

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 829

Introduced by Senator DeSaulnier

February 18, 2011

An act to amend ~~Section 7606~~ of Sections 148.5, 148.6, 148.8, 149.5, 6309, 6317, 6600, 6601, 6601.5, 6602, 6603, 6610, 6620, 6622, 6625, 6627, and 6630 of, and to add Sections 6319.6, 6603.1, 6603.2, and 6603.3 to, the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 829, as amended, DeSaulnier. ~~Employment safety: dock plates.~~ *Division of Occupational Safety and Health: Occupational Safety and Health Appeals Board.*

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 revise and recast various provisions regarding citations issued by the department, the persons or entities who are authorized to participate as a party in an appeal before the appeals board, and the procedures that govern the appeals board in hearing and deciding appeals. The bill also would make other related clarifying and conforming changes.

~~Existing law provides that a dock plate must be constructed and maintained with strength sufficient to support its load. The dock plate~~

and its securing devices must be constructed to readily obtain rigid security when spanning different lengths between a dock or unloading platform and a vehicle. A dock plate must be constructed and maintained so that it may be secured in position, as specified.

This bill would make nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 148.5 of the Labor Code is amended to
 2 read:

3 148.5. The appeals board, in adjudicating appeals, shall
 4 liberally construe the provisions of Division 5 (commencing with
 5 Section 6300), as well as the standards and orders adopted by the
 6 Division of Occupational Safety and Health or the department
 7 pursuant to that division, and the standards and orders adopted
 8 by the Occupational Safety and Health Standards Board pursuant
 9 to Chapter 6 (commencing with Section 140) in order to ensure
 10 safe and healthy working conditions for the working men and
 11 women of this state. A decision of the appeals board is final, except
 12 for any rehearing or judicial review as permitted by Chapter 4 7
 13 (commencing with Section 6600) of Part 1 of Division 5.

14 SEC. 2. Section 148.6 of the Labor Code is amended to read:

15 148.6. A decision of the appeals board is binding on the director
 16 and the Division of Occupational Safety and Health with respect
 17 to the parties involved in the particular appeal. The director ~~shall~~
 18 ~~have the right to, a party, and any affected person may seek judicial~~
 19 review of an appeals board decision irrespective of whether or not
 20 he or she appeared or participated in the appeal to the appeals
 21 board or its hearing officer.

22 SEC. 3. Section 148.8 of the Labor Code is amended to read:

23 148.8. The appeals board and its duly authorized representatives
 24 in the performance of its duties ~~shall have~~ *has* the powers of a head
 25 of a department as set forth in Article 2 (commencing with Section
 26 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the
 27 Government Code, except for Section 11185 of the Government
 28 Code. *In adjudicating appeals, the appeals board is subject to and*
 29 *shall apply the rules and regulations adopted by the department*

1 *for the purpose of assisting in the enforcement of the provisions*
2 *of this code regarding occupational safety and health.*

3 *SEC. 4. Section 149.5 of the Labor Code is amended to read:*

4 149.5. (a) The appeals board may award reasonable costs,
5 including attorney's fees, consultant's fees, and witness' fees, not
6 to exceed five thousand dollars (\$5,000) in the aggregate, to any
7 employer who appeals a citation resulting from an inspection or
8 investigation conducted on or after January 1, 1980, issued for a
9 violation of *Division 5 (commencing with Section 6300) or of an*
10 *occupational safety and health standard, rule, order, or regulation*
11 *established adopted* pursuant to Chapter 6 (commencing with
12 Section 140) of Division 1; if (1) ~~either~~ the employer prevails in
13 the appeal; or the citation is withdrawn, and (2) the appeals board
14 finds that the issuance of the citation was the result of arbitrary or
15 capricious action or conduct by the division. *The appeals board*
16 *may award reasonable costs, including attorney's fees, consultant's*
17 *fees, and witness' fees, not to exceed five thousand dollars (\$5,000)*
18 *in the aggregate, to the division if (1) it prevails in an appeal filed*
19 *by the employer or the appeal is withdrawn, and (2) the appeals*
20 *board finds that the employer acted in bad faith or had no factual*
21 *basis for filing the appeal.*

22 (b) *Costs and fees awarded to the division shall be deposited*
23 *into the division's regular operating budget.*

24 ~~The appeals board shall adopt rules of practice and procedure~~
25 ~~to implement this section.~~

26 ~~The~~

27 (c) *The payment of costs and fees by the division pursuant to*
28 *this section shall be from funds in the division's regular operating*
29 *budget of the division.* The division shall show in its proposed
30 budget for each fiscal year the following information with respect
31 to the prior fiscal year:

32 (a)

33 (1) The total costs paid.

34 (b)

35 (2) The number of cases in which costs were paid.

36 *SEC. 5. Section 6309 of the Labor Code is amended to read:*

37 6309. (a) If the division learns or has reason to believe that
38 an employment or place of employment is not safe or is injurious
39 to the welfare of an employee, it may, on its own motion, or upon
40 complaint, summarily investigate the same with or without notice

1 or hearings. However, if the division receives a complaint from
2 (1) an employee, (2) an employee's representative, including, but
3 not limited to, an attorney, ~~health or safety professional~~ *a family*
4 *member, a union representative, or regardless of whether the*
5 *representative's union has a collective bargaining agreement with*
6 *the employer, or a community, employee, or legal organization,*
7 (3) *a health or safety professional,* (4) a government agency
8 representative, or (5) an employer of an employee directly involved
9 in an unsafe place of employment, that his or her employment or
10 place of employment is not safe, it shall, with or without notice or
11 hearing, summarily investigate the complaint as soon as possible,
12 but not later than three working days after receipt of a complaint
13 charging a serious violation, and not later than 14 calendar days
14 after receipt of a complaint charging a nonserious violation. The
15 division shall attempt to determine the period of time in the future
16 that the complainant believes the unsafe condition may continue
17 to exist, and shall allocate inspection resources so as to respond
18 first to those situations in which time is of the essence. For
19 purposes of this section, a complaint is deemed to allege a serious
20 violation if the division determines that the complaint charges that
21 there is a substantial probability that death or serious physical harm
22 could result from a condition which exists, or from one or more
23 practices, means, methods, operations, or processes which have
24 been adopted or are in use in a place of employment. When a
25 complaint charging a serious violation is received from a state or
26 local prosecutor, or a local law enforcement agency, the division
27 shall summarily investigate the employment or place of
28 employment within 24 hours of receipt of the complaint. All other
29 complaints are deemed to allege nonserious violations. The division
30 may enter and serve any necessary order relative thereto. The
31 division is not required to respond to a complaint within this period
32 where, from the facts stated in the complaint, it determines that
33 the complaint is intended to willfully harass an employer or is
34 without any reasonable basis.

35 ~~The~~

36 (b) *The* division shall keep complete and accurate records of all
37 complaints, whether verbal or written, and shall inform the
38 complainant, whenever his or her identity is known, of any action
39 taken by the division in regard to the subject matter of the
40 complaint, and the reasons for the action, within 14 calendar days

1 of taking any action. The records of the division shall include the
2 dates on which any action was taken on the complaint, or the
3 reasons for not taking any action on the complaint. The division
4 shall, pursuant to authorized regulations, conduct an informal
5 review of any refusal by a representative of the division to issue
6 a citation with respect to an alleged violation. The division shall
7 furnish the employee or the representative of employees requesting
8 the review a written statement of the reasons for the division's
9 final disposition of the case.

10 ~~The~~

11 (c) *The* name of a person who submits to the division a
12 complaint regarding the unsafe condition of an employment or
13 place of employment shall be kept confidential by the division,
14 unless that person requests otherwise.

15 ~~The~~

16 (d) *The* division shall annually compile and release on its
17 *Internet* Web site data pertaining to complaints received and
18 citations issued.

19 ~~The~~

20 (e) *The* requirements of this section do not relieve the division
21 of its requirement to inspect and assure that all places of
22 employment are safe and healthful for employees. The division
23 shall maintain the capability to receive and act upon complaints
24 at all times.

25 *SEC. 6. Section 6317 of the Labor Code is amended to read:*

26 6317. (a) If, upon inspection or investigation, the division
27 believes that an employer has violated Section 25910 of the Health
28 and Safety Code ~~or, Division 5 (commencing with Section 6300)~~
29 ~~of this code, or any standard, rule, order, or regulation established~~
30 ~~adopted~~ pursuant to Chapter 6 (commencing with Section 140) of
31 Division 1 ~~of the Labor Code; of this code, or any standard, rule,~~
32 ~~order, or regulation established pursuant to this part code,~~ it shall
33 with reasonable promptness issue a citation to the employer. Each
34 citation shall be in writing and shall describe with particularity the
35 nature of the violation, including a reference to the provision of
36 the code, standard, rule, regulation, or order alleged to have been
37 violated. In addition, the citation shall fix a reasonable time for
38 the abatement of the alleged violation. The period specified for
39 abatement shall not commence running until the date the citation
40 or notice is received by certified mail and the certified mail receipt

1 is signed, or if not signed, the date the return is made to the post
2 office. If the division officially and directly delivers the citation
3 or notice to the employer, the period specified for abatement shall
4 commence running on the date of the delivery.

5 ~~A~~

6 (b) A “notice” in lieu of citation may be issued with respect to
7 violations found in an inspection or investigation which meet either
8 of the following requirements:

9 (1) The violations do not have a direct relationship upon the
10 health or safety of an employee.

11 (2) The violations do not have an immediate relationship to the
12 health or safety of an employee, and are of a general or regulatory
13 nature. A notice in lieu of a citation may be issued only if the
14 employer agrees to correct the violations within a reasonable time,
15 as specified by the division, and agrees not to appeal the finding
16 of the division that the violations exist. A notice issued pursuant
17 to this paragraph shall have the same effect as a citation for
18 purposes of establishing repeat violations or a failure to abate.
19 Every notice shall clearly state the abatement period specified by
20 the division, that the notice may not be appealed, and that the notice
21 has the same effect as a citation for purposes of establishing a
22 repeated violation or a failure to abate. The employer shall indicate
23 agreement to the provisions and conditions of the notice by his or
24 her signature on the notice.

25 ~~Under~~

26 (c) ~~Under~~ no circumstances shall a notice be issued in lieu of a
27 citation if the violations are serious, repeated, willful, or arise from
28 a failure to abate.

29 ~~The~~

30 (d) ~~The~~ director shall prescribe guidelines for the issuance of
31 these notices.

32 ~~The~~

33 (e) ~~The~~ division may impose a civil penalty against an employer
34 as specified in Chapter 4 (commencing with Section 6423) ~~of this~~
35 ~~part~~. A notice in lieu of a citation may not be issued if the number
36 of first instance violations found in the inspection (other than
37 serious, willful, or repeated violations) is 10 or more violations.

38 ~~No~~

39 (f) ~~No~~ citation or notice shall be issued by the division for a
40 given violation or violations after six months have elapsed since

1 occurrence of the violation, *except that a citation may be amended*
2 *pursuant to Section 6603.2.*

3 ~~The~~

4 (g) *The* director shall prescribe procedures for the issuance of
5 a citation or notice.

6 ~~The~~

7 (h) *The* division shall prepare and maintain records capable of
8 supplying an inspector with previous citations and notices issued
9 to an employer.

10 SEC. 7. *Section 6319.6 is added to the Labor Code, to read:*

11 6319.6. (a) *The appeals board shall not stay an abatement*
12 *measure required by the division as part of an enforcement action*
13 *pending appeal unless the employer indicates, by verified petition*
14 *in its notice of appeal to the appeals board, that it seeks a stay of*
15 *abatement and states the reasons why abatement is not necessary*
16 *to protect the health or safety of employees. The employer may*
17 *submit additional evidence, under penalty of perjury,*
18 *accompanying the verified petition, upon which a decision may*
19 *be made. Any party may, within 10 calendar days of the employer's*
20 *notice of appeal, submit declarations or other evidence, under*
21 *penalty of perjury, as to why abatement should not be stayed. The*
22 *employer may request a hearing before the appeals board on this*
23 *issue upon payment of a filing fee of two hundred fifty dollars*
24 *(\$250).*

25 (b) *The appeals board may make a determination regarding the*
26 *request for a stay of abatement based on the employer's verified*
27 *petition and the evidence submitted under penalty of perjury by*
28 *the employer and any other party, or may hold a hearing within*
29 *30 calendar days of receipt of the verified petition. The abatement*
30 *shall be stayed pending the determination.*

31 (c) *The appeals board shall issue a written determination within*
32 *30 calendar days of receipt of the employer's petition for a stay*
33 *of abatement, or within 10 days of completion of the hearing if a*
34 *hearing is held, granting or denying the requested stay of*
35 *abatement with an explanation of the reasons for its decision.*

36 (d) *The appeals board may grant a stay of abatement pending*
37 *appeal if it finds either of the following:*

38 (1) *No employee will be exposed to an unsafe or unhealthy*
39 *condition.*

1 (2) *The condition is unlikely to cause death, serious injury or*
2 *illness, or serious exposure to any worker.*

3 (e) *Notwithstanding subdivision (c), the appeals board may take*
4 *an additional 30 days to complete the hearing process if it*
5 *determines that the complexity of the matter requires the additional*
6 *time for an adequate resolution and that employee safety will not*
7 *be jeopardized by the delay.*

8 (f) *The appeals board may order the employer to implement*
9 *interim safety or health measures as part of a determination that*
10 *the matter will be extended for the additional 30 days pursuant to*
11 *subdivision (e) or should it grant a stay of abatement.*

12 SEC. 8. *Section 6600 of the Labor Code is amended to read:*

13 6600. (a) *Any employer served with a citation or notice*
14 *pursuant to Section 6317, or a notice of proposed penalty under*
15 *this part, or any other person obligated to the employer as specified*
16 *in subdivision (b) of Section 6319, may appeal to the appeals board*
17 *within 15 working days from the receipt of ~~such~~ the citation or*
18 *~~such~~ the notice with respect to violations alleged by the division,*
19 *abatement periods, amount of proposed penalties, and the*
20 *reasonableness of the changes required by the division to abate*
21 *the condition.*

22 (b) *Whenever a citation has been issued or a notice served*
23 *pursuant to Section 6308 or 6317, the appeals board shall permit*
24 *any of the following, within 15 working days of actual notice of*
25 *the citation or notice, to participate in an appeal and to contest*
26 *the reasonableness of the period of time fixed in the citation or*
27 *order for the abatement of the violation, the sufficiency of the*
28 *changes required to abate the condition, and the characterization*
29 *of the violation:*

30 (1) *An employee or his or her representative, as described in*
31 *Section 6309.*

32 (2) *A union that has a collective bargaining agreement with*
33 *any employer that covers the cited employer's place of employment.*

34 (3) *A deceased worker's successor in interest, heir, beneficiary,*
35 *or other representative.*

36 (c) *The appeals board may allow any other person or entity to*
37 *participate as a party in an appeal in the interests of justice.*

38 (d) *The division is a party to all proceedings before the appeals*
39 *board, whether or not the division has appeared or participated*
40 *in a given proceeding.*

1 *SEC. 9. Section 6601 of the Labor Code is amended to read:*

2 6601. If within 15 working days from receipt of the citation or
3 notice of civil penalty issued by the division, the employer fails
4 to notify the appeals board that ~~he~~ *it* intends to contest the citation
5 or notice of proposed penalty, and no notice contesting the
6 abatement period ~~is filed by any employee or representative of the~~
7 ~~employee,~~ *the sufficiency of the changes required to abate the*
8 *condition, or the characterization of any violation is filed by any*
9 *party described in subdivision (b) of Section 6600 within such that*
10 *time, the citation or notice of proposed penalty shall be deemed a*
11 *final order of the appeals board and not subject to review by any*
12 *court or agency. The 15-day period may be extended by the appeals*
13 *board for good cause.*

14 *SEC. 10. Section 6601.5 of the Labor Code is amended to read:*

15 6601.5. If, within 15 working days from receipt of a special
16 order, or action order by the division, the employer fails to notify
17 the appeals board that he or she intends to contest the order, and
18 no notice contesting the abatement period ~~is filed by any employee~~
19 ~~or representative of the employee,~~ *the sufficiency of the changes*
20 *required to abate the condition, or the characterization of any*
21 *violation is filed by any party described in subdivision (b) of*
22 *Section 6600 within that time, the order shall be deemed a final*
23 *order of the appeals board and not subject to review by any court*
24 *or agency. The 15-day period may be extended by the appeals*
25 *board for good cause.*

26 *SEC. 11. Section 6602 of the Labor Code is amended to read:*

27 6602. If an employer notifies the appeals board that he or she
28 intends to contest a citation issued under Section 6317, or notice
29 of proposed penalty issued under Section 6319, or order issued
30 under Section 6308, or if, within 15 working days of the issuance
31 of a citation or order, any employee or representative of an
32 employee files a notice with the division or appeals board alleging
33 that the period of time fixed in the citation or order for the
34 abatement of the violation is unreasonable, *that the changes*
35 *required to abate the condition are insufficient, or that the*
36 *characterization of any violation is improper,* the appeals board
37 shall afford an opportunity for a hearing. The appeals board shall
38 thereafter issue a decision, based on findings of fact, affirming,
39 modifying or vacating the division's citation; ~~or order,~~ ~~or~~ *and may*
40 *modify the proposed penalty, if the penalty modification is not in*

1 *conflict with any other section of this code or regulation of the*
2 *department, or directing direct other appropriate relief.*

3 *SEC. 12. Section 6603 of the Labor Code is amended to read:*

4 6603. (a) The rules of practice and procedure adopted by the
5 appeals board shall ~~be~~ *do all of the following:*

6 (1) *Be consistent with Article 8 (commencing with Section*
7 *11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, and*
8 *Sections 11507, 11507.6, 11507.7, 11513, 11514, 11515, and*
9 *11516 of, the Government Code, and shall provide affected*
10 *employees or representatives of affected employees an opportunity*
11 *to participate as parties to a hearing under Section 6602.*

12 (2) *Ensure that all parties participate fully in any hearing,*
13 *receive notices, be permitted to subpoena witnesses and documents*
14 *at any time before the completion of the hearing, offer evidence,*
15 *examine and cross-examine witnesses, and argue and submit briefs.*
16 *Parties shall also have the right to participate fully in the*
17 *settlement of a matter at the prehearing conference, hearing, or*
18 *in any other proceedings where settlement may be reached. A party*
19 *described in subdivision (b) of Section 6600 may object, within 15*
20 *working days of notice of the settlement agreement between the*
21 *employer and the division, to provisions regarding the*
22 *characterization of a violation, the amount of time in which*
23 *abatement is to be accomplished, or the nature and sufficiency of*
24 *abatement in a settlement agreement, if any of those are at issue*
25 *in the appeal.*

26 (3) *Provide for the scheduling of hearings in a manner designed*
27 *to minimize inconvenience to the division and all parties and*
28 *witnesses who are required to attend the hearings, and to be*
29 *completed without significant lapses in time should the hearing*
30 *not be completed within the time originally scheduled. The appeals*
31 *board shall set initial hearing dates, subject to change upon*
32 *agreement of the parties within 30 days of the notice of the initial*
33 *hearing date, and shall not grant subsequent continuances absent*
34 *good cause.*

35 (4) *Establish a settlement program designed to bring the parties*
36 *to an agreement at the earliest possible stage of the appeal.*

37 (b) The superior courts shall have jurisdiction over contempt
38 proceedings, as provided in Article 12 (commencing with Section
39 11455.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
40 Government Code.

1 *SEC. 13. Section 6603.1 is added to the Labor Code, to read:*

2 6603.1. (a) *The Legislature finds and declares that it is the*
3 *duty of the appeals board to further the purposes of this division,*
4 *which include ensuring safe and healthful working conditions for*
5 *all working men and women in the state. The appeals board and*
6 *its administrative law judges shall, in the conduct of hearings,*
7 *gather evidence through oral testimony and records that is best*
8 *calculated to ascertain the substantial rights of the parties and*
9 *carry out justly the letter and spirit of this division, make a*
10 *complete inquiry into the facts as to whether the employer*
11 *committed the violation or violations alleged in the citation, and*
12 *ensure that a full hearing record is obtained.*

13 (b) *It is the intent of the Legislature that hearings held pursuant*
14 *to this chapter be conducted in an informal setting that preserves*
15 *the rights of the parties. In conducting hearings, the appeals board*
16 *shall permit hearsay and opinion evidence, according it the weight*
17 *that is appropriate under the circumstances, call and examine a*
18 *party or any witness, and, on own its own motion, may admit any*
19 *relevant and material evidence.*

20 *SEC. 14. Section 6603.2 is added to the Labor Code, to read:*

21 6603.2. (a) *The appeals board shall, at any time before an*
22 *appeal is submitted for decision, regardless of whether the statute*
23 *of limitations has run, allow the division to add or delete a citation*
24 *or amend a citation or order by adding or striking out the name*
25 *of any party, correcting a mistake in the name of a party, or*
26 *correcting a clerical error or mistake in any other respect. The*
27 *appeals board may allow the employer to amend, according to*
28 *proof presented by the employer, the basis of its appeal. Leave to*
29 *amend shall be liberally granted if the factual circumstances*
30 *-serving as the basis for the amendments have been litigated by the*
31 *parties.*

32 (b) *Each party shall be given notice of the intended amendment*
33 *and an opportunity to object on the basis of prejudice. If prejudice*
34 *is shown, the amendment shall not be granted. However, if the*
35 *prejudice can be remedied by a continuance of the hearing, a*
36 *continuance for further proceedings shall be granted in lieu of*
37 *denying the amendment.*

38 *SEC. 15. Section 6603.3 is added to the Labor Code, to read:*

39 6603.3. *Whenever a case is within the jurisdiction of the Bureau*
40 *of Investigations pursuant to Section 6315, the appeals board shall*

1 *continue any hearing upon the written request of the division,*
2 *employer, or any prosecuting attorney with jurisdiction over a*
3 *criminal case involving the citation for which an appeal has been*
4 *filed pursuant to Section 6602. In lieu of a continuance, the appeals*
5 *board may dismiss the employer's appeal with leave to refile within*
6 *15 calendar days of the completion of the criminal case.*
7 *Completion of the criminal case shall be deemed to occur on the*
8 *date of a verdict of not guilty or the date of sentencing after a*
9 *verdict or plea of guilty or no contest.*

10 *SEC. 16. Section 6610 of the Labor Code is amended to read:*

11 *6610. (a) Any notice, order, or decision required by this part*
12 *to be served upon any person either before, during, or after the*
13 *institution of any proceeding before the appeals board, shall be*
14 *served in the manner provided by Chapter 5 (commencing with*
15 *Section 1010) of Title 14 of Part 2 of the Code of Civil Procedure,*
16 *unless otherwise directed by the appeals board. In the latter event,*
17 *the document shall be served in accordance with the order or*
18 *direction of the appeals board. The appeals board may, in the cases*
19 ~~*mentioned*~~ *circumstances addressed in the Code of Civil Procedure,*
20 *order service to be made by publication of notice of time and place*
21 *of hearing. Where service is ordered to be made by publication,*
22 *the date of the hearing shall be fixed at more than 30 days from*
23 ~~*the date of filing*~~ *the application was filed.*

24 *(b) The employer shall give notice of any appeal filed pursuant*
25 *to Section 6602 to its employees by posting the docketed appeal*
26 *form, participation notice, and notice of hearing at or near the*
27 *site of the alleged violation, or, if that is not practicable, at a*
28 *conspicuous place where it will be readily observable by employees*
29 *or at a location where employees report each day. The employer*
30 *shall provide notice to each union, if any, with which it has a*
31 *collective bargaining agreement. If the employer is cited as a*
32 *controlling employer pursuant to paragraph (3) of subdivision (b)*
33 *of Section 6400, it shall provide notice to the employers at the*
34 *place of employment on the dates of any alleged violations. If an*
35 *employee was injured, made ill, or killed as a result of the alleged*
36 *violation that is being appealed, the employer shall also provide*
37 *notice to the employee or, if the employee is deceased, the*
38 *employee's family.*

39 *SEC. 17. Section 6620 of the Labor Code is amended to read:*

1 6620. Upon the filing of a petition for reconsideration, or
2 having granted reconsideration upon its own motion, the appeals
3 board may, with or without further proceedings and with or without
4 notice, affirm, rescind, alter, or amend the order or decision made
5 and filed by the appeals board or hearing officer on the basis of
6 the evidence previously submitted in the case, ~~or may grant and~~
7 *shall issue an opinion or order within 90 days of the filing of the*
8 *petition for reconsideration. If the appeals board grants*
9 *reconsideration and ~~direct~~ directs the taking of additional evidence,*
10 *it shall set a hearing for the taking of additional evidence within*
11 *60 days of the filing of the petition for reconsideration.* Notice of
12 the time and place of any hearing on reconsideration shall be given
13 to the petitioner and adverse parties and to ~~such~~ any other persons
14 as the appeals board orders.

15 *SEC. 18. Section 6622 of the Labor Code is amended to read:*

16 6622. After the taking of additional evidence and a
17 consideration of all of the facts the appeals board may affirm,
18 rescind, alter, or amend the original order or decision. An order
19 or decision made following reconsideration which affirms, rescinds,
20 alters, or amends the original order or decision shall be made by
21 the appeals board but shall not affect any right or the enforcement
22 of any right arising from or by ~~virtue~~ *virtue* of the original order
23 or decision unless so ordered by the appeals board. *The appeals*
24 *board shall issue an opinion or order within 90 days after the*
25 *hearing at which additional evidence is received.*

26 *SEC. 19. Section 6625 of the Labor Code is amended to read:*

27 6625. The filing of a petition for reconsideration shall suspend
28 for a period of 10 days the order or decision affected, insofar as it
29 applies to the parties to the petition, unless otherwise ordered by
30 the appeals board. The appeals board upon the terms and conditions
31 ~~which~~ *that* it by order directs, may stay, suspend, or postpone the
32 order or decision during the pendency of the reconsideration, *except*
33 *as to requirements for abatement set forth in Section 6319.6.*

34 *SEC. 20. Section 6627 of the Labor Code is amended to read:*

35 6627. Any person affected by an order or decision of the
36 appeals board may, within the time limit specified in this section,
37 apply to the superior court of the county in which he *or she* resides,
38 *in which the employer is located, or in which the appeals board*
39 *is located,* for a writ of mandate, for the purpose of inquiring into
40 and determining the lawfulness of the original order or decision

1 or of the order or decision following reconsideration. *For purposes*
 2 *of this section, “any person affected” includes the division, the*
 3 *employer, a party, an intervenor, and any person seeking to enforce*
 4 *the public’s right to safe and healthful working conditions on*
 5 *behalf of employees within the state, regardless of whether that*
 6 *person has a beneficial interest in the order or decision at issue.*
 7 The application for writ of mandate must be made within 30 days
 8 after a petition for reconsideration is denied, or, if a petition is
 9 granted or reconsideration is had on the appeals board’s own
 10 motion, within 30 days after the filing of the order or decision
 11 following reconsideration.

12 *SEC. 21. Section 6630 of the Labor Code is amended to read:*

13 6630. The findings and conclusions of the appeals board on
 14 questions of fact are conclusive and final and are not subject to
 15 review. Such questions of fact shall include ultimate facts and the
 16 findings and conclusions of the appeals board. The appeals board
 17 and each party to the action or proceeding before the appeals board,
 18 *and any person affected as defined in Section 6627*, shall have the
 19 right to appear in the mandate proceeding. Upon the hearing, the
 20 court shall enter judgment either affirming or annulling the order
 21 or decision, or the court may remand the case for further
 22 proceedings before the appeals board.

23 ~~SECTION 1. Section 7606 of the Labor Code is amended to~~
 24 ~~read:~~

25 ~~7606. Each dock plate shall be constructed and maintained~~
 26 ~~with strength sufficient to support the load carried thereon.~~

27 ~~Dock plates shall be secured in position when spanning the space~~
 28 ~~between the dock or the unloading platform and the vehicle. The~~
 29 ~~dock plate, together with its securing devices, where used over~~
 30 ~~spans of different lengths, shall be of such construction as will~~
 31 ~~readily obtain rigid security over such spans.~~

32 ~~The dock plates shall be so constructed and maintained that when~~
 33 ~~they are secured in position the end edges of the plate shall be in~~
 34 ~~substantial contact with the dock or loading platform, and with the~~
 35 ~~vehicle bed in a manner that prevents rocking or sliding.~~