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HOUSE BILL 1355

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State of Washington

52nd Legislature

1991 Regular Session

By Representatives R. King, Jones, Cole and Wang; by request of Department of Labor & Industries.

Read first time January 28, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to civil penalties for industrial safety and health  
2 violations; amending RCW 49.17.180; and prescribing penalties.

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

4 **Sec. 1.** RCW 49.17.180 and 1986 c 20 s 2 are each amended to read  
5 as follows:

6 (1) Any employer who willfully or repeatedly violates the  
7 requirements of RCW 49.17.060, of any safety or health standard  
8 promulgated under the authority of this chapter, of any existing rule  
9 or regulation governing the conditions of employment promulgated by the  
10 department, or of any order issued granting a variance under RCW  
11 49.17.080 or 49.17.090 may be assessed a civil penalty not to exceed  
12 ~~((fifty))~~ seventy thousand dollars for each violation. A minimum  
13 penalty of five thousand dollars shall be assessed for a willful  
14 violation.

1           (2) Any employer who has received a citation for a serious  
2 violation of the requirements of RCW 49.17.060, of any safety or health  
3 standard promulgated under the authority of this chapter, of any  
4 existing rule or regulation governing the conditions of employment  
5 promulgated by the department, or of any order issued granting a  
6 variance under RCW 49.17.080 or 49.17.090 as determined in accordance  
7 with subsection (6) of this section, shall be assessed a civil penalty  
8 not to exceed ((five)) seven thousand dollars for each such violation.

9           (3) Any employer who has received a citation for a violation of the  
10 requirements of RCW 49.17.060, of any safety or health standard  
11 promulgated under this chapter, of any existing rule or regulation  
12 governing the conditions of employment promulgated by the department,  
13 or of any order issued granting a variance under RCW 49.17.080 or  
14 49.17.090, where such violation is specifically determined not to be of  
15 a serious nature as provided in subsection (6) of this section, may be  
16 assessed a civil penalty not to exceed ((three)) seven thousand dollars  
17 for each such violation, unless such violation is determined to be de  
18 minimis.

19           (4) Any employer who fails to correct a violation for which a  
20 citation has been issued under RCW 49.17.120 or 49.17.130 within the  
21 period permitted for its correction, which period shall not begin to  
22 run until the date of the final order of the board of industrial  
23 insurance appeals in the case of any review proceedings under this  
24 chapter initiated by the employer in good faith and not solely for  
25 delay or avoidance of penalties, may be assessed a civil penalty of not  
26 more than ((five)) seven thousand dollars for each day during which  
27 such failure or violation continues.

28           (5) Any employer who violates any of the posting requirements of  
29 this chapter, or any of the posting requirements of rules promulgated  
30 by the department pursuant to this chapter related to employee or

1 employee representative's rights to notice, including but not limited  
2 to those employee rights to notice set forth in RCW 49.17.080,  
3 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall  
4 be assessed a penalty not to exceed (~~three~~) seven thousand dollars  
5 for each such violation. Any employer who violates any of the posting  
6 requirements for the posting of informational, educational, or training  
7 materials under the authority of RCW 49.17.050(7), may be assessed a  
8 penalty not to exceed (~~one~~) seven thousand (~~five hundred~~) dollars  
9 for each such violation.

10 (6) For the purposes of this section, a serious violation shall be  
11 deemed to exist in a work place if there is a substantial probability  
12 that death or serious physical harm could result from a condition which  
13 exists, or from one or more practices, means, methods, operations, or  
14 processes which have been adopted or are in use in such work place,  
15 unless the employer did not, and could not with the exercise of  
16 reasonable diligence, know of the presence of the violation.

17 (7) The director, or his authorized representatives, shall have  
18 authority to assess all civil penalties provided in this section,  
19 giving due consideration to the appropriateness of the penalty with  
20 respect to the number of affected employees of the employer being  
21 charged, the gravity of the violation, the size of the employer's  
22 business, the good faith of the employer, and the history of previous  
23 violations.

24 (8) Civil penalties imposed under this chapter shall be paid to the  
25 director for deposit in the supplemental pension fund established by  
26 RCW 51.44.033. Civil penalties may be recovered in a civil action in  
27 the name of the department brought in the superior court of the county  
28 where the violation is alleged to have occurred, or the department may  
29 utilize the procedures for collection of civil penalties as set forth  
30 in RCW 51.48.120 through 51.48.150.