
SENATE BILL 6399

State of Washington

59th Legislature

2006 Regular Session

By Senators Kohl-Welles, Parlette, Franklin, Keiser and Kline; by request of Employment Security Department

Read first time 01/12/2006. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to improving unemployment insurance collection and
2 penalty tools; amending RCW 50.12.220; adding a new section to chapter
3 50.36 RCW; creating a new section; and recodifying RCW 50.12.220.

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

5 **Sec. 1.** RCW 50.12.220 and 2004 c 97 s 1 are each amended to read
6 as follows:

7 (1)(a) If an employer fails to file ~~((in))~~ a timely ~~((and complete~~
8 ~~manner a))~~ report as required by RCW 50.12.070, or the rules adopted
9 pursuant thereto, the employer ~~((shall be))~~ is subject to a penalty
10 ~~((to be determined by the commissioner, but not to exceed two hundred~~
11 ~~fifty dollars or ten percent of the quarterly contributions for each~~
12 ~~such offense, whichever is less))~~ of twenty-five dollars per violation,
13 unless the penalty is waived by the department.

14 (b) An employer who files an incomplete or incorrectly formatted
15 tax and wage report as required by RCW 50.12.070 shall receive a
16 warning letter for the first occurrence. For subsequent occurrences,
17 the employer is subject to a penalty as follows:

18 (i) When no contributions are due, for the second occurrence the
19 employer is subject to a seventy-five dollar penalty, for the third

1 occurrence the employer is subject to a one hundred fifty dollar
2 penalty, and for the fourth occurrence and for each occurrence
3 thereafter, a penalty of two hundred fifty dollars will be assessed.

4 (ii) When contributions are due, for the second occurrence the
5 employer is subject to a penalty of ten percent of the quarterly
6 contributions due, but not less than seventy-five dollars, for the
7 third occurrence the employer is subject to a penalty of ten percent of
8 the quarterly contributions due, but not less than one hundred fifty
9 dollars, and for the fourth occurrence and each occurrence thereafter,
10 a penalty of two hundred fifty dollars will be assessed.

11 (2) If an employer knowingly misrepresents to the employment
12 security department the amount of his or her payroll upon which
13 contributions under this title are based, the employer shall be liable
14 to the state for up to ten times the amount of the difference in
15 contributions paid, if any, and the amount the employer should have
16 paid and for the reasonable expenses of auditing his or her books and
17 collecting such sums. Such liability may be enforced in the name of
18 the department.

19 ~~((c) If any part of a delinquency for which an assessment is made~~
20 ~~under this title is due to an intent to evade the successorship~~
21 ~~provisions of RCW 50.29.062, then for the calendar year in which the~~
22 ~~commissioner makes the determination under this subsection, the~~
23 ~~commissioner shall assign to the employer, and to any business found to~~
24 ~~be promoting the evasion of such provisions, the contribution rate~~
25 ~~determined for that calendar year under RCW 50.29.025, including the~~
26 ~~solvency surcharge, if any, for rate class 20 or rate class 40, as~~
27 ~~applicable, plus two percent.~~

28 (2)) (3) If contributions are not paid on the date on which they
29 are due and payable as prescribed by the commissioner, there shall be
30 assessed a penalty of five percent of the amount of the contributions
31 for the first month or part thereof of delinquency; there shall be
32 assessed a total penalty of ten percent of the amount of the
33 contributions for the second month or part thereof of delinquency; and
34 there shall be assessed a total penalty of twenty percent of the amount
35 of the contributions for the third month or part thereof of
36 delinquency. No penalty so added shall be less than ten dollars.
37 These penalties are in addition to the interest charges assessed under
38 RCW 50.24.040.

1 (~~(3)~~) (4) Penalties shall not accrue on contributions from an
2 estate in the hands of a receiver, executor, administrator, trustee in
3 bankruptcy, common law assignee, or other liquidating officer
4 subsequent to the date when such receiver, executor, administrator,
5 trustee in bankruptcy, common law assignee, or other liquidating
6 officer qualifies as such, but contributions accruing with respect to
7 employment of persons by a receiver, executor, administrator, trustee
8 in bankruptcy, common law assignee, or other liquidating officer shall
9 become due and shall be subject to penalties in the same manner as
10 contributions due from other employers.

11 (~~(4)~~) (5) Where adequate information has been furnished to the
12 department and the department has failed to act or has advised the
13 employer of no liability or inability to decide the issue, penalties
14 shall be waived by the commissioner. Penalties may also be waived for
15 good cause if the commissioner determines that the failure to
16 (~~(timely)~~) file timely and complete reports or pay contributions was
17 not due to the employer's fault.

18 (~~(5)~~) (6) Any decision to assess a penalty as provided by this
19 section shall be made by the chief administrative officer of the tax
20 branch or his or her designee.

21 (~~(6)~~) (7) Nothing in this section shall be construed to deny an
22 employer the right to appeal the assessment of any penalty. Such
23 appeal shall be made in the manner provided in RCW 50.32.030.

24 NEW SECTION. Sec. 2. RCW 50.12.220 is recodified as a section in
25 chapter 50.36 RCW.

26 NEW SECTION. Sec. 3. If any part of this act is found to be in
27 conflict with federal requirements that are a prescribed condition to
28 the allocation of federal funds to the state or the eligibility of
29 employers in this state for federal unemployment tax credits, the
30 conflicting part of this act is inoperative solely to the extent of the
31 conflict, and the finding or determination does not affect the
32 operation of the remainder of this act. Rules adopted under this act
33 must meet federal requirements that are a necessary condition to the
34 receipt of federal funds by the state or the granting of federal
35 unemployment tax credits to employers in this state.

1 NEW SECTION. **Sec. 4.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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