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**AB-2068 Occupational safety and health: postings: spoken languages.** (2021-2022)

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**Assembly Bill No. 2068**

**CHAPTER 485**

An act to amend Sections 6318 and 6431 of the Labor Code, relating to occupational safety and health.

[ Approved by Governor September 23, 2022. Filed with Secretary of State September 23, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2068, Haney. Occupational safety and health: postings: spoken languages.

Existing law grants the Division of Occupational Safety and Health, which is within the Department of Industrial Relations, jurisdiction over all employment and places of employment, with the power necessary to enforce and administer all occupational health and safety laws and standards. The Occupational Safety and Health Standards Board, an independent entity within the department, has the exclusive authority to adopt occupational safety and health standards within the state. Existing law, the California Occupational Safety and Health Act of 1973, requires employers to comply with certain standards ensuring healthy and safe working conditions, as specified, and charges the division with enforcement of the act. Existing law makes certain violations of the act a crime.

Existing law requires citations, orders, and special orders issued by the department, in enforcing occupational safety and health standards, to be prominently posted at or near each place a violation referred to in the citation or order occurred, in accordance with specified timeframes and procedures. Existing law makes certain violations of specified posting or recordkeeping requirements enforceable by a civil penalty.

This bill would require an employer to post an employee notification containing specified information when the above-described citations or orders are issued. The bill would require this notification, in addition to English, to be made available in specified languages. The bill would make a violation of these provisions enforceable by a civil penalty, as specified. The bill would also include related legislative findings. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** The Legislature hereby finds and declares all of the following:

(a) The COVID-19 pandemic has tragically taken the lives of over 1,000,000 people, disproportionately impacting frontline essential workers, who are critical for the core functions of California's economy and society.

(b) Essential workers made vital contributions throughout the pandemic, and continued to show up to work in person, while others were able to shelter in place and work safely from home.

(c) Industries with the highest pandemic-related deaths on average employ more immigrants or citizens of other countries. These workers are often low-income minority workers who are less educated, and are predominantly from Latino, Black, and Asian-Pacific Islander communities.

(d) To ensure a safer workplace environment, it is imperative to increase worker outreach and information on enforcement actions in the language spoken by workers at their worksite, to ensure that workers remain informed and understand critical workplace health and safety hazards and protections.

**SEC. 2.** Section 6318 of the Labor Code is amended to read:

**6318.** (a) Each citation issued under Section 6317, and each special order or action ordered pursuant to Section 6308, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, at or near each place a violation referred to in the citation or order occurred. All postings shall be maintained for three working days, or until the unsafe condition is abated, whichever is longer. Following each investigation of an industrial accident or occupational illness, if no violations are found, the employer shall post a notice prepared by the division so indicating for three working days.

(b) When the division verifies abatement of a serious violation or an order at the time of inspection or upon reinspection, the employer shall post a notice prepared by the division so indicating for three working days. In all other cases of abatement of serious violations, the employer shall post the signed statement confirming abatement prepared pursuant to Section 6320.

(c) When a citation or special order or action is required to be posted pursuant to subdivision (a), the employer shall also post an employee notification prepared by the division. This employee notification shall contain, at a minimum, all of the following:

(1) Notice that the division investigated the workplace and found one or more workplace safety or health violations.

(2) Notice that the investigation resulted in one or more citations or orders, which the employer is required to post at or near the place of the violation for three working days, or until the unsafe condition is corrected, whichever is longer.

(3) Notice that the employer is required to communicate any hazards at the workplace to employees in a language and manner they understand.

(4) Contact information for the division and the internet website where employees can search for citations against their employer.

(d) The notification required by subdivision (c) shall be prominently posted by the employer at or near each place a violation referred to in the citation or order occurred. All postings shall be maintained for three working days, or until the unsafe condition is abated, whichever is longer.

(e) In addition to English, the employee notification required by subdivision (c) shall be made available by the division in the top seven non-English languages used by limited-English-proficient adults in California, as determined by the most recent American Community Survey by the United States Census Bureau. If Punjabi is not included among these languages, the division shall also make the employee notification available in Punjabi. The division may periodically review, evaluate, and add to the list of languages based on additional data sources, including, but not limited to, information generated by state and local government agencies, feedback from community-based organizations, labor organizations, and the division's own data tracking measures.

(f) The division shall enforce this section by issuing a citation alleging a violation of this section and a notice of civil penalty in a manner consistent with Section 6317. Any person who receives a citation and penalty may appeal the citation and penalty to the appeals board in a manner consistent with Section 6319.

(g) This section does not preclude the division from promulgating additional posting requirements or other notifications to employees.

**SEC. 3.** Section 6431 of the Labor Code is amended to read:

**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.

**SEC. 4.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.