
**Select Committee on
Environmental Health**

HB 2522

Brief Description: Regarding civil penalty provisions for on-site sewage disposal systems administered by local health jurisdictions.

Sponsors: Representatives Hudgins, Campbell and Chase.

Brief Summary of Bill

- Clarifies the civil penalty provisions for on-site sewage disposal systems administered by local health jurisdictions.

Hearing Date: 1/16/08

Staff: Brad Avy (786-7289).

Background:

Engrossed Substitute Senate Bill 5894 that passed into law in 2007 added a new section to RCW 70.118 that authorizes local health officers responsible for administering and enforcing on-site sewage disposal system regulations to issue civil penalties for violations of those regulations.

This authorization is under the same limitations and requirements imposed on the state Department of Health under the large on-site sewage system statute's civil penalty provisions. The intent of SHB 2522 is to clarify that the statutes and limitations under the general on-site sewage system statute applies to local health jurisdictions and their administrative processes.

Summary of Bill:

The substitute bill amends the civil penalty provisions of the general on-site sewage disposal systems statute and clarifies that these statutes and limitations apply to local health jurisdictions and their administrative processes.

Civil Penalty Provisions

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.

Every violation is a separate and distinct offense. In case of a continuing violation, each day's continuing violation is a separate and distinct violation. The penalty assessed must reflect the significance of the violation and the previous record of compliance on the part of the person responsible for compliance with on-site sewage disposal system requirements.

Every person who, through an act of commission or omission, procures, aids, or abets a violation is subject to the penalty provisions.

The penalty provided for must be imposed by a notice in writing to the person against whom the civil penalty is assessed and must describe the violation. The notice must be personally served in the manner of service of a summons in a civil action or in a manner that shows proof of receipt. A penalty imposed is due 28 days after receipt of notice unless application for an appeal is filed.

Within 28 days after notice is received, the person incurring the penalty has the right to appeal as governed by the local health jurisdiction's administrative appeals process. Notice must be provided by the local health jurisdiction consistent with its due process requirements.

A penalty imposed by a final administrative order is due upon service of the final administrative order. A person who fails to pay a penalty assessed by a final administrative order within 30 days of service of the final administrative order shall pay, in addition to the amount of the penalty: (1) interest at the rate of one percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid, commencing with the month in which the notice of penalty was served, and (2) reasonable attorneys' fees as are incurred if civil enforcement of the final administrative order is required to collect the penalty.

A person who institutes proceedings for judicial review of a final administrative order assessing a civil penalty under this chapter shall place the full amount of the penalty in an interest-bearing account in the registry of the reviewing court. At the conclusion of the proceeding the court shall, as appropriate:

- Enter a judgment on behalf of the Department of Health;
- Order that the judgment be satisfied to the extent possible from moneys paid into the registry of the court; or
- Enter a judgment in favor of the person appealing the penalty assessment and order return of the moneys paid into the registry of the court together with accrued interest to the person appealing.

The judgment may award reasonable attorneys' fees for the cost of the Attorney General's office representing the local Department of Health.

If no appeal is taken from a final administrative order assessing a civil penalty, the local health jurisdiction may file a certified copy of the final administrative order with the clerk of the superior court in which the on-site sewage disposal system is located and the clerk shall enter judgment in the name of the local health jurisdiction and in the amount of the penalty assessed in the final administrative order.

A judgment entered has the same force and effect as, and is subject to, all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

The maximum penalty for violating a law or rule regulating general on-site sewage disposal systems is \$1,000 per violation.

All receipts from penalties imposed under this section shall be deposited into the general fund or funds of the entity or entities operating the local health jurisdiction.

Appropriation: None.

Fiscal Note: Not requested.

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