

HOUSE BILL REPORT

HB 1777

As Reported By House Committee On:
State Government

Title: An act relating to technical assistance documents.

Brief Description: Clarifying use of technical assistance documents.

Sponsors: Representatives B. Chandler, Schindler, McMorris, Dunshee, Romero and Lantz.

Brief History:

Committee Activity:

State Government: 2/19/99, 3/2/99 [DPS].

Brief Summary of Substitute Bill

- Defines and restricts technical assistance documents to not impose mandatory obligations or serve as the basis of a citation.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Republican Co-Chair; Romero, Democratic Co-Chair; Campbell, Republican Vice Chair; Miloscia, Democratic Vice Chair; Dunshee; Haigh; Lambert and D. Schmidt.

Staff: Steve Lundin (786-7127).

Background:

Regulatory agencies are required to engage in technical assistance programs encouraging regulated parties to voluntarily comply with the law. These programs include technical assistance visits, printed information, information and assistance by telephone, and training meetings.

Technical assistance includes: (1) Information on laws, rules, and compliance methods and technologies; (2) information on methods to avoid compliance problems; (3)

assistance in applying for permits; and (4) information on the mission, goals, and objectives of the program.

A technical assistance visit must be requested, or voluntarily accepted, and the regulatory agency must declare the visit to be a technical assistance visit at the beginning of the visit. During a technical assistance visit, or a reasonable time after such a visit, the regulatory agency shall inform the owner or operator of the facility about any violations of law or agency rules that were identified during the visit.

The owner and operator must be given a reasonable period to correct violations that were identified during the visit before a civil penalty is imposed for these violations. However, civil penalties may be issued for violations that are observed during a technical assistance visit under the following circumstances:

- The individual or business has previously been subject to an enforcement action for the same or similar violations of the same statute or rule or has been given previous notice of the same or similar violation of the same statute or rule;
- The issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or
- The violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing more than \$1,000 in physical damage to the property of another.

Summary of Substitute Bill:

A technical assistance document is defined as documents prepared to provide certain information and are entitled as a technical assistance document by the agency head or its designee. Technical assistance documents do not include notices of correction, violation, or enforcement action. Technical assistance documents do not impose mandatory obligations or serve as the basis for a citation.

Substitute Bill Compared to Original Bill: The new definition and restrictions on technical assistance documents are added in lieu of requirement that the first page of each technical assistance document state that the document provides technical assistance information, does not impose a new mandatory obligation, and will not be used as the basis for a citation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is part of regulatory reform. We have education before enforcement. I'm hearing that guide books are being used as the basis for enforcement. For years I have been hearing complaints about guidelines and policy statements being used in place of rules and laws. Without this a backdoor approach to rule making can exist. There are no constitutional problems. Small business owners need guidelines.

Testimony Against: (Original bill) We have concerns. This could be unconstitutional. A technical assistance document can describe an actual law, while other portions are optional. The required statement could be misleading.

Testified: Representative Chandler, prime sponsor; Amber Balch, Association of Washington Business; Carolyn Logue, National Federation of Independent Business; and Gary Smith, Independent Business Association.

(Opposed original bill) Suzanne Mager, Department of Labor and Industries; and Amy Bell, Department of Natural Resources.