

SENATE BILL REPORT

2SHB 2603

As Reported by Senate Committee On:
Economic Development, Trade & Innovation, February 25, 2010

Title: An act relating to violations of state law or agency rule by small businesses.

Brief Description: Requiring agencies to give small businesses an opportunity to comply with a state law or agency rule before imposing a penalty.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Smith, Kenney, Bailey, Quall, Morris, Blake, Anderson, Chase, Kelley, Short, Appleton, Sullivan, Dammeier, Upthegrove, Klippert, Chandler, Kristiansen, Rolfes, Pearson, Roach, Parker, Morrell, Haler, Walsh, Orcutt, Johnson, Liias, Hunt, Probst, Ericksen, Moeller, Kretz, Sells, Hope, Herrera and Warnick).

Brief History: Passed House: 2/15/10, 98-0.

Committee Activity: Economic Development, Trade & Innovation: 2/25/10 [DPA].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Majority Report: Do pass as amended.

Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli, Ranking Minority Member; Delvin, Eide and Kilmer.

Staff: Jack Brummel (786-7428)

Background: Small Business Paperwork Violations Act. In 2009 the Legislature enacted a law directing agencies to waive fines, civil penalties, or administrative sanctions for first-time paperwork violations made by small businesses. A small business is defined as a business with 250 or fewer employees. A paperwork violation is defined as a violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business.

When an agency issues a waiver, it may require the small business to correct the violation within a reasonable period of time and in a manner specified by the agency. If a correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties, or sanctions.

Exceptions to the waiver requirement may be made if the violation:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- presents a direct danger to public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;
- involves knowing or willful conduct that may result in a felony conviction;
- concerns assessment or collection of any tax, debt, revenue or receipt;
- concerns a regulated entity's financial filings, or insurance rate or form filing;
- conflicts with federal law or programs; or
- is by a business owner who previously committed a substantially similar paperwork violation.

Summary of Bill (Recommended Amendments): The Small Business Paperwork Violations Act is amended. Agencies must provide a small business with a copy of the state law or agency rule being violated and must allow a period of at least two business days for the small business to correct the violation before the agency imposes a fine, a civil penalty, or an administrative sanction. If no correction is possible, no correction must be required. Exceptions to this requirement are the same as the exceptions to the waiver requirement.

A small business is defined as a business with 250 or fewer employees or with gross revenues of less than \$7 million annually.

EFFECT OF CHANGES MADE BY ECONOMIC DEVELOPMENT, TRADE & INNOVATION COMMITTEE (Recommended Amendments): The definition of a small business is changed.

Appropriation: None.

Fiscal Note: Available (preliminary).

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: PRO: This would help small businesses. This gives two business days for correction. This would benefit businesses employing 70 percent of the state's businesses. This helps those making good faith efforts.

OTHER: Those filing a complaint with an agency may be negatively impacted by the provisions related to non-correctable violations because this goes beyond paperwork violations. This may have unintended consequences.

Persons Testifying: PRO: Representative Smith; Carl Gipson, WA Policy Center; Patrick Connor.

OTHER: Bruce Neas, Columbia Legal Services.