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**SENATE BILL 5230**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Wilson, Palumbo, Braun, Mullet, Baumgartner, Takko, Brown, Keiser, King, Miloscia, Chase, Walsh, Warnick, Hobbs, Angel, Becker, Hasegawa, Hawkins, Padden, O'Ban, Sheldon, and Bailey

AN ACT Relating to the licensing and regulatory requirements of small business owners; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that the licensing and regulation of businesses and professions requires periodic inspections, audits, interviews, site visits, or other oversight measures to verify that licensing, permit, and other regulatory requirements are met. The legislature further finds that unnecessary costs and delays may occur when small business owners must seek outside counsel or other professional assistance to prepare for and participate in review and enforcement actions such as audits and inspections of their records, facilities, or job sites. The legislature also reaffirms its prior findings that small businesses are likely to bear a disproportionate share of regulatory costs and burdens, and that greater coordination on regulatory matters among agencies is a way to promote economic vitality and increase state program efficiency.

Therefore, the legislature intends to identify what due process or other rights and protections, if any, exist under state law for a small business owner selected for audit, inspection, or other agency enforcement action related to the 2013 "Inventory of Regulations" prepared by the state auditor's office. The legislature further intends to identify how those rights and protections are communicated to the business owner either prior to, or at the time of, an agency visit.

NEW SECTION. **Sec.**  (1) The attorney general shall review chapter 34.05 RCW, the administrative procedure act, as well as related administrative rules, similar statutes, and case law, to identify the current rights and protections afforded to small business owners selected for agency enforcement actions including, but not limited to, inspections, audits, site visits, or record review.

(2) The department of agriculture, department of ecology, employment security department, department of labor and industries, department of revenue, and state fire marshal shall each review provisions of their governing statutes, administrative rules, policy statements, guidance, and directives to identify the current rights and protections afforded to small business owners that are selected for inspection, audit, or other enforcement action by the agency. Not later than August 31, 2017, each agency named in this subsection must provide the attorney general with:

(a) A list of the governing statutes, administrative rules, policy statements, guidance, and directives identified as sources for rights or protections, along with a copy or electronic link to relevant documents;

(b) A copy or electronic link to any statement of rights, protections, or similar materials provided by the agency to small business owners prior to or at the time of an audit, inspection, or other enforcement action against such a small business; and

(c) A copy or electronic link to any statement of rights, protections, or similar materials provided by the agency to small business owners regarding the agency's adjudicative proceedings, administrative review, or appeal process.

(3) The attorney general must compile his or her findings into a report to the relevant committees of the legislature by November 30, 2017. The report must include:

(a) The information and materials submitted pursuant to subsection (2) of this section;

(b) An identification of the information provided by agencies to small business owners selected for an enforcement action, the type of enforcement action for which the information is provided, and the stage of the process at which the information is provided to the owner; and

(c) Recommendations by the attorney general for statutory, rule, policy, or other changes to identify, clarify, and harmonize, where practical, the rights and protections afforded to small business owners selected for agency enforcement actions, as well as methods to improve the notice of rights provided to small business owners selected for agency audits, inspections, and other enforcement actions.

(4) The attorney general shall provide each agency named in subsection (2) of this section with a copy of his or her recommendations by October 30, 2017. Each agency may provide written comments regarding those recommendations to the attorney general by November 13, 2017, for his or her consideration.

(5) For the purposes of this section, "small business" has the same definition as in RCW 34.05.110(9)(a).

(6) This section does not apply to any criminal investigations or prosecutions.

NEW SECTION. **Sec.**  This act expires December 31, 2017.

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