1278-S2 AMH SHEA LIPS 340

**2SHB 1278** - H AMD TO H AMD (H-3737.2/16) **705**

By Representative Shea

On page 12, line 34 of the striking amendment, after "RCW." insert "In any appeal by a proprietor to the pollution control hearings board or subsequently to a court with jurisdiction, a penalty assessed by the department is presumed to be invalid, and the burden is on the department to prove that the proprietor willfully neglected to comply with the requirements of this chapter. If the department does not prevail in an appeal to the pollution control hearings board or in a subsequent appeal to a court with jurisdiction, the department must pay the reasonable expenses, including attorneys' fees, incurred in opposing the assessment of a penalty under this chapter."

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|  | EFFECT:  Presumes, for purposes of appeals, that penalties assessed by the Department of Commerce are invalid unless the Department proves that a building owner willfully neglected to comply with energy use disclosure requirements. Requires the Department of Commerce to pay reasonable expenses and attorney fees to a building owner if an assessed penalty is not upheld upon appeal. |

**--- END ---**