

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5042

Chapter 358, Laws of 2009

61st Legislature
2009 Regular Session

SMALL BUSINESSES--PAPERWORK VIOLATIONS

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 18, 2009
YEAS 43 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 13, 2009
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 6, 2009, 1:57 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5042** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 8, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5042

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Economic Development, Trade & Innovation (originally sponsored by Senators Kilmer, Holmquist, Berkey, Schoesler, Kauffman, Marr, Rockefeller, Haugen, Eide, Kastama, Hatfield, Swecker, Tom, McAuliffe, Benton, Parlette, and Roach)

READ FIRST TIME 01/30/09.

1 AN ACT Relating to first-time paperwork violations by small
2 businesses; and adding a new section to chapter 34.05 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05 RCW
5 to read as follows:

6 (1) Except as provided in subsection (3) of this section, agencies
7 shall waive any fines, civil penalties, or administrative sanctions for
8 first-time paperwork violations by a small business.

9 (2) When an agency waives a fine, penalty, or sanction under this
10 section, when possible it shall require the small business to correct
11 the violation within a reasonable period of time, in a manner specified
12 by the agency. If correction is impossible, no correction may be
13 required and failure to correct is not grounds for reinstatement of
14 fines, penalties, or sanctions under subsection (4)(b) of this section.

15 (3) Exceptions to the waiver requirement of this section may be
16 made for any of the following reasons:

17 (a) The agency head determines that the effect of the violation
18 presents a direct danger to the public health, results in a loss of

1 income or benefits to an employee, poses a potentially significant
2 threat to human health or the environment, or causes serious harm to
3 the public interest;

4 (b) The violation involves a small business knowingly or willfully
5 engaging in conduct that may result in a felony conviction;

6 (c) The violation is of a requirement concerning the assessment,
7 collection, or administration of any tax, tax program, debt, revenue,
8 receipt, a regulated entity's financial filings, or insurance rate or
9 form filing;

10 (d) The waiver is in conflict with federal law or program
11 requirements, federal requirements that are a prescribed condition to
12 the allocation of federal funds to the state, or the requirements for
13 eligibility of employers in this state for federal unemployment tax
14 credits, as determined by the agency head;

15 (e) The small business committing the violation previously violated
16 a substantially similar paperwork requirement; or

17 (f) The owner or operator of the small business committing the
18 violation owns or operates, or owned or operated a different small
19 business which previously violated a substantially similar paperwork
20 requirement.

21 (4)(a) Nothing in this section prohibits an agency from waiving
22 fines, civil penalties, or administrative sanctions incurred by a small
23 business for a paperwork violation that is not a first-time offense.

24 (b) Any fine, civil penalty, or administrative sanction that is
25 waived under this section may be reinstated and imposed in addition to
26 any additional fines, penalties, or administrative sanctions associated
27 with a subsequent violation for noncompliance with a substantially
28 similar paperwork requirement, or failure to correct the previous
29 violation as required by the agency under subsection (2) of this
30 section.

31 (5) Nothing in this section may be construed to diminish the
32 responsibility for any citizen or business to apply for and obtain a
33 permit, license, or authorizing document that is required to engage in
34 a regulated activity, or otherwise comply with state or federal law.

35 (6) Nothing in this section shall be construed to apply to small
36 businesses required to provide accurate and complete information and
37 documentation in relation to any claim for payment of state or federal

1 funds or who are licensed or certified to provide care and services to
2 vulnerable adults or children.

3 (7) As used in this section:

4 (a) "Small business" means a business with two hundred fifty or
5 fewer employees.

6 (b) "Paperwork violation" means the violation of any statutory or
7 regulatory requirement that mandates the collection of information by
8 an agency, or the collection, posting, or retention of information by
9 a small business. This includes but is not limited to requirements in
10 the Revised Code of Washington, the Washington Administrative Code, the
11 Washington State Register, or any other agency directive.

12 (c) "First-time paperwork violation" means the first instance of a
13 particular or substantially similar paperwork violation.

Passed by the Senate April 18, 2009.

Passed by the House April 13, 2009.

Approved by the Governor May 6, 2009.

Filed in Office of Secretary of State May 8, 2009.