
SUBSTITUTE HOUSE BILL 2697

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Hudgins, Conway, McCoy, Kenney, Simpson and Roberts; by request of Employment Security Department)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to improving unemployment insurance collection and
2 penalty tools; amending RCW 50.12.220; adding a new section to chapter
3 50.36 RCW; creating a new section; and recodifying RCW 50.12.220.

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

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

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

14 (b) An employer who files an incomplete or incorrectly formatted
15 tax and wage report as required by RCW 50.12.070 shall receive a
16 warning letter for the first occurrence. Except as provided in (c) of
17 this subsection, for subsequent occurrences, the employer is subject to
18 a penalty as follows:

1 (i) When no contributions are due: For the second occurrence, the
2 penalty is seventy-five dollars; for the third occurrence, the penalty
3 is one hundred fifty dollars; and for the fourth occurrence and for
4 each occurrence thereafter, the penalty is two hundred fifty dollars.

5 (ii) When contributions are due: For the second occurrence, the
6 penalty is ten percent of the quarterly contributions due, but not less
7 than seventy-five dollars nor more than two hundred fifty dollars; for
8 the third occurrence, the penalty is ten percent of the quarterly
9 contributions due, but not less than one hundred fifty dollars nor more
10 than two hundred fifty dollars; and for the fourth occurrence and each
11 occurrence thereafter, the penalty is two hundred fifty dollars.

12 (c) An employer who files an incomplete or incorrectly formatted
13 tax and wage report as required by RCW 50.12.070 more than five times
14 within any five consecutive calendar years is subject to a penalty as
15 provided in this subsection (1)(c) if the commissioner finds that the
16 filing of the incomplete or incorrectly formatted report was willful.
17 In such a case, the penalty shall be five hundred dollars for the sixth
18 occurrence. The penalty for each subsequent occurrence found to be
19 willful within that period shall be twice the penalty incurred for the
20 immediately preceding occurrence.

21 (2) If an employer knowingly misrepresents to the employment
22 security department the amount of his or her payroll upon which
23 contributions under this title are based, the employer shall be liable
24 to the state for up to ten times the amount of the difference in
25 contributions paid, if any, and the amount the employer should have
26 paid and for the reasonable expenses of auditing his or her books and
27 collecting such sums. Such liability may be enforced in the name of
28 the department.

29 ~~((c) If any part of a delinquency for which an assessment is made~~
30 ~~under this title is due to an intent to evade the successorship~~
31 ~~provisions of RCW 50.29.062, then for the calendar year in which the~~
32 ~~commissioner makes the determination under this subsection, the~~
33 ~~commissioner shall assign to the employer, and to any business found to~~
34 ~~be promoting the evasion of such provisions, the contribution rate~~
35 ~~determined for that calendar year under RCW 50.29.025, including the~~
36 ~~solvency surcharge, if any, for rate class 20 or rate class 40, as~~
37 ~~applicable, plus two percent.~~

1 ~~(2)~~) (3) If contributions are not paid on the date on which they
2 are due and payable as prescribed by the commissioner, there shall be
3 assessed a penalty of five percent of the amount of the contributions
4 for the first month or part thereof of delinquency; there shall be
5 assessed a total penalty of ten percent of the amount of the
6 contributions for the second month or part thereof of delinquency; and
7 there shall be assessed a total penalty of twenty percent of the amount
8 of the contributions for the third month or part thereof of
9 delinquency. No penalty so added shall be less than ten dollars.
10 These penalties are in addition to the interest charges assessed under
11 RCW 50.24.040.

12 ~~((3))~~) (4) Penalties shall not accrue on contributions from an
13 estate in the hands of a receiver, executor, administrator, trustee in
14 bankruptcy, common law assignee, or other liquidating officer
15 subsequent to the date when such receiver, executor, administrator,
16 trustee in bankruptcy, common law assignee, or other liquidating
17 officer qualifies as such, but contributions accruing with respect to
18 employment of persons by a receiver, executor, administrator, trustee
19 in bankruptcy, common law assignee, or other liquidating officer shall
20 become due and shall be subject to penalties in the same manner as
21 contributions due from other employers.

22 ~~((4))~~) (5) Where adequate information has been furnished to the
23 department and the department has failed to act or has advised the
24 employer of no liability or inability to decide the issue, penalties
25 shall be waived by the commissioner. Penalties may also be waived for
26 good cause if the commissioner determines that the failure to
27 ~~((timely))~~ file timely and complete reports or pay contributions was
28 not due to the employer's fault.

29 ~~((5))~~) (6) Any decision to assess a penalty as provided by this
30 section shall be made by the chief administrative officer of the tax
31 branch or his or her designee.

32 ~~((6))~~) (7) Nothing in this section shall be construed to deny an
33 employer the right to appeal the assessment of any penalty. Such
34 appeal shall be made in the manner provided in RCW 50.32.030.

35 NEW SECTION. **Sec. 2.** RCW 50.12.220 is recodified as a section in
36 chapter 50.36 RCW.

1 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state or the eligibility of
4 employers in this state for federal unemployment tax credits, the
5 conflicting part of this act is inoperative solely to the extent of the
6 conflict, and the finding or determination does not affect the
7 operation of the remainder of this act. Rules adopted under this act
8 must meet federal requirements that are a necessary condition to the
9 receipt of federal funds by the state or the granting of federal
10 unemployment tax credits to employers in this state.

11 NEW SECTION. **Sec. 4.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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