

AMENDED IN ASSEMBLY MARCH 23, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2919

Introduced by Assembly Member Ridley-Thomas

February 20, 2004

~~An act to add Chapter 32 (commencing with Section 22948) to Division 8 of the Business and Professions Code, and to add Section 12121 to the Public Contract Code, relating to telemarketing. An act to amend Section 3209.10 of the Labor Code, relating to workers' compensation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2919, as amended, Ridley-Thomas. ~~Public contracts: telecommunications and telemarketing~~ Workers' compensation: *physician assistant: nurse practitioner.*

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law, until January 1, 2006, authorizes medical treatment of a work-related injury to be provided by a state licensed physician assistant or nurse practitioner, acting under the review or supervision of a physician and surgeon pursuant to standardized procedures or protocols within their lawfully authorized scope of practice.

This bill would eliminate the January 1, 2006, repeal date thereby extending the operation of this provision indefinitely.

~~(1) Existing law provides for regulation of telephonic sellers.~~

~~This bill would provide that a person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center has specified rights with regard to information about the customer services employee, and speaking to a qualified employee of the company or government agency with whom the person is doing business. The bill would prohibit a customer sales call center or a customer sales center from sending specified financial or personal identifying information to a foreign country without express written consent from the affected person. The bill would make a willful violation of these provisions an unfair or deceptive trade practice.~~

~~(2) Existing law requires that all state contracts for the acquisition of telecommunication services and all state contracts for the acquisition of telecommunications goods be made under the supervision of the Department of General Services, which is to have responsibility for the establishment of policy and procedures for telecommunications. Under existing law, the Department of Finance has review and approval responsibility for data-processing information and telecommunication acquisitions.~~

~~This bill would prohibit the Department of General Services, or the applicable contracting state or local entity, from contracting for telecommunication services, including, but not limited to, telemarketing, with any vendor or provider that employs nonresidents of the United States in the performance of the telecommunication services on behalf of the state or local agency. The bill would require the Department of General Services, or the applicable contracting state or local entity, to require each vendor or provider submitting a bid or awarded a contract to provide services for the state or local entity to certify that only its employees who are United States residents will perform services under the contract. The bill would make it a felony for any person to knowingly submit a certification required by this subdivision that is false. To the extent that this bill requires a higher level of service by local agencies and by establishing a new crime, this bill would impose a state-mandated local program.~~

~~The bill would provide that a contract entered into in violation of these provisions is void, but may continue in effect in specified circumstances until an alternative contract can be arranged.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that~~



~~reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature hereby finds and declares all of~~
2 ~~SECTION 1. Section 3209.10 of the Labor Code is amended~~
3 ~~to read:~~
4 3209.10. (a) Medical treatment of a work-related injury
5 required to cure or relieve the effects of the injury may be provided
6 by a state licensed physician assistant or nurse practitioner, acting
7 under the review or supervision of a physician and surgeon
8 pursuant to standardized procedures or protocols within their
9 lawfully authorized scope of practice. The reviewing or
10 supervising physician and surgeon of the physician assistant or
11 nurse practitioner shall be deemed to be the treating physician. For
12 the purposes of this section, “medical treatment” includes the
13 authority of the nurse practitioner or physician assistant to
14 authorize the patient to receive time off from work for a period not
15 to exceed three calendar days if that authority is included in a
16 standardized procedure or protocol approved by the supervising
17 physician. The nurse practitioner or physician assistant may
18 cosign the Doctor’s First Report of Occupational Injury or Illness.
19 The treating physician shall make any determination of temporary
20 disability and shall sign the report.
21 (b) The provision of subdivision (a) that requires the
22 cosignature of the treating physician applies to this section only
23 and it is not the intent of the Legislature that the requirement apply
24 to any other section of law or to any other statute or regulation.



1 Nothing in this section implies that a nurse practitioner or
2 physician assistant is a physician as defined in Section 3209.3.

3 ~~(e) This section shall remain in effect only until January 1,
4 2006, and on that date is repealed, unless a later enacted statute that
5 is enacted before January 1, 2006, deletes or extends that date.
6 the following:~~

7 ~~(a) The economic welfare of the people of California depends
8 upon the development, stability, and expansion of private sector
9 and government jobs within the state and the nation.~~

10 ~~(b) It is in the economic interest of the state to retain state
11 service jobs within the national economy to provide opportunities
12 to those who directly contribute to the economy through the
13 payment of local, state, and federal taxes.~~

14 ~~(c) Nothing in this act shall be construed to infringe upon
15 regulations relating to the civil rights, equal employment rights, or
16 equal opportunity rights of any person.~~

17 ~~SEC. 2. Chapter 32 (commencing with Section 22948) is
18 added to Division 8 of the Business and Professions Code, to read:~~

19
20 ~~CHAPTER 32.—CUSTOMER SALES OR SERVICE CALL CENTERS~~

21
22 ~~22948.—As used in this chapter, the following terms have the
23 following meanings:~~

24 ~~(a) “Customer sales call center” means an entity whose
25 primary purpose includes the initiation or receiving of telephonic
26 communications on behalf of any person for the purpose of
27 initiating sales, including acting as a telephone solicitor and
28 making telephone solicitations, as defined in Section 17592.~~

29 ~~(b) “Customer service call center” means an entity whose
30 primary purpose includes the initiation or receiving of telephonic
31 communications on behalf of any person for the purposes of
32 providing or receiving services or information necessary in
33 connection with the providing of services or other benefits.~~

34 ~~(c) “Customer services employee” means a person employed
35 by, or working on behalf of, a customer sales call center or a
36 customer service call center.~~

37 ~~(d) “Personal identifying information” means a person’s
38 name, address, telephone number, driver’s license number, social
39 security number, place of employment, employee identification~~



1 number, mother's maiden name, demand deposit account number,
2 savings account number, or credit card number.

3 22948.1. (a) A person who receives a telephone call from, or
4 places a telephone call to, a customer sales call center or a customer
5 service call center has a right to all of the following, upon his or
6 her request:

7 (1) To know the identification of the city, state, and country
8 where the customer services employee is located.

9 (2) To know the name or registered alias of the customer
10 services employee.

11 (3) To know the name of the employer of the customer services
12 employee.

13 (4) To speak to a qualified employee of the company or
14 government agency that the person is doing business with.

15 (b) A customer sales call center or a customer service call
16 center may not, with regard to a person who receives a telephone
17 call from, or places a telephone call to, the center, send or have sent
18 to a foreign country the person's financial, credit, or personal
19 identifying information, unless the person has given his or her
20 express written consent.

21 22948.2. A willful violation of this chapter constitutes an
22 unfair or deceptive trade practice.

23 SEC. 3. Section 12121 is added to the Public Contract Code,
24 to read:

25 12121. (a) Notwithstanding any other provision of state law,
26 all work and services performed on contracts entered into by the
27 state or a local agency for telecommunication services shall be
28 performed in the United States.

29 (b) The Department of General Services or the applicable
30 contracting state or local entity may not contract for
31 telecommunication services, including, but not limited to,
32 telemarketing, with any vendor or provider that employs
33 nonresidents of the United States in the performance of the
34 telecommunication services on behalf of the state or local agency.

35 (c) The Department of General Services or the applicable
36 contracting state or local entity shall require each vendor or
37 provider submitting a bid or awarded a contract to provide services
38 for the state or local entity as set forth in subdivision (b) to certify
39 that only its employees who are United States residents will be
40 performing services under the contract. It shall constitute a felony



1 for any person who knowingly submits a certification required by
2 this subdivision that is false.

3 (d) A contract entered into in violation of this section is void,
4 but may continue in effect in the following circumstances until an
5 alternative contract can be arranged:

6 (1) Immediate termination would result in harm to the public
7 health or welfare.

8 (2) The continuation of the contract is approved by the Director
9 of General Services or the head of the applicable contracting state
10 or local entity and the continuation of that contract is approved for
11 the minimum period of time necessary to protect the public health
12 and welfare.

13 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
14 ~~Section 6 of Article XIII B of the California Constitution for~~
15 ~~certain costs that may be incurred by a local agency or school~~
16 ~~district because in that regard this act creates a new crime or~~
17 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
18 ~~for a crime or infraction, within the meaning of Section 17556 of~~
19 ~~the Government Code, or changes the definition of a crime within~~
20 ~~the meaning of Section 6 of Article XIII B of the California~~
21 ~~Constitution.~~

22 ~~However, notwithstanding Section 17610 of the Government~~
23 ~~Code, if the Commission on State Mandates determines that this~~
24 ~~act contains other costs mandated by the state, reimbursement to~~
25 ~~local agencies and school districts for those costs shall be made~~
26 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
27 ~~4 of Title 2 of the Government Code. If the statewide cost of the~~
28 ~~claim for reimbursement does not exceed one million dollars~~
29 ~~(\$1,000,000), reimbursement shall be made from the State~~
30 ~~Mandates Claims Fund.~~

