

ASSEMBLY BILL

No. 1165

Introduced by Assembly Member Skinner
(Principal coauthor: Senator Hancock)

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1165, as introduced, 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 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.

This bill would provide that an appeal of a citation, notice, special order, action order, or proposed penalty that is classified and cited as a serious violation, a willful violation, a repeated violation, or a failure to abate a serious violation shall not stay abatement dates and requirements, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
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. ~~Any~~(a) An employer served with a citation or notice
4 pursuant to Section 6317, or a notice of proposed penalty under
5 this part, or any other person obligated to the employer as specified
6 in subdivision (b) of Section 6319, may appeal to the appeals board
7 within 15 working days from the receipt of such citation or such
8 notice 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 appeal of a citation or notice pursuant to Section 6317,*
12 *or a notice of proposed penalty under this part, that is classified*
13 *and cited as a serious violation, a willful violation, a repeated*
14 *violation, or a failure to abate a serious violation shall not stay*
15 *the abatement dates and requirements except as follows:*

16 (1) *An employer may request a stay of abatement for a citation*
17 *or notice of civil penalty classified as a serious violation, willful*
18 *violation, repeated serious violation, or failure to abate a serious*
19 *violation in a notice of appeal.*

20 (2) *The department shall stay the abatement for a serious*
21 *violation, willful violation, repeated serious violation, or a failure*
22 *to abate a serious violation if the department cannot determine*
23 *that the preliminary evidence shows a substantial probability of*
24 *death or serious physical harm to an employee. The decision to*
25 *stay an abatement will be final unless the employer renews the*
26 *request for a stay of abatement in a direct appeal of the*
27 *redetermination to the board.*

28 (c) *An abatement requirement shall be stayed while a motion*
29 *to stay an abatement is pending.*

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

31 6600.5. ~~Any~~(a) An employer served with a special order or
32 any action order by the division pursuant to Section 6308, or any
33 other person obligated to the employer as specified in subdivision
34 (b) of Section 6319, may appeal to the appeals board within 15
35 working days from the receipt of the order with respect to the
36 action ordered by the division, abatement periods, the
37 reasonableness of the changes required by the division to abate
38 the condition.

1 ***(b) An appeal of a special order or an action order by the***
2 ***division pursuant to Section 6308 that is classified and cited as a***
3 ***serious violation, a willful violation, a repeated violation, or a***
4 ***failure to abate a serious violation shall not stay the abatement***
5 ***dates and requirements except as follows:***

6 ***(1) An employer may request a stay of abatement for a serious***
7 ***violation, willful violation, repeated serious violation, or failure***
8 ***to abate a serious violation in a notice of appeal.***

9 ***(2) The department shall stay the abatement for a serious***
10 ***violation, willful violation, repeated serious violation, or a failure***
11 ***to abate a serious violation if the department cannot determine***
12 ***that the preliminary evidence shows a substantial probability of***
13 ***death or serious physical harm to an employee. The decision to***
14 ***stay an abatement will be final unless the employer renews the***
15 ***request for a stay of abatement in a direct appeal of the***
16 ***redetermination to the board.***

17 ***(c) An abatement requirement shall be stayed while a motion***
18 ***to stay an abatement is pending.***