



June 22, 2020

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RE: LC 68 and LC 45 (sections 45-47) Needlessly Hurt Local Recovery

Dear Co-Chairs Senate President Courtney and Speaker Kotek and members of the Joint Interim Committee on the First Special Session of 2020:

We became aware of LC 68 and LC 45 (sections 45-47) late last week and want to alert you to the impacts on our key local industries that are struggling to survive current COVID-induced economic conditions.

In the past weeks, we have called upon the legislature to use the Special Session to enact temporary and targeted liability protection for our health care workers and facilities acting within the scope of Governor Brown's COVID-19 related executive orders.

Additionally, we've asked the legislature to enact temporary and targeted liability protection for our local businesses acting in good faith compliance with executive orders, regulations or guidance regarding COVID-19.

Our requests, to date, have been received favorably by legislators from both chambers and both parties.

But now we see that LC 68 and LC 45 (sections 45-47) have been introduced, and they do exactly the opposite of what we've identified and requested as a key need for our local communities.

Among the problems we see with LC 68 and LC 45 (sections 45-47):

- While they reference a temporary infectious disease standard – it is not tied to COVID-19 in the draft. Section 3 of LC 68 requires OSHA/DCBS to create permanent standards and rules. This is not intended to be temporary.
- This directly impacts critical local industries that we are depending on to lead our recovery, including our health care providers that are struggling to survive.
- The LCs reference a "risk" standard that is opaque and left entirely up to the agency to define. This would likely be an overlapping set of regulations in addition to what some industries may receive from OHA, CDC, or other agencies. Best practices and guidance are constantly changing. To lock these types of requirements in DCBS rule will likely produce conflict with evolving guidance from other agencies.



- The PPE language goes beyond any guidance previously provided to employers and would be very difficult to comply with given the significant challenges in procuring PPE.
- The standards for use of PPE have shifted based on the availability of PPE. For example, re-use has been a necessity at some points because the only other option was to not wear a mask. Usage protocols are based on supplies and is very specific to an organization and its work. Is DCBS going to adopt standards for PPE use based on every supply chain variable and every industry?
- This COVID virus is still largely unknown. Others will be similarly unknown. Science and best practices are changing rapidly. We doubt that DCBS and the rule-making process is equipped to rapidly respond as our understanding of a virus evolves.
- The cost of compliance could be crushing for industries just struggling to survive.

But most disappointingly, LC 68 and LC 45 (sections 45-47) appear to be an ill-timed attempt to target specific industries for increased costs and liability precisely when they need relief.

To reiterate, our local businesses need liability relief, not more piling on.

Please table LC 68 and delete sections 45-47 of LC 45 from consideration during the special session. Please don't mar an otherwise good bill with language that hurts our businesses that are trying to recover.

Respectfully,

A handwritten signature in blue ink, appearing to read "V. Mikkelsen".

Vonnie Mikkelsen
OSCC Chair

A handwritten signature in blue ink, appearing to read "JL Wilson".

JL Wilson
Legislative Counsel