

SENATE BILL REPORT

SB 5193

As of February 13, 1995

Title: An act relating to voluntary compliance with agency rules consistent with the recommendations of the governor's task force on regulatory reform.

Brief Description: Creating a program of voluntary compliance with agency rules and education to promote compliance.

Sponsors: Senators Sheldon, Winsley, Haugen, Franklin, Long, Snyder, Gaspard, McAuliffe and Drew; by request of Governor Lowry.

Brief History:

Committee Activity: Government Operations: 2/15/95, 2/16/95.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Staff: Jonathan Seib (786-7427)

Background: The Governor's Task Force on Regulatory Reform was created by Governor Lowry by Executive Order in August, 1993. It consisted of 23 members representing a variety of interests. The Task Force was charged with the development of recommendations for statutory and administrative changes leading to more reasonable, efficient, cost-effective, and coordinated regulatory actions. An interim report was submitted in December, 1993.

In 1994, the Legislature passed a measure that, among other things, contained provisions imposing a voluntary compliance/technical assistance requirement on state agencies. The Governor vetoed these provisions. In June, the Governor issued an Executive Order regarding this issue. The Task Force continued to meet, and submitted its final report in December, 1994. This legislation was included in the final report.

The Department of Labor and Industries operates a voluntary compliance program that provides on-site or other types of consultations to employers regarding their compliance with health and safety standards. These visits are not regarded as inspections, nor is any enforcement action taken unless a serious violation is found, and the violation is not or cannot be satisfactorily abated by the employer.

The Department of Ecology operates a similar program that provides on-site consultation to businesses to help them comply with environmental regulations. The technical assistance officer may report violations to enforcement personnel within the department, but may not take enforcement action unless persons or property are at risk of substantial harm.

Summary of Bill: All agencies must develop programs to encourage voluntary compliance by providing technical assistance consistent with statutory requirements and the limits of the agency's budget. The programs must include, but are not limited to, technical assistance visits. Agencies, however, are explicitly not obligated to conduct technical assistance visits.

A technical assistant visit is defined and the terms of such a visit are established. Except for repeat or serious violations, agencies are required to provide those being visited a reasonable period of time to correct violations identified during the visit. If identified violations are not corrected within the specified time, the penalty otherwise provided may be imposed.

Except in the case of repeat or serious violations, the Department of Ecology, in the course of a site inspection that is not a technical assistance visit, is allowed to issue a notice of correction instead of immediately imposing a civil penalty. The civil penalty may be imposed if compliance with the notice of correction is not achieved by the date provided.

The Department of Labor and Industries, following a compliance inspection, may issue citations for violations of industrial safety and health standards but the citation cannot assess a penalty if the violations are determined not to be of a serious nature, are not previously cited, are not willful, and do not have a mandatory penalty under the Industrial Safety and Health Act.

The Departments of Revenue, Labor and Industries, and Employment Security are required to undertake an educational program directed at those who have the most difficulty in determining their tax or premium liability. These agencies must also develop and administer a pilot voluntary audit program, and review the penalties they issue related to taxes or premiums to determine if they are consistent, and provide for waivers in appropriate circumstances.

Any provisions of the bill in conflict with federal requirements are inoperative. The Governor and the Legislature are to be notified regarding any such conflict.

The Office of Financial Management is required to report every two years on the effects of this legislation on the regulatory system in the state.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.