H-3761.1

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**HOUSE BILL 2330**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Kraft, Klippert, Eslick, Gildon, and Dent

AN ACT Relating to agency fairness and accountability in regulatory actions and compliance enforcement; amending RCW 43.05.060, 43.05.090, 43.05.901, 43.05.070, 43.05.050, 43.05.040, 43.05.100, 43.05.110, 43.05.120, 43.12.055, 43.21A.080, 43.22.051, 43.320.040, 43.12.045, 34.05.270, 34.05.630, 34.05.350, and 43.09.050; adding new sections to chapter 43.05 RCW; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.22 RCW; adding a new section to chapter 43.320 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 34.05 RCW; adding a new section to chapter 43.24 RCW; and prescribing penalties.

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

**PART I**

**COMPLIANCE ENFORCEMENT ACTIONS**

NEW SECTION. **Sec.**  A new section is added to chapter 43.05 RCW to read as follows:

For purposes of this chapter, "out of compliance" or "not in compliance" means that an individual or business has violated:

(1) A statute enacted by congress or the state legislature;

(2) A rule published in the Code of Federal Regulations; or

(3) A rule published in the Washington Administrative Code, that was adopted in compliance with all applicable laws and that is unambiguous.

**Sec.**  RCW 43.05.060 and 1996 c 206 s 3 are each amended to read as follows:

(1) If in the course of any site inspection, audit, or visit ((~~that is not~~)), including a technical assistance visit, the department of ecology, natural resources, financial institutions, or labor and industries becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department ((~~and are not subject to civil penalties as provided for in RCW 43.05.070~~)), the department may issue a ((~~notice of correction~~)) recommended guidance statement to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved, which must be at least thirty days after the date of the site inspection, audit, or visit unless the violation presents a substantial threat to public health or safety;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A recommended guidance statement is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) The department may not issue a civil penalty for violations identified in a recommended guidance statement.

(4) If, within the past twelve months, the individual or business has been given previous notice of the same or similar type of violation of the same statute or rule, the department may issue a notice of correction. The notice of correction must include the information described in subsection (1) of this section.

(5) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

((~~(3)~~)) (6) If the department issues a notice of correction, it shall not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice. Fines for businesses with more than one hundred employees must be fair, reasonable, and commensurate with the nature of the violation and the extent to which it creates an imminent threat to public safety. Fines for businesses with one hundred employees or fewer must be determined by the following schedule:

(a) For a second violation of the same or similar type or of the same statute or rule within the past twelve months, fines may not exceed five hundred dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation.

(b) For a third violation of the same or similar type or of the same statute or rule within the past eighteen months, fines may not exceed five thousand dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation.

(c) For any subsequent violation of the same or similar type or of the same statute or rule within the past twenty-four months, fines may not exceed ten thousand dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation. If the individual or business has a professional or occupational license, the department shall send a notice to the relevant licensing agency to review whether the license should be revoked.

(7) This section does not apply to inspections by the department of labor and industries under RCW 49.17.250 and 49.17.120, which are instead provided for in RCW 43.05.090.

**Sec.**  RCW 43.05.090 and 1996 c 206 s 4 are each amended to read as follows:

(1) Following a consultative visit pursuant to RCW 49.17.250, the department of labor and industries shall issue a ((~~report~~)) recommended guidance statement to the employer that the employer shall make available to its employees who perform work related to the guidance statement. The ((~~report~~)) statement shall contain:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved, which must be at least thirty days after the date of the site inspection, audit, or visit unless the violation presents a substantial threat to public health or safety;

(d) Notice of means to contact technical assistance services provided by the department; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) Following a compliance inspection pursuant to RCW 49.17.120, the department of labor and industries shall issue a ((~~citation~~)) recommended guidance statement for violations of industrial safety and health standards, which must include the information described in subsection (1) of this section. ((~~The citation shall not assess a penalty if the violations:~~

~~(a) Are determined not to be of a serious nature;~~

~~(b) Have not been previously cited;~~

~~(c) Are not willful; and~~

~~(d) Do not have a mandatory penalty under chapter 49.17 RCW.~~))

(3) A recommended guidance statement is not a formal enforcement action, is not subject to appeal, and is a public record.

(4) The department may not issue a civil penalty for violations identified in a recommended guidance statement.

(5) If, within the past twelve months, the individual or business has been given previous notice of the same or similar type of violation of the same statute or rule, the department may issue a notice of correction. The notice of correction must include the information described in subsection (1) of this section.

(6) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(7) If the department issues a notice of correction, it may not issue a civil penalty for the violations identified in the notice of correction unless the violation has a mandatory penalty under chapter 49.17 RCW or under federal law or programs as provided for in RCW 43.05.901.

(8) Fines for businesses with more than one hundred employees must be fair, reasonable, and commensurate with the nature of the violation and the extent to which it creates an imminent threat to public safety. Fines for businesses with one hundred employees or fewer must be determined by the following schedule:

(a) For a second violation of the same or similar type or of the same statute or rule within the past twelve months, fines may not exceed five hundred dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation.

(b) For a third violation of the same or similar type or of the same statute or rule within the past eighteen months, fines may not exceed five thousand dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation.

(c) For any subsequent violation of the same or similar type or of the same statute or rule within the past twenty-four months, fines may not exceed ten thousand dollars, with fines determined by the severity of the threat to public safety or harm resulting from the violation. If the individual or business has a professional or occupational license, the department shall send a notice to the relevant licensing agency to review whether the license should be revoked.

**Sec.**  RCW 43.05.901 and 1995 c 403 s 619 are each amended to read as follows:

(1) If a regulatory agency determines any part of this chapter to be in conflict with federal law or program requirements, in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, or in conflict with the requirements for eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict. Any rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

(2) Notwithstanding the conflict, when permitted by federal law and program requirements, the regulatory agency must avoid issuing civil penalties for first-time violations that do not pose a threat to public safety or result in harm.

(3) If a civil penalty is issued by a regulatory agency that is not required to follow provisions of this chapter because of a conflict with federal law or program requirements, an individual or business may seek reimbursement from the agency within forty-five days of the imposition of the penalty. The agency must notify the individual or business at the time that the penalty is imposed that it may seek reimbursement within forty-five days. The agency must reimburse the individual or business if:

(a) The individual or business has adequately remedied each violation for which the penalty was imposed prior to the deadline specified by the agency or, if the violation does not present a substantial threat to public health or safety, within thirty days; and

(b) The individual or business has not been given previous notice of the same or similar type of violation of the same statute or rule in the prior twelve months.

NEW SECTION. **Sec.**  A new section is added to chapter 43.05 RCW to read as follows:

(1) Any investigation undertaken by a regulatory agency must be completed within twelve months after the agency first became aware of the alleged violation that is the subject of the investigation.

(2) Any audit undertaken by a regulatory agency must be completed within six months.

(3) For purposes of this section, an investigation or audit is "completed" when:

(a) The agency issues a finding that an individual or business is or is not out of compliance;

(b) If the individual or business is out of compliance, the agency issues a recommended guidance statement or notice of correction, or completes an enforcement action;

(c) The case is closed; and

(d) The individual or business that was the subject of the investigation or audit is notified in writing that (a) through (c) of this subsection have occurred.

**Sec.**  RCW 43.05.070 and 1995 c 403 s 608 are each amended to read as follows:

The departments of ecology, natural resources, financial institutions, or labor and industries may issue a civil penalty provided for by law without first issuing a notice of correction if((~~: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2)~~)) compliance is not achieved by the date established by the department in a previously issued recommended guidance statement or notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date((~~; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars~~)).

**Sec.**  RCW 43.05.050 and 1995 c 403 s 606 are each amended to read as follows:

A regulatory agency that observes a violation during a technical assistance visit may issue a civil penalty as provided for by law if: (1) The individual or business has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) the issue involves sales taxes due to the state and the individual or business is not remitting previously collected sales taxes to the state; or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing ((~~more than minor~~)) imminent and significant environmental harm that immediately threatens public safety, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars. This section does not apply to a technical assistance visit by the department of ecology, natural resources, financial institutions, or labor and industries, which are instead provided for in RCW 43.05.060.

**Sec.**  RCW 43.05.040 and 2001 c 190 s 1 are each amended to read as follows:

(1) The owner and operator shall be given a reasonable period of time, no fewer than thirty days, to correct violations identified during a technical assistance visit before any civil penalty provided for by law is imposed for those violations, unless there is an imminent and substantial threat to public safety. A regulatory agency may revisit a facility, business, or other location after a technical assistance visit and a reasonable period of time has passed, no fewer than thirty days, to correct violations identified by the agency in writing and issue civil penalties as provided for by law for any uncorrected violations.

(2) During a visit under subsection (1) of this section, the regulatory agency may not issue civil penalties for violations not previously identified in a technical assistance visit, unless the violations are of the type for which the agency may issue a citation((~~: (a) During~~)) during a technical assistance visit under RCW 43.05.050((~~; or (b) under RCW 43.05.090~~)).

(3) Subsection (2) of this section does not apply to a technical assistance visit by the department of ecology, natural resources, financial institutions, or labor and industries, which are instead provided for in RCW 43.05.060.

**Sec.**  RCW 43.05.100 and 1996 c 206 s 5 are each amended to read as follows:

(1) If in the course of any inspection or visit that is not a technical assistance visit, the department of agriculture, fish and wildlife, health, or licensing((~~, or natural resources~~)) becomes aware of conditions that are not in compliance with applicable laws and rules enforced by the department and are not subject to civil penalties as provided for in RCW 43.05.110, the department may issue a notice of correction to the responsible party that shall include:

(a) A description of the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule;

(b) A statement of what is required to achieve compliance;

(c) The date by which the department requires compliance to be achieved;

(d) Notice of the means to contact any technical assistance services provided by the department or others; and

(e) Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the department.

(2) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(3) If the department issues a notice of correction, it ((~~shall~~)) may not issue a civil penalty for the violations identified in the notice of correction unless the responsible party fails to comply with the notice.

**Sec.**  RCW 43.05.110 and 1998 c 176 s 84 are each amended to read as follows:

The department of agriculture, fish and wildlife, health, or licensing((~~, or natural resources~~)) may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; ((~~[or]~~)) or (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing ((~~more than minor~~)) imminent and significant environmental harm that immediately threatens public safety, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months. In addition, the department of fish and wildlife may not issue a civil penalty provided for by law without first issuing a notice of correction for a violation of any rule dealing with seasons, catch or bag limits, gear types, or geographical areas for fish or wildlife removal, reporting, or disposal.

((~~This section does not apply to the civil penalties imposed under RCW 82.38.170(13).~~))

**Sec.**  RCW 43.05.120 and 1995 c 403 s 613 are each amended to read as follows:

The date for compliance established by the department of ecology, labor and industries, agriculture, fish and wildlife, health, licensing, financial institutions, or natural resources pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 ((~~respectively~~)) shall provide for a reasonable time to achieve compliance, which must be at least thirty days when required by law, unless the violation presents a substantial threat to public health or safety. Any person receiving a recommended guidance statement or a notice of correction pursuant to RCW 43.05.060, 43.05.090, or 43.05.100 ((~~or a report or citation pursuant to RCW 43.05.090~~)) may request an extension of time to achieve compliance for good cause from the issuing department. Requests shall be submitted to the issuing department and responded to by the issuing department in writing in accordance with procedures specified by the issuing department in the notice, report, or citation.

**Sec.**  RCW 43.12.055 and 2003 c 334 s 103 are each amended to read as follows:

Enforcement action taken after July 23, 1995, by the commissioner of public lands or the supervisor of natural resources shall be in accordance with RCW ((~~43.05.100 and 43.05.110~~)) 43.05.060 and 43.05.070.

**PART II**

**COMPLIANCE ENFORCEMENT TRAINING**

NEW SECTION. **Sec.**  A new section is added to chapter 43.21A RCW to read as follows:

All personnel employed by the department that participate in technical assistance and compliance enforcement investigations and actions must receive annual training about the provisions in the Washington Administrative Code that relate to the department's compliance enforcement activities. The training must include discussion of the department's interpretation and guidance for any relevant Washington Administrative Code provisions that have been amended since the previous training. The training may be offered online or in-person and must require participants to take a final scored quiz or exam to demonstrate their understanding of the key components of the training. These documents are public records.

NEW SECTION. **Sec.**  A new section is added to chapter 43.22 RCW to read as follows:

All personnel employed by the department of labor and industries that participate in technical assistance and compliance enforcement investigations and actions must receive annual training about the provisions in the Washington Administrative Code that relate to the department's compliance enforcement activities. The training must include discussion of the department's interpretation and guidance for any relevant Washington Administrative Code provisions that have been amended since the previous training. The training may be offered online or in-person and must require participants to take a final scored quiz or exam to demonstrate their understanding of the key components of the training. These documents are public records.

NEW SECTION. **Sec.**  A new section is added to chapter 43.320 RCW to read as follows:

All personnel employed by the department of financial institutions that participate in technical assistance and compliance enforcement investigations and actions must receive annual training about the provisions in the Washington Administrative Code that relate to the department's compliance enforcement activities. The training must include discussion of the department's interpretation and guidance for any relevant Washington Administrative Code provisions that have been amended since the previous training. The training may be offered online or in-person and must require participants to take a final scored quiz or exam to demonstrate their understanding of the key components of the training. These documents are public records.

NEW SECTION. **Sec.**  A new section is added to chapter 43.30 RCW to read as follows:

All personnel employed by the department that participate in technical assistance and compliance enforcement investigations and actions must receive annual training about the provisions in the Washington Administrative Code that relate to the department's compliance enforcement activities. The training must include discussion of the department's interpretation and guidance for any relevant Washington Administrative Code provisions that have been amended since the previous training. The training may be offered online or in-person and must require participants to take a final scored quiz or exam to demonstrate their understanding of the key components of the training. These documents are public records.

**PART III**

**AGENCY RULE MAKING**

**Sec.**  RCW 43.21A.080 and 1995 c 403 s 103 are each amended to read as follows:

((~~The~~)) (1) Except as provided in subsections (2) and (3) of this section, the director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter((~~: PROVIDED, That the~~)).

(2) The director may not adopt rules ((~~after July 23, 1995,~~)) that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt the rule.

(3) The director may not adopt a new rule unless an existing rule is simultaneously repealed.

**Sec.**  RCW 43.22.051 and 1997 c 409 s 103 are each amended to read as follows:

((~~For rules adopted after July 27, 1997, the~~)) (1) The director of the department of labor and industries may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule. This ((~~section~~)) subsection does not apply to rules adopted under chapter 39.12 RCW.

(2) The director may not adopt a new rule unless an existing rule is simultaneously repealed.

**Sec.**  RCW 43.320.040 and 1993 c 472 s 5 are each amended to read as follows:

The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. However:

(1) The director may not rely solely on a statute's statement of intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of those provisions, for statutory authority to adopt any rule; and

(2) The director may not adopt a new rule unless an existing rule is simultaneously repealed.

**Sec.**  RCW 43.12.045 and 1995 c 403 s 101 are each amended to read as follows:

((~~For rules adopted after July 23, 1995, the~~)) (1) The commissioner of public lands may not rely solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule.

(2) The commissioner may not adopt a new rule unless an existing rule is simultaneously repealed.

**Sec.**  RCW 34.05.270 and 2009 c 93 s 1 are each amended to read as follows:

Within existing resources, each state agency shall maintain a web site that contains the agency's rule-making information. A direct link to the agency's rule-making page must be prominently displayed on the agency's homepage. The link to the rule-making page must clearly state that proposed rules and recent rule changes can be accessed by clicking the link. The rule-making web site shall include the complete text of all proposed rules, emergency rules, and permanent rules proposed or adopted within the past twelve months, or include a direct link to the index page on the Washington State Register web site that contains links to the complete text of all proposed rules, emergency rules, and permanent rules proposed or adopted within the past twelve months by that state agency. For proposed rules, the time, date, and place for the rule-making hearing and the procedures and timelines for submitting written comments and supporting data must be posted on the web site.

**Sec.**  RCW 34.05.630 and 1998 c 21 s 1 are each amended to read as follows:

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the committee. The committee shall review:

(a) All rules of the department of ecology, in 2021 and within a time frame of every four years thereafter;

(b) All rules of the department of natural resources, in 2022 and within a time frame of every four years thereafter;

(c) All rules of the department of labor and industries, in 2023 and within a time frame of every four years thereafter;

(d) All rules of the department of financial institutions, in 2024 and within a time frame of every four years thereafter; and

(e) All new rules adopted by the departments of ecology, natural resources, labor and industries, and financial institutions within one year after the rule's effective date.

(2) All agency policy and interpretive statements, guidelines, and documents that are of general applicability, or their equivalents, are subject to selective review by the committee to determine whether or not a statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all applicable provisions of law.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, or (c) that an agency is using a policy or interpretive statement in place of a rule, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, and (c) whether the agency is using a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, in place of a rule.

**Sec.**  RCW 34.05.350 and 2011 1st sp.s. c 2 s 1 are each amended to read as follows:

(1) ((~~If~~)) The agency may dispense with rule-making requirements and adopt, amend, or repeal the rule on an emergency basis if an agency for good cause finds:

(a) That immediate adoption, amendment, or repeal of a rule is necessary ((~~for the preservation of the~~)) to address a clear and imminent danger to public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest;

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; or

(c) In order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency((~~,~~

~~the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis~~)).

(2) The agency's finding that good cause exists and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee.

((~~(2)~~)) (3) An emergency rule adopted under this section takes effect upon filing with the code reviser, unless a later date is specified in the order of adoption or the rule is subject to governor approval under subsection (4) of this section, and may not remain in effect for longer than one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.

((~~(3)~~)) (4) An emergency rule adopted by the department of ecology, natural resources, labor and industries, or financial institutions may not take effect unless approved by the governor in writing.

(5) Within ((~~seven~~)) fourteen days after the rule is adopted, any person may petition the governor requesting the immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010. Within seven days after submission of the petition, the governor shall either deny the petition in writing, stating his or her reasons for the denial, or order the immediate repeal of the rule. In ruling on the petition, the governor shall consider only whether the conditions in subsection (1) of this section were met such that adoption of the rule on an emergency basis was necessary. If the governor orders the repeal of the emergency rule, any sanction imposed based on that rule is void. This subsection ((~~shall~~)) may not be construed to prohibit adoption of any rule as a permanent rule.

**PART IV**

**OVERSIGHT OF AGENCIES**

**Sec.**  RCW 43.09.050 and 1992 c 118 s 6 are each amended to read as follows:

The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Perform audits to determine whether the department of ecology, labor and industries, financial institutions, and natural resources are properly following all laws related to technical assistance visits, audits, investigations, and other related compliance enforcement actions;

(6) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

((~~(6)~~)) (7) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

((~~(7)~~)) (8) Authenticate with his or her official seal papers issued from his or her office;

((~~(8)~~)) (9) Make his or her official report annually on or before the 31st of December.

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

(1) The state auditor shall perform audits to determine whether the department of ecology, labor and industries, financial institutions, and natural resources are properly following all laws related to technical assistance visits, audits, investigations, and other related compliance enforcement actions. Each agency must be audited at least once every five years.

(2) If the auditor determines that an agency is not properly following any law related to technical assistance visits, audits, investigations, and other related compliance enforcement actions, the agency has six months to take corrective action and to publish a report detailing those actions. The report must be submitted to the auditor and to the appropriate committees of the legislature.

NEW SECTION. **Sec.**  A new section is added to chapter 43.24 RCW to read as follows:

(1) Each agency that creates or presents trainings that are required for individuals or businesses who seek to obtain or maintain a professional or occupational license must create an online mechanism to allow users who take the training to submit feedback to the agency.

(2) If the agency receives feedback from one hundred users within a twelve-month period that a training, or a portion of a training, is irrelevant, the agency must review the training within twelve months.

(3) To review the training, the agency must form a stakeholder group consisting of:

(a) Six individuals or representatives from businesses who submitted feedback that the training is irrelevant, geographically dispersed across the state to the extent possible;

(b) One member from each of the two largest caucuses in each chamber of the legislature; and

(c) One member appointed by the governor.

(4) The stakeholder group must issue a formal report to the agency with recommendations on how the agency can effectively make changes and respond to the feedback. The report must also be submitted to the appropriate committees of the legislature.

(5) The agency must prominently publish on its web site:

(a) Minutes from the meetings of the stakeholder group; and

(b) Actions taken by the agency in response to the feedback.

**--- END ---**