

AMENDED IN SENATE JUNE 13, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1165

Introduced by Assembly Member Skinner
(Principal coauthor: Senator Hancock)
(Coauthors: Assembly Members Ting and Williams)

February 22, 2013

An act to amend Sections *Section 6600 and 6600.5* of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as amended, Skinner. Occupational safety and health: violations.

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue ~~citations~~ *a citation or notice* to employers. Existing law establishes the Occupational Safety and Health Appeals Board in the department, and prescribes procedures for the appeals board to hear and decide employer appeals of ~~the division's enforcement actions~~ *a citation or notice*.

This bill, ~~with specified exceptions~~, would provide that an appeal of ~~certain enforcement actions~~ *a citation or notice, as specified*, that ~~are~~ *is* classified and cited as a serious violation, ~~a willful violation, a repeated violation, or a failure to abate a serious violation~~ *repeat serious violation, willful serious violation, willful violation, willful repeat*

violation, or failure to abate shall not stay abatement dates and requirements.

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

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

1 SECTION 1. Section 6600 of the Labor Code is amended to
2 read:

3 6600. (a) An employer served with a citation or notice pursuant
4 to Section 6317, or a notice of proposed penalty under this part,
5 or any other person obligated to the employer as specified in
6 subdivision (b) of Section 6319, may appeal to the appeals board
7 within 15 working days from the receipt of the citation or notice
8 with respect to violations alleged by the division, abatement
9 periods, amount of proposed penalties, and the reasonableness of
10 the changes required by the division to abate the condition.

11 (b) ~~An (1) When either abatement is on appeal or abatement~~
12 ~~has not occurred, an appeal of a citation or notice pursuant to~~
13 ~~Section 6317, or a notice of proposed penalty under this part, that~~
14 ~~is classified and cited as a serious violation, a willful violation, a~~
15 ~~repeated violation, or a failure to abate a serious violation repeat~~
16 ~~serious violation, willful serious violation, willful violation, willful~~
17 ~~repeat violation, or failure to abate shall not stay the abatement~~
18 ~~dates and requirements, except as follows: requirements.~~

19 (1)

20 (2) An employer may request a stay of abatement ~~for a citation~~
21 ~~or notice of civil penalty classified as a serious violation, willful~~
22 ~~violation, repeated serious violation, or failure to abate a serious~~
23 ~~violation in a notice of appeal. from the division.~~

24 (2)

25 (3) The ~~department~~ *division* shall stay the abatement for a serious
26 violation, ~~willful violation, repeated serious violation, or a failure~~
27 ~~to abate a serious violation repeat serious violation, willful serious~~
28 ~~violation, willful violation, willful repeat violation, or failure to~~
29 ~~abate, if the department division determines that there is a~~
30 ~~substantial likelihood of success by the employer on the contested~~
31 ~~matters and that a stay will not adversely affect the health and~~
32 ~~safety of employees. The decision on a request for a stay of~~
33 ~~abatement shall be final unless the employer renews the request~~

1 for a stay of abatement in a direct appeal of the redetermination
2 to the board.

3 (c) The ~~department~~ *division* may stay an abatement requirement
4 while a motion to stay an abatement is pending.

5 (d) *The employer may request an expedited appeal from the*
6 *appeals board and the appeals board shall conduct an expedited*
7 *hearing pursuant to regulations promulgated by the Occupational*
8 *Safety and Health Appeals Board, pursuant to Section 373 of Title*
9 *8 of the California Code of Regulations.*

10 SEC. 2. Section 6600.5 of the Labor Code is amended to read:

11 6600.5. (a) ~~An employer served with a special order or any~~
12 ~~action order by the division pursuant to Section 6308, or any other~~
13 ~~person obligated to the employer as specified in subdivision (b)~~
14 ~~of Section 6319, may appeal to the appeals board within 15~~
15 ~~working days from the receipt of the order with respect to the~~
16 ~~action ordered by the division, abatement periods, or the~~
17 ~~reasonableness of the changes required by the division to abate~~
18 ~~the condition.~~

19 (b) ~~An appeal of a special order or an action order by the~~
20 ~~division pursuant to Section 6308 that is classified and cited as a~~
21 ~~serious violation, a willful violation, a repeated violation, or a~~
22 ~~failure to abate a serious violation shall not stay the abatement~~
23 ~~dates and requirements, except as follows:~~

24 (1) ~~An employer may request a stay of abatement for a serious~~
25 ~~violation, willful violation, repeated serious violation, or failure~~
26 ~~to abate a serious violation in a notice of appeal.~~

27 (2) ~~The department shall stay the abatement for a serious~~
28 ~~violation, willful violation, repeated serious violation, or a failure~~
29 ~~to abate a serious violation, if the department determines that there~~
30 ~~is a substantial likelihood of success by the employer on the~~
31 ~~contested matters and that a stay will not adversely affect the health~~
32 ~~and safety of employees. The decision on a request for a stay of~~
33 ~~abatement shall be final unless the employer renews the request~~
34 ~~for a stay of abatement in a direct appeal of the redetermination~~
35 ~~to the board.~~

36 (e) ~~The department may stay an abatement requirement while~~
37 ~~a motion to stay an abatement is pending.~~

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