

# BUILDING the FUTURE

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CALIFORNIA LABOR FEDERATION \* STATE BUILDING AND CONSTRUCTION TRADES COUNCIL

## FACT SHEET

### AB 1124 (Maienschein)

#### STRONGER SAFETY STANDARDS FOR WORKERS AFFECTED BY WILDFIRES

#### Purpose

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To better protect outdoor workers in wildfire-affected areas from the negative health effects of inhaling wildfire smoke and particles from burning structures.

#### Background

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Last year, Californians endured 7,571 wildfires, burning 1,700,000 million acres of land and tens of thousands of structures<sup>1</sup>. Countless animals and over 100 people were killed, with many more suffering burns, other severe injuries, and a variety of serious health conditions resulting from inhaling extremely unhealthy levels of wildfire smoke.<sup>2</sup>

Wildfire smoke consists of different gases and fine particles, some from burning vegetation and others from burning structures<sup>1</sup>, with the structures often having been built with asbestos, lead, and other toxins. This complex mixture of chemicals and substances can penetrate deep into the lungs and cause serious health problems.

For example, the particulate matter and toxins in wildfire smoke have been shown to permanently reduce lung function, aggravate heart disease, and cause cancer or even premature death. The effects of inhaling this toxic mixture of substances go far beyond sore throats and fatigue.

The financial cost of these fires is equally staggering, with one report estimating an eventual total of

\$400 billion for 2018 alone, distinguishing these fires as the most expensive natural disaster in American history.<sup>3</sup>

Many California workers have been affected by these tragedies. Some have been injured or killed, more have been displaced or left unemployed, and far more suffered unknown permanent physical damage due to smoke exposure.

Outdoor workers were particularly impacted, as some employers failed to provide appropriate respirators, leaving workers to inhale harmful smoke for hours at a time. Such prolonged exposure, particularly in jobs that require physical exertion, can cause both immediate and long-term harm to worker health.

Existing worker health and safety regulations require employers to identify known health and safety risks and act to minimize workers' exposure to these hazards. Other regulations direct employers to reduce workers' exposure to harmful airborne substances and provide respirators when administrative and engineering controls aren't feasible.

However, these requirements are too vague and subjective. For example, current law that requires respirators when airborne substances could cause harm requires a physician-conducted medical evaluation and fit testing prior to use, even for a simple \$1.50 N95 mask. This is an unrealistic expectation to have of employers and nearly impossible for them to comply with.

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1. [http://cdfdata.fire.ca.gov/incidents/incidents\\_stats?year=2018](http://cdfdata.fire.ca.gov/incidents/incidents_stats?year=2018)

2. [https://en.wikipedia.org/wiki/2018\\_California\\_wildfires#Fatalities](https://en.wikipedia.org/wiki/2018_California_wildfires#Fatalities)

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3. <https://www.accuweather.com/en/weather-news/accuweather-predicts-2018-wildfires-will-cost-california-total-economic-losses-of-400-billion/70006691>

In addition, the respirator standard mandates masks "...when respirators are necessary to protect the health of the employee", but no further details are given, leaving the harm assessment completely in the hands of the employer. Few employers will know how to accurately assess how harmful smoke can be.

Cal/OSHA inspectors, attorneys, and Appeals Board judges would also have an extremely difficult time enforcing such open-ended language in a judicial setting, assuming such a citation would be appealed.

The end result is a system under which employers are confused, enforcement is complicated, and workers are harmed. As climate change worsens and fires intensify, we must take action to better protect workers affected by this hazard.

### **What This Bill Will Do**

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AB 1124 (Maienschein) will direct the Cal/OSHA Standards Board (OSHSB) to adopt a better wild-fire safety regulation for outdoor workers by June 13, 2019. The OSHSB has already been petitioned for this change; AB 1124 simply mandates that this action must be taken and that it must happen by a certain date.

The bill also allows a temporary and limited exemption to the medical evaluation and fit testing section of the respirator standard while clarifying that whatever changes are made cannot leave our new state respirator standard less effective than the federal standard.

Finally, AB 1124 requires the new regulation to use the Air Quality Index (AQI) measurement as the threshold for when respirators are necessary. This clear and easily verifiable standard will greatly ease both compliance and enforcement over current law.

### **Sponsors**

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- California Labor Federation
- State Building & Construction Trades Council
- Worksafe
- California Rural Legal Assistance Foundation

### **Key Contacts**

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