

HOUSE BILL REPORT

SSB 6408

As Reported by House Committee On:
State Government & Tribal Relations
Appropriations

Title: An act relating to agency responsibilities to regulated businesses and professions.

Brief Description: Concerning agency responsibilities to regulated businesses and professions.

Sponsors: Senate Committee on Financial Institutions, Economic Development & Trade (originally sponsored by Senators Wilson, L., Mullet, Short, Becker, Takko, King, Zeiger, Brown, Schoesler, Frockt, Hasegawa, Rolfes, Honeyford, Walsh, Van De Wege and Braun).

Brief History:

Committee Activity:

State Government & Tribal Relations: 2/26/20, 2/27/20 [DP];

Appropriations: 2/29/20, 3/2/20 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Requires regulatory agencies to provide certain information to businesses and professions when conducting audits, inspections, and examinations.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL RELATIONS

Majority Report: Do pass. Signed by 9 members: Representatives Gregerson, Chair; Pellicciotti, Vice Chair; Walsh, Ranking Minority Member; Goehner, Assistant Ranking Minority Member; Appleton, Dolan, Hudgins, Mosbrucker and Smith.

Staff: Carrington Skinner (786-7192).

Background:

Many state agencies, boards, and commissions that regulate businesses and professions conduct audits, inspections, and examinations of the businesses and professions they regulate. The Department of Revenue has primary responsibility for issuing business licenses through the Washington Business Licensing Service. Businesses may also need

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additional licenses or permits issued by other state agencies. The Department of Licensing issues licenses and ensures compliance with professional standards and laws. Other professions may also be regulated by specific boards or commissions. Various state agencies, including the departments of Labor and Industries, Agriculture, and Health conduct audits and inspections to verify compliance with applicable laws.

In response to 2017 legislation, the Attorney General (AG) produced a report that included information about the rights and protections afforded to small businesses subject to audits, inspections, or enforcement actions by six state agencies, as well as the roles and authorities of the agencies involved in the process. The AG also provided recommendations in the report, which included improving efforts to provide transparent, accessible information and assistance to businesses early in the process of an agency audit, inspection, or enforcement action.

Summary of Bill:

By December 31, 2020, regulatory agencies that conduct audits, inspections, or examinations of businesses and professions must provide specified information at each audit, inspection, or examination. Agencies subject to this requirement include state agencies, boards, commissions, and divisions. The requirement does not apply to local government entities.

Among other information, the information provided must include:

- the purpose and legal authority for conducting the audit, inspection, or examination;
- the identification of the auditor, inspector, or examiner and contact information for a staff person to answer questions;
- whether the business may correct a violation to avoid or mitigate an administrative sanction, if any; and
- whether the business may designate official company representatives, and have certain professionals participate in the audit, inspection, or examination.

The required information does not need to be provided in the following situations:

- in certain emergencies involving imminent danger;
- in criminal investigations or proceedings, or an agency's undercover, surveillance, or seizure activities;
- state regulatory agency site visits the purpose of which is not verifying compliance with licensing or other regulatory requirements; or
- if the requirements would conflict with federal or state law or interfere with an agency performing its statutorily authorized duties.

A regulatory agency must post a general description of the responsibilities on its website. The Joint Legislative Audit and Review Committee must conduct a review of agencies' performance and compliance by December 31, 2023, which must include a survey of regulated businesses and a comparison of the views of small and large businesses.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Many small businesses do not have the resources to have compliance officers. Businesses want to know what they need to do to comply with government rules and regulations ahead of time. This bill will provide clear and concise information for businesses when these audits or facility tours take place. It will help create better relationships with agencies and provide more education for businesses. This bill is the same version of the House bill that passed this committee unanimously earlier this session. It is important to ensure that the agreement that was reached with agencies is maintained. Whatever the Legislature passes should be easy for small businesses to understand and for agencies to comply with. Most of the work anticipated in the JLARC review process can be handled within existing resources. This bill is a logical and reasoned step forward. There have been conversations with agencies regarding the House companion version of the bill as it passed the Appropriations Committee; there was agreement about two of the changes, and there were suggestions made about what type of agency advice businesses may rely on. There is also a question about which agencies the bill applies to; a 2012 report from the Office of the State Auditor provides the basis for the agencies impacted.

(Opposed) None.

Persons Testifying: Senator Wilson, prime sponsor; Patrick Conner, National Federation of Independent Business; Mark Johnson, Washington Retail Association; and Sheri Sawyer, Office of the Governor.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 33 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Michael Hirsch (786-7157).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On State Government & Tribal Relations:

The requirements in the chapter do not affect the validity of the agency outcomes and actions from an audit, inspection, or examination and the requirements in the chapter may not be used as a defense to a prosecution of, or preclude agency action against, a business for a

violation of law or rule. "Regulatory agencies" are the agencies listed in RCW 19.02.050(1) through (24). The requirement is removed that agencies specify how to respond to the audit, inspection, or examination and specifies that agencies may provide information about how to cure or correct a violation. Businesses may provide the written agency advice or interpretation that they relied upon. The agency requirements are not applicable to emergency situations where there is imminent financial harm to a consumer or the public.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is was developed with the input of the Office of the Governor, the Office of the Attorney General, and two dozen regulatory agencies. The Joint Legislative Audit and Review Committee may be able to absorb the cost of the study.

(Opposed) None.

Persons Testifying: Patrick Connor, National Federation of Independent Business.

Persons Signed In To Testify But Not Testifying: None.