

Section 3: Amends Labor Code Section 6309. Division & Investigations:

1. Adds the following to the list of parties that if the division receives a complaint from, the division is required to investigate the place of employment: (1) an attorney; (2) a health or safety professional; (3) a union representative and (4) a government agency representative.
2. Serious violations shall be investigated within 3 working days and within 14 calendar days for a non-serious violation. When complaint is received by a state or local prosecutor, DOSH shall summarily investigate the complaint within 24 hours of receipt of the complaint.

***** Note:** A serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a violation. "Substantial Probability" refers not to the probability that an accident or exposure will occur as a result of the violation, but rather to the probability that death or serious physical harm will result, assuming an accident or exposure occurs as a result of the violation.

Section 4: Amends Labor Code Section 6400. Multi-employer worksites.

1. Codifies current regulations that allows DOSH to cite multiple employers at unsafe worksites, where multiple employers were at least partly responsible for the unsafe conditions.

Section 5: Amends Labor Code Section 6423. Penalty increases for violations.

1. Specifies those persons subject to fines and/or criminal penalties (misdemeanors) to include every employer, company officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee.

Section 6: Amends Labor Code Section 6425. Penalty increases where there is death or serious injury.

1. Classifies as a "public offense" any employer or employee having direction, management, control, or custody of a place of employment, or of any other employee who willfully*** violates any occupational safety and health violation causing death or permanent or prolonged impairment to the body of an employee, and increases the criminal sanctions for these crimes as follows:

(a) For a first offense, the term of imprisonment is increased to a maximum of 3 years. The fine is increased from a maximum of \$70,000 to a maximum of \$250,000 if the defendant is a person. If the defendant is a corporation or a limited liability company, the fine is increased to a maximum of \$1,500,000.

***** Note:** The bill also provides that the definition of "willful" as applied to occupational safety and health crimes would be the same as the definition used in the Penal Code, which is:

"willful" when applied to the intent with which an act is done, or omitted, implies simply a purpose or willingness to commit the act, or make the omission referred to. It does not require any intent to violate law, or to injure another, or to acquire an advantage."

Section 9: Amends Labor Code Section 6430. Statements affirming compliance, Increased penalties.

1. Increases from \$7,000 per day to \$15,000 per day the maximum penalty assessable for a failure-to-abate violation; and imposes criminal sanctions for filing a false report of abatement in the form of imprisonment in the county jail for a term of up to 1 year and a fine of up to \$30,000, or both, and a fine of up to \$300,000 for a corporation or limited liability company.

Section 10: Amends Labor Code Section 6432. Burden of proof.

1. Transfers the burden of proof (from DOSH to the employer) to demonstrate that the employer did not, or could not, "with the exercise of reasonable diligence," know the presence of a violation

Employers are strongly urged to review the full text of AB-1127 (available from the CompWest Insurance Co. website: Compwestinsurance.com) and to seek applicable legal counsel.