



Member Associations of

PRINTING INDUSTRIES OF CALIFORNIA

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Headline Summary

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NIOSH Promotes Well-Being

The National Institute for Occupational Safety and Health (NIOSH) has launched a new virtual website—the National Center for Productive Aging and Work. This site focuses on the safety of workers of all ages, promotes their lifelong well-being, and advances the idea of so-called “productive aging.”

The idea refers to providing a safe and healthy work environment for all workers and to allow workers to function productively for their entire work career. You can locate the center at:
<http://1.usa.gov/1OZXcfZ>

WatchDog

Guarding the Business of Print

December 2015

New Patent Troll

A new patent troll has decided to go after the printing industry for infringing on a 1996 patent involving template design-to-print. The troll (aka “non-practicing entity”) is High Quality Printing Inventions, which owns patent US 6,012,070 “Digital Design Station Procedure.” It covers customized business forms or brochures having high resolution color graphics that may be created by an end user without layout experience at a computer terminal.

The patent was originally owned by Moore Business Forms. High Quality Printing Inventions filed suit against printing companies that have eCommerce storefronts in California, Florida, Illinois, Texas, Ohio, and Montana. You can review the patent at <http://www.google.com/patents/US6012070>.

Also, for those of you interested in the patent trial taking place regarding the CTP Innovations patents, the ruling should come any day. You should also know that a petition was filed by a group of printers in October requesting a PTAB trial on the validity of the few CTP patent claims that aren’t part of the current trial. The recent petition relies on new prior art—artwork that was not used in the earlier PIA or Kodak petitions.

2016 Labor Law Posters

All California businesses must display up-to-date labor and safety notices where all employees can see them to be in compliance with federal and state laws.

The 2015 all-in-one posters do not meet the federal and state 2016 requirements. Updated posters include the following important revisions:

- 1/15 CA Access To Medical and Exposure Records
- 6/15 CA Healthy Families Act of 2015/Paid Sick Leave
- 6/15 CA Family and Medical Leave/CFRA/Pregnancy Notice B
- 1/16 CA Minimum Wage

Many companies have not updated their Industrial Welfare Commission Wage Order since 2013. If you haven’t, your wage order is no longer current and you should post the new version (2014) immediately to be in compliance.

Some companies may also be required to display additional notices depending on their operation, such as forklift safety, fire extinguisher use, safe lifting, and bloodborne pathogens.

You can pre-order posters from PIASC at a special rate for members. For example, the cost for the 2016 all-in-one poster is \$24.50, which includes postage and sales tax.

To order your 2016 posters, contact Emily Holguin at 323-728-9500, ext. 262 or email emilyholguin@piasc.org.

State Minimum Wage Hike

Effective January 1, 2016, the minimum wage in California increases to \$10.00 per hour.

Most employers in California are subject to both the federal, state, and local minimum wage laws. The effect of this multiple coverage is that when there are conflicting requirements in the laws, the employer must follow the stricter standard; that is, the one that is the most beneficial to the employee.

Since California's current law requires a higher minimum wage rate (\$10.00 per hour) than does the federal law (\$7.25 per hour), all employers in California who are subject to both laws must pay the state minimum wage rate unless their employees are exempt under California Law.

Wireless Card Surcharges

Beginning January 1, 2016, a surcharge will be imposed on purchases of prepaid wireless services. This new surcharge is called the Prepaid Mobile Telephony Services (MTS) Surcharge.

The surcharge consists of:

- The Emergency Telephone Users (911) Surcharge.
- The California Public Utilities Commission's (CPUC) reimbursement fee and telecommunications universal service surcharges.
- Local utility user taxes; and/or local 911 charges or local access charges, where applicable.

Sellers of prepaid wireless services/cards will be required to charge and collect the prepaid MTS surcharge as a percentage of the retail sales price of prepaid MTS from the purchaser at the time of sale.

Prepaid wireless services/cards, subject to the prepaid MTS surcharge, include wireless plans sold in predetermined units (minutes) or dollars that customers purchase before using, such as prepaid wireless airtime cards and prepaid wireless refill or top-off cards.

Non-Compete Agreements

We periodically get a request from a member looking for language for a non-compete agreement for either their employee handbook or an employee who is leaving the company.

California Business and Professions Code Section 16600 provides that "every contract by which anyone is restrained from engaging in a lawful profession, trade, or business of any kind is to that extent void." Therefore, Section 16600 invalidates provisions in employment contracts or non-competition agreements that prohibit an employee from working for a competitor after completion of his/her employment or imposing a penalty for doing so.

The California Supreme Court has also repeatedly confirmed that non-compete agreements are unenforceable in California. Agreements that restrict an employee's ability to pursue similar employment after leaving a job are prohibited, even if they are narrowly written and leave a substantial portion of the available employment market open to the employee.

There are, however, a few exceptions to the non-compete agreements being unenforceable: the protection of trade secrets; the sale of a business, which can legally restrict the seller's ability to compete in a specific geographic area; or the dissolution of a partnership, which can legally define a geographical area in which one partner cannot conduct similar business.

Prop 65 Lawsuits

The California Attorney General has proposed amendments to California's Proposition 65 regulations governing enforcement actions brought by a "private person in the public interest."

Prop 65 requires that the State publish a list of chemicals known to cause cancer or birth defects or other reproductive harm. The list of chemicals must be updated at least once a year and has grown to include more than 800 chemicals. Prop 65 requires businesses that do business in the State to provide a "clear and reasonable" warning before exposing anyone to a listed chemical, unless the business can show that the anticipated exposure level will not pose a significant risk of cancer or reproductive harm.

The objectives of the proposed amendments are to constrain private parties' use of payments-in-lieu-of-penalties to fulfill the law's purpose of protecting public health and to reduce excessive attorney's fee awards. The Attorney General reported that businesses paid more than \$29M in settlements in 2014 and that \$21M of that went to private attorneys.

Tracking Lobbyists

A new online search tool will open up the way the California Legislature does business. The search engine, www.digitaldemocracy.org, puts into one place, campaign contributions, conflicts of interest filings, and voting records of lawmakers.

The site will also identify lobbyists' comments at legislative hearings, tracking them back to their employers and showing who their clients are.

While much of the information is already available online through multiple websites, Digital Democracy also digitizes transcripts of what was said during hearings, allows a user to tie those comments back to video clips, and to easily share it through social media.

