

HOUSE BILL REPORT

HB 1150

As Reported by House Committee On: State Government & Tribal Affairs

Title: An act relating to extending the time in which a small business may correct a violation without a penalty.

Brief Description: Extending the time in which a small business may correct a violation without a penalty.

Sponsors: Representatives Smith, Probst, Schmick, Warnick, Dahlquist, Hunt, Ross, Pearson, Dammeier, Kenney, Rodne, Kagi, Hargrove, Harris, Nealey, Short, Liias, Orcutt, Finn, Kelley, Takko, Taylor, Maxwell, Bailey, Reykdal, Upthegrove, Billig, Kristiansen, Frockt, Carlyle, Blake, Springer, Angel, Hurst, McCune, Rolfes, Condotta and Klippert.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 1/20/11, 1/26/11 [DP].

Brief Summary of Bill

- Extends from two business days to seven calendar days the time an agency must provide a small business to correct a violation before the agency imposes a fine, civil penalty, or administrative sanction.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 10 members: Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander, Condotta, Darneille, Hurst, McCoy and Miloscia.

Minority Report: Without recommendation. Signed by 1 member: Representative Dunshee.

Staff: Joan Elgee (786-7106).

Background:

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.

Under legislation enacted in 2010, before an agency may impose a fine, civil penalty, or administrative sanction on a small business for a violation of a law or rule, the agency must provide the small business with a copy of the law or rule being violated. The agency must also allow the small business at least two business days to correct the violation. If no correction is possible or the agency is acting in response to a complaint made by a third party who would be disadvantaged by an opportunity to correct, the opportunity to correct does not apply.

Exceptions to the opportunity to correct may also be made if:

- an agency head determines that the effect of the violation presents a direct danger to the 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;
- the violation involves a knowing or willful violation;
- the violation relates to taxes, a regulated entity's financial filings, or an insurance rate or form filing;
- the opportunity for correction conflicts with federal law or program requirements, conditions for receipt of federal funds, or requirements for eligibility of employers for federal unemployment tax credits; or
- the small business previously violated a substantially similar requirement or the owner or operator of the small business previously violated a substantially similar requirement as owner or operator of a different small business.

A "small business" is a business with 250 or fewer employees or an annual gross revenue of less than \$7 million.

Summary of Bill:

The two business days that an agency must provide to a small business to correct a violation before imposing a fine, civil penalty, or administrative sanction is extended to seven calendar days.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is a simple change that will show Washington is open for business and has a customer service focus. This is a good step in our economic recovery. The concerns agencies had last year have been worked out. This is not a deregulation but a smaller

regulation bill. The bill could be made a bit better by changing the health and safety exemption. Agencies have wide discretion to decide if the exemption applies. A small business owner did not have the two days to comply and received a \$600 fine. Small businesses may not be in compliance because of lack of knowledge or inadvertence.

(Opposed) None.

Persons Testifying: Representative Smith, prime sponsor; Gary Smith, Independent Business Association; Mark Johnson, Washington Retail Association; Carl Gipson, Washington Policy Center; and Bob Mitchell, Washington Association of Realtors.

Persons Signed In To Testify But Not Testifying: (In support) Patrick Connor, National Federation of Independent Business.

(With concerns) Bridget Moran, Washington State Department of Natural Resources.