

Amendment No. 596

Senate Amendment to Assembly Bill No. 253 First Reprint (BDR 53-100)

Proposed by: Senate Committee on Commerce, Labor and Energy**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____		Adopted	☐	Lost ☐ _____
Concurred In	☐	Not	☐ _____		Concurred In	☐	Not ☐ _____
Receded	☐	Not	☐ _____		Receded	☐	Not ☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) *orange double underlining* is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MSN/TMC



Date: 5/16/2011

A.B. No. 253—Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (BDR 53-100)



ASSEMBLY BILL NO. 253—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
TO REVIEW THE UNITED STATES DEPARTMENT OF LABOR'S REPORT
ON THE NEVADA OCCUPATIONAL SAFETY AND HEALTH PROGRAM)

MARCH 10, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (BDR 53-100)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to occupational safety; revising certain fines for willful violations of the Nevada Occupational Safety and Health Act; authorizing citations and fines for violation of a settlement agreement; providing for a survey of salaries of safety and mechanical inspectors; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the assessment of certain fines and punishments for violations of the Nevada Occupational Safety and Health Act. (NRS 618.625-618.715)

Sections 1-4 of this bill include within the scope of behavior that may trigger certain fines or punishments the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act **and which requires an employer to correct or modify a condition or practice in or relating to a place of employment**, and authorize the Division of Industrial Relations of the Department of Business and Industry to take certain actions to enforce such a settlement agreement.

Section 2 of this bill increases the maximum and minimum fines for willfully violating any requirement of the Nevada Occupational Safety and Health Act. **Section 4** of this bill revises the punishment for a willful violation of the Nevada Occupational Safety and Health Act that results in the death of an employee by revising the fine that may be assessed for each such violation.

Section 5 of this bill requires the Department of Personnel to complete a survey of the salaries of safety and mechanical inspectors and report its findings to the Director of the Legislative Counsel Bureau by July 1, 2012.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated ~~the~~

~~:~~ (a) A requirement of this chapter, or any standard, rule or order adopted or issued pursuant to this chapter, for any provision of a settlement agreement entered into relating to this chapter, the Division shall with reasonable promptness issue a citation to the employer ~~;~~ or

(b) Any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, the Division may issue a citation to the employer.

2. Each citation issued under this section must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter, ~~the~~ the provision of the standard, rule, regulation or order, or the provision of the settlement agreement alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

~~2.3.~~ 3. Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

~~2.4.~~ 4. No citation may be issued under this section after 6 months following the occurrence of any violation.

Sec. 1.3. NRS 618.515 is hereby amended to read as follows:

618.515 If any person disobeys an order of the Division, any provision of a settlement agreement entered into relating to this chapter ~~the~~ which requires the employer to correct or modify a condition or practice in or relating to a place of employment, or a subpoena issued by ~~the~~ the Division or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which the person may be lawfully interrogated, ~~then~~ the district judge of the county in which the person resides, on application of the Administrator or the Administrator's representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 1.7. NRS 618.525 is hereby amended to read as follows:

618.525 1. The Division may prosecute, defend and maintain actions in the name of the Division for the enforcement of the provisions of this chapter or any settlement agreement entered into relating to this chapter ~~the~~ which requires the employer to correct or modify a condition or practice in or relating to a place of employment, and is entitled to all extraordinary writs or other relief provided by the Constitution of the State of Nevada, the statutes of this State and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.

2. Verification of any pleading, affidavit or other paper required may be made by the Division.

3. In any action or proceeding or in the prosecution of any appeal by the Division, no bond or undertaking may be required to be furnished by the Division.

Sec. 2. NRS 618.635 is hereby amended to read as follows:

618.635 Any employer who ~~willfully~~ ~~for repeatedly~~:

1. Willfully violates any requirements of this chapter, any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, may be assessed an administrative fine of not more than ~~\$70,000 for each violation, but~~ \$100,000 and not less than ~~\$5,000~~ \$8,000 for each willful violation.

2. Repeatedly violates any requirements of this chapter, any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, may be assessed an administrative fine of not more than \$70,000 and not less than \$5,000 for each repeated violation.

Sec. 3. NRS 618.645 is hereby amended to read as follows:

618.645 Any employer who has received a citation for a serious violation of any requirement of this chapter, ~~for~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, must be assessed an administrative fine of not more than \$7,000 for each such violation. If a violation is specifically determined to be of a nonserious nature an administrative fine of not more than \$7,000 may be assessed.

Sec. 4. NRS 618.685 is hereby amended to read as follows:

618.685 Any employer who willfully violates any requirement of this chapter, ~~for~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment where the violation causes the death of any employee, shall be punished:

1. For a first offense, by a fine of not more than ~~\$50,000~~ \$100,000 and not less than \$50,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. For a second or subsequent offense, by a fine of not more than ~~\$100,000~~ \$250,000 and not less than \$50,000, or by imprisonment in the county jail for not more than 1 year, or by both fine and imprisonment.

Sec. 5. 1. The Department of Personnel shall conduct a survey of the salaries of safety and mechanical inspectors employed by the Division of Industrial Relations of the Department of Business and Industry, including, without limitation, salaries for similar positions within the private sector.

2. The Department of Personnel shall seek to obtain relevant information from public and private employers as part of the survey. Any such information obtained by the Department may be used only for the purpose of conducting the survey.

3. The Department of Personnel shall complete the survey and submit a copy of its findings and recommendations on or before July 1, 2012, to the Director of the Legislative Counsel Bureau for distribution to the Interim Finance Committee.

Sec. 6. This act becomes effective on January 1, 2012.