

SENATE BILL REPORT

SHB 1953

As Reported by Senate Committee On:
Labor & Commerce, February 15, 2018

Title: An act relating to maximum penalties under the Washington industrial safety and health act.

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).

Brief History: Passed House: 2/13/18, 53-45.

Committee Activity: Labor & Commerce: 2/15/18 [DP, DNP].

Brief Summary of Bill

- Requires that Washington Industrial Safety and Health Act's (WISHA) maximum civil penalties be raised if required for WISHA to qualify as a state plan under the Occupational Safety and Health Act, which is administered by the Occupational Safety and Health Administration (OSHA).

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Keiser, Chair; Hasegawa, Vice Chair; Conway, Kuderer and Saldaña.

Minority Report: Do not pass.

Signed by Senators King and Wilson.

Staff: Susan Jones (786-7404)

Background: Washington is a state plan state under the federal Occupational Safety and Health Act, which is administered by OSHA. As a state plan state, Washington assumes responsibility for occupational safety and health in the state under WISHA. To maintain its

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status, Washington's safety and health standards must be at least as effective as those standards adopted or recognized by OSHA. The Department of Labor and Industries (L&I) administers WISHA.

L&I may inspect and investigate work places. Maximum, and in some cases, minimum civil penalties for various types of violations are established in statute. By rule, L&I has established base penalties depending on the gravity of the violation and adjustments to those base penalties for good faith, size of the employer, and other reasons.

Appeals of citations and penalty assessments are heard by the Board of Industrial Insurance Appeals (Board). However, the L&I director may reassume jurisdiction for a redetermination before the Board hears the matter. Employees and employee representatives have an opportunity to participate in the Board hearing and object to or support the L&I director's reassumption of jurisdiction.

Increased OSHA Penalties. In November 2015, Congress enacted legislation requiring federal agencies to adjust their civil penalties to account for inflation. The federal Department of Labor is adjusting penalties for its agencies, including OSHA.

OSHA's maximum penalties, which were last adjusted in 1990, increased on August 1, 2016. The new penalties took effect after August 1, 2016. Any citations issued by OSHA on or after that date will be subject to the new penalties if the related violations occurred after November 2, 2015. Going forward, the agency will continue to adjust its penalties for inflation each year based on the Consumer Price Index. The maximum penalties increased again as of January 13, 2017.

Type of Violation	Current Maximum Penalty	Maximum Penalty as of May 8, 2016	New Maximum Penalty at January 13, 2017
Serious Other-Than-Serious Posting Requirements	\$7,000 per violation	\$12,471 per violation	\$12,675 per violation
Failure to Abate	\$7,000 per day beyond the abatement date	\$12,471 per day beyond the abatement date	\$12,675 per day beyond the abatement date
Willful or Repeated	\$70,000 per violation	\$124,709 per violation	\$126,749 per violation

States that operate their own plans are required to adopt maximum penalty levels that are at least as effective as the federal OSHAs.

Summary of Bill: For all maximum L&I penalties, if the state is required to have a higher maximum penalty to qualify a state plan under OSHA, then the maximum civil penalty is the higher maximum penalty required under OSHA.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2019.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A

Persons Signed In To Testify But Not Testifying: N/A