
SENATE BILL 6659

State of Washington

64th Legislature

2016 Regular Session

By Senator Braun

Read first time 02/12/16. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to workplace industrial safety and health
2 penalties; and amending RCW 43.05.090 and 49.17.180.

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

4 **Sec. 1.** RCW 43.05.090 and 1996 c 206 s 4 are each amended to
5 read as follows:

6 (1) Following a consultative visit pursuant to RCW 49.17.250, the
7 department of labor and industries shall issue a report to the
8 employer that the employer shall make available to its employees. The
9 report shall contain:

10 (a) A description of the condition that is not in compliance and
11 the text of the specific section or subsection of the applicable
12 state or federal law or rule;

13 (b) A statement of what is required to achieve compliance;

14 (c) The date by which the department requires compliance to be
15 achieved;

16 (d) Notice of means to contact technical assistance services
17 provided by the department; and

18 (e) Notice of when, where, and to whom a request to extend the
19 time to achieve compliance for good cause may be filed with the
20 department.

1 (2) Following a compliance inspection pursuant to RCW 49.17.120,
2 the department of labor and industries shall issue a citation for
3 violations of industrial safety and health standards. The citation
4 shall not assess a penalty if:

5 (a) The violations:

6 ((+a)) (i) Are determined not to be of a serious nature;

7 ((+b)) (ii) Have not been previously cited;

8 ((+c)) (iii) Are not willful; and

9 ((+d)) (iv) Do not have a mandatory penalty under chapter 49.17

10 RCW; or

11 (b) This was the first compliance inspection pursuant to RCW
12 49.17.120 and no consultative visit was made pursuant to RCW
13 49.17.250 at no cost to the employer which identified the violation
14 or hazard.

15 **Sec. 2.** RCW 49.17.180 and 2010 c 8 s 12015 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 43.05.090, any employer who
18 willfully or repeatedly violates the requirements of RCW 49.17.060,
19 of any safety or health standard promulgated under the authority of
20 this chapter, of any existing rule or regulation governing the
21 conditions of employment promulgated by the department, or of any
22 order issued granting a variance under RCW 49.17.080 or 49.17.090 may
23 be assessed a civil penalty not to exceed seventy thousand dollars
24 for each violation. A minimum penalty of five thousand dollars shall
25 be assessed for a willful violation.

26 (2) Except as provided in RCW 43.05.090, any employer who has
27 received a citation for a serious violation of the requirements of
28 RCW 49.17.060, of any safety or health standard promulgated under the
29 authority of this chapter, of any existing rule or regulation
30 governing the conditions of employment promulgated by the department,
31 or of any order issued granting a variance under RCW 49.17.080 or
32 49.17.090 as determined in accordance with subsection (6) of this
33 section, shall be assessed a civil penalty not to exceed seven
34 thousand dollars for each such violation.

35 (3) Except as provided in RCW 43.05.090, any employer who has
36 received a citation for a violation of the requirements of RCW
37 49.17.060, of any safety or health standard promulgated under this
38 chapter, of any existing rule or regulation governing the conditions
39 of employment promulgated by the department, or of any order issued

1 granting a variance under RCW 49.17.080 or 49.17.090, where such
2 violation is specifically determined not to be of a serious nature as
3 provided in subsection (6) of this section, may be assessed a civil
4 penalty not to exceed seven thousand dollars for each such violation,
5 unless such violation is determined to be de minimis.

6 (4) Any employer who fails to correct a violation for which a
7 citation has been issued under RCW 49.17.120 or 49.17.130 within the
8 period permitted for its correction, which period shall not begin to
9 run until the date of the final order of the board of industrial
10 insurance appeals in the case of any review proceedings under this
11 chapter initiated by the employer in good faith and not solely for
12 delay or avoidance of penalties, may be assessed a civil penalty of
13 not more than seven thousand dollars for each day during which such
14 failure or violation continues.

15 (5) Any employer who violates any of the posting requirements of
16 this chapter, or any of the posting requirements of rules promulgated
17 by the department pursuant to this chapter related to employee or
18 employee representative's rights to notice, including but not limited
19 to those employee rights to notice set forth in RCW 49.17.080,
20 49.17.090, 49.17.120, 49.17.130, 49.17.220(1), and 49.17.240(2),
21 shall be assessed a penalty not to exceed seven thousand dollars for
22 each such violation. Any employer who violates any of the posting
23 requirements for the posting of informational, educational, or
24 training materials under the authority of RCW 49.17.050(7), may be
25 assessed a penalty not to exceed seven thousand dollars for each such
26 violation.

27 (6) For the purposes of this section, a serious violation shall
28 be deemed to exist in a workplace if there is a substantial
29 probability that death or serious physical harm could result from a
30 condition which exists, or from one or more practices, means,
31 methods, operations, or processes which have been adopted or are in
32 use in such workplace, unless the employer did not, and could not
33 with the exercise of reasonable diligence, know of the presence of
34 the violation.

35 (7) The director, or his or her authorized representatives, shall
36 have authority to assess all civil penalties provided in this
37 section, giving due consideration to the appropriateness of the
38 penalty with respect to the number of affected employees of the
39 employer being charged, the gravity of the violation, the size of the

1 employer's business, the good faith of the employer, and the history
2 of previous violations.

3 (8) Civil penalties imposed under this chapter shall be paid to
4 the director for deposit in the supplemental pension fund established
5 by RCW 51.44.033. Civil penalties may be recovered in a civil action
6 in the name of the department brought in the superior court of the
7 county where the violation is alleged to have occurred, or the
8 department may utilize the procedures for collection of civil
9 penalties as set forth in RCW 51.48.120 through 51.48.150.

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