Mexico
LEGAL MEMORANDUM

AMENDMENTS AND ADDITIONS
TO THE FEDERAL LABOR LAW

On May 1, 1978, vast amendments and additions to the Mexican Federal Labor Law went into effect, after their publication in the Diario Oficial.

We deem that you should be made fully aware of the extent, and intent, of these reforms because, under the guise of providing basic rules for on-the-job-training of workers so that they may reach a higher level of employment, and production, thus making more jobs available, the modifications and additions establish new rules, and clarify many already in existence, in the fields of protection of workers' health and well-being by making more demands for cleaner and more hygienic shop and plant conditions; new regulations providing for stiff fines and even imprisonment of employers in case of non-compliance with the provisions of the law in general, and more specifically in the area of payment of salaries and benefits.

As a complement, the enforcement of the completely new statutes is put in the hands of federal agencies.

Article 3 — receives a new paragraph which provides that the promotion of training and capacitation of workers is now a matter of public policy.

Article 25 — provides that individual labor contracts MUST include provisions to the effect that "the workers will be trained and instructed under the terms of the programs established, or that may be established in the enterprise according to the provisions of this Law."

Article 132, Section XV — stipulates a new obligation of the employer "to provide training and instruction to their workers" under the terms of Chapter III-Bis of the Law (a new addition).

Article 391 — pertains to the conditions of work that must be included in Collective Bargaining Agreement which now have to include specific provisions pertaining to training and instruction of workers, and the bases for the organization and operation of Committees that have to be organized pursuant to the Law.

CHAPTER III-BIS — of new creation, includes Article 153-A through Article 153-X, which pertain to the training and instruction that the worker has the right to receive from his employer (Article
153-A). To provide the specific training and instruction the employer may enter into agreements with their workers as to how and where it is to be given.

All programs of training, schools where it will be given, teachers that will conduct same, will be subject to approval by the Federal Department of Labor.

Several enterprises may unite to institute the same training program when their activities permit it.

Training must be given to the workers during the workshift, unless otherwise agreed between the parties, or when worker wishes to receive training for a different work than that which (s)he may be performing. (Article 153-E)

Purpose of training and instruction is to update workers in their work (technique), to prepare them to occupy new positions or vacancies, to increase production, and to prevent labor accidents, etc.

An applicant for a job that requires prior training for the work that (s)he will perform, during the time that (s)he receives the training may render services either under the general terms of employment in force in an enterprise, or under such terms as may be stipulated in the Collective Bargaining Agreement.

Workers to whom training and instruction is given must assist punctually with training sessions and all other related activities, and follow the instructions received from their teachers, and at the end of the training period they must take the corresponding examination.

Joint Committees for the Instruction and Training of Workers, with equal representation of workers and management, must be organized in each enterprise to oversee and further the implementation and operation of the training programs; suggesting such measures as they deem prudent according to the needs of the enterprises and workers, for their perfection.

Labor Authorities will see that such Joint Committees are formed and put into operation.

Non-unionized plants and laborers of industries of similar nature will be convened by the Federal Department of Labor to organize the corresponding Joint Committees, which will assist in making: a national catalog of jobs; a study of existing equipment and machinery in use in the various branches of industry; propose systems of on the job training for the work; make specific suggestions and recommendations on training programs, and evaluate their effects within specific industrial activities; obtain from the Labor Authorities the registration
of skills and abilities obtained by the workers through their training. (Article 153-K)

The Federal Department of Labor will regulate all matters pertaining to National Committees.

Besides the requisite that Collective Bargaining Agreements include specific mention of employer's obligations to train his employees, as outlined above, they may also stipulate the methods and means whereby an employer may train and prepare those who wish to come to work in the enterprise, in accordance with a specific admission clause that the contract may contain. (Article 153-M)

The employer must submit to the Federal Department of Labor for its approval, within 15 days of entering into a Collective Bargaining Agreement, or any revision thereof, all new plans and programs for training of workers or modifications to existing ones, and the bases which have been agreed upon for the operation of the above mentioned Joint Committees.

All training programs and plans must specify terms of duration that may not exceed four years, cover all positions and work levels in existence within the enterprises, make specific mention of the stages in which training will be given to all employees of the enterprises, state the method of selection of workers for determining the order in which the workers of the same job and category will be trained, specify the name and their registration number with the Labor Department of the persons, or schools, that will give the training, and such other requisites as may be put in effect at a later date. Within sixty working days following the submission of the above mentioned plans and programs to the Department of Labor, it shall approve same, or else suggest the changes that have to be made, in the understanding that if the plans and programs submitted are not objected to by the Department of Labor within the sixty days they shall be considered approved.

Non-unionized industries shall submit to the Federal Department of Labor, for its approval, within the first 60 days of odd numbered years the training programs that they may have agreed with their workers to put into effect. They shall also submit the rules for the operation of Joint Committees on Training.

When an employer does not comply with the foregoing obligations to submit the training program to the Federal Labor Department, for its approval, or does not comply with any requested modifications thereto, he shall suffer the penalties ordered by Article
878-IV, and the Department shall take such other measures as may be needed to make the employer comply with the Law.

Workers who pass the exams of their training and instruction shall have the right to receive a certificate therefor, which authenticated by the corresponding Joint Committee on Training shall be made known to the Work Coordinating Units through the National Committee so that they may be recorded in the Catalog of Qualified Workers as provided by Section IV, of Article 539.

Any worker who refuses to receive training claiming that he possesses the skills to do his job, and the one next above, shall produce documents to that effect and/or take the corresponding examinations that the Coordinating Work and Training Unit may order.

Since certificates of ability are the proof entitling holder to promotions, they must be notified to the Central Unit of Coordination by the employer, so that in the event that several levels of work, or skills, exist in a vacancy the Central Unit will conduct further tests to determine which worker is competent to fill the vacancy.

All certificates, diplomas, and/or degrees issued by the Government through its agencies, or by accredited schools, or units, shall be recorded in the National Job Catalog.

Both workers and employers have the right to bring actions in and before the Labor Relations Boards in all individual or collective matters arising from the training stipulations of this Chapter of the Law.

In the course of the discharge of its duties in matters of federal jurisdiction, the Coordinating Unit of Work Capacitation and Training shall be assisted by an Advisory Committee to be formed by five representatives of the Government and of each of the national workers' unions and employers' associations.

The Government shall be represented by the Departments of Labor, Education, Commerce, Public Properties and Industrial Development, and the Social Security. The Secretary of Labor shall preside and the Unit shall issue the necessary regulations for its operations.

In matters pertaining to industries not of federal jurisdiction the State Advisory Committees shall be presided by the Governor of the State, and they shall have one representative from each of the Federal Departments of Labor, Education, and Social Security; three representatives of the State Labor organizations and three representa-
atives of the Employer's Associations, who shall be named as per rules to be issued by the Governor and the Department of Labor.

State Labor Authorities shall assist the Coordinating Work and Training Unit in the discharge of its obligations.

All permanent and temporary vacancies, that exceed thirty days, and all new positions shall be filled with workers of the same occupation or skill, according to seniority. If training was given to workers the vacancy will be filled by the one that has the greater ability and seniority.

The employer who has not complied with his obligation to train workers, shall fill vacancies with the (a) worker with most seniority; (b) under equal circumstances, worker who is head of a family shall be preferred.

When new positions are opened and there are no employees within the plant that can cover them, and the Collective Bargaining Agreement does not provide a procedure covering the situation, the employer is free to hire anyone he wishes.

AMENDMENTS AND ADDITIONS PERTAINING TO HEALTH OF WORKERS AND PREVENTION OF ACCIDENTS

The employers have the obligation to:

Build all plants, factories, and office installations complying with specifications for the prevention of accidents and the guarantee of safety and hygiene of workers, and of harmful emissions in excess of the maximum limits of contamination permitted by the law. If, in order to comply with the Law, changes are necessary, these must be effected as requested by the authorities.

First-aid equipment and medicines, as specified by the authorities, must be available at all times in the plants and places where work is performed.

Signs and bulletins containing rules and instructions for safety and hygiene must be visibly posted wherever work is done.

Employers are specifically obligated to:

(a) Notify the Federal Department of Labor, the Labor Inspector and the Conciliation Labor Board, within 72 hours, of any accident that occurs giving (1) the name and address of the company; (2) time and place of the accident with a brief statement of facts; (3) name and address of the persons who witnessed the accident; and (4) place where medical attention was given or is being given.
(b) As soon as it is known that a person died as a consequence of a labor accident, written notice to the above authorities must be given stating, besides the data above mentioned, the name and address of the persons who may be entitled to receive the corresponding indemnity.

Henceforth, work is to be executed in places and under conditions that guarantee the health and the life of the workers pursuant to the provisions of this Law, the regulations that may be put into effect, and directives that authorities issue in the future.

**VIOLATIONS AND PENALTIES**

Violations committed by employers, or workers, shall be punished according to the new provisions of the Law, regardless of other penalties that may correspond thereto under existing statutes.

All fines are to be based on the general minimum wage that applies in the zone where the violation occurs.

Under Article 878 the penalties are:

I. From 3 to 155 times the minimum wage (375 to 19,375 pesos) to an employer who forces its workers to work longer shifts than those prescribed by Law; or for not granting workers the weekly day of rest and not paying salary therefor; for not granting workers their yearly vacations pursuant to Law;

II. From 15 to 315 times the minimum wage (1,875 to 39,375 pesos) to any employer who does not comply with the obligations pertaining to profit sharing;

III. From 3 to 95 times the minimum wage (375 to 11,875 pesos) to the employer who does not comply with the obligations prescribed in Article 132 sections IV, VII, VIII, IX, X, XII, XIV, XXII and XXIV; that is for not providing a safe place for workers to keep and store their tools; for not issuing every 15 days a written statement at the worker's request, as to the number of days worked and the salaries that he has received; for not giving the worker a written statement pertaining to his services; for not giving a worker time to vote in the elections; for not giving a worker a leave of absence to comply with a union commission; for not establishing and maintaining schools according to the stipulations of the Law and of the Department of Education; when more than 100 and less than 1,000 are employed for not granting a reasonable scholarship for technical, industrial or practical studies to a worker, or a son of a worker be selected by the employer and the workers, for special schools;
IV. From 15 to 315 times the minimum wage to the employer who does not comply with specifications of Section V of Article 132, that is providing his workers with a sufficient number of seats, or chairs in commercial houses, offices, hotels, restaurants or similar establishments, and in such industrial plants as may permit this pursuant to the type of work that is done. The fine shall be doubled if the violation is not corrected within the period of time that is granted therefor;

V. From 15 to 315 times the minimum wage to the employer who does not comply with the installation in his plant of the security and hygiene measures that are prescribed by Law in order to prevent labor risks. The fine shall be doubled if the irregularity is not corrected within the time limit that is granted therefor. The authorities may proceed under the terms of Article 512-D, to order the temporary, or permanent, closing of the plant, if the disobedience continues;

VI. From 15 to 115 times the minimum wage to the employer who violates Article 133, subsections II, IV, VI and VII, by forcing workers to buy what they need in company owned stores, or forcing them to leave their unions, or for authorizing, or taking collections or subscriptions within the plants, or for making religious or political propaganda.

Article 879—The employer who violates the Law in the section pertaining to women's work and persons under 16 years of age shall be fined from 3 to 155 times the minimum wage.

Article 880—pertains to naval work and has no application in this area.

Article 882—pertains to an employer who does not give an uneducated domestic servant the opportunity to get a grade school education the fine is 3 to 15 times the minimum wage.

Article 883—pertains to violations committed by employers in hotels, restaurants, bars and other similar establishments.

Article 884—corresponds to work done at the worker's home.

Article 885—levies a fine of 3 to 30 times the minimum wage on an employer who violates the internal shop rules.

Article 886—An employer who violates the general rules of law not specified in this Chapter, shall be fined from 3 to 315 times the minimum wage.

The employer who gives employment to more than ten percent non-Mexican employees, or who employs aliens when only Mexican nationals should be employed, shall be fined 15 to 155 times the minimum wage.
Fines applied to workers shall not exceed one week's salary, as prescribed by the Federal Constitution.

Fines above indicated may be levied by the Department of Labor, the Governors of the States, or such employees to whom they delegate their authority.

Article 891—specifies that any employer who pays his worker less than the minimum wage, or who delivers to them proof of payment of amounts in excess of the money actually received by the workers, shall be punished as follows:

I. With a jail sentence of from three months to two years, and a fine equivalent to twenty times the minimum wage, when the amount omitted from payment does not exceed one month's wages;

II. With a prison sentence of three months to two years, and a fine equivalent of fifty times the minimum wage, when the amount not paid exceeds one month's wages but not three months;

III. With a jail sentence of from three months to two years and a fine equivalent of one hundred times the minimum wage if the omission exceeds three months wages;

If the employer makes restitution of the unpaid sums before the District Attorney files his final allegations in the proceedings, employer will only have to pay the fine, and suffer no corporal punishment.

JURISDICTIONAL CHANGES

Article 527-X—was modified, and the manufacture of mechanical or electrical parts for the automobile industry are now of federal jurisdiction.

Lime industry, basic lumber industry and the manufacture of plywoods and wood by-products, window glass and glass containers and the tobacco industry are also put into federal jurisdiction.

Corporations that operate under a federal concession or contract, and their related industries, and those that execute work within federal zones or in federal jurisdictional waters, or within an economic zone which is exclusive to the federal government, are also of federal jurisdiction.

All matters pertaining to employers' obligations in matters of training and instruction of workers, and also matters pertaining to safety and health in workshops are now of federal jurisdiction.