
SENATE BILL 5215

State of Washington

52nd Legislature

1991 Regular Session

By Senators Murray, A. Smith, Skratek and McMullen; by request of Department of Labor & Industries.

Read first time January 24, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to civil penalties for industrial safety and health
2 violations; amending RCW 49.17.180; and prescribing penalties.

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

4 **Sec. 1.** RCW 49.17.180 and 1986 c 20 s 2 are each amended to read
5 as follows:

6 (1) Any employer who willfully or repeatedly violates the
7 requirements of RCW 49.17.060, of any safety or health standard
8 promulgated under the authority of this chapter, of any existing rule
9 or regulation governing the conditions of employment promulgated by the
10 department, or of any order issued granting a variance under RCW
11 49.17.080 or 49.17.090 may be assessed a civil penalty not to exceed
12 ~~((fifty))~~ seventy thousand dollars for each violation. A minimum
13 penalty of five thousand dollars shall be assessed for a willful
14 violation.

1 (2) Any employer who has received a citation for a serious
2 violation of the requirements of RCW 49.17.060, of any safety or health
3 standard promulgated under the authority of this chapter, of any
4 existing rule or regulation governing the conditions of employment
5 promulgated by the department, or of any order issued granting a
6 variance under RCW 49.17.080 or 49.17.090 as determined in accordance
7 with subsection (6) of this section, shall be assessed a civil penalty
8 not to exceed ((five)) seven thousand dollars for each such violation.

9 (3) Any employer who has received a citation for a violation of the
10 requirements of RCW 49.17.060, of any safety or health standard
11 promulgated under this chapter, of any existing rule or regulation
12 governing the conditions of employment promulgated by the department,
13 or of any order issued granting a variance under RCW 49.17.080 or
14 49.17.090, where such violation is specifically determined not to be of
15 a serious nature as provided in subsection (6) of this section, may be
16 assessed a civil penalty not to exceed ((three)) seven thousand dollars
17 for each such violation, unless such violation is determined to be de
18 minimis.

19 (4) Any employer who fails to correct a violation for which a
20 citation has been issued under RCW 49.17.120 or 49.17.130 within the
21 period permitted for its correction, which period shall not begin to
22 run until the date of the final order of the board of industrial
23 insurance appeals in the case of any review proceedings under this
24 chapter initiated by the employer in good faith and not solely for
25 delay or avoidance of penalties, may be assessed a civil penalty of not
26 more than ((five)) seven thousand dollars for each day during which
27 such failure or violation continues.

28 (5) Any employer who violates any of the posting requirements of
29 this chapter, or any of the posting requirements of rules promulgated
30 by the department pursuant to this chapter related to employee or

1 employee representative's rights to notice, including but not limited
2 to those employee rights to notice set forth in RCW 49.17.080,
3 49.17.090, 49.17.120, 49.17.130, 49.17.220(1) and 49.17.240(2), shall
4 be assessed a penalty not to exceed (~~three~~) seven thousand dollars
5 for each such violation. Any employer who violates any of the posting
6 requirements for the posting of informational, educational, or training
7 materials under the authority of RCW 49.17.050(7), may be assessed a
8 penalty not to exceed (~~one~~) seven thousand (~~five hundred~~) dollars
9 for each such violation.

10 (6) For the purposes of this section, a serious violation shall be
11 deemed to exist in a work place if there is a substantial probability
12 that death or serious physical harm could result from a condition which
13 exists, or from one or more practices, means, methods, operations, or
14 processes which have been adopted or are in use in such work place,
15 unless the employer did not, and could not with the exercise of
16 reasonable diligence, know of the presence of the violation.

17 (7) The director, or his authorized representatives, shall have
18 authority to assess all civil penalties provided in this section,
19 giving due consideration to the appropriateness of the penalty with
20 respect to the number of affected employees of the employer being
21 charged, the gravity of the violation, the size of the employer's
22 business, the good faith of the employer, and the history of previous
23 violations.

24 (8) Civil penalties imposed under this chapter shall be paid to the
25 director for deposit in the supplemental pension fund established by
26 RCW 51.44.033. Civil penalties may be recovered in a civil action in
27 the name of the department brought in the superior court of the county
28 where the violation is alleged to have occurred, or the department may
29 utilize the procedures for collection of civil penalties as set forth
30 in RCW 51.48.120 through 51.48.150.