
HOUSE BILL 2049

State of Washington

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By Representatives Pearson, Crouse, Cox, Schindler, DeBolt, Mitchell, Ericksen, Cairnes, Clements and Talcott

Read first time 02/13/2001. Referred to Committee on State Government.

1 AN ACT Relating to technical assistance programs; amending RCW
2 43.05.040 and 43.05.030; and adding a new section to chapter 34.05
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05
6 RCW to read as follows:

7 Within two hundred days of the effective date of a rule that
8 imposes additional requirements on businesses the violation of
9 which subjects the business to a penalty, assessment, or
10 administrative sanction, an agency shall make a good faith effort
11 to notify businesses affected by the rule of the requirements of
12 the rule and how to obtain technical assistance to comply. For
13 purposes of this section, "good faith" means: (1) The agency at
14 least notifies businesses in the standard industrial
15 classifications or their successor identified in the rule-making
16 file as businesses affected by the rule that are registered with
17 the department of revenue; or (2) for rules imposing additional
18 requirements only on persons or firms licensed, registered, or

1 operating under a permit, the agency notifies those persons or
2 firms holding the license, registration, or permit. The
3 notification shall announce the rule change, briefly summarize the
4 rule change, and include a contact for more information.
5 Notification may be by individual notice, agency bulletins or
6 newsletters, or any other means that will reasonably inform
7 affected businesses. Inadvertent failure to notify a specific
8 business under this section does not invalidate a rule or waive
9 the requirement to comply with the rule.

10 **Sec. 2.** RCW 43.05.040 and 1995 c 403 s 605 are each amended to
11 read as follows:

12 (1) The owner and operator shall be given a reasonable period
13 of time to correct violations identified during a technical
14 assistance visit before any civil penalty provided for by law is
15 imposed for those violations. A regulatory agency may revisit a
16 facility, business, or other location after a technical assistance
17 visit and a reasonable period of time has passed to correct
18 violations identified by the agency in writing and issue civil
19 penalties as provided for by law for any uncorrected violations.

20 (2) During a visit under subsection (1) of this section, the
21 regulatory agency may not issue civil penalties:

22 (a) For violations not previously identified in a technical
23 assistance visit, unless the violations are of the type for which
24 the agency may issue a citation during a technical assistance
25 visit under RCW 43.05.050; or

26 (b) If the owner or operator has made a good faith effort to
27 comply with the agency's statement of what is required for
28 compliance under RCW 43.05.030(3)(b).

29 (3) During a visit under subsection (1) of this section, if the
30 regulatory agency identifies violations for which it may not issue
31 civil penalties under subsection (2) of this section, the agency
32 shall treat the visit as a technical assistance visit and notify
33 the owner or operator of the violations under RCW 43.05.030(3)(a).

34 (4) This section does not apply to citations issued by the
35 department of labor and industries under RCW 43.05.090.

36

1 **Sec. 3.** RCW 43.05.030 and 1996 c 206 s 2 are each amended to read
2 as follows:

3 (1) For the purposes of this chapter, a technical assistance
4 visit is a visit by a regulatory agency to a facility, business,
5 or other location that:

6 (a) Has been requested or is voluntarily accepted; and

7 (b) Is declared by the regulatory agency at the beginning of
8 the visit to be a technical assistance visit.

9 (2) A technical assistance visit also includes:

10 (a) A consultative visit pursuant to RCW 49.17.250; and

11 (b) A visit during which the agency identifies violations for
12 which it may not issue civil penalties under RCW 43.05.040(2).

13 (3) During a technical assistance visit, or within a reasonable
14 time thereafter, a regulatory agency shall inform the owner or
15 operator of the facility of any violations of law or agency rules
16 identified by the agency as follows:

17 (a) A description of the condition that is not in compliance
18 and the text of the specific section or subsection of the
19 applicable state or federal law or rule;

20 (b) A statement of what is required to achieve compliance;

21 (c) The date by which the agency requires compliance to be
22 achieved;

23 (d) Notice of the means to contact any technical assistance
24 services provided by the agency or others; and

25 (e) Notice of when, where, and to whom a request to extend the
26 time to achieve compliance for good cause may be filed with the
27 agency.

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