
HOUSE BILL 2198

State of Washington 59th Legislature 2005 Regular Session

By Representatives Clements, Conway, Condotta and McDonald

Read first time 02/23/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to waiving employer penalties for submitting
2 quarterly wage reports that do not list employee social security
3 numbers in limited circumstances; amending RCW 50.12.220; and creating
4 a new section.

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

6 **Sec. 1.** RCW 50.12.220 and 2004 c 97 s 1 are each amended to read
7 as follows:

8 (1)(a) If an employer fails to file in a timely and complete manner
9 a report required by RCW 50.12.070, or the rules adopted pursuant
10 thereto, the employer shall be subject to a penalty to be determined by
11 the commissioner, but not to exceed two hundred fifty dollars or ten
12 percent of the quarterly contributions for each such offense, whichever
13 is less.

14 (b) If an employer knowingly misrepresents to the employment
15 security department the amount of his or her payroll upon which
16 contributions under this title are based, the employer shall be liable
17 to the state for up to ten times the amount of the difference in
18 contributions paid, if any, and the amount the employer should have

1 paid and for the reasonable expenses of auditing his or her books and
2 collecting such sums. Such liability may be enforced in the name of
3 the department.

4 (c) If any part of a delinquency for which an assessment is made
5 under this title is due to an intent to evade the successorship
6 provisions of RCW 50.29.062, then for the calendar year in which the
7 commissioner makes the determination under this subsection, the
8 commissioner shall assign to the employer, and to any business found to
9 be promoting the evasion of such provisions, the contribution rate
10 determined for that calendar year under RCW 50.29.025, including the
11 solvency surcharge, if any, for rate class 20 or rate class 40, as
12 applicable, plus two percent.

13 (2) If contributions are not paid on the date on which they are due
14 and payable as prescribed by the commissioner, there shall be assessed
15 a penalty of five percent of the amount of the contributions for the
16 first month or part thereof of delinquency; there shall be assessed a
17 total penalty of ten percent of the amount of the contributions for the
18 second month or part thereof of delinquency; and there shall be
19 assessed a total penalty of twenty percent of the amount of the
20 contributions for the third month or part thereof of delinquency. No
21 penalty so added shall be less than ten dollars. These penalties are
22 in addition to the interest charges assessed under RCW 50.24.040.

23 (3) Penalties shall not accrue on contributions from an estate in
24 the hands of a receiver, executor, administrator, trustee in
25 bankruptcy, common law assignee, or other liquidating officer
26 subsequent to the date when such receiver, executor, administrator,
27 trustee in bankruptcy, common law assignee, or other liquidating
28 officer qualifies as such, but contributions accruing with respect to
29 employment of persons by a receiver, executor, administrator, trustee
30 in bankruptcy, common law assignee, or other liquidating officer shall
31 become due and shall be subject to penalties in the same manner as
32 contributions due from other employers.

33 (4)(a) Where adequate information has been furnished to the
34 department and the department has failed to act or has advised the
35 employer of no liability or inability to decide the issue, penalties
36 shall be waived by the commissioner.

37 (b) If a quarterly wage report lists an employee's name, hours
38 worked, and wages paid, but does not list the employee's social

1 security number, and if the employee's hours worked are less than
2 seventy hours, it is presumed that, on or before the seventh day after
3 the occurrence of the first day of employment, the employee did not:
4 (i) Show the employer the employee's account number card issued by the
5 social security administration; (ii) advise the employer of the
6 employee's account number and name; or (iii) show the employer a
7 receipt issued to him by an office of the social security
8 administration acknowledging that an application for an account number
9 has been received. In these circumstances, the commissioner shall
10 waive any penalties for not listing the employee's social security
11 number on the quarterly wage report.

12 (c) Penalties may also be waived for good cause if the commissioner
13 determines that the failure to timely file reports or pay contributions
14 was not due to the employer's fault.

15 (5) Any decision to assess a penalty as provided by this section
16 shall be made by the chief administrative officer of the tax branch or
17 his or her designee.

18 (6) Nothing in this section shall be construed to deny an employer
19 the right to appeal the assessment of any penalty. Such appeal shall
20 be made in the manner provided in RCW 50.32.030.

21 NEW SECTION. Sec. 2. If any part of this act is found to be in
22 conflict with federal requirements that are a prescribed condition to
23 the allocation of federal funds to the state or the eligibility of
24 employers in this state for federal unemployment tax credits, the
25 conflicting part of this act is inoperative solely to the extent of the
26 conflict, and the finding or determination does not affect the
27 operation of the remainder of this act. Rules adopted under this act
28 must meet federal requirements that are a necessary condition to the
29 receipt of federal funds by the state or the granting of federal
30 unemployment tax credits to employers in this state.

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