Engage PEO Client Alert:

California Expands Cal/OSHA's Citation Authority

On September 27, a bill expanding enforcement power for the California Division of Occupational Safety and Health (Cal/OSHA) was signed into law and takes effect January 1, 2022. The bill creates two new categories of Cal/OSHA violations, "enterprise-wide" and "egregious." It also provides Cal/OSHA with additional subpoena power during investigations and expands on Cal/OSHA's ability to seek an injunction.

Overview- SB 606

This bill establishes a rebuttable presumption that an employer has committed an "enterprise-wide" workplace safety violation, or a violation at multiple worksites if Cal/OSHA finds either of the following:

- The employer has a written policy or procedure that violates section 25910 of the Health and Safety Code, any standard, rule, order, or regulation; or
- Cal/OSHA has evidence of a pattern or practice of the same violation or multiple violations committed by that employer involving more than one of the employer's worksites.

This law also permits Cal/OSHA to issue a citation to an "egregious" employer for each willful violation. A violation is deemed egregious if one or more of the following is true:

- The employer, intentionally through voluntary action or inaction, made no reasonable effort to eliminate the known violation.
- The violations resulted in worker fatalities, a worksite catastrophe, or a large number of injuries or illnesses.
- The violations resulted in persistently high rates of worker injuries or illnesses.
- The employer has an extensive history of prior violations of this section of the labor code.
- The employer has intentionally disregarded their health and safety responsibilities.
- The employer's conduct, taken as a whole, amounts to clear bad faith in the performance of their duties to provide occupational safety to their employees.
- The employer has committed a large number of violations to undermine the effectiveness of any safety and health program that might be in place.

Each instance of an employee exposed to an egregious violation can be considered a separate violation for purposes of issuing fines and penalties.

These changes are significant for employers in California and have the largest impact on companies with multiple worksites. Therefore, **now is the time for employers to ensure that their written policies and procedures are up to date.** Companies should review all policies and practices to ensure compliance with Cal/OSHA standards, including the Injury and Illness Prevention Program (IIPP).

If you have any questions, you can contact Engage's Risk team at wc@EngagePEO.com