
Substitute House Bill 2522

State of Washington

60th Legislature

2008 Regular Session

By House Select Committee on Environmental Health (originally sponsored by Representatives Hudgins, Campbell, and Chase)

READ FIRST TIME 01/21/08.

1 AN ACT Relating to clarifying the civil penalty provisions for on-
2 site sewage disposal systems administered by local health
3 jurisdictions; amending RCW 70.118.130; and prescribing penalties.

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

5 **Sec. 1.** RCW 70.118.130 and 2007 c 343 s 9 are each amended to read
6 as follows:

7 (1) A local health officer who is responsible for administering and
8 enforcing regulations regarding on-site sewage disposal systems is
9 authorized to issue civil penalties for violations of those regulations
10 ((under the same limitations and requirements imposed on the department
11 under RCW 70.118B.050, except that the amount of a penalty shall not
12 exceed one thousand dollars per day for every violation, and judgments
13 shall be entered in the name of the local health jurisdiction and
14 penalties shall be placed into the general fund or funds of the entity
15 or entities operating the local health jurisdiction)).

16 (2) A person who violates a law or rule regulating on-site sewage
17 disposal systems administered by the local health jurisdiction is
18 subject to a penalty of not more than one thousand dollars per day for
19 every violation. Every violation is a separate and distinct offense.

1 In case of a continuing violation, each day's continuing violation is
2 a separate and distinct violation. The penalty assessed must reflect
3 the significance of the violation and the previous record of compliance
4 on the part of the person responsible for compliance with on-site
5 sewage disposal system requirements.

6 (3) Every person who, through an act of commission or omission,
7 procures, aids, or abets a violation is considered to have violated the
8 provisions of this section and is subject to the penalty provided in
9 this section.

10 (4) The penalty provided for in this section must be imposed by a
11 notice in writing to the person against whom the civil penalty is
12 assessed and must describe the violation. The notice must be
13 personally served in the manner of service of a summons in a civil
14 action or in a manner that shows proof of receipt. A penalty imposed
15 by this section is due twenty-eight days after receipt of notice unless
16 application for an appeal is filed as provided in subsection (5) of
17 this section.

18 (5) Within twenty-eight days after notice is received, the person
19 incurring the penalty has the right to appeal as governed by the local
20 health jurisdiction's administrative appeals process. Notice must be
21 provided by the local health jurisdiction consistent with its due
22 process requirements.

23 (6) A penalty imposed by a final administrative order is due upon
24 service of the final administrative order. A person who fails to pay
25 a penalty assessed by a final administrative order within thirty days
26 of service of the final administrative order shall pay, in addition to
27 the amount of the penalty, interest at the rate of one percent of the
28 unpaid balance of the assessed penalty for each month or part of a
29 month that the penalty remains unpaid, commencing with the month in
30 which the notice of penalty was served, and reasonable attorneys' fees
31 as are incurred if civil enforcement of the final administrative order
32 is required to collect the penalty.

33 (7) A person who institutes proceedings for judicial review of a
34 final administrative order assessing a civil penalty under this chapter
35 shall place the full amount of the penalty in an interest-bearing
36 account in the registry of the reviewing court. At the conclusion of
37 the proceeding the court shall, as appropriate, enter a judgment on
38 behalf of the local health jurisdiction and order that the judgment be

1 satisfied to the extent possible from moneys paid into the registry of
2 the court or shall enter a judgment in favor of the person appealing
3 the penalty assessment and order return of the moneys paid into the
4 registry of the court together with accrued interest to the person
5 appealing. The judgment may award reasonable attorneys' fees for the
6 cost of legal representation in representing the local health
7 jurisdiction.

8 (8) If no appeal is taken from a final administrative order
9 assessing a civil penalty under this chapter, the local health
10 jurisdiction may file a certified copy of the final administrative
11 order with the clerk of the superior court in which the on-site sewage
12 disposal system is located and the clerk shall enter judgment in the
13 name of the local health jurisdiction and in the amount of the penalty
14 assessed in the final administrative order.

15 (9) A judgment entered under subsection (7) or (8) of this section
16 has the same force and effect as, and is subject to all of the
17 provisions of law relating to, a judgment in a civil action, and may be
18 enforced in the same manner as any other judgment of the court in which
19 it is entered.

20 (10) All receipts from penalties imposed under this section shall
21 be deposited into the general fund or funds of the entity or entities
22 operating the local health jurisdiction.

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