

an award, the amount of the payment unreasonably delayed or refused may be increased up to 15 percent or up to five hundred dollars (\$500), whichever is greater. In proceeding under this section, the appeals board shall use its discretion to accomplish a fair balance and substantial justice between the parties.

(b) As a precondition to a claim for penalties under this section, the employee shall give written notice to the employer of the claimed unreasonable delay or refusal of payment of compensation. If, within 20 days from the date of services of this notice, the employer pays a self-imposed increase of 10 percent of the amount of payment delayed or refused, in addition to any other self-imposed increases due under this division, there shall be no further penalty allowed under this section. If the employer disputes whether the delay or refusal is unreasonable, and the workers' compensation administrative law judge determines that the delay or refusal violates this section, the workers' compensation administrative law judge shall award the penalty prescribed in subdivision (a). In determining whether the delay or refusal is unreasonable, the workers' compensation administrative law judge shall consider only the specific facts resulting in the delay or refusal of the specific payment that is the subject of the request for penalties.

(c) The appeals board shall have no jurisdiction to hear a claim for penalties under subdivision (a), unless the employee files a claim for a penalty within one year from the date of the alleged unreasonable delay or refusal to pay benefits. Upon the approval of a compromise and release by the appeals board, it shall be conclusively presumed that any existing or potential penalties have been resolved, unless expressly excluded by the terms of the compromise and release.

(d) When a penalty is awarded under subdivision (a), the appeals board may allow a credit for any self-imposed increase under subdivision (d) of Section 4650 or subdivision (b), in order to accomplish a fair balance and substantial justice between the parties.

(e) Nothing in this section shall be construed to create a civil cause of action.

SEC. 55. Section 5814.5 of the Labor Code is repealed.

~~5814.5. When the payment of compensation has been unreasonably delayed or refused subsequent to the issuance of an award by an employer that has secured the payment of compensation pursuant to Section 3700, the appeals board shall, in addition to increasing the order, decision, or award pursuant to Section 5814, award reasonable attorneys' fees incurred in enforcing the payment of compensation awarded.~~

SEC. 56. Section 6401.7 of the Labor Code is amended to read:

6401.7. (a) Every employer shall establish, implement, and maintain an effective injury prevention program. The program shall be written, except as provided in subdivision (e), and shall include, but not be limited to, the following elements:

- (1) Identification of the person or persons responsible for implementing the program.
- (2) The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.
- (3) The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.

(4) An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.

(5) The employer's system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

(6) The employer's system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

(b) The employer shall correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

(c) The employer shall train all employees when the training program is first established, all new employees, and all employees given a new job assignment, and shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the employer receives notification of a new or previously unrecognized hazard. Beginning January 1, 1994, an employer in the construction industry who is required to be licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code may use employee training provided to the employer's employees under a construction industry occupational safety and health training program approved by the division to comply with the requirements of subdivision (a) relating to employee training, and shall only be required to provide training on hazards specific to an employee's job duties.

(d) The employer shall keep appropriate records of steps taken to implement and maintain the program. Beginning January 1, 1994, an employer in the construction industry who is required to be licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code may use records relating to employee training provided to the employer in connection with an occupational safety and health training program approved by the division to comply with the requirements of this subdivision, and shall only be required to keep records of those steps taken to implement and maintain the program with respect to hazards specific to an employee's job duties.

(e) (1) The standards board shall adopt a standard setting forth the employer's duties under this section, on or before January 1, 1991, consistent with the requirements specified in subdivisions (a), (b), (c), and (d). The standards board, in adopting the standard, shall include substantial compliance criteria for use in evaluating an employer's injury prevention program. The board may adopt less stringent criteria for employers with few employees and for employers in industries with insignificant occupational safety or health hazards.

(2) Notwithstanding subdivision (a), for employers with fewer than 20 employees who are in industries that are not on a designated list of high hazard industries and who have a workers' compensation experience modification rate of 1.1 or less, and for any employers with fewer than 20 employees who are in industries that are on a designated list of low hazard industries, the board shall adopt a standard setting forth the employer's duties under this section