
SENATE BILL 5230

State of Washington

65th Legislature

2017 Regular Session

By Senators Wilson, Palumbo, Braun, Mullet, Baumgartner, Takko, Brown, Keiser, King, Miloscia, Chase, Walsh, Warnick, Hobbs, Angel, Becker, Hasegawa, Hawkins, Padden, O'Ban, Sheldon, and Bailey

Read first time 01/18/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to the licensing and regulatory requirements of
2 small business owners; creating new sections; and providing an
3 expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the licensing
6 and regulation of businesses and professions requires periodic
7 inspections, audits, interviews, site visits, or other oversight
8 measures to verify that licensing, permit, and other regulatory
9 requirements are met. The legislature further finds that unnecessary
10 costs and delays may occur when small business owners must seek
11 outside counsel or other professional assistance to prepare for and
12 participate in review and enforcement actions such as audits and
13 inspections of their records, facilities, or job sites. The
14 legislature also reaffirms its prior findings that small businesses
15 are likely to bear a disproportionate share of regulatory costs and
16 burdens, and that greater coordination on regulatory matters among
17 agencies is a way to promote economic vitality and increase state
18 program efficiency.

19 Therefore, the legislature intends to identify what due process
20 or other rights and protections, if any, exist under state law for a
21 small business owner selected for audit, inspection, or other agency

1 enforcement action related to the 2013 "Inventory of Regulations"
2 prepared by the state auditor's office. The legislature further
3 intends to identify how those rights and protections are communicated
4 to the business owner either prior to, or at the time of, an agency
5 visit.

6 NEW SECTION. **Sec. 2.** (1) The attorney general shall review
7 chapter 34.05 RCW, the administrative procedure act, as well as
8 related administrative rules, similar statutes, and case law, to
9 identify the current rights and protections afforded to small
10 business owners selected for agency enforcement actions including,
11 but not limited to, inspections, audits, site visits, or record
12 review.

13 (2) The department of agriculture, department of ecology,
14 employment security department, department of labor and industries,
15 department of revenue, and state fire marshal shall each review
16 provisions of their governing statutes, administrative rules, policy
17 statements, guidance, and directives to identify the current rights
18 and protections afforded to small business owners that are selected
19 for inspection, audit, or other enforcement action by the agency. Not
20 later than August 31, 2017, each agency named in this subsection must
21 provide the attorney general with:

22 (a) A list of the governing statutes, administrative rules,
23 policy statements, guidance, and directives identified as sources for
24 rights or protections, along with a copy or electronic link to
25 relevant documents;

26 (b) A copy or electronic link to any statement of rights,
27 protections, or similar materials provided by the agency to small
28 business owners prior to or at the time of an audit, inspection, or
29 other enforcement action against such a small business; and

30 (c) A copy or electronic link to any statement of rights,
31 protections, or similar materials provided by the agency to small
32 business owners regarding the agency's adjudicative proceedings,
33 administrative review, or appeal process.

34 (3) The attorney general must compile his or her findings into a
35 report to the relevant committees of the legislature by November 30,
36 2017. The report must include:

37 (a) The information and materials submitted pursuant to
38 subsection (2) of this section;

1 (b) An identification of the information provided by agencies to
2 small business owners selected for an enforcement action, the type of
3 enforcement action for which the information is provided, and the
4 stage of the process at which the information is provided to the
5 owner; and

6 (c) Recommendations by the attorney general for statutory, rule,
7 policy, or other changes to identify, clarify, and harmonize, where
8 practical, the rights and protections afforded to small business
9 owners selected for agency enforcement actions, as well as methods to
10 improve the notice of rights provided to small business owners
11 selected for agency audits, inspections, and other enforcement
12 actions.

13 (4) The attorney general shall provide each agency named in
14 subsection (2) of this section with a copy of his or her
15 recommendations by October 30, 2017. Each agency may provide written
16 comments regarding those recommendations to the attorney general by
17 November 13, 2017, for his or her consideration.

18 (5) For the purposes of this section, "small business" has the
19 same definition as in RCW 34.05.110(9)(a).

20 (6) This section does not apply to any criminal investigations or
21 prosecutions.

22 NEW SECTION. **Sec. 3.** This act expires December 31, 2017.

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