
SENATE BILL 6395

State of Washington

55th Legislature

1998 Regular Session

By Senators Horn, Schow and Anderson

Read first time 01/16/98. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to civil penalties for accident prevention program
2 violations; and amending RCW 49.17.180.

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

4 **Sec. 1.** RCW 49.17.180 and 1995 c 403 s 629 are each amended to
5 read as follows:

6 (1) Except as provided in RCW 43.05.090, any employer who willfully
7 or repeatedly violates the requirements of RCW 49.17.060, of any safety
8 or health standard promulgated under the authority of this chapter, of
9 any existing rule or regulation governing the conditions of employment
10 promulgated by the department, or of any order issued granting a
11 variance under RCW 49.17.080 or 49.17.090 may be assessed a civil
12 penalty not to exceed seventy thousand dollars for each violation. A
13 minimum penalty of five thousand dollars shall be assessed for a
14 willful violation.

15 (2) Any employer who has received a citation for a serious
16 violation of the requirements of RCW 49.17.060, of any safety or health
17 standard promulgated under the authority of this chapter, of any
18 existing rule or regulation governing the conditions of employment
19 promulgated by the department, or of any order issued granting a

1 variance under RCW 49.17.080 or 49.17.090 as determined in accordance
2 with subsection (6) of this section, shall be assessed a civil penalty
3 not to exceed seven thousand dollars for each such violation.

4 (3) Any employer who has received a citation for a violation of the
5 requirements of RCW 49.17.060, of any safety or health standard
6 promulgated under this chapter, of any existing rule or regulation
7 governing the conditions of employment promulgated by the department,
8 or of any order issued granting a variance under RCW 49.17.080 or
9 49.17.090, where such violation is specifically determined not to be of
10 a serious nature as provided in subsection (6) of this section, may be
11 assessed a civil penalty not to exceed seven thousand dollars for each
12 such violation, unless such violation is determined to be de minimis.

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

22 (5) Any employer who violates any of the posting requirements of
23 this chapter, or any of the posting requirements of rules promulgated
24 by the department pursuant to this chapter related to employee or
25 employee representative's rights to notice, including but not limited
26 to those employee rights to notice set forth in RCW 49.17.080,
27 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall
28 be assessed a penalty not to exceed seven thousand dollars for each
29 such violation. Any employer who violates any of the posting
30 requirements for the posting of informational, educational, or training
31 materials under the authority of RCW 49.17.050(7), may be assessed a
32 penalty not to exceed seven thousand dollars for each such violation.

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

1 (7) The director, or his authorized representatives, shall have
2 authority to assess all civil penalties provided in this section,
3 giving due consideration to the appropriateness of the penalty with
4 respect to the number of affected employees of the employer being
5 charged, the gravity of the violation, the size of the employer's
6 business, the good faith of the employer, and the history of previous
7 violations.

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

15 (9) A civil penalty may not be assessed against an employer for
16 failure to address a hazard within an accident prevention program
17 unless: (a) There is a separate specific standard in rule or variance
18 addressing the subject matter of the hazard; or (b) as a result of the
19 separate recognized hazard, the employer has been found to be in
20 violation of RCW 49.17.060.

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