
HOUSE BILL 1150

State of Washington

62nd Legislature

2011 Regular Session

By Representatives Smith, Probst, Schmick, Warnick, Dahlquist, Hunt, Ross, Pearson, Dammeier, Kenney, Rodne, Kagi, Hargrove, Harris, Nealey, Short, Lias, Orcutt, Finn, Kelley, Takko, Taylor, Maxwell, Bailey, Reykdal, Upthegrove, Billig, Kristiansen, Frockt, Carlyle, Blake, Springer, Angel, Hurst, McCune, Rolfes, Condotta, and Klippert

Read first time 01/13/11. Referred to Committee on State Government & Tribal Affairs.

1 AN ACT Relating to extending the time in which a small business may
2 correct a violation without a penalty; and amending RCW 34.05.110.

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

4 **Sec. 1.** RCW 34.05.110 and 2010 c 194 s 1 are each amended to read
5 as follows:

6 (1) Agencies must provide to a small business a copy of the state
7 law or agency rule that a small business is violating and a period of
8 at least (~~two business~~) seven calendar days to correct the violation
9 before the agency may impose any fines, civil penalties, or
10 administrative sanctions for a violation of a state law or agency rule
11 by a small business. If no correction is possible or if an agency is
12 acting in response to a complaint made by a third party and the third
13 party would be disadvantaged by the application of this subsection, the
14 requirements in this subsection do not apply.

15 (2) Except as provided in subsection (4) of this section, agencies
16 shall waive any fines, civil penalties, or administrative sanctions for
17 first-time paperwork violations by a small business.

18 (3) When an agency waives a fine, penalty, or sanction under this
19 section, when possible it shall require the small business to correct

1 the violation within a reasonable period of time, in a manner specified
2 by the agency. If correction is impossible, no correction may be
3 required and failure to correct is not grounds for reinstatement of
4 fines, penalties, or sanctions under subsection (5)(b) of this section.

5 (4) Exceptions to requirements of subsection (1) of this section
6 and the waiver requirement in subsection (2) of this section may be
7 made for any of the following reasons:

8 (a) The agency head determines that the effect of the violation or
9 waiver presents a direct danger to the public health, results in a loss
10 of income or benefits to an employee, poses a potentially significant
11 threat to human health or the environment, or causes serious harm to
12 the public interest;

13 (b) The violation involves a knowing or willful violation;

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

18 (d) The requirements of this section are in conflict with federal
19 law or program requirements, federal requirements that are a prescribed
20 condition to the allocation of federal funds to the state, or the
21 requirements for eligibility of employers in this state for federal
22 unemployment tax credits, as determined by the agency head;

23 (e) The small business committing the violation previously violated
24 a substantially similar requirement; or

25 (f) The owner or operator of the small business committing the
26 violation owns or operates, or owned or operated a different small
27 business which previously violated a substantially similar requirement.

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

31 (b) Any fine, civil penalty, or administrative sanction that is
32 waived under this section may be reinstated and imposed in addition to
33 any additional fines, penalties, or administrative sanctions associated
34 with a subsequent violation for noncompliance with a substantially
35 similar paperwork requirement, or failure to correct the previous
36 violation as required by the agency under subsection (3) of this
37 section.

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

5 (7) Nothing in this section shall be construed to apply to small
6 businesses required to provide accurate and complete information and
7 documentation in relation to any claim for payment of state or federal
8 funds or who are licensed or certified to provide care and services to
9 vulnerable adults or children.

10 (8) Nothing in this section affects the attorney general's
11 authority to impose fines, civil penalties, or administrative sanctions
12 as otherwise authorized by law; nor shall this section affect the
13 attorney general's authority to enforce the consumer protection act,
14 chapter 19.86 RCW.

15 (9) As used in this section:

16 (a) "Small business" means a business with two hundred fifty or
17 fewer employees or a gross revenue of less than seven million dollars
18 annually as reported on its most recent federal income tax return or
19 its most recent return filed with the department of revenue.

20 (b) "Paperwork violation" means the violation of any statutory or
21 regulatory requirement that mandates the collection of information by
22 an agency, or the collection, posting, or retention of information by
23 a small business. This includes but is not limited to requirements in
24 the Revised Code of Washington, the Washington Administrative Code, the
25 Washington State Register, or any other agency directive.

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

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