
State Government & Tribal Affairs
Committee

SSB 5042

Brief Description: Providing a waiver of penalties for first-time paperwork violations by small businesses.

Sponsors: Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kilmer, Holmquist, Berkey, Schoesler, Kauffman, Marr, Rockefeller, Haugen, Eide, Kastama, Hatfield, Swecker, Tom, McAuliffe, Benton, Parlette and Roach).

Brief Summary of Substitute Bill

- Requires agencies to waive fines, civil penalties or administrative sanctions for first-time paperwork violations by small businesses.

Hearing Date: 3/5/09

Staff: Tracey O'Brien (786-7196)

Background:

In 1995 the Legislature enacted the Technical Assistance Act (TAA). The TAA requires regulatory agencies, as defined in the Administrative Procedures Act, to provide technical assistance to businesses in complying with state regulatory programs. These technical assistance programs must include technical assistance visits, printed information, information and assistance by telephone and training meetings. Under the TAA, an agency cannot issue a civil penalty to a business for a first-time violation discovered during a technical assistance visit, so long as the violation is corrected within a reasonable time. Unless otherwise prohibited, agencies are allowed to issue civil penalties for first-time violations discovered outside of technical assistance visits.

Summary of Bill:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Agencies shall waive any fines, civil penalties or administrative sanctions for first-time paperwork violations by a small business. A "small business" is defined as a business with 250 or fewer employees. When an agency issues a waiver, it may require the small business to correct the violation within a reasonable period of time and in a manner specified by the agency. If a correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties or sanctions.

A waiver may not be granted if the violation: presents a direct danger to public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest; involves knowing or willful conduct that may result in a felony conviction; concerns assessment or collection of any tax, debt, revenue or receipt; the business owner previously committed a substantially similar paperwork violation; or conflicts with federal law or programs.

An agency may also waive fines, civil penalties, or administrative sanctions incurred for a paperwork violation that is not a first time offense.

Any waiver that occurs under this act may be reinstated and imposed in addition to any additional fines, penalties or administrative sanctions associated with any subsequent violation for noncompliance with a substantially similar paperwork requirement or the failure to correct the previous violation, if required.

A "paperwork violation" is defined as the violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business. A "first time paperwork violation" is defined as the first instance of a particular or substantially similar paperwork violation.

Appropriation: None.

Fiscal Note: Available.

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