

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2603

61st Legislature
2010 Regular Session

Passed by the House March 6, 2010
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 4, 2010
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2603** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2603

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Smith, Kenney, Bailey, Quall, Morris, Blake, Anderson, Chase, Kelley, Short, Appleton, Sullivan, Dammeier, Upthegrove, Klippert, Chandler, Kristiansen, Rolfes, Pearson, Roach, Parker, Morrell, Haler, Walsh, Orcutt, Johnson, Lias, Hunt, Probst, Ericksen, Moeller, Kretz, Sells, Hope, Herrera, and Warnick)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to violations of state law or agency rule by small
2 businesses; and amending RCW 34.05.110.

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

4 **Sec. 1.** RCW 34.05.110 and 2009 c 358 s 1 are each amended to read
5 as follows:

6 (1) Agencies must provide to a small business a copy of the state
7 law or agency rule that a small business is violating and a period of
8 at least two business days to correct the violation before the agency
9 may impose any fines, civil penalties, or administrative sanctions for
10 a violation of a state law or agency rule by a small business. If no
11 correction is possible or if an agency is acting in response to a
12 complaint made by a third party and the third party would be
13 disadvantaged by the application of this subsection, the requirements
14 in this subsection do not apply.

15 (2) Except as provided in subsection (~~(3)~~) (4) of this section,
16 agencies shall waive any fines, civil penalties, or administrative
17 sanctions for first-time paperwork violations by a small business.

18 (~~(2)~~) (3) When an agency waives a fine, penalty, or sanction
19 under this section, when possible it shall require the small business

1 to correct the violation within a reasonable period of time, in a
2 manner specified by the agency. If correction is impossible, no
3 correction may be required and failure to correct is not grounds for
4 reinstatement of fines, penalties, or sanctions under subsection
5 ~~((4))~~ (5)(b) of this section.

6 ~~((3))~~ (4) Exceptions to requirements of subsection (1) of this
7 section and the waiver requirement in subsection (2) of this section
8 may be made for any of the following reasons:

9 (a) The agency head determines that the effect of the violation or
10 waiver presents a direct danger to the public health, results in a loss
11 of income or benefits to an employee, poses a potentially significant
12 threat to human health or the environment, or causes serious harm to
13 the public interest;

14 (b) The violation involves a ~~((small business knowingly or~~
15 ~~willfully engaging in conduct that may result in a felony conviction))~~
16 knowing or willful violation;

17 (c) The violation is of a requirement concerning the assessment,
18 collection, or administration of any tax, tax program, debt, revenue,
19 receipt, a regulated entity's financial filings, or insurance rate or
20 form filing;

21 (d) The ~~((waiver is))~~ requirements of this section are in conflict
22 with federal law or program requirements, federal requirements that are
23 a prescribed condition to the allocation of federal funds to the state,
24 or the requirements for eligibility of employers in this state for
25 federal unemployment tax credits, as determined by the agency head;

26 (e) The small business committing the violation previously violated
27 a substantially similar ~~((paperwork))~~ requirement; or

28 (f) The owner or operator of the small business committing the
29 violation owns or operates, or owned or operated a different small
30 business which previously violated a substantially similar
31 ~~((paperwork))~~ requirement.

32 ~~((4))~~ (5)(a) Nothing in this section prohibits an agency from
33 waiving fines, civil penalties, or administrative sanctions incurred by
34 a small business for a paperwork violation that is not a first-time
35 offense.

36 (b) Any fine, civil penalty, or administrative sanction that is
37 waived under this section may be reinstated and imposed in addition to
38 any additional fines, penalties, or administrative sanctions associated

1 with a subsequent violation for noncompliance with a substantially
2 similar paperwork requirement, or failure to correct the previous
3 violation as required by the agency under subsection ~~((+2+))~~ (3) of
4 this section.

5 ~~((+5+))~~ (6) Nothing in this section may be construed to diminish
6 the responsibility for any citizen or business to apply for and obtain
7 a permit, license, or authorizing document that is required to engage
8 in a regulated activity, or otherwise comply with state or federal law.

9 ~~((+6+))~~ (7) Nothing in this section shall be construed to apply to
10 small businesses required to provide accurate and complete information
11 and documentation in relation to any claim for payment of state or
12 federal funds or who are licensed or certified to provide care and
13 services to vulnerable adults or children.

14 ~~((+7+))~~ (8) Nothing in this section affects the attorney general's
15 authority to impose fines, civil penalties, or administrative sanctions
16 as otherwise authorized by law; nor shall this section affect the
17 attorney general's authority to enforce the consumer protection act,
18 chapter 19.86 RCW.

19 (9) As used in this section:

20 (a) "Small business" means a business with two hundred fifty or
21 fewer employees or a gross revenue of less than seven million dollars
22 annually as reported on its most recent federal income tax return or
23 its most recent return filed with the department of revenue.

24 (b) "Paperwork violation" means the violation of any statutory or
25 regulatory requirement that mandates the collection of information by
26 an agency, or the collection, posting, or retention of information by
27 a small business. This includes but is not limited to requirements in
28 the Revised Code of Washington, the Washington Administrative Code, the
29 Washington State Register, or any other agency directive.

30 (c) "First-time paperwork violation" means the first instance of a
31 particular or substantially similar paperwork violation.

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