
SENATE BILL 6563

State of Washington

54th Legislature

1996 Regular Session

By Senator Haugen

Read first time 01/17/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to collection of attorneys' fees for a lawsuit
2 brought under the Washington clean air act; and amending RCW 70.94.431.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 70.94.431 and 1995 c 403 s 630 are each amended to
5 read as follows:

6 (1) Except as provided in RCW 43.05.060 through 43.05.080 and
7 43.05.150, and in addition to or as an alternate to any other penalty
8 provided by law, any person who violates any of the provisions of
9 chapter 70.94 RCW, chapter 70.120 RCW, or any of the rules in force
10 under such chapters may incur a civil penalty in an amount not to
11 exceed ten thousand dollars per day for each violation. Each such
12 violation shall be a separate and distinct offense, and in case of a
13 continuing violation, each day's continuance shall be a separate and
14 distinct violation.

15 Any person who fails to take action as specified by an order issued
16 pursuant to this chapter shall be liable for a civil penalty of not
17 more than ten thousand dollars for each day of continued noncompliance.

18 (2) Penalties incurred but not paid shall accrue interest,
19 beginning on the ninety-first day following the date that the penalty

1 becomes due and payable, at the highest rate allowed by RCW 19.52.020
2 on the date that the penalty becomes due and payable. If violations or
3 penalties are appealed, interest shall not begin to accrue until the
4 thirty-first day following final resolution of the appeal.

5 The maximum penalty amounts established in this section may be
6 increased annually to account for inflation as determined by the state
7 office of the economic and revenue forecast council.

8 In a lawsuit to collect a penalty under this section, the court may
9 award the plaintiff reasonable costs and attorneys' fees.

10 (3) Each act of commission or omission which procures, aids or
11 abets in the violation shall be considered a violation under the
12 provisions of this section and subject to the same penalty. The
13 penalties provided in this section shall be imposed pursuant to RCW
14 43.21B.300.

15 (4) All penalties recovered under this section by the department
16 shall be paid into the state treasury and credited to the air pollution
17 control account established in RCW 70.94.015 or, if recovered by the
18 authority, shall be paid into the treasury of the authority and
19 credited to its funds. If a prior penalty for the same violation has
20 been paid to a local authority, the penalty imposed by the department
21 under subsection (1) of this section shall be reduced by the amount of
22 the payment.

23 (5) To secure the penalty incurred under this section, the state or
24 the authority shall have a lien on any vessel used or operated in
25 violation of this chapter which shall be enforced as provided in RCW
26 60.36.050.

27 (6) Public or private entities that are recipients or potential
28 recipients of department grants, whether for air quality related
29 activities or not, may have such grants rescinded or withheld by the
30 department for failure to comply with provisions of this chapter.

31 (7) In addition to other penalties provided by this chapter,
32 persons knowingly under-reporting emissions or other information used
33 to set fees, or persons required to pay emission or permit fees who are
34 more than ninety days late with such payments may be subject to a
35 penalty equal to three times the amount of the original fee owed.

36 (8) By January 1, 1992, the department shall develop rules for
37 excusing excess emissions from enforcement action if such excess
38 emissions are unavoidable. The rules shall specify the criteria and
39 procedures for the department and local air authorities to determine

1 whether a period of excess emissions is excusable in accordance with
2 the state implementation plan.

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