

Date of Hearing: May 21, 2020

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 2210 (Aguiar-Curry) – As Amended March 16, 2020

**SUBJECT:** Contractors: violations: disciplinary actions.

**SUMMARY:** Authorizes the Contractors State Licensing Board (CSLB) to discipline a tree service contractor for violating any worker safety regulations. Previously, CSLB could only exercise this authority when serious injury or death occurred. The bill also aligns the statute of limitations period for which CSLB must take disciplinary action for Labor Code violations with the period in existing law for taking disciplinary action in all other CSLB cases.

**EXISTING LAW**

- 1.) Upon a finding by the Labor Commissioner that a willful or deliberate violation of any of the provisions of the Labor Code (LC), within the jurisdiction of the Labor Commissioner, has been committed by a person licensed as a contractor pursuant to Chapter 9 (commencing with § 7000 ) of Division 3 of the Business and Professions Code (BPC), in the course of such licensed activity, the Labor Commissioner shall immediately, upon expiration of the period for review specified in § 98.2, or other applicable section, deliver a certified copy of the finding of the violation to the registrar of the Contractors' State License Board. (LC § 98.9)
- 2.) A licensed contractor's willful or deliberate disregard of labor and safety and other laws generally is a cause for disciplinary action. (BPC § 7110) Once CSLB gets a Labor Commissioner violation, it should take disciplinary action in 180 days. (BPC § 7110.5)
- 3.) Department of Occupational Safety and Health (DOSH) / Cal-OSHA can cite employers for violating safety rules or regulations. The DOSH Tree Safety Orders in Article 12 (commencing with Section 3420) of Group 3 of Subchapter 7 of Chapter 4 of Division 1 of Title 8 of the Code of California Regulations (CCR) are an example of such rules and regulations. (LC § 6317)
- 4.) DOSH after consulting with CSLB shall send CSLB their citations taken against a contractor. (LC § 6313.5)
- 5.) Violation of safety laws that specifically result in death or serious injury is a cause for disciplinary action. (BPC § 7109.5)
- 6.) A disciplinary action against a licensed contractor for violation of the Contractors State License Law shall be referred within four years after the activity alleged as the ground for disciplinary action or within 18 months from the date of the filing of the complaint with the registrar, whichever is later. (BPC § 7091)

**THIS BILL:**

- 1) Expressly provides that a violation of DOSH Tree Safety Orders in 8 CCR 1 is a cause for disciplinary action, regardless of whether death or injury has occurred.

- 2) Extends the time that CSLB has to bring disciplinary action against a contractor from 180 days to 18 months, for a contractor's willful or deliberate violation of the Labor Code assessed by the Labor Commissioner.
- 3) Provides 18 months from the date of the registrar's receipt of a violation of Tree Safety order from DOSH / Cal/OSHA for the registrar to take disciplinary action.

**FISCAL EFFECT:** Unknown. This bill is keyed fiscal by the Legislative Counsel.

**COMMENTS:**

**Purpose.** This bill is sponsored by *CSLB*. According to the Author, “[This bill] is a worker protection measure to ensure that contractors in the tree service industry comply with existing safety provisions. As wildfire prevention activities in California increase exponentially, and more companies enter this sector, it is especially critical that contractors are held accountable for obeying safety standards to protect their workers. CSLB should not have to wait for tree-safety workers to experience death or serious injury in order to enforce existing labor laws. This bill will promote compliance with safety regulations in the tree care industry, and therefore increase safety for workers.”

**Background.** Tree service is a high-risk industry that demands employers take precautions to keep their employees safe. According to the U.S. Bureau of Labor Statistics, grounds maintenance workers, including tree trimming and removal specialists, have a fatality rate that is more than three times that of the average labor worker. Further, a DOSH investigation of tree-service accidents that occurred between 2014 and 2016 found that 74% resulted in worker hospitalization, and 16% resulted in death.

As California continues to experience more severe wildfires, tree maintenance activities have only increased. Utilities throughout the state are hiring more contractors to perform fire mitigation work and to carry out cleanup efforts post-disaster.

DOSH tree safety regulations require tree-service employers provide employees with a safe work environment, including proper safety training and equipment. CSLB licensees, who are primary employers in the tree service industry, must abide by these regulations.

Finally, this bill aligns the statute of limitations for the CSLB registrar to take disciplinary action against a contractor for both (1) violations assessed by the Labor Commissioner and (2) for violations of Tree Safety Orders assessed by DOSH, with the 18-month statutory period in existing law for the registrar to take other disciplinary actions against contractors. According to the CSLB, the 180 days that is being extended by this bill was not sufficient for disciplinary actions to complete the administrative hearing process.

**Current Related Legislation.** AB 2368 (Quirk). Adds illegal dumping to the list of violations that constitute a cause for disciplinary action against a contractor by the board. Under existing law, a willful or deliberate disregard by a licensed contractor of various state building, labor, and safety laws constitutes a cause for disciplinary action by the board.

**Prior Related Legislation.** AB 1066 (Aguiar-Curry) (Chaptered by Secretary of State - Chapter 616, Statutes of 2017). Specifies that tree removal services qualify as “public works” projects under existing Prevailing Wage Law. This bill clarifies in Public Works Code that tree removal is

a type of “demolition” project. By making this change, government contracts for tree removal services will be required to pay workers prevailing wage.

**ARGUMENTS IN SUPPORT:**

The *Center for Contract Compliance* writes in support, “Current law requires the Contractors State License Board (CSLB) to enforce safety regulations only if the violation causes a serious injury or death. This enforcement mechanism does too little to promote safe practices before an accident occurs. [This bill] will help solve this problem by providing the CSLB the authority to enforce any other violations, like failing to provide proper training and equipment, which will help prevent accidents before they occur.”

**ARGUMENTS IN OPPOSITION:**

None on file.

**REGISTERED SUPPORT:**

Contractors State License Board (Sponsor)  
Center for Contract Compliance  
West Coast Arborists

**REGISTERED OPPOSITION:**

None on file.

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