

FINAL BILL REPORT

SHB 1953

C 128 L 18
Synopsis as Enacted

Brief Description: Addressing maximum penalties under the Washington industrial safety and health act.

Sponsors: House Committee on Labor & Workplace Standards (originally sponsored by Representatives Dolan, Gregerson, Sells, Doglio, Ormsby and Kilduff; by request of Department of Labor & Industries).

House Committee on Labor & Workplace Standards
Senate Committee on Commerce, Labor & Sports
Senate Committee on Labor & Commerce

Background:

Washington is a "state plan state" for purposes of the federal Occupational Safety and Health Administration (OSHA). As a state plan state, Washington assumes responsibility for occupational safety and health in the state under the Washington Industrial Safety and Health Act (WISHA). To maintain its status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized by the OSHA. The Department of Labor and Industries (Department), through the Division of Occupational Safety and Health (DOSH), administers the WISHA.

The Director of the Department (Director) may inspect and investigate work places. If the Director believes that an employer has violated a safety or health standard, the Director must issue a citation. The citation identifies the violation, a time for abatement, and the penalty. To determine the penalty, the DOSH calculates a base penalty based on the gravity of the violation and then adjusts the base penalty based on the employer's inspection history, the size of the workforce, and other factors. Maximum penalties are specified in statute for various types of violations, as well as a minimum penalty for willful violations.

In 2015 Congress directed the OSHA to adjust the maximum penalties to reflect inflation. The OSHA subsequently adjusted penalties effective August 1, 2016. The legislation also requires the OSHA to annually adjust civil penalties.

The civil penalty maximums and minimum under the WISHA and the OSHA for various violations are:

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	WISHA	OSHA (January 2, 2018)
Serious or non-serious, failure to abate, posting–maximum penalty	\$7,000 (some penalties are discretionary and some mandatory)	\$12,934
Willful or repeated–maximum penalty	\$70,000	\$129, 336
Willful–minimum penalty	\$5,000	\$9,239

Summary:

Penalty maximums under the WISHA are adjusted so that if the state is required to have a higher maximum penalty for purposes of the OSHA, the maximum penalty is the higher penalty required under the OSHA. Similarly, for the mandatory minimum penalty for a willful violation, if the state is required to have a higher penalty amount, the higher amount set by the OSHA must be assessed.

Votes on Final Passage:

House 52 45
House 53 45
Senate 26 22

Effective: January 1, 2019