

## New laws for California in 2011



With the new year off and running, we have identified several new pieces of legislation that became effective as of January 1, 2011. This is not meant to be an exhaustive list of all new laws for 2011, but we have highlighted some of the new laws that may affect our members in 2011.

### **Assembly Bill 634, Harkey. Hazardous Recreational Activities.**

Under existing law, public entities and public employees are generally not liable to any person who participates in various hazardous recreational activities, as defined, including, but not limited to, certain water contact and diving activities, kayaking, surfing, waterskiing, white water rafting, and windsurfing.

This bill would include self-contained underwater breathing apparatus (SCUBA) diving among these hazardous recreational activities.

### **AB 569, Emmerson. Meal periods: exemptions.**

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than five hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after six hours of work if the order is consistent with the health and welfare of affected employees.

### **AB 1399, Anderson. Local Officials.**

Existing provisions of the California Constitution prohibit the Legislature from making any gift of public money or thing of value to any person, and this prohibition applies to local government.

Existing law specifies the duties of various local officials. This bill would prohibit a local official, subject to specified exceptions, from making available to an immediate family member, as defined, a vehicle or credit card provided by the local agency that the local official represents.

### **AB 1648, Jeffries. Vehicles: firefighter's operation of firefighting equipment: driver records.**

Existing law prohibits a person from operating firefighting equipment unless that person has in his or her possession a valid driver's license for the appropriate class of vehicle operated.

Existing law requires an applicant for a driver's license to submit to an examination appropriate to the class of vehicle the applicant desires to drive. Class B vehicles include, among others, a vehicle with a gross vehicle weight rating (GVWR) of more than 26,000 pounds. Successful completion of the examination to drive a class B vehicle qualifies the person to operate all vehicles covered under class C. Class C vehicles include, among others, a vehicle with a GVWR of 26,000 pounds or less.

This bill would revise and recast the provisions regulating the operation of firefighting equipment, as defined, to permit certain persons employed as a firefighter or registered as a volunteer firefighter to operate firefighting equipment only if the person holds a class A, class B, or class C license, with certain exceptions, and a firefighter endorsement issued by the Department of Motor Vehicles, after providing to the department proof of current employment or registration



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as a volunteer firefighter with a fire department and evidence of fire equipment operation training, as specified, passing the written firefighter examination developed by the department with the cooperation of the Office of the State Fire Marshal, and submitting a report of medical examination on a department-approved form.

**AB 1696, Berryhill. Death benefits: payment duration.**

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, that generally requires employers to secure the payment of workers' compensation for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law provides certain methods for determining workers' compensation benefits payable to a worker or his or her dependents for purposes of temporary disability, permanent total disability, permanent partial disability, and in the case of death.

Existing law provides that totally dependent minor children of a deceased worker shall receive death benefits until the youngest child attains 18 years of age, or until the death of a child physically or mentally incapacitated from earning, at a weekly rate of at least \$224. This bill would extend death benefits until the youngest child attains 19 years of age if the child is still attending high school and is receiving the benefits as a child of certain public employees killed in the performance of duty.

**AB 2253, Coto. Workers' compensation: cancer presumption.**

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires an employer to provide, or pay for all reasonable costs of, medical services necessary to care for or relieve work-related

injuries. Existing law further provides that in the case of active firefighting members of certain state and local fire departments and in the case of certain peace officers, a compensable injury includes cancer that develops or manifests itself during the period when the firefighter or peace officer demonstrates that he or she was exposed, while in the service of the public agency, to a known carcinogen, as defined, and the carcinogen is reasonably linked to the disabling cancer. Existing law establishes a presumption that the cancer in these cases is presumed to arise out of, and in the course of, employment, unless the presumption is controverted by evidence that the primary site of the cancer has been established and that the carcinogen to which the member has demonstrated exposure is not reasonably linked to the disabling cancer.

This bill would provide that the above-described presumption shall be extended to a member following termination of service for a period of three calendar months, but not to exceed 120 months in any circumstance, commencing with the last date actually worked in the specified capacity.

**Senate Bill 972, Wolk. Indemnity: design professionals.**

Existing law provides, for all contracts, and amendments to contracts, entered into on or after January 1, 2007, with a public agency for design professional services, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts, that purport to indemnify, including the cost to defend, the public agency by a design professional against liability for claims against the public agency, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

This bill would provide, with respect to contracts and amendments to contracts entered into on or after January 1, 2011, with a public agency for design professional services, that all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting these contracts or amendments to contracts that purport to require the design professional to defend the public agency under an indemnity agreement, including the duty and the cost to defend, are unenforceable, except for claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The bill would provide that all contracts and all solicitation documents between a public agency and a design professional are deemed to incorporate these provisions by reference.

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