

98-15: PROPOSED New Penalty Provisions for Violating California Occupational Health and Safety Statutes

Information

Action

INFORMATION

Two new bills are being considered by the California Assembly. AB 2568 amends Section 387 of Title 10 of the California Penal Code. AB 2317 amends Section 6425 of the California Labor Code. Both are linked and must be passed together to become operative.

AB 2317 severely increases penalties for **willful violation** of any occupational safety and health standard, order, or special order. (For example: a \$70,000 penalty increases to \$250,000; 6 months imprisonment increases up to 3 years)

AB 2568 amends Section 387 of the Penal Code to relax strict definitions and requirements for conviction of companies and managers for failing to take action to **report and warn** employees of **a serious concealed danger that is not readily apparent** and creates a **substantial probability** of death, great bodily harm, or serious exposure occurs as a result of the normal or reasonably foreseeable use of, or exposure of an individual to the product or business practice. Business practice is defined as any activity conducted in the normal course of business, including the provision of services

AB 2568 broadens and simplifies the definition of "manager" subject to the penalties. Article 1.1 of the PC Walking Bosses and Foreman's Agreement meets the definition of manager in both the current and proposed statutes.

AB 2568 defines "actual knowledge" as when the company, or manager, has knowledge of a set of facts demonstrating the existence of a serious concealed danger.

Similar to the existing statute, the new bill **would not apply** if the serious concealed danger is abated before the prescribed time for reporting. The Injury and Illness Prevention Program (required as a General Safety Order Title 8; Division 1; Chapter 4; Subchapter 7; Article 3203) is the way for managers to identify and abate dangers in the workplace, and to develop appropriate business safety practices.

ACTION

Managers at all levels should be aware of the existing and proposed legislation and personal responsibilities that are mandated in these statutes. They can be accessed at www.leginfo.ca.gov or on the PMA website.