

EMPLOYER LIABILITY IS INCREASING

It is very likely that in the next few years you could be held liable for your employees' skin cancer. Litigation and legislation to this end has already begun:

- On October 13, 2001, Assembly Bill 663 was approved by the Governor of **California** and filed with the Secretary of State.
- This bill holds city, county, and state entities liable for skin cancer that develops or manifests itself during a lifeguard's employment.
- Compensation includes full hospital, surgical, and medical treatment, disability indemnity, and death benefits.
- The cost to treat metastatic melanoma ranges from **\$10,000 - \$150,000 per patient**, and averages \$59,000 per patient.
- See the attachment "California Worker's Comp Legislation" for the full text of Assembly Bill 663.

CALIFORNIA WORKER'S COMPENSATION LEGISLATION

BILL NUMBER: AB 663 CHAPTERED BILL TEXT

CHAPTER 846:

FILED WITH SECRETARY OF STATE OCTOBER 13, 2001

APPROVED BY GOVERNOR OCTOBER 12, 2001

PASSED THE SENATE SEPTEMBER 12, 2001

PASSED THE ASSEMBLY SEPTEMBER 12, 2001

AMENDED IN SENATE AUGUST 31, 2001

AMENDED IN SENATE JULY 2, 2001

AMENDED IN SENATE JUNE 20, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

AMENDED IN ASSEMBLY APRIL 24, 2001

AMENDED IN ASSEMBLY APRIL 16, 2001

AMENDED IN ASSEMBLY MARCH 26, 2001

INTRODUCED BY: Assembly Member Vargas (Coauthors: Assembly Members Calderon, Chavez, Frommer, Kehoe, LaSuer, Strom-Martin, Washington, Wayne, and Zettel) (Coauthors: Senators Alpert and Burton) FEBRUARY 22, 2001

An act to add Section 3212.11 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 663, Vargas. Workers' compensation: Lifeguards.

Existing law provides that an injury of an employee arising out of and in the course of employment is generally compensable through the workers' compensation system. Existing law provides that, in the case of certain law enforcement officers and firefighters, the term "injury" includes heart trouble, hernia, pneumonia, and other injuries and diseases.

This bill would provide, with respect to active lifeguards employed, for more than 3 consecutive months in a calendar year, by certain local agencies and the Department of Parks and Recreation, that the term "injury" includes skin cancer that develops or manifests itself during the period of the lifeguard's employment.

This bill would further create a rebuttable presumption that the above injury arises out of and in the course of the lifeguard's employment if it develops or manifests during the period of the employment.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3212.11 is added to the Labor Code, to read:

3212.11. This section applies to both of the following: (a) active lifeguards employed by a city, county, city and county, district, or other public or municipal corporation or political subdivision, and (b) active state lifeguards employed by the Department of Parks and Recreation. The term "injury," as used in this division, includes skin cancer that develops or manifests itself during the period of the lifeguard's employment. The compensation awarded for that injury shall include full hospital, surgical, and medical treatment, disability indemnity, and death benefits, as provided by the provisions of this division.

Skin cancer so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board shall find in accordance with it. This presumption shall be extended to a lifeguard following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

Skin cancer so developing or manifesting itself in these cases shall not be attributed to any disease existing prior to that development or manifestation.

This section shall only apply to lifeguards employed for more than three consecutive months in a calendar year.

MOST EMPLOYERS FEEL OBLIGATED TO PROTECT THEIR EMPLOYEES FROM ENVIRONMENTAL CARCINOGENS LIKE ASBESTOS. WHY SHOULD UV RADIATION BE ANY DIFFERENT?

- The EPA has added UV radiation to the list of environmental carcinogens.
- It's only a matter of time before private employers are held liable for sun-related injuries.

BEGIN PROTECTING YOUR OUTDOOR WORKERS...AND YOUR WALLET TODAY.