



H.B. 285*

127th General Assembly

(As Reported by S. State & Local Government & Veterans Affairs)

Reps. R. McGregor, Widener, Wagner, J. McGregor, Fessler, Combs, Setzer, Flowers, Oelslager, Zehringer, Adams, Webster, Wachtmann, Huffman, Evans, Collier, Reinhard, Uecker, Daniels, Gibbs, Wagoner, Batchelder, Brinkman, Hite, D. Stewart, Book, Brown, Carmichael, Domenick, Lundy, Schneider, Aslanides, Bacon, Blessing, Bolon, Boyd, Budish, Celeste, Chandler, Coley, DeBose, Dodd, Dolan, Dyer, Gardner, Garrison, Goodwin, Goyal, J. Hagan, Harwood, Hottinger, Hughes, Jones, Luckie, Mecklenborg, Okey, Patton, Raussen, Schindel, Schlichter, Sears, Stebelton, J. Stewart, White, S. Williams, Yates, Yuko

BILL SUMMARY

- Generally requires a state agency or regulatory authority to waive administrative fines or civil penalties for paperwork violations that are first-time offenses committed by a small business.

CONTENT AND OPERATION

Waiver of administrative fines or civil penalties in case of a first-time paperwork violation by a small business

The bill generally provides that, for any small business¹ that engages in a paperwork violation, the state agency or regulatory authority that regulates the field of operation in which the business operates must waive any and all administrative fines or civil penalties on the small business for the violation, if the violation is a first-time offense (R.C. 119.14(A) and (E)). The agency or authority, however, must require the small business to correct the paperwork

* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ "Small business" has the same meaning as in Title 13 of the Code of Federal Regulations, which specifies the various conditions under which a business qualifies as a small business for purposes of federal law (R.C. 119.14(F)(1)).

violation within a reasonable period of time (R.C. 119.14(B)). A "paperwork violation" is the violation of any statutory or regulatory requirement in the Revised Code mandating the collection of information by a state agency or regulatory body (R.C. 119.14(G)(2)). A "first-time offense" is the first instance of a violation of the particular statutory or regulatory requirement mandating the collection of information by a state agency or regulatory body (R.C. 119.14(G)(3)).

The bill does not prohibit a state agency or regulatory authority from waiving administrative fines or civil penalties incurred by a small business for a paperwork violation that is not a first-time offense (R.C. 119.14(D)(1)).

The bill provides that any fine or penalty that is waived may be reinstated and imposed in addition to any additional fines or penalties associated with a subsequent violation for noncompliance with the same paperwork requirement. (R.C. 119.14(D)(2).)

Exceptions to the waiver requirement for a first-time violation

The bill authorizes a state agency or regulatory authority to impose administrative fines or civil penalties incurred by a small business for a paperwork violation that is a first-time offense for any of the following reasons:

- The violation has the potential to cause serious harm to the public interest as determined by a state agency or regulatory authority director.
- The violation involves a small business knowingly or willfully engaging in conduct that may result in a felony conviction.
- Failure to impose an administrative fine or civil penalty for a violation would impede or interfere with the detection of criminal activity.
- The violation is of a law concerning the assessment or collection of any tax, debt, revenue, or receipt.
- The violation presents a direct danger to the public health or safety, results in a financial loss to an employee as employee is defined in the Prevailing Wage Law, or presents the risk of severe environmental harm, as determined by the head of the agency or regulatory authority.
- The violation is a failure to comply with a federal requirement for a program that has been delegated from the federal government to a state agency or regulatory authority and where the federal requirement includes a requirement to impose a fine. (R.C. 119.14(C).)

The bill does not authorize or require the waiver of any criminal fines that may result from a first-time paperwork violation that is a criminal offense.

The bill states that it is not to be construed to diminish the responsibility of any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity or otherwise to comply with state or federal law (R.C. 119.14(F)).

HISTORY

ACTION	DATE
Introduced	07-10-07
Reported, H. State Gov't & Elections	02-19-08
Passed House (94-0)	03-11-08
Reported, S. State & Local Government & Veterans Affairs	---

H0285-RS-127.doc/jc

