

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 1097**

Chapter 253, Laws of 2021

67th Legislature  
2021 Regular Session

WORKER SAFETY AND HEALTH PROTECTIONS—VARIOUS PROVISIONS

EFFECTIVE DATE: July 25, 2021—Except for section 3, which takes effect July 1, 2022.

Passed by the House April 13, 2021  
Yeas 53 Nays 45

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 6, 2021  
Yeas 30 Nays 19

DENNY HECK

**President of the Senate**

Approved May 11, 2021 12:15 PM

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 **ENGROSSED SUBSTITUTE HOUSE BILL 1097** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 12, 2021

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1097**

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AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Sells, Bateman, Ortiz-Self, Kloba, Chopp, Ormsby, Stonier, and Macri; by request of Office of the Governor)

READ FIRST TIME 02/09/21.

1 AN ACT Relating to increasing worker protections; amending RCW  
2 49.17.130, 49.17.140, 49.17.160, and 49.17.180; adding a new section  
3 to chapter 51.04 RCW; creating a new section; prescribing penalties;  
4 and providing an effective date.

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

6 **Sec. 1.** RCW 49.17.130 and 2010 c 8 s 12012 are each amended to  
7 read as follows:

8 (1) If upon inspection or investigation, the director, or his or  
9 her authorized representative, believes that an employer has violated  
10 a requirement of RCW 49.17.060, or any safety or health standard  
11 promulgated by rules of the department, or any conditions of an order  
12 granting a variance, which violation is such that a danger exists  
13 from which there is a substantial probability that death or serious  
14 physical harm could result to any employee, the director or his or  
15 her authorized representative shall issue a citation and may issue an  
16 order immediately restraining any such condition, practice, method,  
17 process, or means in the workplace. Any order issued under this  
18 section may require such steps to be taken as may be necessary to  
19 avoid, correct, or remove such danger and prohibit the employment or  
20 presence of any individual in locations or under conditions where  
21 such danger exists, except individuals whose presence is necessary to

1 avoid, correct, or remove such danger or to maintain the capacity of  
2 a continuous process operation in order that the resumption of normal  
3 operations may be had without a complete cessation of operations, or  
4 where a cessation of operations is necessary, to permit such to be  
5 accomplished in a safe and orderly manner. In addition, if any  
6 machine or equipment, or any part thereof, is in violation of a  
7 requirement of RCW 49.17.060 or any safety or health standard  
8 promulgated by rules of the department, and the operation of such  
9 machine or equipment gives rise to a substantial probability that  
10 death or serious physical harm could result to any employee, and an  
11 order of immediate restraint of the use of such machine or equipment  
12 has been issued under this subsection, the use of such machine or  
13 equipment is prohibited, and a notice to that effect shall be  
14 attached thereto by the director or his or her authorized  
15 representative.

16 (2) Whenever the director, or his or her authorized  
17 representative, concludes that a condition of employment described in  
18 subsection (1) of this section exists in any workplace, he or she  
19 shall promptly inform the affected employees and employers of the  
20 danger.

21 (3) An employer may contest an order restraining any condition of  
22 employment or practice issued under subsection (1) of this section  
23 within 10 working days of the effective date of the order by making  
24 an application to the superior court of the county wherein such  
25 condition of employment or practice exists. Upon the filing of any  
26 such petition, the superior courts of the state of Washington shall  
27 have jurisdiction to grant appropriate relief.

28 (4) At any time that a citation or a citation and order  
29 restraining any condition of employment or practice described in  
30 subsection (1) of this section is issued by the director, or his or  
31 her authorized representative, he or she may in addition request the  
32 attorney general to make an application to the superior court of the  
33 county wherein such condition of employment or practice exists for a  
34 temporary restraining order or such other relief as appears to be  
35 appropriate under the circumstances.

36 **Sec. 2.** RCW 49.17.140 and 2017 c 13 s 1 are each amended to read  
37 as follows:

38 (1) If after an inspection or investigation the director or the  
39 director's authorized representative issues a citation under the

1 authority of RCW 49.17.120 or 49.17.130, the department, within a  
2 reasonable time after the termination of such inspection or  
3 investigation, shall notify the employer using a method by which the  
4 mailing can be tracked or the delivery can be confirmed of the  
5 penalty to be assessed under the authority of RCW 49.17.180 and shall  
6 state that the employer has fifteen working days within which to  
7 notify the director that the employer wishes to appeal the citation  
8 or assessment of penalty. If, within fifteen working days from the  
9 communication of the notice issued by the director the employer fails  
10 to notify the director that the employer intends to appeal the  
11 citation or assessment penalty, and no notice is filed by any  
12 employee or representative of employees under subsection ~~((+3+))~~ (4)  
13 of this section within such time, the citation and the assessment  
14 shall be deemed a final order of the department and not subject to  
15 review by any court or agency.

16 (2) If the director has reason to believe that an employer has  
17 failed to correct a violation for which the employer was previously  
18 cited and which has become a final order, the director shall notify  
19 the employer using a method by which the mailing can be tracked or  
20 the delivery can be confirmed of such failure to correct the  
21 violation and of the penalty to be assessed under RCW 49.17.180 by  
22 reason of such failure, and shall state that the employer has fifteen  
23 working days from the communication of such notification and  
24 assessment of penalty to notify the director that the employer wishes  
25 to appeal the director's notification of the assessment of penalty.  
26 If, within fifteen working days from the receipt of notification  
27 issued by the director the employer fails to notify the director that  
28 the employer intends to appeal the notification of assessment of  
29 penalty, the notification and assessment of penalty shall be deemed a  
30 final order of the department and not subject to review by any court  
31 or agency.

32 (3) If the director has reason to believe that an employer  
33 violated an order immediately restraining a condition, practice,  
34 method, process, or means in the workplace issued under RCW 49.17.130  
35 or this section or a notice prohibiting the use of a machine or  
36 equipment to which a notice prohibiting such use has been attached,  
37 the director shall notify the employer using a method by which the  
38 mailing can be tracked or the delivery can be confirmed of such  
39 violation of the order and of the penalty to be assessed under RCW  
40 49.17.180 by reason of violation of the order and shall state that

1 the employer has 15 working days from the communication of such  
2 notification and assessment of penalty to notify the director that  
3 the employer wishes to appeal the director's notification of the  
4 assessment of penalty. If, within 15 working days from the receipt of  
5 notification issued by the director the employer fails to notify the  
6 director that the employer intends to appeal the notification of  
7 assessment of penalty, the notification and assessment of penalty  
8 shall be deemed a final order of the department and not subject to  
9 review by any court or agency.

10 (4) If any employer notifies the director that the employer  
11 intends to appeal the citation issued under either RCW 49.17.120 or  
12 49.17.130 or notification of the assessment of a penalty issued under  
13 subsections (1) or (2) of this section, or if, within fifteen working  
14 days from the issuance of a citation under either RCW 49.17.120 or  
15 49.17.130 any employee or representative of employees files a notice  
16 with the director alleging that the period of time fixed in the  
17 citation for the abatement of the violation is unreasonable, the  
18 director may reassume jurisdiction over the entire matter, or any  
19 portion thereof upon which notice of intention to appeal has been  
20 filed with the director pursuant to this subsection. If the director  
21 reassumes jurisdiction of all or any portion of the matter upon which  
22 notice of appeal has been filed with the director, any  
23 redetermination shall be completed and corrective notices of  
24 assessment of penalty, citations, or revised periods of abatement  
25 completed within a period of thirty working days. The thirty-working-  
26 day redetermination period may be extended up to forty-five  
27 additional working days upon agreement of all parties to the appeal.  
28 The redetermination shall then become final subject to direct appeal  
29 to the board of industrial insurance appeals within fifteen working  
30 days of such redetermination with service of notice of appeal upon  
31 the director. In the event that the director does not reassume  
32 jurisdiction as provided in this subsection, the director shall  
33 promptly notify the state board of industrial insurance appeals of  
34 all notifications of intention to appeal any such citations, any such  
35 notices of assessment of penalty and any employee or representative  
36 of employees notice of intention to appeal the period of time fixed  
37 for abatement of a violation and in addition certify a full copy of  
38 the record in such appeal matters to the board. The director shall  
39 adopt rules of procedure for the reassumption of jurisdiction under  
40 this subsection affording employers, employees, and employee

1 representatives notice of the reassumption of jurisdiction by the  
2 director, and an opportunity to object or support the reassumption of  
3 jurisdiction, either in writing or orally at an informal conference  
4 to be held prior to the expiration of the redetermination period.  
5 Except as otherwise provided under subsection (~~(4)~~) (5) of this  
6 section, a notice of appeal filed under this section shall stay the  
7 effectiveness of any citation or notice of the assessment of a  
8 penalty pending review by the board of industrial insurance appeals,  
9 but such appeal shall not stay the effectiveness of any order of  
10 immediate restraint issued by the director under the authority of RCW  
11 49.17.130. The board of industrial insurance appeals shall afford an  
12 opportunity for a hearing in the case of each such appellant and the  
13 department shall be represented in such hearing by the attorney  
14 general and the board shall in addition provide affected employees or  
15 authorized representatives of affected employees an opportunity to  
16 participate as parties to hearings under this subsection. The board  
17 shall thereafter make disposition of the issues in accordance with  
18 procedures relative to contested cases appealed to the state board of  
19 industrial insurance appeals.

20 Upon application by an employer showing that a good faith effort  
21 to comply with the abatement requirements of a citation has been made  
22 and that the abatement has not been completed because of factors  
23 beyond the employer's control, the director after affording an  
24 opportunity for a hearing shall issue an order affirming or modifying  
25 the abatement requirements in such citation.

26 (~~(4)~~) (5) An appeal of any violation classified and cited as  
27 serious, willful, repeated serious violation, or failure to abate a  
28 serious violation does not stay abatement dates and requirements  
29 except as follows:

30 (a) An employer may request a stay of abatement for any serious,  
31 willful, repeated serious violation, or failure to abate a serious  
32 violation in a notice of appeal under subsection (~~(3)~~) (4) of this  
33 section;

34 (b) When the director reassumes jurisdiction of an appeal under  
35 subsection (~~(3)~~) (4) of this section, it will include the stay of  
36 abatement request. The issued redetermination decision will include a  
37 decision on the stay of abatement request. The department shall stay  
38 the abatement for any serious, willful, repeated serious violation,  
39 or failure to abate a serious violation where the department cannot  
40 determine that the preliminary evidence shows a substantial

1 probability of death or serious physical harm to workers. The  
2 decision on stay of abatement will be final unless the employer  
3 renews the request for a stay of abatement in any direct appeal of  
4 the redetermination to the board of industrial insurance appeals  
5 under subsection ~~((+3+))~~ (4) of this section;

6 (c) The board of industrial insurance appeals shall adopt rules  
7 necessary for conducting an expedited review on any stay of abatement  
8 requests identified in the employer's notice of appeal, and shall  
9 issue a final decision within forty-five working days of the board's  
10 notice of filing of appeal. This rule making shall be initiated in  
11 2011;

12 (d) Affected employees or their representatives must be afforded  
13 an opportunity to participate as parties in an expedited review for  
14 stay of abatement;

15 (e) The board shall grant a stay of an abatement for a serious,  
16 willful, repeated serious violation, or failure to abate a serious  
17 violation where there is good cause for a stay unless based on the  
18 preliminary evidence it is more likely than not that a stay would  
19 result in death or serious physical harm to a worker;

20 (f) As long as a motion to stay abatement is pending all  
21 abatement requirements will be stayed.

22 ~~((+5+))~~ (6) When the board of industrial insurance appeals denies  
23 a stay of abatement and abatement is required while the appeal is  
24 adjudicated, the abatement process must be the same process as the  
25 process required for abatement upon a final order.

26 ~~((+6+))~~ (7) The department shall develop rules necessary to  
27 implement subsections ~~((+4+and))~~ (5) and (6) of this section. In an  
28 application for a stay of abatement, the department will not grant a  
29 stay when it can determine that the preliminary evidence shows a  
30 substantial probability of death or serious physical harm to workers.  
31 The board will not grant a stay where based on the preliminary  
32 evidence it is more likely than not that a stay would result in death  
33 or serious physical harm to a worker. This rule making shall be  
34 initiated in 2011.

35 **Sec. 3.** RCW 49.17.160 and 2010 c 8 s 12013 are each amended to  
36 read as follows:

37 (1) No person shall discharge or in any manner discriminate  
38 against any employee because such employee has filed any complaint or  
39 instituted or caused to be instituted any proceeding under or related

1 to this chapter, or has testified or is about to testify in any such  
2 proceeding or because of the exercise by such employee on behalf of  
3 himself or herself or others of any right afforded by this chapter.  
4 Prohibited discrimination includes an action that would deter a  
5 reasonable employee from exercising their rights under this chapter.

6 (2) Any employee who believes that he or she has been discharged  
7 or otherwise discriminated against by any person in violation of this  
8 section may, within (~~(thirty)~~) 90 days after such violation occurs,  
9 file a complaint with the director alleging such discrimination.  
10 (~~(Upon receipt of such complaint, the director shall cause such~~  
11 ~~investigation to be made as he or she deems appropriate. If upon such~~  
12 ~~investigation, the director determines that the provisions of this~~  
13 ~~section have been violated, he or [or] she shall bring an action in~~  
14 ~~the superior court of the county wherein the violation is alleged to~~  
15 ~~have occurred against the person or persons who is alleged to have~~  
16 ~~violated the provisions of this section. If the director determines~~  
17 ~~that the provisions of this section have not been violated, the~~  
18 ~~employee may institute the action on his or her own behalf within~~  
19 ~~thirty days of such determination. In any such action the superior~~  
20 ~~court shall have jurisdiction, for cause shown, to restrain~~  
21 ~~violations of subsection (1) of this section and order all~~  
22 ~~appropriate relief including rehiring or reinstatement of the~~  
23 ~~employee to his or her former position with back pay.~~

24 ~~(3) Within ninety days of the receipt of the complaint filed~~  
25 ~~under this section, the director shall notify the complainant of his~~  
26 ~~or her determination under subsection (2) of this section.))~~ The  
27 department may, at its discretion, extend the time period on  
28 recognized equitable principles or due to extenuating circumstances.

29 (3) Within 90 days of the receipt of the complaint filed under  
30 this section, the director shall notify the complainant and the  
31 employer of his or her determination under subsections (4) and (5) of  
32 this section unless the matter is otherwise resolved. The department  
33 may extend the period by providing advance written notice to the  
34 complainant and the employer setting forth good cause for an  
35 extension of the period, and specifying the duration of the  
36 extension.

37 (4) (a) If the director determines that the provisions of this  
38 section have been violated, the director will issue a citation and  
39 notice of assessment describing the violation to the employer,  
40 ordering all appropriate relief, and may assess a civil penalty.



1 (b) Appropriate relief may include, but is not limited to, the  
2 following:

3 (i) Restoring the complainant to the position of employment held  
4 by the complainant when the discrimination occurred, or restoring the  
5 complainant to an equivalent position with equivalent employment  
6 hours, work schedule, benefits, pay, and other terms and conditions  
7 of employment; and

8 (ii) Ordering the employer to make payable to the complainant  
9 earnings that the complainant did not receive due to the employer's  
10 discriminatory action, including interest of one percent per month on  
11 all earnings owed. The earnings and interest owed will be calculated  
12 from the first date earnings were owed to the employee.

13 (c) A civil penalty not to exceed the maximum penalty for a  
14 serious violation under this chapter may be assessed for the first  
15 occurrence. A civil penalty not to exceed the maximum penalty for a  
16 repeat violation under this chapter may be assessed for each repeat  
17 occurrence. Civil penalties are not contingent upon relief being  
18 granted to the worker.

19 (5) If the director finds there is insufficient evidence to  
20 determine that the provisions of this section have been violated, the  
21 director will issue a letter of closure and the employee may  
22 institute the action on his or her own behalf within 30 days of such  
23 determination. In any such action the superior court shall have  
24 jurisdiction, for cause shown, to restrain violations of subsection  
25 (1) of this section and order all appropriate relief including  
26 rehiring or reinstatement of the complainant to his or her former  
27 position with back pay.

28 (6) The department must notify the employer and the complainant  
29 of a citation and notice of assessment issued under subsection (4) of  
30 this section using a method by which the mailing can be tracked or  
31 the delivery can be confirmed. Citations and notices of assessments  
32 shall state that the employer has 30 days within which to notify the  
33 department that the employer wishes to appeal the citation or notice  
34 of assessment, and that the complainant has 15 working days within  
35 which to notify the department that the complainant wishes to appeal  
36 the order of appropriate relief in the notice of assessment. If,  
37 within 30 days from the communication of the notice issued by the  
38 director, the employer fails to notify the department that the  
39 employer intends to appeal the citation or notice of assessment, and  
40 no notice of appeal of the order of appropriate relief is filed by

1 the complainant within such time, the citation and notice of  
2 assessment shall be deemed a final order of the department and not  
3 subject to review by any court or agency.

4 (7) If an employer or complainant notifies the department of an  
5 appeal, the department may reassume jurisdiction according to the  
6 timeline, process for hearing, and issuance of corrective notices of  
7 redetermination under RCW 49.17.140(4). The redetermination shall  
8 become final subject to direct appeal by an employer or complainant  
9 to the board of industrial insurance appeals within 15 working days  
10 of such redetermination with service of notice of appeal upon the  
11 director. In the event that the director does not reassume  
12 jurisdiction as provided in this subsection, the director shall  
13 promptly notify the state board of industrial insurance appeals of  
14 all notifications of intention to appeal the citation and notice of  
15 assessment and certify a full copy of the record in such appeal  
16 matters to the board. The board of industrial insurance appeals shall  
17 afford an opportunity for a hearing in the case of each such  
18 appellant and the department shall be represented in such hearing by  
19 the attorney general and the board shall in addition provide the  
20 complainant an opportunity to participate as a party to hearings of  
21 employer appeals under this subsection and provide the employer an  
22 opportunity to participate as a party to hearings of complainant  
23 appeals under this subsection. The board shall thereafter make  
24 disposition of the issues in accordance with procedures relative to  
25 contested cases appealed to the state board of industrial insurance  
26 appeals. A notice of appeal filed under this section shall stay the  
27 effectiveness of any citation or notice of assessment except orders  
28 of reinstatement pending review by the board of industrial insurance  
29 appeals.

30 (8) Civil penalties imposed under this section shall be paid to  
31 the director for deposit in the supplemental pension fund established  
32 in RCW 51.44.033.

33 (9) Collections of amounts owed for unpaid citations and notices  
34 of assessment will be handled pursuant to the procedures outlined in  
35 RCW 51.48.120 through 51.48.150.

36 (10) Nothing in this section diminishes the rights, privileges,  
37 or remedies of any employee under any federal or state law or under  
38 any collective bargaining agreement. The department and complainant  
39 may pursue remedies in superior court that are outside the board of  
40 industrial insurance appeals' jurisdiction.

1       **Sec. 4.** RCW 49.17.180 and 2018 c 128 s 1 are each amended to  
2 read as follows:

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

19       (2) Any employer who has received a citation for a serious  
20 violation of the requirements of RCW 49.17.060, of any safety or  
21 health standard adopted under the authority of this chapter, of any  
22 existing rule or regulation governing the conditions of employment  
23 adopted by the department, or of any order issued granting a variance  
24 under RCW 49.17.080 or 49.17.090 as determined in accordance with  
25 subsection (~~((6))~~) (7) of this section, shall be assessed a civil  
26 penalty not to exceed seven thousand dollars for each such violation.  
27 However, if the state is required to have a higher maximum penalty to  
28 qualify a state plan under the occupational safety and health  
29 administration, then the maximum civil penalty is the higher maximum  
30 penalty required under the occupational safety and health  
31 administration.

32       (3) Any employer who has received a citation for a violation of  
33 the requirements of RCW 49.17.060, of any safety or health standard  
34 adopted under this chapter, of any existing rule or regulation  
35 governing the conditions of employment adopted by the department, or  
36 of any order issued granting a variance under RCW 49.17.080 or  
37 49.17.090, where such violation is specifically determined not to be  
38 of a serious nature as provided in subsection (~~((6))~~) (7) of this  
39 section, may be assessed a civil penalty not to exceed seven thousand  
40 dollars for each such violation, unless such violation is determined

1 to be de minimis or, if the state is required to have a higher  
2 maximum penalty to qualify a state plan under the occupational safety  
3 and health administration, then the maximum civil penalty is the  
4 higher maximum penalty required under the occupational safety and  
5 health administration.

6 (4) Any employer who fails to correct a violation for which a  
7 citation has been issued under RCW 49.17.120 or 49.17.130 within the  
8 period permitted for its correction, which period shall not begin to  
9 run until the date of the final order of the board of industrial  
10 insurance appeals in the case of any review proceedings under this  
11 chapter initiated by the employer in good faith and not solely for  
12 delay or avoidance of penalties, may be assessed a civil penalty of  
13 not more than seven thousand dollars for each day during which such  
14 failure or violation continues. However, if the state is required to  
15 have a higher maximum penalty to qualify a state plan under the  
16 occupational safety and health administration, then the maximum civil  
17 penalty is the higher maximum penalty required under the occupational  
18 safety and health administration.

19 (5) Any employer who has been issued an order immediately  
20 restraining a condition, practice, method, process, or means in the  
21 workplace, pursuant to RCW 49.17.130 or 49.17.170, and who  
22 nevertheless continues such condition, practice, method, process, or  
23 means, or who continues to use a machine or equipment or part thereof  
24 to which a notice prohibiting such use has been attached, may be  
25 assessed a civil penalty of not more than the maximum penalty for a  
26 serious violation under this section for each day the employer  
27 continues such condition, practice, method, process, or means, or  
28 continues to use a machine or equipment or part thereof to which a  
29 notice prohibiting such use has been attached.

30 (6) Any employer who violates any of the posting requirements of  
31 this chapter, or any of the posting requirements of rules adopted by  
32 the department pursuant to this chapter related to employee or  
33 employee representative's rights to notice, including but not limited  
34 to those employee rights to notice set forth in RCW 49.17.080,  
35 49.17.090, 49.17.120, 49.17.130, 49.17.220(1), and 49.17.240(2),  
36 shall be assessed a penalty not to exceed seven thousand dollars for  
37 each such violation. However, if the state is required to have a  
38 higher maximum penalty to qualify a state plan under the occupational  
39 safety and health administration, then the maximum civil penalty is  
40 the higher maximum penalty required under the occupational safety and

1 health administration. Any employer who violates any of the posting  
2 requirements for the posting of informational, educational, or  
3 training materials under the authority of RCW 49.17.050(7), may be  
4 assessed a penalty not to exceed seven thousand dollars for each such  
5 violation. However, if the state is required to have a higher maximum  
6 penalty to qualify a state plan under the occupational safety and  
7 health administration, then the maximum civil penalty is the higher  
8 maximum penalty required under the occupational safety and health  
9 administration.

10 ~~((+6))~~ (7) For the purposes of this section, a serious violation  
11 shall be deemed to exist in a workplace if there is a substantial  
12 probability that death or serious physical harm could result from a  
13 condition which exists, or from one or more practices, means,  
14 methods, operations, or processes which have been adopted or are in  
15 use in such workplace, unless the employer did not, and could not  
16 with the exercise of reasonable diligence, know of the presence of  
17 the violation.

18 ~~((+7))~~ (8) The director, or his or her authorized  
19 representatives, shall have authority to assess all civil penalties  
20 provided in this section, giving due consideration to the  
21 appropriateness of the penalty with respect to the number of affected  
22 employees of the employer being charged, the gravity of the  
23 violation, the size of the employer's business, the good faith of the  
24 employer, and the history of previous violations.

25 ~~((+8))~~ (9) Civil penalties imposed under this chapter shall be  
26 paid to the director for deposit in the supplemental pension fund  
27 established by RCW 51.44.033. Civil penalties may be recovered in a  
28 civil action in the name of the department brought in the superior  
29 court of the county where the violation is alleged to have occurred,  
30 or the department may utilize the procedures for collection of civil  
31 penalties as set forth in RCW 51.48.120 through 51.48.150.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.04  
33 RCW to read as follows:

34 (1) In the event of a state of emergency as defined in RCW  
35 43.06.010(12), the director is authorized to expend up to two percent  
36 per year of the net premiums earned in the accident fund in the prior  
37 fiscal year for the purpose of a safety grant program so long as the  
38 assets of the accident fund and pension reserve fund were at least 10

1 percent in excess of their funded liabilities in the fiscal quarter  
2 immediately preceding the state of emergency proclamation.

3 (2) The safety grant program shall provide one-time grants to  
4 employers to purchase equipment, gear, or make capital improvements  
5 so long as the purchase is not covered by another grant, government  
6 program, or insurance contract. The department may require matching  
7 funds from employers. Employers must apply for grants using an  
8 application developed by the department.

9 (3) Employers shall apply the safety grants to purchases of  
10 equipment, gear, or capital costs to meet any new safety and health  
11 requirements related to the emergency that are required before they  
12 are permitted to continue or resume business operations.

13 (4) An appropriation is not required for expenditures under this  
14 section.

15 (5) Only employers who pay premiums to the state fund as defined  
16 in RCW 51.08.175, are not self-insured as defined in RCW 51.08.173,  
17 and have 25 or fewer full-time equivalent employees are eligible for  
18 funding under this section.

19 (6) All funds expended from the accident fund for grants under  
20 this section must be reimbursed to the accident fund from the state  
21 general fund in the omnibus appropriations act adopted for the  
22 biennium following the expenditures.

23 (7) Rules that are adopted to implement this section must be done  
24 in consultation with stakeholders. Rules must include but are not  
25 limited to:

26 (a) Guidance for grant awards based on the type, scope, and time  
27 frame of a specific declared emergency; and

28 (b) Criteria for prioritizing grants for eligible recipients.

29 NEW SECTION. **Sec. 6.** The department of labor and industries may  
30 adopt rules as necessary to implement this act.

31 NEW SECTION. **Sec. 7.** Section 3 of this act takes effect July 1,  
32 2022.

Passed by the House April 13, 2021.  
Passed by the Senate April 6, 2021.  
Approved by the Governor May 11, 2021.  
Filed in Office of Secretary of State May 12, 2021.

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