
SUBSTITUTE HOUSE BILL 2146

State of Washington

63rd Legislature

2014 Regular Session

By House Labor & Workforce Development (originally sponsored by Representative Condotta)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to department of labor and industries appeal bonds;
2 and amending RCW 18.27.250, 19.28.131, 19.28.381, 19.28.490, and
3 70.87.170.

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

5 **Sec. 1.** RCW 18.27.250 and 2011 c 15 s 1 are each amended to read
6 as follows:

7 A violation designated as an infraction under this chapter shall be
8 heard and determined by an administrative law judge of the office of
9 administrative hearings. If a party desires to contest the notice of
10 infraction, the party shall file a notice of appeal with the department
11 specifying the grounds of the appeal within thirty days of service of
12 the infraction in a manner provided by this chapter. The appeal must
13 be accompanied by a certified check for two hundred dollars or ten
14 percent of the penalty amount, whichever is less, but in no event less
15 than one hundred dollars, which shall be returned to the assessed party
16 if the decision of the department is not sustained following the final
17 decision in the appeal. If the final decision sustains the decision of
18 the department, the department must apply the (~~two hundred dollars~~)
19 amount of the check to the payment of the expenses of the appeal,

1 including costs charged by the office of administrative hearings. The
2 administrative law judge shall conduct hearings in these cases at
3 locations in the county where the infraction occurred.

4 **Sec. 2.** RCW 19.28.131 and 2011 c 301 s 6 are each amended to read
5 as follows:

6 Until July 1, 2007, the department shall issue a written warning to
7 any specialty contractor, performing the scope of work defined by rule
8 for the pump and irrigation or domestic pump specialties, not having a
9 valid electrical contractor license. The warning will state that the
10 contractor must be qualified for and apply for a specialty electrical
11 contractor license under the requirements in RCW 19.28.041 within
12 thirty calendar days of the warning. Only one warning will be issued
13 to any contractor. If the contractor fails to comply with this
14 section, the department shall issue a penalty or penalties as
15 authorized in this section to the contractor. Any person, firm,
16 partnership, corporation, or other entity violating any of the
17 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through
18 19.28.361 shall be assessed a penalty of not less than fifty dollars or
19 more than ten thousand dollars. The department shall set by rule a
20 schedule of penalties for violating RCW 19.28.010 through 19.28.141 and
21 19.28.311 through 19.28.361. The department shall notify the person,
22 firm, partnership, corporation, or other entity violating any of the
23 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through
24 19.28.361 of the amount of the penalty and of the specific violation
25 using a method by which the mailing can be tracked or the delivery can
26 be confirmed sent to the last known address of the assessed party. Any
27 penalty is subject to review by an appeal to the board. The filing of
28 an appeal stays the effect of the penalty until the board makes its
29 decision. The appeal shall be filed within twenty days after notice of
30 the penalty is given to the assessed party using a method by which the
31 mailing can be tracked or the delivery can be confirmed, sent to the
32 last known address of the assessed party and shall be made by filing a
33 written notice of appeal with the department. The notice shall be
34 accompanied by a certified check for two hundred dollars or ten percent
35 of the penalty amount, whichever is less, but in no event less than one
36 hundred dollars, which shall be returned to the assessed party if the
37 decision of the department is not sustained by the board. If the board

1 sustains the decision of the department, the (~~two hundred dollars~~)
2 amount of the check shall be applied by the department to the payment
3 of the per diem and expenses of the members of the board incurred in
4 the matter, and any balance remaining after payment of per diem and
5 expenses shall be paid into the electrical license fund. The hearing
6 and review procedures shall be conducted in accordance with chapter
7 34.05 RCW. The board shall assign its hearings to an administrative
8 law judge to conduct the hearing and issue a proposed decision and
9 order. The board shall be allowed a minimum of twenty days to review
10 a proposed decision and shall issue its decision no later than the next
11 regularly scheduled board meeting.

12 **Sec. 3.** RCW 19.28.381 and 1996 c 241 s 1 are each amended to read
13 as follows:

14 The department may deny renewal of a certificate or license issued
15 under this chapter, if the applicant for renewal owes outstanding
16 penalties for a final judgment under this chapter. The department
17 shall notify the applicant of the denial by registered mail, return
18 receipt requested, to the address on the application. The applicant
19 may appeal the denial within twenty days by filing a notice of appeal
20 with the department accompanied by a certified check for two hundred
21 dollars (~~which~~) or ten percent of the amount of the outstanding
22 penalties, whichever is less, but in no event less than one hundred
23 dollars. The check shall be returned to the applicant if the decision
24 of the department is not upheld by the board. The office of
25 administrative hearings shall conduct the hearing under chapter 34.05
26 RCW. The electrical board shall review the proposed decision at the
27 next regularly scheduled board meeting. If the board sustains the
28 decision of the department, the (~~two hundred dollars~~) amount of the
29 check must be applied to the cost of the hearing.

30 **Sec. 4.** RCW 19.28.490 and 2011 c 301 s 9 are each amended to read
31 as follows:

32 Any person, firm, partnership, corporation, or other entity
33 violating any of the provisions of this chapter may be assessed a
34 penalty of not less than one hundred dollars or more than ten thousand
35 dollars per violation. The department, after consulting with the board
36 and receiving the board's recommendations, shall set by rule a schedule

1 of penalties for violating this chapter. The department shall notify
2 the person, firm, partnership, corporation, or other entity violating
3 any of these provisions of the amount of the penalty and of the
4 specific violation. The notice shall be sent using a method by which
5 the mailing can be tracked or the delivery can be confirmed to the last
6 known address of the assessed party. Penalties are subject to review
7 by an appeal to the board. The filing of an appeal stays the effect of
8 the penalty until the board makes its decision. The appeal shall be
9 filed within twenty days after notice of the penalty is given to the
10 assessed party, and shall be made by filing a written notice of appeal
11 with the department. The notice shall be accompanied by a certified
12 check for two hundred dollars(~~(, that))~~) or ten percent of the penalty
13 amount, whichever is less, but in no event less than one hundred
14 dollars. The check shall be returned to the assessed party if the
15 decision of the department is not sustained by the board. If the board
16 sustains the decision of the department, the (~~two hundred dollars~~)
17 amount of the check shall be applied by the department to the payment
18 of the per diem and expenses of the members of the board incurred in
19 the matter, and any balance remaining after payment of per diem and
20 expenses shall be paid into the electrical license fund. The hearing
21 and review procedures shall be conducted in accordance with chapter
22 34.05 RCW. The board shall assign its hearings to an administrative
23 law judge to conduct the hearing and issue a proposed decision and
24 order. The board shall be allowed a minimum of twenty days to review
25 a proposed decision and shall issue its decision no later than the next
26 regularly scheduled board meeting.

27 **Sec. 5.** RCW 70.87.170 and 2003 c 143 s 18 are each amended to read
28 as follows:

29 (1) Any person aggrieved by an order or action of the department
30 denying, suspending, revoking, or refusing to renew a permit or
31 license; assessing a penalty for a violation of this chapter; or
32 ordering the operation of a conveyance to be discontinued, may request
33 a hearing within fifteen days after notice of the department's order or
34 action is received. The date the hearing was requested shall be the
35 date the request for hearing was postmarked.

36 (2) The party requesting the hearing must accompany the request
37 with a certified or cashier's check for two hundred dollars payable to

1 the department, except that if a penalty assessment is the issue for
2 the hearing, the check amount shall be ten percent of the penalty
3 amount or two hundred dollars, whichever is less, but in no event less
4 than one hundred dollars. The department shall refund the (~~two~~
5 ~~hundred dollars~~) amount of the check if the party requesting the
6 hearing prevails at the hearing; otherwise, the department shall retain
7 the (~~two hundred dollars~~) amount of the check.

8 (3) If the department does not receive a timely request for
9 hearing, the department's order or action is final and may not be
10 appealed.

11 (~~(+2)~~) (4) If the aggrieved party requests a hearing, the
12 department shall ask an administrative law judge to preside over the
13 hearing. The hearing shall be conducted in accordance with chapter
14 34.05 RCW.

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