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DIVISION 5. SAFETY IN EMPLOYMENT [6300 - 9254] (*Division 5 enacted by Stats. 1937, Ch. 90.*)

PART 1. OCCUPATIONAL SAFETY AND HEALTH [6300 - 6725] (*Heading of Part 1 amended by Stats. 1973, Ch. 993.*)

CHAPTER 4. Penalties [6423 - 6436] (*Chapter 4 repealed and added by Stats. 1973, Ch. 993.*)

6423. (a) Except where another penalty is specifically provided, every employer and every officer, management official, or supervisor having direction, management, control, or custody of any employment, place of employment, or of any other employee, who does any of the following is guilty of a misdemeanor:

(1) Knowingly or negligently violates any standard, order, or special order, or any provision of this division, or of any part thereof in, or authorized by, this part the violation of which is deemed to be a serious violation pursuant to Section 6432.

(2) Repeatedly violates any standard, order, or special order, or provision of this division, or any part thereof in, or authorized by, this part, which repeated violation creates a real and apparent hazard to employees.

(3) Knowingly fails to report to the division a death, as required by subdivision (b) of Section 6409.1.

(4) Fails or refuses to comply, after notification and expiration of any abatement period, with any such standard, order, special order, or provision of this division, or any part thereof, which failure or refusal creates a real and apparent hazard to employees.

(5) Directly or indirectly, knowingly induces another to commit any of the acts in paragraph (1), (2), (3), or (4) of subdivision (a).

(b) Any violation of paragraph (1) of subdivision (a) is punishable by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) Any violation of paragraph (3) of subdivision (a) is punishable by imprisonment in county jail for up to one year, or by a fine not to exceed fifteen thousand dollars (\$15,000), or by both that imprisonment and fine. If the violator is a corporation or a limited liability company, the fine prescribed by this subdivision may not exceed one hundred fifty thousand dollars (\$150,000).

(d) Any violation of paragraph (2), (4), or (5) of subdivision (a) is punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding fifteen thousand dollars (\$15,000), or by both that imprisonment and fine. If the defendant is a corporation or a limited liability company, the fine may not exceed one hundred fifty thousand dollars (\$150,000).

(e) In determining the amount of fine to impose under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

(Amended by Stats. 2002, Ch. 885, Sec. 8. Effective January 1, 2003.)

6425. (a) Any employer and any employee having direction, management, control, or custody of any employment, place of employment, or of any other employee, who willfully violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and that violation caused death to any employee, or caused permanent or prolonged impairment of the body of any employee, is guilty of a public offense

punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding one hundred thousand dollars (\$100,000), or by both that imprisonment and fine; or by imprisonment in the state prison for 16 months, or two or three years, or by a fine of not more than two hundred fifty thousand dollars (\$250,000), or by both that imprisonment and fine; and in either case, if the defendant is a corporation or a limited liability company, the fine may not exceed one million five hundred thousand dollars (\$1,500,000).

(b) If the conviction is for a violation committed within seven years after a conviction under subdivision (b), (c), or (d) of Section 6423 or subdivision (c) of Section 6430, punishment shall be by imprisonment in state prison for a term of 16 months, two, or three years, or by a fine not exceeding two hundred fifty thousand dollars (\$250,000), or by both that fine and imprisonment, but if the defendant is a corporation or limited liability company, the fine may not be less than five hundred thousand dollars (\$500,000) or more than two million five hundred thousand dollars (\$2,500,000).

(c) If the conviction is for a violation committed within seven years after a first conviction of the defendant for any crime involving a violation of subdivision (a), punishment shall be by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by a fine not exceeding two hundred fifty thousand dollars (\$250,000), or by both that fine and imprisonment, but if the defendant is a corporation or a limited liability company, the fine shall not be less than one million dollars (\$1,000,000) but may not exceed three million five hundred thousand dollars (\$3,500,000).

(d) In determining the amount of fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require.

(e) As used in this section, "willfully" has the same definition as it has in Section 7 of the Penal Code. This subdivision is intended to be a codification of existing law.

(f) This section does not prohibit a prosecution under Section 192 of the Penal Code.

(Amended by Stats. 2011, Ch. 15, Sec. 222. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

6426. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this division shall, upon conviction, be punished by a fine of not more than seventy thousand dollars (\$70,000), or by imprisonment for not more than six months, or by both.

(Amended by Stats. 1991, Ch. 599, Sec. 3. Effective October 7, 1991.)

6427. (a) Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.

(b) Commencing on January 1, 2018, and each January 1 thereafter, the maximum penalty amount specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

(Amended by Stats. 2017, Ch. 28, Sec. 30. (SB 96) Effective June 27, 2017.)

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation. Employers who do not have an operative injury prevention program shall receive no adjustment for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

(Amended by Stats. 1999, Ch. 615, Sec. 7. Effective January 1, 2000.)

6428.5. An employer's injury prevention program shall be deemed to be operative for the purposes of Sections 6427 and 6428 if it meets the criteria for substantial compliance established by the standards board pursuant to

Section 6401.7.

(Added by Stats. 1989, Ch. 1369, Sec. 13. Effective October 2, 1989.)

6429. (a) (1) Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, or any employer who commits an enterprise-wide violation as specified in Section 6317, may be assessed a civil penalty of not more than one hundred twenty-four thousand seven hundred nine dollars (\$124,709) for each violation, but in no case less than eight thousand nine hundred eight dollars (\$8,908) for each willful violation.

(2) Commencing on January 1, 2018, and each January 1 thereafter, the penalty amounts specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

(b) Any employer who repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, shall not receive any adjustment of a penalty assessed pursuant to this section on the basis of the regulations promulgated pursuant to subdivision (c) of Section 6319 pertaining to the good faith of the employer or the history of previous violations of the employer.

(c) The division shall preserve and maintain records of its investigations and inspections and citations for a period of not less than seven years.

(Amended by Stats. 2021, Ch. 336, Sec. 6. (SB 606) Effective January 1, 2022.)

6430. (a) Any employer who fails to correct a violation of any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, within the period permitted for its correction shall be assessed a civil penalty of not more than fifteen thousand dollars (\$15,000) for each day during which the failure or violation continues.

(b) Notwithstanding subdivision (a), for any employer who submits a signed statement affirming compliance with the abatement terms pursuant to Section 6320, and is found upon a reinspection not to have abated the violation, any adjustment to the civil penalty based on abatement shall be rescinded and the additional civil penalty assessed for failure to abate shall not be adjusted for good faith of the employer or history of previous violations as provided in paragraphs (3) and (4) of subdivision (c) of Section 6319.

(c) Notwithstanding subdivision (a), any employer who submits a signed statement affirming compliance with the abatement terms pursuant to subdivision (b) of Section 6320, and is found not to have abated the violation, is guilty of a public offense punishable by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding thirty thousand dollars (\$30,000), or by both that fine and imprisonment; but if the defendant is a corporation or a limited liability company the fine shall not exceed three hundred thousand dollars (\$300,000). In determining the amount of the fine to be imposed under this section, the court shall consider all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation, any prior history of violations by the defendant, the ability of the defendant to pay, and any other matters the court determines the interests of justice require. Nothing in this section shall be construed to prevent prosecution under any law that may apply.

(Amended by Stats. 1999, Ch. 615, Sec. 9. Effective January 1, 2000.)

6431. (a) Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550 or 6318, shall be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.

(b) Commencing on January 1, 2018, and each January 1 thereafter, the maximum penalty amount specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing maximum penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the

Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

(Amended by Stats. 2022, Ch. 485, Sec. 3. (AB 2068) Effective January 1, 2023.)

6432. (a) There shall be a rebuttable presumption that a "serious violation" exists in a place of employment if the division demonstrates that there is a realistic possibility that death or serious physical harm could result from the actual hazard created by the violation. The demonstration of a violation by the division is not sufficient by itself to establish that the violation is serious. The actual hazard may consist of, among other things:

(1) A serious exposure exceeding an established permissible exposure limit.

(2) The existence in the place of employment of one or more unsafe or unhealthful practices, means, methods, operations, or processes that have been adopted or are in use.

(b) (1) Before issuing a citation alleging that a violation is serious, the division shall make a reasonable attempt to determine and consider, among other things, all of the following:

(A) Training for employees and supervisors relevant to preventing employee exposure to the hazard or to similar hazards.

(B) Procedures for discovering, controlling access to, and correcting the hazard or similar hazards.

(C) Supervision of employees exposed or potentially exposed to the hazard.

(D) Procedures for communicating to employees about the employer's health and safety rules and programs.

(E) Information that the employer wishes to provide, at any time before citations are issued, including, any of the following:

(i) The employer's explanation of the circumstances surrounding the alleged violative events.

(ii) Why the employer believes a serious violation does not exist.

(iii) Why the employer believes its actions related to the alleged violative events were reasonable and responsible so as to rebut, pursuant to subdivision (c), any presumption established pursuant to subdivision (a).

(iv) Any other information that the employer wishes to provide.

(2) The division shall satisfy its requirement to determine and consider the facts specified in paragraph (1) if, not less than 15 days prior to issuing a citation for a serious violation, the division delivers to the employer a standardized form containing the alleged violation descriptions ("AVD") it intends to cite as serious and clearly soliciting the information specified in this subdivision. The director shall prescribe the form for the alleged violation descriptions and solicitation of information. Any forms issued pursuant to this section shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) If the division establishes a presumption pursuant to subdivision (a) that a violation is serious, the employer may rebut the presumption and establish that a violation is not serious by demonstrating that the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation. The employer may accomplish this by demonstrating both of the following:

(1) The employer took all the steps a reasonable and responsible employer in like circumstances should be expected to take, before the violation occurred, to anticipate and prevent the violation, taking into consideration the severity of the harm that could be expected to occur and the likelihood of that harm occurring in connection with the work activity during which the violation occurred. Factors relevant to this determination include, but are not limited to, those listed in subdivision (b).

(2) The employer took effective action to eliminate employee exposure to the hazard created by the violation as soon as the violation was discovered.

(d) If the employer does not provide information in response to a division inquiry made pursuant to subdivision (b), the employer shall not be barred from presenting that information at the hearing and no negative inference shall be drawn. The employer may offer different information at the hearing than what was provided to the division and may explain any inconsistency, but the trier of fact may draw a negative inference from the prior inconsistent factual information. The trier of fact may also draw a negative inference from factual information offered at the hearing by the division that is inconsistent with factual information provided to the employer pursuant to subdivision (b), or from a failure by the division to provide the form setting forth the descriptions of the alleged violation and soliciting information pursuant to subdivision (b).

(e) "Serious physical harm," as used in this part, means any injury or illness, specific or cumulative, occurring in the place of employment or in connection with any employment, that results in any of the following:

(1) Inpatient hospitalization for purposes other than medical observation.

(2) The loss of any member of the body.

(3) Any serious degree of permanent disfigurement.

(4) Impairment sufficient to cause a part of the body or the function of an organ to become permanently and significantly reduced in efficiency on or off the job, including, but not limited to, depending on the severity, second-degree or worse burns, crushing injuries including internal injuries even though skin surface may be intact, respiratory illnesses, or broken bones.

(5) Silicosis or silica-related lung cancer.

(f) Serious physical harm may be caused by a single, repetitive practice, means, method, operation, or process.

(g) A division safety engineer or industrial hygienist who can demonstrate, at the time of the hearing, that their division-mandated training is current shall be deemed competent to offer testimony to establish each element of a serious violation, and may offer evidence on the custom and practice of injury and illness prevention in the workplace that is relevant to the issue of whether the violation is a serious violation.

(h) This section shall become operative on January 1, 2023.

(Amended by Stats. 2025, Ch. 734, Sec. 4. (SB 20) Effective January 1, 2026.)

6433. The civil penalties set forth in Sections 6427 to 6431, inclusive, shall not be considered as other penalties specifically provided within the meaning of Section 6423.

(Added by Stats. 1973, Ch. 993.)

6434. (a) Any civil or administrative penalty assessed pursuant to this chapter against a school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions shall be deposited with the Workplace Health and Safety Revolving Fund established pursuant to Section 78.

(b) Any school district, county board of education, county superintendent of schools, charter school, community college district, California State University, University of California, or joint powers agency performing education functions may apply for a refund of their civil penalty, with interest, if all conditions previously cited have been abated, they have abated any other outstanding citation, and if they have not been cited by the division for a serious violation at the same school within two years of the date of the original violation. Funds not applied for within two years and six months of the time of the original violation shall be expended as provided for in Section 78 to assist schools in establishing effective occupational injury and illness prevention programs.

(Amended by Stats. 2000, Ch. 135, Sec. 129. Effective January 1, 2001.)

6434.5. (a) Any civil or administrative penalty assessed pursuant to this chapter against a public police or city, county, or special district fire department or the California Department of Forestry and Fire Protection shall be deposited into the Workers' Compensation Administration Revolving Fund established pursuant to Section 62.5.

(b) Any public police or city, county, or special district fire department or the California Department of Forestry and Fire Protection may apply for a refund of any civil or administrative penalty assessed pursuant to this chapter, with interest, if all conditions previously cited have been abated, the department has abated any other outstanding citation, and the department has not been cited by the division for a serious violation within two years of the date

of the original violation. Funds received as a result of a penalty, for which a refund is not applied for within two years and six months of the time of the original violation, shall be expended in accordance with Section 78 as follows:

(1) Funds received as a result of a civil or administrative penalty imposed on a city, county, or special district fire department or the California Department of Forestry and Fire Protection shall be allocated to the California Firefighter Joint Apprenticeship Program for the purpose of establishing and maintaining effective occupational injury and illness prevention programs.

(2) Funds received as a result of a civil or administrative penalty imposed on a police department shall be allocated to the Office of Criminal Justice Planning, or any succeeding agency, for the purpose of establishing and maintaining effective occupational injury and illness prevention programs.

(c) This section does not apply to that portion of any civil or administrative penalty that is distributed directly to an aggrieved employee or employees pursuant to the provisions of Section 2699.

(Added by Stats. 2005, Ch. 141, Sec. 1. Effective January 1, 2006.)

6435. (a) Any employer who violates any of the requirements of Chapter 6 (commencing with Section 6500) of this part shall be assessed a civil penalty under the appropriate provisions of Sections 6427 to 6430, inclusive.

(b) This section shall become inoperative on January 1, 1987, and shall remain inoperative until January 1, 1991, at which time it shall become operative, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends that date.

(Amended by Stats. 1986, Ch. 1178, Sec. 3. Note: This section was inoperative from Jan. 1, 1987, until Jan. 1, 1991, by its own provisions.)

6436. The criminal complaint regarding a violation of Section 6505.5 may be brought by the Attorney General or by the district attorney or prosecuting attorney of any city, in the superior court of any county in the state with jurisdiction over the contractor or employer, by reason of the contractor's or employer's act or failure to act within that county. Any penalty assessed by the court shall be paid to the office of the prosecutor bringing the complaint, but if the case was referred to the prosecutor by the division, or some other governmental unit, one-half of the civil or criminal penalty assessed shall be paid to that governmental unit.

(Amended by Stats. 2003, Ch. 449, Sec. 30. Effective January 1, 2004.)