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SECOND SUBSTITUTE HOUSE BILL 2603

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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, Liias, 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, the requirements in this subsection do not  
12 apply.

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

16 (~~(2)~~) (3) When an agency waives a fine, penalty, or sanction  
17 under this section, when possible it shall require the small business  
18 to correct the violation within a reasonable period of time, in a  
19 manner specified by the agency. If correction is impossible, no

1 correction may be required and failure to correct is not grounds for  
2 reinstatement of fines, penalties, or sanctions under subsection  
3 ((+4)) (5)(b) of this section.

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

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

12 (b) The violation involves a small business knowingly or willfully  
13 engaging in conduct that may result in a felony conviction;

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

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

23 (e) The small business committing the violation previously violated  
24 a substantially similar ((paperwork)) requirement; or

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

29 ((+4)) (5)(a) Nothing in this section prohibits an agency from  
30 waiving fines, civil penalties, or administrative sanctions incurred by  
31 a small business for a paperwork violation that is not a first-time  
32 offense.

33 (b) Any fine, civil penalty, or administrative sanction that is  
34 waived under this section may be reinstated and imposed in addition to  
35 any additional fines, penalties, or administrative sanctions associated  
36 with a subsequent violation for noncompliance with a substantially  
37 similar paperwork requirement, or failure to correct the previous

1 violation as required by the agency under subsection ~~((+2+))~~ (3) of  
2 this section.

3 ~~((+5+))~~ (6) Nothing in this section may be construed to diminish  
4 the responsibility for any citizen or business to apply for and obtain  
5 a permit, license, or authorizing document that is required to engage  
6 in a regulated activity, or otherwise comply with state or federal law.

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

12 ~~((+7+))~~ (8) As used in this section:

13 (a) "Small business" ~~((means a business with two hundred fifty or  
14 fewer employees))~~ has the same meaning as provided in RCW 39.29.006.

15 (b) "Paperwork violation" means the violation of any statutory or  
16 regulatory requirement that mandates the collection of information by  
17 an agency, or the collection, posting, or retention of information by  
18 a small business. This includes but is not limited to requirements in  
19 the Revised Code of Washington, the Washington Administrative Code, the  
20 Washington State Register, or any other agency directive.

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

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