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HOUSE BILL 1436

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Kristiansen, Pearson, and McCune

Read first time 01/21/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to providing limitations for the imposition of  
2 regulatory civil penalties; adding a new section to chapter 34.05 RCW;  
3 and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that there have been  
6 instances where regulatory agencies discovered actions by a regulated  
7 entity that are in error after reports have been accepted and approved  
8 or inspections have been conducted and approved. Retroactively  
9 applying fines after governmental approval creates an unfriendly  
10 business environment and can place unexpected financial burdens on  
11 businesses. Businesses should be able to rely on government approval  
12 and acceptance of reports and inspections and not risk penalties when  
13 mistakes are made by government personnel or contractors. It is the  
14 intent of the legislature that regulated parties who have received  
15 acceptance and approval by the regulating government authority should  
16 not be subsequently fined or penalized, but should be encouraged to  
17 correct action that is deemed in error or violates reporting or  
18 inspection requirements during the next reporting period. The

1 regulating authority should notify the regulated party of the violation  
2 to prevent future violations.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW  
4 to read as follows:

5 (1) An agency may not issue a fine or impose a penalty on a person  
6 if:

7 (a) An inspection is approved by an official of the agency  
8 requiring the inspection and a subsequent reevaluation of the approved  
9 inspection by the regulating agency identifies a violation by the  
10 regulated party; or

11 (b) Documentation required under an agency's reporting requirements  
12 is submitted to the agency by a regulated party and is accepted and  
13 approved by the regulating agency and a subsequent reevaluation of the  
14 approved documentation identifies a violation based on failure to  
15 provide required documentation or information.

16 (2) A rule adopted under this chapter may not authorize the  
17 imposition of a civil fine on a person based on the following  
18 circumstances if:

19 (a) An inspection is approved by an official of the agency  
20 requiring the inspection and a subsequent reevaluation of the approved  
21 inspection by the regulating agency identifies a violation by the  
22 regulated party; or

23 (b) Documentation required under an agency's reporting requirements  
24 is submitted to the agency by a regulated party and is accepted and  
25 approved by the regulating agency and a subsequent reevaluation of the  
26 approved documentation identifies a violation based on failure to  
27 provide required documentation or information.

28 (3) Violations identified after an inspection or documentation has  
29 been approved may be remedied through technical assistance provided to  
30 the regulated party allowing correction of the circumstances of the  
31 violation for future reporting periods or inspections.

32 NEW SECTION. **Sec. 3.** If any part of this act is found to be in  
33 conflict with federal requirements that are a prescribed condition to  
34 the allocation of federal funds to the state, the conflicting part of  
35 this act is inoperative solely to the extent of the conflict and with  
36 respect to the agencies directly affected, and this finding does not

1 affect the operation of the remainder of this act in its application to  
2 the agencies concerned. Rules adopted under this act must meet federal  
3 requirements that are a necessary condition to the receipt of federal  
4 funds by the state.

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