

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1953

Chapter 128, Laws of 2018

65th Legislature
2018 Regular Session

INDUSTRIAL SAFETY AND HEALTH ACT--MAXIMUM PENALTIES-OSHA

EFFECTIVE DATE: January 1, 2019

Passed by the House February 13, 2018
Yeas 53 Nays 45

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 27, 2018
Yeas 26 Nays 22

CYRUS HABIB

President of the Senate

Approved March 21, 2018 11:20 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1953** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 23, 2018

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1953

Passed Legislature - 2018 Regular Session

State of Washington

65th Legislature

2018 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Dolan, Gregerson, Sells, Doglio, Ormsby, and Kilduff; by request of Department of Labor & Industries)

1 AN ACT Relating to maximum penalties under the Washington
2 industrial safety and health act; amending RCW 49.17.180; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 49.17.180 and 2010 c 8 s 12015 are each amended to
6 read as follows:

7 (1) Except as provided in RCW 43.05.090, any employer who
8 willfully or repeatedly violates the requirements of RCW 49.17.060,
9 of any safety or health standard (~~promulgated~~) adopted under the
10 authority of this chapter, of any existing rule or regulation
11 governing the conditions of employment (~~promulgated~~) adopted by the
12 department, or of any order issued granting a variance under RCW
13 49.17.080 or 49.17.090 may be assessed a civil penalty not to exceed
14 seventy thousand dollars for each violation. However, if the state is
15 required to have a higher maximum penalty to qualify a state plan
16 under the occupational safety and health administration, then the
17 maximum civil penalty is the higher maximum penalty required under
18 the occupational safety and health administration. A minimum penalty
19 of five thousand dollars shall be assessed for a willful violation;
20 unless set to a specific higher amount by the federal occupational

1 safety and health administration and this state is required to equal
2 the higher penalty amount to qualify a state plan.

3 (2) Any employer who has received a citation for a serious
4 violation of the requirements of RCW 49.17.060, of any safety or
5 health standard (~~(promulgated)~~) adopted under the authority of this
6 chapter, of any existing rule or regulation governing the conditions
7 of employment (~~(promulgated)~~) adopted by the department, or of any
8 order issued granting a variance under RCW 49.17.080 or 49.17.090 as
9 determined in accordance with subsection (6) of this section, shall
10 be assessed a civil penalty not to exceed seven thousand dollars for
11 each such violation. However, if the state is required to have a
12 higher maximum penalty to qualify a state plan under the occupational
13 safety and health administration, then the maximum civil penalty is
14 the higher maximum penalty required under the occupational safety and
15 health administration.

16 (3) Any employer who has received a citation for a violation of
17 the requirements of RCW 49.17.060, of any safety or health standard
18 (~~(promulgated)~~) adopted under this chapter, of any existing rule or
19 regulation governing the conditions of employment (~~(promulgated)~~)
20 adopted by the department, or of any order issued granting a variance
21 under RCW 49.17.080 or 49.17.090, where such violation is
22 specifically determined not to be of a serious nature as provided in
23 subsection (6) of this section, may be assessed a civil penalty not
24 to exceed seven thousand dollars for each such violation, unless such
25 violation is determined to be de minimis or, if the state is required
26 to have a higher maximum penalty to qualify a state plan under the
27 occupational safety and health administration, then the maximum civil
28 penalty is the higher maximum penalty required under the occupational
29 safety and health administration.

30 (4) Any employer who fails to correct a violation for which a
31 citation has been issued under RCW 49.17.120 or 49.17.130 within the
32 period permitted for its correction, which period shall not begin to
33 run until the date of the final order of the board of industrial
34 insurance appeals in the case of any review proceedings under this
35 chapter initiated by the employer in good faith and not solely for
36 delay or avoidance of penalties, may be assessed a civil penalty of
37 not more than seven thousand dollars for each day during which such
38 failure or violation continues. However, if the state is required to
39 have a higher maximum penalty to qualify a state plan under the
40 occupational safety and health administration, then the maximum civil

1 penalty is the higher maximum penalty required under the occupational
2 safety and health administration.

3 (5) Any employer who violates any of the posting requirements of
4 this chapter, or any of the posting requirements of rules
5 (~~promulgated~~) adopted by the department pursuant to this chapter
6 related to employee or employee representative's rights to notice,
7 including but not limited to those employee rights to notice set
8 forth in RCW 49.17.080, 49.17.090, 49.17.120, 49.17.130,
9 49.17.220(1), and 49.17.240(2), shall be assessed a penalty not to
10 exceed seven thousand dollars for each such violation. However, if
11 the state is required to have a higher maximum penalty to qualify a
12 state plan under the occupational safety and health administration,
13 then the maximum civil penalty is the higher maximum penalty required
14 under the occupational safety and health administration. Any employer
15 who violates any of the posting requirements for the posting of
16 informational, educational, or training materials under the authority
17 of RCW 49.17.050(7), may be assessed a penalty not to exceed seven
18 thousand dollars for each such violation. However, if the state is
19 required to have a higher maximum penalty to qualify a state plan
20 under the occupational safety and health administration, then the
21 maximum civil penalty is the higher maximum penalty required under
22 the occupational safety and health administration.

23 (6) For the purposes of this section, a serious violation shall
24 be deemed to exist in a workplace if there is a substantial
25 probability that death or serious physical harm could result from a
26 condition which exists, or from one or more practices, means,
27 methods, operations, or processes which have been adopted or are in
28 use in such workplace, unless the employer did not, and could not
29 with the exercise of reasonable diligence, know of the presence of
30 the violation.

31 (7) The director, or his or her authorized representatives, shall
32 have authority to assess all civil penalties provided in this
33 section, giving due consideration to the appropriateness of the
34 penalty with respect to the number of affected employees of the
35 employer being charged, the gravity of the violation, the size of the
36 employer's business, the good faith of the employer, and the history
37 of previous violations.

38 (8) Civil penalties imposed under this chapter shall be paid to
39 the director for deposit in the supplemental pension fund established
40 by RCW 51.44.033. Civil penalties may be recovered in a civil action

1 in the name of the department brought in the superior court of the
2 county where the violation is alleged to have occurred, or the
3 department may utilize the procedures for collection of civil
4 penalties as set forth in RCW 51.48.120 through 51.48.150.

5 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2019.

Passed by the House February 13, 2018.

Passed by the Senate February 27, 2018.

Approved by the Governor March 21, 2018.

Filed in Office of Secretary of State March 23, 2018.

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