midway Driller*

# **Member** *News*

Continued from page 8

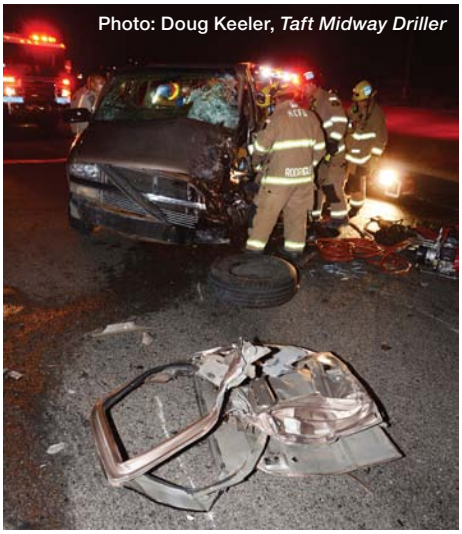


Photo: Doug Keeler, *Taft Midway Driller*

Photo: Dave Taylor, Hall Ambulance

Officers from the California Highway Patrol, Buttonwillow Divison, and the Kern County Sheriff's Department, Taft Station, assisted with protecting the scene and commencing their investigation of the crash.

The CHP arrested the 19-year-old driver responsible for the crash on suspicion of driving under the influence of alcohol. Disturbingly, this was not his first alcohol related incident – he pleaded no contest to misdemeanor DUI, just three weeks earlier, on October 28, 2014, from a case filed from the beginning of the year.

It was not clear until much later, that Paramedic Lazaro realized how severe the extent of his injuries was. He suddenly found himself transitioning from someone providing medical aid, to becoming a patient.

To illustrate the aftermath of a drunken driving involved crash, Hall Ambulance Founder and President Harvey L. Hall, coordinated to have the wrecked Suburban placed on display at Hall Ambulance Service to serve as a strong visual reminder that nobody is immune from the impact of drunk drivers. Public education placards were created to remind employees to wear their seat belts and never drink and drive.

"We want our employees and the public to see the damage that can be done from such reckless behavior as drunk driving," said Hall, "It makes it very real when the rescuers become the victims."

On December 17, 2014, Hall Ambulance hosted a multi-agency news conference to stress the perils of drinking and driving and the serious consequences it can have on other motorists. With the wrecked paramedic field supervisor unit serving as the backdrop, the event detailed the MVA and featured comments from representatives of the responding agencies.

Paramedic Lazaro and Firefighter Bickford shared the details of their harrowing experience after which, Mr. Hall recognized them both for their courage and bravery exhibited that evening. He presented Lazaro with the Company's Star of Life Award, and gave a commendation to Bickford for his efforts.

"We could have easily been faced with planning funerals for our paramedic, the firefighter and other victim," Hall said, "Although they needlessly endured injuries, we are certainly thankful that they survived such a senseless tragedy."

To carry the message further, Hall Ambulance is in the process of putting together a formal public education program that can be taken to high schools and community events with the message: Nobody's Immune from the Impact of Drunk Drivers! ✱

John Surface, VP Corporate Operations contributed to this article.

Photo: Dave Taylor, Hall Ambulance

# 2014 Statewide Election Observations

**Chris Micheli** | *CAA Legislative Advocate*

The following are my observations about the November general election results here in California:

### Constitutional Offices

- All Democrats won offices, except two Board of Equalization seats which are drawn as Republican seats.
- All incumbents won re-election to their respective offices.
- John Chiang switched to Treasurer; Betty Yee became Controller from her seat on the BOE; Alex Padilla became Secretary of State from his state senate seat.

### State Assembly

- Three incumbents were defeated (all Democrats – Fox, Muratsuchi and Quirk-Silva).
- Democrats captured a Republican seat by Jacqui Irwin (had been held by Jeff Gorell).
- Several Democrats had closer races than expected (e.g., Adam Gray and Ian Calderon).
- There are 26 new Assembly Members this Session (most are local government officials).
- Democrats had a partisan advantage of 55-25; *now the partisan composition is 52 Democrats and 28 Republicans.*

### Leadership:

- Assemblywoman Toni Atkins replaced John Perez as Speaker in the spring; she terms out of office in two years.
- Assemblywoman Kristin Olsen replaced Connie Conway as Republican leader in November; she terms out of office in two years.

### State Senate

- All incumbents won re-election to their senate seats.
- There are 10 new Senators this Session (5 of them are former Assembly Members – Pan, Wieckowski; Hertzberg; Mendoza; Bates).
- Democrats had a partisan advantage of 28-12; *now the partisan composition is 26 Democrats and 14 Republicans*
- Assemblyman Isadore Hall replaced Rod Wright in a special election in early December.
- Four state senators resigned their Senate seats in early January to take their seats in the U.S. House of Representatives (DeSaulnier, Knight, Lieu, and Walters). Special elections will be held in March or April to fill those senate seats.

### Leadership:

- Senator Kevin deLeon replaced Darrell Steinberg as President pro tempore in October; he was re-elected to another 4-year term.
- Senator Bob Huff remains Republican Leader for another two years; he terms out of office in two years.

### State Ballot Measures

No surprises here:

- The Governor's two priorities – Prop. 1 (water bond) and Prop. 2 (rainy day fund) – easily passed by wide margins.
- With $100 million spent in opposition, Prop. 45 (health insurance rate regulation) and Prop. 46 (MICRA increase) failed by large margins.
- The plaintiff's bar is weakened after losing the MICRA battle both in the Legislature and now at the ballot box.
- Health insurance rate regulation failed several times in the Legislature, which is why proponents went to the ballot. They failed there, too.
- Voters supported reducing the impact of the 3 Strikes law.
- There will not be any off-reservation Indian Gaming compacts in the foreseeable future with the passage of the referendum. Other gaming tribes spent heavily to defeat the two compacts negotiated by the Governor and approved by the Legislature.

### Congressional Seats

- Five current State Senators (two Democrats and three Republicans) won their congressional races (DeSaulnier, Knight, Lieu, Torres, and Walters). Torres already took her seat in the House of Representatives.
- Three current Assembly Members (all Republicans) lost their congressional races.

## **Feature** *Article*

# New Uniform and Vehicle Logo Requirements for Health and Safety Providers


**Chris Micheli** | *CAA Legislative Advocate*

Public first responder labor groups have foisted new obligations and costs upon their private sector colleagues by a new law passed during the 2014 Legislative Session which takes effect on January 1, 2015. Although SB 556 (Padilla) easily passed the Legislature, which is comprised of strong Democratic majorities in both houses, many observers had expected Governor Jerry Brown to veto the bill, facing the same fate as a similar measure that had reached his desk two years before.

In 2012, Assemblywoman Bonnie Lowenthal was able to get her AB 2389 to the Governor, but Governor Brown vetoed the measure on September 30 of that year with the following message: "I am returning Assembly Bill 2389 without my signature. This is a bill that ultimately is about the growing practice of subcontracting in the service industry. I agree that this is a topic that requires greater scrutiny and more detailed information. It is not clear to me that requiring logos on uniforms and vehicles solves any problems, but it may spawn confusion and some costs. I think we need to know more before prescribing practices such as those suggested by this bill." CAA had requested the Governor to veto the bill.

The opponents of SB 556 had argued that nothing had changed in the last two years and there still was no documented need for the bill. However, this time, Governor Brown rejected that view and signed the measure. As a result, health and safety providers will need to comply with this new law and make modifications to their uniforms and vehicles. SB 556 was known as the "logo bill" as it mandates specified disclosures on the uniforms and vehicles of only private sector vendors who contract with local or state governments to provide EMS services.

One important point to remember is the effective date of this new law, which is January 1, 2015. The new law specifically applies to contracts entered into after the bill's effective date and does not retroactively impact existing contracts. As a result, contracts in effect at the end of 2014 are grandfathered under existing law. In addition, private vendors should take into account their estimated costs of compliance for this new law when they enter into new contracts for services to local and state governments.

Senate Bill 556 by then-State Senator Alex Padilla (D-Pacoima) adds Title 18 (commencing with Section 3273) to Part 4 of Division 3 of the Civil Code to adopt certain uniform and vehicle logo requirements on health and safety providers in the State of California.

Specifically, SB 556 prohibits a person, firm, corporation, or association that is a nongovernmental entity and contracts to perform, on or after January 1, 2015, public health and safety labor or services for a public agency from displaying on a vehicle or uniform a logo, that reasonably could be interpreted or construed as implying that the labor or services are being provided by employees of the public agency, unless the vehicle or uniform conspicuously displays specific disclosures.

SB 556 requires the vehicle to conspicuously display a statement indicating that the contractor is the service provider, contractor or other appropriate descriptor, such as "SERVICE PROVIDED BY:" or "CONTRACTED BY:", immediately followed by:

- The logo and the name of the person, firm, corporation, or association that is the nongovernmental entity providing the public health and safety labor or services for the public agency.
- The state, or if outside of the United States, the country where the nongovernmental entity's controlling person, firm, corporation, or association is legally incorporated, organized, or formed.

Continued on page 12

# **Feature** *Article*

Continued from page 11

SB 556 provides that an identifying mark affixed to a uniform as required by state or federal law, and a local agency regulating the activity of the person, firm, corporation, or association, shall not be construed as implying that the labor or services are being provided by employees of the public agency.

SB 556 prohibits a public agency from requiring a person or employee of a nongovernmental entity providing public health and safety labor or services under contract with the public agency to wear a badge containing the logo of the public agency. There is an exception if the person, firm, corporation, or association that is the nongovernmental entity is providing the labor or services for a public agency under Article 3.3 (commencing with Section 2430) of Chapter 2 of Division 2 of the Vehicle Code.

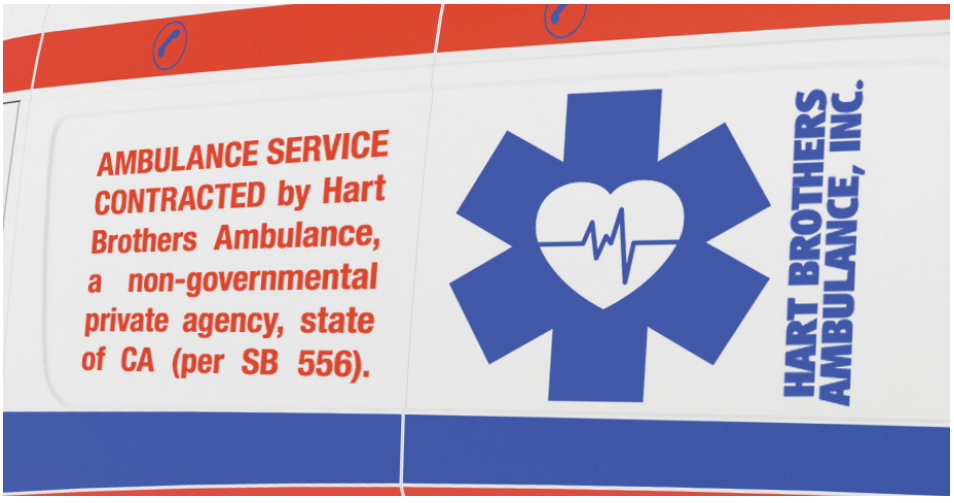
In addition, the disclosure requirements do not apply to a public agency vehicle utilized by the nongovernmental entity during a declared state or federal disaster, mass-casualty incident, or other incident that requires the use of state or federal resources when the public agency requires the use of the public agency vehicle.

SB 556 prohibits a nongovernmental entity providing public health and safety labor or services under contract with a public agency from requiring a person or its employee to wear a badge containing the logo of the public agency. If a vehicle or uniform displays more than one logo referring to the public agency, then the required disclosure shall be placed near the largest logo referring to the public agency.

SB 556 defines the term "public health and safety labor or services" to mean fire protection services, rescue services, emergency medical services, hazardous material emergency response services, and ambulance services.

SB 556 authorizes that these provisions may be enforced by the Consumers Legal Remedies Act (CLRA). The duties, rights, and remedies provided in this section are in addition to any other duties, rights, and remedies provided by state law. It is interesting to note that the Assembly amendments changed the author, as well as moved the provisions of the bill from the Labor Code to the Civil Code.

The CLRA provides that any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by the CLRA may bring an action against that person to recover or obtain any of the following: actual damages, but in no case shall the total award of damages in a class action be less than $1,000; an order enjoining the methods, acts, or practices; restitution of property; punitive damages; any other relief that the court deems proper; and court costs and attorney's fees.




Because the bill goes into effect on January 1, 2015, there has not been any litigation yet and, therefore, no court guidance on the statutory language. As with most California laws, there is very little legislative intent or history to provide helpful guidance to private sector health and safety providers trying to comply with the new law. As a result, these businesses will have to rely upon their own interpretations and see what types of enforcement efforts develop over the coming years.

In the Assembly Judiciary Committee, it was explained that SB 556 "seeks to prohibit private contractors who contract with public agencies from displaying a seal or emblem on a uniform or vehicle, as specified, that reasonably could be interpreted as implying that the contracted labor or services are being provided by employees of the public agency-unless, that is, a disclosure statement is also conspicuously displayed on the uniform or vehicle identifying the private contractor as 'Not A Government Employee.' Proposed technical amendments by the author clarify the author's intent to allow violations of this bill to be enforced by the remedies provided by the California Legal Remedies Act."

Attorneys can look at the statements of supporters and opponents of the bill for some guidance as to legislative intent and purpose. For example, writing in support of the bill were the Laborers' Locals 777 and 792, which stated: "Today, given the growing California subcontracted workforce, the relationship between the worker who shows up at the front door and the company that sent them can be confusing to California consumers. As such, the state has a responsibility to prevent unfair or deceptive practices that may result in confusing Californians when an otherwise government-provided service is requested or required.

Continued on page 13

# **Feature** *Article*

Continued from page 12

"And, when it comes to those who render essential public services, including critical, property and/or life-saving services, accountability becomes all the more significant. Public awareness of who is actually providing critical public services is essential to ensuring accountability. Indeed, accountability is especially important when public agency subcontractors seek to convey a particular image or branded reputation through the use of an agency's logo."

Writing in opposition to the measure were groups such as the California State Association of Counties, the League of California Cities, and the California Special Districts Association argue that many public agencies that contract for services specify uniform requirements and/or affixing logos to a vehicle in their written contracts with a service provider. These uniform requirements are oftentimes done for the purpose of ensuring that the public knows who the contractor is serving and for identifying regional operations during a major disaster or mutual aid request from a public agency.

"This bill eliminates public agencies' ability to determine what works best locally. Further, we are unaware of any problems - in general or specifically - associated with a private contractor wearing a similar uniform or having a similar vehicle that cause confusion for the public and necessitate a need for this change in law."

According to the Senate Judiciary Committee analysis, the bill author's stated purpose is as follows: "California's public health and safety agencies understand the importance of measuring up to an image and reputation. When providing these services – whether delivered by the public agency or a private contractor – the actual service provider conveys an image and a brand through the use of a uniform or vehicle that, under an implied color of authority, seeks to achieve a level of public trust and confidence.

"The public holds governmental health and safety services in high esteem, and likewise expects and deserves a high level of service delivery. Traditionally, these governmental services, like fire protection and law enforcement, are provided by our public agencies and public perception reflects that reality.

"Compliance with SB 556 ensures that the public is aware of who is providing the service, which will certainly facilitate the provision of excellent public health and safety services to all Californians. The image and reputation of the public agency and the private provider will be clearly reflected, which will benefit both parties as well as the taxpayers who rely upon the efficient delivery of these critical services at the scene of an emergency.

"SB 556 would prohibit nongovernmental entities contracting to perform public health and safety labor or services for public agencies from displaying a logo of a public agency on a uniform or vehicle, as specified, unless a disclosure statement is also displayed identifying the identity of the uniform wearer or vehicle operator providing services for the public agency." ✱

Chris Micheli is a Principal with the Sacramento governmental relations firm of Aprea & Micheli, Inc. He serves as CAA's Legislative Advocate.

# California Becomes Second State to Mandate Paid Sick Leave

**Chris Micheli** | *CAA Legislative Advocate*

California became just the second state in the nation to mandate employers provide paid sick leave to employees. Assembly Bill 1522, authored by Assemblywoman Lorena Gonzalez (D-San Diego), imposes this mandate upon businesses in this state by requiring both small and large employers to provide mandatory, protected, paid sick leave to their employees. Moreover, employer includes both public and private employers. The bill also attempts to ensure that the bill is read broadly in the context of other laws.

The measure had an interesting travel through the legislative process, including eight sets of amendments, before being signed into law by Governor Jerry Brown on September 10. AB 1522 amends Section 2810.5 of the Labor Code and adds Article 1.5 (commencing with Section 245) to Chapter 1 of Part 1 of Division 2 of the Labor Code.

AB 1522 enacted the "Healthy Workplaces, Healthy Families Act of 2014" and provides that an employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days for certain prescribed purposes, to be accrued at a rate of no less than one hour for every 30 hours worked. The rate of paid sick leave shall be the employee's hourly wage. Exempt employees are deemed to work 40 hours per week.

The purpose of the paid sick leave mandate is for the employee to care for himself or herself, or for the employee to care for a sick family member. The employer must provide the paid sick days, upon the oral or written request of an employee, for specified purposes, primarily for care or treatment of an existing health condition or preventive care, but also for victims of domestic violence or sexual assault.

An employer cannot require the employee to search for or find a replacement worker to cover the days during which the employee uses the paid sick leave. And an employer cannot deny an employee the right to use accrued sick days, or to take retaliatory action. The new law does allow existing employer policies that meet or exceed the new mandate to remain in place. This was an important provision for the California business community.

The allowance of any unused sick leave accrued in the preceding year to be carried over to the next year is a significant change in existing law. However, no accrual or carryover is required if the full amount of leave is received at the beginning of each year, and an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

An employer may cap total accrual at 48 hours or 6 days. An employer must provide an employee with written notice of available sick time on either the employee's itemized wage statement or in a separate writing with the payment of wages.

AB 1522 provides that an employee "may determine how much paid sick leave he or she needs to use," although the employer may set a reasonable minimum increment (not more than 2 hours)." There is also a notice requirement in that an employee shall provide "reasonable advance notification" if the need for sick leave is foreseeable. If the need is unforeseeable, then the employee must provide notice "as soon as practicable."

The new law provides that an employee is entitled to use accrued sick days beginning on the 90th day of employment, but authorizes an employer to limit an employee's use of paid sick days to 24 hours or 3 days in each year of employment. AB 1522 prohibits an employer from discriminating or retaliating against an employee who requests paid sick days, and it requires employers to satisfy specified posting, notice and recordkeeping requirements.

The Labor Commissioner will create a poster containing the required information that the employer must display "in a conspicuous place." Willful violation results in a $100

Continued on page 15

# **Feature** *Article*

Continued from page 14

civil penalty. Current state law already requires employers to post more than 15 different notices at their worksite.

Some have expressed concerns with the anti-retaliation provision in that the new law presumes that an employer retaliated against an employee if the employer takes any corrective action within 30 days of an employee's complaint or opposition to an employer's practice or policy regarding mandated paid sick leave. An employer must retain certain records for at least three years. These records must be made available to the Labor Commissioner and an employee.

AB 1522 requires the Labor Commissioner to enforce these requirements, including the investigation, mitigation, and relief of violations of these requirements. Moreover, the Labor Commissioner is authorized to impose specified administrative fines for violations and allows the Commissioner or the Attorney General to recover specified civil penalties against an offender who violated these provisions on behalf of the aggrieved, as well as attorney's fees, costs, and interest.

The provisions of AB 1522 allow an employee to seek any sick days unlawfully withheld as well as backpay, reinstatement, $250 or three times the amount of paid sick leave withheld (whichever is greater), and a $50 daily penalty for each day that a violation occurred. A maximum civil penalty of $4,000 is provided. Interest shall also be allowed. Another important provision to the business community is a limitation on penalties or liquidated damages "due to an isolated and unintentional payroll error or written notice error that is a clerical or an inadvertent mistake regarding the accrual or available use of paid sick leave."

While some larger employers in California provide paid sick leave or paid time off, AB 1522 mandates paid sick leave for part-time and seasonal workers, not just full-time employees. The term "employee" is only defined in the context of four exclusions. As such, it must be read expansively to apply to every employee, except those excluded.

The bill only exempts those covered by a valid collective bargaining agreement (CBA), an employee in the construction industry covered by a valid collective bargaining agreement, a provider of in-home supportive service workers, and an individual employed by an air carrier as either a flight deck or cabin crew member from the law's mandate.

Another concern expressed by opponents of AB 1522 is that the bill specifically provides that its provisions do not preempt any local ordinance that provides for a greater accrual of sick leave, thereby authorizing the adoption of more generous local laws, such as those in the cities of San Francisco and San Diego. Some believe that this provision will create inconsistency and confusion for California employers who operate in multiple jurisdictions. Many employers are already suffering from such confusion with the state minimum wage versus local living wage requirements.

AB 1522 sets forth a number of statements of legislative findings and declarations. In addition, the bill provides several statements expressing the intent of the Legislature. AB 1522 also makes provision for ensuring the privacy of health care information or domestic violence victims, and emphasizes the need of employers to comply with any contracts, CBA, or other agreements providing for sick days.

Finally, the bill amends Section 2810.5 of the Labor Code by adding an additional requirement to the employer written notice that an employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

The enactment of AB 1522 follows last year's approval of AB 10 (Alejo), which set in motion a series of increases in the state's minimum wage, including a $1 increase that took effect on July 1 of this year. It is interesting to note that the Governor's Department of Finance opposed AB 1522 and explained its position in part by stating, "the bill results in additional and potentially significant costs to private sector employers, which could diminish incentives for businesses to operate in California and therefore could be a sole or contributing factor to a business' decision to close or downsize. Such actions by California businesses would have a state fiscal impact such as reduced tax revenues." ✱

Chris Micheli is a Principal with Aprea & Micheli, Inc., a Sacramento-based government affairs firm, and has been a lobbyist for the past twenty years. He serves as CAA's Legislative Advocate.

# Armed Forces Benefits Association Offers All Ambulance Personnel No-Cost $5,000 Group Term Life Insurance

Armed Forces Benefit Association Offers All Ambulance Personnel No-Cost $5000.00 Group Term Life Insurance.

The Armed Forces Benefit Association is a Military Directed, non-profit organization created in 1947 with the support of Dwight D. Eisenhower. It was created to ease the strain and their families during wartime. At that time, life insurance would not cover a death that occurred in a war zone. AFBAs Military coverage was built to replicate the automatic SGLI coverage for our Servicemen and Women. Since 1947 all AFBA has ever served is our Military and now, First Responders.

In the aftermath of the terrorist attacks of 9-11, many of the death claims of First Responders were denied due to exclusions in the life policies. The four main exclusions that affected the families of the attacks were: Act of War, Act of Terror, Hazardous Duty and In The Line of Duty. These families paid on these policies for years, believing that if a tragedy occurred they would be covered. That was not the case. Due to this, specific and exclusive coverage options have now been extended to First Responders.

Under the Direction of General Eberhart, a four star General and the Norad Commander during 9-11, AFBAs Military Benefits have been extended to public servants throughout the country. This includes public and private ambulance companies. AFBA coverage was built around the Military and First Responder lifestyle and contains ZERO Exclusions on all of their policies. Acts of War, Acts of Terror and even international travel is covered, regardless of the country. Their policies cover on and off duty and are portable so they go with the individual if they change careers or retire. Through group briefings AFBAs policies are administerd directly with each employee, so there no extra workload is put on the participating agency or ambulance company.

The Armed Forces Benefit Association has two directives for Ambulance Personnel:

1) Introduce and Issue our $5000.00 No-Cost life policy to all First Responders. This is completely underwritten and paid for by AFBA. This covers everyone 18-59 years old, regardless of health, on or off-duty. This is for all staff, full time, part time, paid or volunteer, as a thank-you for their service. EMS students also qualify. This policy is also zero exclusions and is updated annually to verify continued service.

2) Through 8-10 minute briefings, inform all ambulance personnel of additional Military coverage with zero exclusions that are now available to them.

The AFBA, as a Military Directed non-profit, there is no selling involved. If you or any of your staff want additional coverage great, if not, great too.

AFBA is directed to inform all First Responders.

To schedule your AFBA company briefing, contact Paul Luce from The Armed Forces Benefit Association at *pluce@afba.us* or call (559) 676-0007. ✱

This article is provided to *Siren* recipients for information purposes only; this is not a CAA-endorsed program.

# *Stars of Life* AND LEGISLATIVE SUMMIT

CALIFORNIA AMBULANCE ASSOCIATION

## REGISTRATION FORM

**March 23- 24, 2015 • Embassy Suites Hotel, Sacramento, CA**

***Early Registration deadline is Monday, March 6, 2015.***

Host and Star registration fee includes committee meetings, opening session, materials, refreshments, reception, and dinner (registration fee does not include travel expenses, hotel, or meals other than those specified). Attendance at committee meetings requires registration and payment of registration fees. There is an additional $25 per person charge for registration after the deadline and for on-site registration. Late Star registrations are discouraged. Star registrations received after the deadline may not be included in the printed program and may not receive an individual legislative certificate. ***Star of Life*** Full Registration includes medal, legislative certificate, name entered in the prize drawing, photo/bio published in the yearbook and a copy of the group photo. Full registration includes the breakfast, reception and dinner on Monday, March 23rd. ***Star of Life*** Yearbook Honoree includes medal, legislative certificate, and photo/bio published in the yearbook.

Company _____

Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

### ATTENDEES —

| Star | Host | Guest | Name | Title / Relationship | E-mail |
|---|---|---|---|---|---|
| ☐ | ☐ | ☐ | _____ | _____ | _____ |
| ☐ | ☐ | ☐ | _____ | _____ | _____ |
| ☐ | ☐ | ☐ | _____ | _____ | _____ |

## EARLY REGISTRATION

### CAA MEMBERS —

This event is for CAA members only. Non-members may attend if a membership application is submitted with membership dues.

| | # People | | Total |
|---|---|---|---|
| ***Star of Life*** Full Registration (For Stars) | _____ | @ $130 = $ | _____ |
| ***Star of Life*** Yearbook Honoree (For Stars Not Attending) | _____ | @ $ 65 = $ | _____ |
| Regular/Host Full Registration (For CAA Members) | _____ | @ $155 = $ | _____ |
| Breakfast Only (Family/Guest) | _____ | @ $ 40 = $ | _____ |
| Dinner Only (Family/Guest) | _____ | @ $ 60 = $ | _____ |

## REGULAR REGISTRATION

For registration forms received after March 6, 2015, add: _____ @ $25 = $ _____

**TOTAL** $ _____

### PAYMENT —

☐ Check payable to **California Ambulance Association** ☐ Mastercard ☐ Visa ☐ American Express

Card Number _____ Exp Date _____ 3-4 Digit CID _____

Name on Card _____

Address (if different from above) _____

Signature _____

***Early registration deadline is Monday, March 6, 2015. Cancellations must be received in writing by March 6, 2015. No refunds shall be given after March 6, 2015. Registration may be transferred to another individual within the same company.***

***Please complete and return to:***


**CALIFORNIA AMBULANCE ASSOCIATION**

2520 Venture Oaks Way, Suite 150, Sacramento, CA 95833

877.276.1410 (toll free) • 916.924.7323 (fax) • *www.the-caa.org*

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## AND LEGISLATIVE SUMMIT

MARCH 23-24, 2015
EMBASSY SUITES HOTEL – SACRAMENTO, CA

(FOR THE FULL EVENT SCHEDULE, PLEASE VISIT *WWW.THE-CAA.ORG)*

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