

2SHB 1278 - H AMD TO H AMD (H-3737.2/16) 705

By Representative Shea

1 On page 12, line 34 of the striking amendment, after "RCW." insert  
2 "In any appeal by a proprietor to the pollution control hearings board  
3 or subsequently to a court with jurisdiction, a penalty assessed by  
4 the department is presumed to be invalid, and the burden is on the  
5 department to prove that the proprietor willfully neglected to comply  
6 with the requirements of this chapter. If the department does not  
7 prevail in an appeal to the pollution control hearings board or in a  
8 subsequent appeal to a court with jurisdiction, the department must  
9 pay the reasonable expenses, including attorneys' fees, incurred in  
10 opposing the assessment of a penalty under this chapter."

11

EFFECT: Presumes, for purposes of appeals, that penalties assessed by the Department of Commerce are invalid unless the Department proves that a building owner willfully neglected to comply with energy use disclosure requirements. Requires the Department of Commerce to pay reasonable expenses and attorney fees to a building owner if an assessed penalty is not upheld upon appeal.

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