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AB-752 State highways: worker safety. (2023-2024)

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Assembly Bill No. 752

CHAPTER 813

An act to amend Section 92.1 of the Streets and Highways Code, relating to transportation.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 752, Blanca Rubio. State highways: worker safety.

(1) Existing law establishes the Department of Transportation and provides that the department has full possession and control of all state highways and property and rights in property acquired for state highway purposes. Existing law authorizes the department to construct, improve, and maintain state highways.

Existing law requires the department to update guidance by July 1, 2021, to specify the appropriate use of positive protection measures with the goal of isolating workers or work zones from traffic. Existing law requires the department to provide compensation for the use of a safety device where the updated guidance allows, but does not require, the optional safety device when requested by a contractor on a public works project. Existing law requires the department to submit a report to the Legislature by January 1, 2024, that includes findings and recommendations on the use of positive protection measures used pursuant to these provisions. Existing law repeals these provisions on January 1, 2025.

This bill would eliminate the January 1, 2025, repeal date, thereby extending these provisions indefinitely. The bill would specify that the department is only required to compensate for an optional safety device requested for use on a public works project of the department. After the submittal of the report due on January 1, 2024, the bill would require the department to prescribe standards and specifications to require the appropriate use of positive protection on all covered activities on the state highway system, as specified. The bill would authorize the department to adopt regulations as necessary or appropriate to carry out the purposes of these provisions, and would exempt those regulations from the Administrative Procedures Act.

(2) 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.

This bill would require a contractor that has requested and received compensation from the department for an optional safety device to use the optional safety device in conformance with the department's guidance. The bill would authorize the division to adopt regulations as necessary or appropriate to enforce this requirement.

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

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

SECTION 1. Section 92.1 of the Streets and Highways Code is amended to read:

92.1. (a) The department shall update guidance by July 1, 2021, to specify the appropriate use of positive protection measures, including, but not limited to, automated flagger assistance devices, buffer lanes, impact attenuator vehicles, and temporary barriers, with the goal of isolating workers or work zones from traffic.

(b) Where the department's updated guidance allows, but does not require, use of a safety device, the department shall provide compensation for the optional safety device when requested by a contractor on a public works project of the department.

(c) (1) The department shall submit a report to the Legislature by January 1, 2024, in compliance with Section 9795 of the Government Code that includes findings and recommendations on the use of positive protection measures used pursuant to this section.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2028, pursuant to Section 10231.5 of the Government Code.

(d) After the report required by subdivision (c) is submitted to the Legislature, the department shall prescribe standards and specifications that are consistent with the updated guidance developed pursuant to subdivision (a) to require the appropriate use of positive protection on all covered activities on the state highway system. In developing these standards and specifications, the department shall solicit input from relevant stakeholders, including, but not limited to, construction labor groups, contractors, utilities, local agencies, and community organizations.

(e) The department may adopt regulations as necessary or appropriate to carry out the purposes of this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the department pursuant to this section.

(f) (1) A contractor that has requested and received compensation for an optional safety device pursuant to subdivision (b) shall use the optional safety device in conformance with the department's guidance.

(2) The Division of Occupational Safety and Health, in consultation with the department, may adopt regulations as necessary or appropriate to administer and enforce paragraph (1).

(g) For purposes of this section, the following definitions apply:

(1) "Covered activity" means all construction and maintenance activities performed on a state highway right-of-way, including, but not limited to, utility work and repair activities.

(2) "Positive protection" means barriers or other devices placed between workers and motorized traffic that contain or redirect vehicles and meet applicable crashworthy criteria, as contained in Section 1A.13 of the California Manual on Uniform Traffic Control Devices.