

# *THE ALLIANCE OF SPECIAL EFFECTS & PYROTECHNIC OPERATORS, INC.*

12522 Moorpark Street • Studio City, CA 91604

818 506-8173 • [www.asepo.org](http://www.asepo.org)

April 17, 2023

RE: Senate Bill 735 (version 4/13/23) - Opposition

Motion Picture Productions: Safety: Firearms: Ammunition

Jesse Noel, President  
J.D. Streett, Vice President  
Clark James, Secretary  
Timothy B. Graham, Treasurer

Additional Board Members:  
Anthony Simonaitis  
Zachary Knight  
Sandra Stewart  
Margaret Goll  
Alex Hill

To The Senate Committee on Labor, Public Employment and Retirement:

We are writing as representatives of an international group of Special Effects professionals in the motion picture industry to voice their stark opposition to SB-735. The primary mission of the Alliance of Special Effects and Pyrotechnic Operators (ASEPO) is the promotion of safe practices throughout our craft and industry. As rank-and-file workers, we stand firmly on the side of safety. SB-735 is unnecessary, overly burdensome, and will not produce a commensurate impact on safety.

There are two overriding themes driving our opposition:

1. Respectfully, the Industry-Wide Labor-Management Safety Committee is much more qualified to develop and implement meaningful motion picture industry safety standards than political legislative bodies.
2. The unnecessary burdens this bill levies upon productions will push more of them to other states, send our jobs with them, and negatively impact California's economy.

Addressing the first theme, California's motion picture industry has worked very hard over the past 40 years to implement comprehensive standards resulting in a vigorous culture of safety that has made California the safest place in the world to produce motion pictures. The solutions developed and overseen by the Industry-Wide Labor-Management Safety Committee (LMSC) have evolved over the years, and continue to evolve to be the most thoroughly comprehensive, yet adaptive safety program in the industry, and one which other jurisdictions model their systems after. We are very proud of that fact.

It is evident that the authors of the SB-735 also recognize that fact since the bill proposes to codify all seventy of our current Safety Bulletins into law. This is problematic because as changes are made to the Safety Bulletins, they become de facto changes to the law. Such relationships do exist with Nation Fire Protection Association (NFPA) and American National Standards Institute (ANSI), but those bodies have a formal process that includes a public comment period. The Labor-Management Safety Committee has no public comment process, so the state will hand the keys to this legislation over to them. This is simply poor legislative practice. There have been numerous instances where the LMSC has published a guideline, then had to reverse it as

they received further information. And these are top industry experts. Many of us have been involved in the crafting of these guidelines. It is a meticulous process where everybody is working together for a common goal. The Safety Bulletins are intentionally referred to as “recommendations”, “recommended practices”, and “guidelines” because we recognize that it can’t possibly speak to every situation, and must leave room for reasonable choices. The producers remain legally liable for safety. Nothing changes that.

In contrast, during the evolution of SB-831 last year and SB-735 this year, we received pressure, warnings, and various threats to support this legislation. There is talk of wins and losses, and battles over political feathers in the cap. This political process can only fail to provide a truly meaningful safety program – only a compromise at best. The industry’s current program adapts much more quickly and effectively than if they were to be changed by the legislative process.

This legislation is unnecessary. Each and every production that this “pilot program” would impact already follows a much more comprehensive safety program:

- Mandatory safety training for all employees
  - Up to 33 specific safety courses that must be taken, and periodically renewed
  - Dramatically reduced occupational injuries/fatalities since implementation
  - Empowers workers to co-police themselves (employers maintain full liability)
- Seventy (70) highly comprehensive Safety Bulletins that must be followed
  - Must be distributed with daily call sheets as related activities are expected
  - Reminds workers about specific hazards and protocols regarding such activities
  - They are adaptive; incidents lead to further improvements in the guidelines
  - Written in both English and Spanish
  - Freely available online worldwide
- Anonymous safety hotlines available
  - Posted on call sheets, soundstage postings, and at [csatf.org](http://csatf.org)
- Already employs a professional safety coordinator or entire department
  - Experienced with entertainment safety and are OSHA-30 trained
  - Reviews all planned activities in detail
  - Identifies risks and addresses them with mitigation measures
  - Places additional focus on potentially higher-risk activities
  - Coordinates with department heads and subject matter experts
  - Verifies mitigation measures are in place, with the authority to halt production
  - Visits sets and locations in person as deemed necessary
  - Assigns additional supervision as deemed necessary
- Our safety program also includes comprehensive firearms provisions
  - The firearms provisions in this bill are already required practice
  - Several firearm provisions in the bill are already law

The effectiveness of these measures is evidenced by the data. According to the National Bureau of Labor Statistics and the California Department of Industrial Relations, the California motion picture industry is counted among the safest rated industries:

- 2019 fatalities for all industries nationwide – 3.6/100,000
- 2019 fatalities for all industries in California – 2.5/100,000
- 2019 fatalities in the film industry nationwide – 0.9/100,000

SB-735 was initially motivated by the tragic death of Halyna Hutchins on the set of “Rust” in New Mexico (2021). It is also influenced by the deaths of Sarah Jones on “Midnight Rider” in Georgia (2014) and Brandon Lee on “The Crow” in North Carolina (1993). The most recent firearms related fatality on a motion picture set in California was Jon-Erik Hexum (1984) forty years ago while playing Russian roulette with a blank gun. That incident began California’s commitment to a new safety regimen that evolved and guides us today. Our local industry voluntarily took on the challenge that has succeeded. California can’t legislate away safety problems confronting other states.

We recognize that there are national and international guilds (cinematographers, directors, actors) that have valid safety concerns, and they are lobbying several states to develop legislation to address them. Unfortunately, these have resulted in an absurd mix of proposals ranging from banning firearms completely, real or rubber, to requiring hunting skills training for the entire crew, including accountants. None of those bills are addressing general non-firearm safety where more problems exist. Rather than creating a mish-mash of laws of varying quality from state to state, the better solution would be to develop an industry-wide program of standards on a national basis that can include these guilds, expanding on California’s success. That would be a win for the motion picture industry and the entire country.

We were informed that “safety advisor” provisions in this bill are modeled after Australia’s “National Guidelines for Screen Safety”. Upon closer review, we can see that Australia’s provisions are also considered “recommendations” and “guidelines”, not law, and it states very clearly that it doesn’t change the employers’ liabilities established by the law. It still holds them accountable all the way to the top executive, just like our labor laws do here. Better yet, it creates an effective culture of safety there that works. Is it perfect? No, but then nothing can be.

Regarding our second overriding theme of the negative impact SB-735 will have on our jobs and economy, we must address the additional and unnecessary burdens it forces upon our industry.

The requirements surrounding the qualifications and activities of a “safety advisor” is both limiting and misses the mark on how our industry operates. Our safety departments are already staffed with industry professionals. They don’t need to be told how to follow the motion picture industry protocols or the labor laws. They also don’t welcome an “independent advisor” watching over their shoulders. If they don’t perform an adequate job, they get replaced by their employer who is fully liable. Requiring them on-set for daily safety meetings ignores how we successfully operate. We hold safety meetings regularly, at the beginning of a production, at new locations and operations, and whenever there are high-risk activities planned. Sometimes, our safety departments have a representative present, sometimes they don’t. But others present are also qualified to implement such meetings. This bill doesn’t allow for that.

If this legislation is eventually expanded to cover every production in the state, it would require the hiring of an army of thousands of safety supervisors and at least hundreds of independent evaluators. This is completely unrealistic. We have over 500 approved shooting facilities that are often at 95% capacity plus hundreds of other locations not pre-approved. Staffing all of them daily with properly qualified people would be impossible. It has been suggested that stunt coordinators and special effects coordinators would be an ideal source for such talent. Unfortunately, California already experiences a shortage of these professionals for the number of projects underway, and writing concise safety reports isn't often their strongest skill. Either the safety advisor qualification requirements will have to be reduced or productions will have to move elsewhere. And our jobs will go with them.

And what about the smaller operations - student films, non-commercial hobbyist projects, social media videos, smaller industrial videos, etc.? California has been the birthplace of many great filmmakers who worked on micro-budget shows in their early days – Ron Howard, James Cameron, Steven Spielberg, George Lucas, David Lynch, and so many more. These opportunities might completely disappear. And with it, California's motion picture future.

Not only would the financial or logistic burdens send more shows out of state, negotiating the safety bulletins that are then elevated to the status of law will be enough to consider leaving. Seemingly minor issues such as the level of atmospheric haze being used could put special effects experts at risk of legal jeopardy. They work to maintain recommended levels, but the material used and environmental conditions can become fickle at times. Even if they aren't at jeopardy personally, their employers who bear the liability could choose to forgo its use and eliminate further jobs. This scenario applies to every activity described within the scores of Safety Bulletins. SB-735 claims it is not the intent of the bill to adversely impact the employment of craft employees, but it is ASEPO's position that an adverse impact on employment is exactly what will happen, whether the production stays in California or not.

This bill is based on the premise that the California tax incentive Program 4.0 proposed by Governor Newsom's budget trailer bill will successfully pass. That's not a sure thing, as there is strong opposition to it during this strained economy. Although the program has been a net positive for the state, many counter-arguments are being posed. If the current tax credit program isn't extended, California will lose jobs. Inter-state competition for the motion picture industry is fierce, as the economic rewards are clear. Adding more burdens and expenses will further disadvantage California and will be to the detriment of those jobs.

The requirement for employers to pay for non-guild armorers to take training equivalent to Contract Services Administration Trust Fund (CSATF) Firearms Safety Course for the Entertainment Industry, which also must be approved by the LMSC, fails to understand how the guild system works. What employees applying for a job as an armorer would dare ask an employer to pay to train them? That just highlights their lack of experience. It won't happen. Within the guild system, the employers share the expense of the CSATF course. Outside of the guild system, that doesn't work.

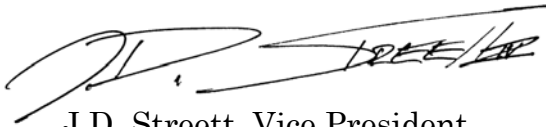
In conclusion, SB-735 is unnecessary, overly-burdensome, and a job killer for California. The California motion picture industry wrote the book on safety for the entertainment industry, and continues to add more chapters. Let's not burn that book for the sake of political points. California's golden industry and jobs depend on it.

Please vote **NO** on SB-735.

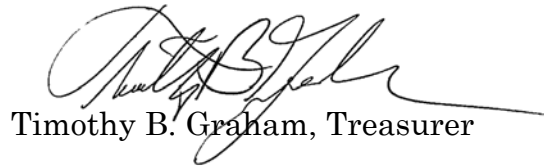
Thank you for your consideration.  
The Alliance of Special Effects and Pyrotechnic Operators  
Studio City, California



Jesse Noel, President



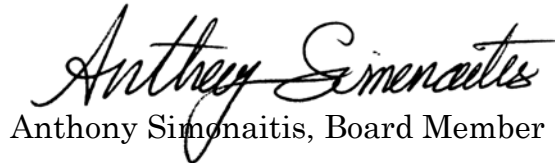
J.D. Streett, Vice President



Timothy B. Graham, Treasurer



Clark James, Secretary



Anthony Simonaitis, Board Member




Zachary Knight, Board Member



Sandra Stewart, Board Member



Margaret Goll, Board Member



Alex Hill, Board Member