



REFUND OF CAL/OSHA PENALTIES FOR LAW ENFORCEMENT AND FIREFIGHTING AGENCIES

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Background

With the passing of Assembly Bill 186 (approved by the Governor on August 30, 2005), Section 6434.5 has been added to the Labor Code. Section 6434.5 establishes a refund plan for civil and administrative penalties (with interest) imposed against law enforcement and firefighting agencies by the California Occupational Safety and Health Administration (Cal/OSHA) for violations of certain laws and orders relating to safety in employment. Law enforcement and firefighting agencies may apply for a refund if the following conditions are met:

- 1) All conditions previously cited have been abated;
- 2) The department has abated any other outstanding citation;
- 3) The department has not been cited by Cal/OSHA for a serious violation within two years of the date of the original violation.

Funds received as a result of a penalty, for which a refund is not applied for within two years and six months of the date of the original violation, will be allocated to designated public entities to fund grants for specific purposes.

Refund Procedures

With the recent passage of the bill, refund procedures are currently in development. Loss Control and Prevention will track developments associated with AB 186 and notify affected departments as the procedures are developed.

Assembly Bill No. 186

CHAPTER 141

An act to add Section 6434.5 to the Labor Code, relating to occupational safety and health.

[Approved by Governor August 30, 2005. Filed with Secretary of State August 30, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 186, Bogh. Occupational safety and health: fines.

Existing law permits, under specified circumstances, educational entities and institutions to apply for a refund of any civil or administrative penalty imposed against them for a violation of certain laws and orders relating to safety in employment. If the educational entities or institutions do not apply for a refund, existing law requires that the funds from the civil and administrative penalties imposed against them be expended to fund grants to assist schools in establishing effective occupational injury and illness prevention programs upon appropriation by the Legislature.

This bill would establish a similar refund plan for civil and administrative penalties imposed against public police and city, county, or special district fire departments and the California Department of Forestry and Fire Protection and would require that, if a police or fire department or the California Department of Forestry and Fire Protection does not apply for a refund, the unclaimed funds from the civil and administrative penalties be allocated to designated public entities to be used to fund grants for specific purposes, upon appropriation by the Legislature.

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

SECTION 1. Section 6434.5 is added to the Labor Code, to read:

6434.5. (a) Any civil or administrative penalty assessed pursuant to this chapter against a public police or city, county, or special district fire department or the California Department of Forestry and Fire Protection shall be deposited into the Workers' Compensation Administration Revolving Fund established pursuant to Section 62.5.

(b) Any public police or city, county, or special district fire department or the California Department of Forestry and Fire Protection may apply for a refund of any civil or administrative penalty assessed pursuant to this chapter, with interest, if all conditions previously cited have been abated, the department has abated any other outstanding citation, and the department has not been cited by the division for a serious violation within two years of the date of the original violation. Funds received as a result of a penalty, for which a refund is not applied for within two years and six months of the time of the original violation, shall be expended in accordance with Section 78 as follows:

(1) Funds received as a result of a civil or administrative penalty imposed on a city, county, or special district fire department or the California Department of Forestry and Fire Protection shall be allocated to the California Firefighter Joint Apprenticeship Program for the purpose of establishing and maintaining effective occupational injury and illness prevention programs.

(2) Funds received as a result of a civil or administrative penalty imposed on a police department shall be allocated to the Office of Criminal Justice Planning, or any succeeding agency, for the purpose of establishing and maintaining effective occupational injury and illness prevention programs.

(c) This section does not apply to that portion of any civil or administrative penalty that is distributed directly to an aggrieved employee or employees pursuant to the provisions of Section 2699.