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HOUSE BILL 2832

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Lambert and Mielke

Read first time 01/21/98. Referred to Committee on House Government Reform & Land Use.

1 AN ACT Relating to prohibiting the imposition of a criminal  
2 sanction or its equivalent for the violation of an agency rule; adding  
3 a new section to chapter 43.22 RCW; creating a new section; and  
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is the  
7 constitutional prerogative of the legislative branch consisting of  
8 elected officials to determine as a matter of public policy what  
9 actions are so harmful to the public good that they should be  
10 considered crimes and therefore subject to the severe consequences of  
11 criminal penalties, including the economic costs, loss of liberty, and  
12 social sanctions associated with criminal penalties.

13 (2) The legislature further finds that the criminal code  
14 establishes maximum penalties that may be imposed by expressly  
15 providing that no person convicted of a particular crime may be  
16 punished by a sanction that would exceed the statutorily determined  
17 amount. For a class A felony, the maximum penalty is confinement for  
18 life, a fine of fifty thousand dollars, or both. For a class B felony,  
19 the maximum penalty is confinement for up to ten years, a fine of

1 twenty thousand dollars, or both. For a class C felony, the maximum  
2 penalty is confinement for up to five years, a fine of ten thousand  
3 dollars, or both. For a gross misdemeanor, the maximum penalty is  
4 confinement for not more than one year, a fine of not more than five  
5 thousand dollars, or both. For a misdemeanor, the maximum penalty is  
6 confinement for not more than ninety days, a fine of not more than one  
7 thousand dollars, or both.

8 (3) The legislature further finds that for criminal sanctions or  
9 their equivalents to be imposed for the violation of a rule adopted by  
10 an agency consisting of unelected individuals as though the rule were  
11 the equivalent of a criminal statute creates resentment toward  
12 government, disrespect for the law, and confusion and frustration over  
13 the multitude of vague and often confusing rules, and results in  
14 persons being unfairly and unjustly penalized without the benefits and  
15 protections of the criminal law accorded the accused.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.22 RCW  
17 to read as follows:

18 (1) No criminal penalty or sanction or its equivalent may be  
19 imposed on a person or organization as the result of actions by the  
20 person or organization in violation of a rule that is not otherwise  
21 specifically designated as a crime under the criminal statutes of the  
22 state of Washington, unless the civil penalties or sanctions are  
23 expressly authorized and the specific amount for the violation is set  
24 in statute by the legislature.

25 (2) No person or organization may be subject to a criminal penalty  
26 or its equivalent under any circumstances unless the person or  
27 organization has been provided all the legal benefits and protections  
28 provided a criminal defendant.

29 (3) For purposes of this section, "criminal penalty or sanction"  
30 does not include (a) reimbursement or compensation for out-of-pocket  
31 costs incurred by an injured party as a result of a violation of a rule  
32 by a person or organization; (b) aggregate amounts imposed for separate  
33 violations of a rule by a person or organization; or (c) an amount  
34 imposed on a person or organization for the violation of a rule that is  
35 no greater than one hundred dollars.

36 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
37 preservation of the public peace, health, morals, or safety, or support

1 of the state government and its existing public institutions, and takes  
2 effect immediately.

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