

SENATE BILL NO. 40—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF INDUSTRIAL RELATIONS
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 19, 2018

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing penalties for violating occupational safety laws. (BDR 53-222)

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; requiring the Division of Industrial Relations of the Department of Business and Industry to establish by rule or regulation the monetary amounts of administrative fines, consistent with federal law, for certain violations of occupational safety and health laws; revising the amounts of administrative fines which the Division is authorized or required to assess against an employer for certain violations of occupational safety and health laws; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Division of Industrial Relations of the Department of Business and Industry to assess against an employer administrative fines in monetary amounts established in statute for violations of certain occupational safety and health laws. (NRS 618.625) **Section 1** of this bill requires the Division to establish by rule or regulation the monetary amounts of those administrative fines consistent with the monetary amounts set forth for those violations in the federal Occupational Safety and Health Act, 29 U.S.C. § 666, including any adjustments to the monetary amounts in that Act which are made pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74.

Existing law: (1) authorizes the Division to assess against an employer an administrative fine of not more than \$70,000, but not less than \$5,000, for each willful or repeated violation of the requirements of chapter 618 of NRS or standard, rule, regulation or order promulgated or prescribed pursuant to that chapter; (2) requires the Division to assess an administrative fine of not more than \$7,000 for



each serious violation and authorizes the Division to assess an administrative fine of not more than \$7,000 for each nonserious violation; (3) authorizes the Division to assess an administrative fine of not more than \$7,000 for each day during which an employer's failure to correct a cited violation continues; and (4) requires the Division to assess an administrative fine of not more than \$7,000 for each violation consisting of the failure to post and maintain certain required notices and records. (NRS 618.635, 618.645, 618.655, 618.675) **Sections 2-5** of this bill revise these provisions to authorize or require, as applicable, the Division to instead assess those administrative fines in the monetary amounts which the Division establishes pursuant to **section 1**.

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

Section 1. NRS 618.625 is hereby amended to read as follows:

618.625 1. The Division may assess administrative fines provided for in this chapter, giving due consideration to the appropriateness of the penalty with respect to the size of the employer, the gravity of the violation, the good faith of the employer and the history of previous violations.

2. *The Division shall, through rule and regulation, establish the amounts of administrative fines which may be imposed pursuant to NRS 618.635, 618.645, 618.655 and 618.675. The monetary amount of each of those administrative fines may not be established at a monetary amount that is greater than the monetary amount of the corresponding civil penalty for the applicable violation pursuant to 29 U.S.C. § 666, including any adjustments made to the civil penalty pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74.*

3. For purposes of this chapter, a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use in that place of employment unless the employer did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

~~3.1~~ 4. Administrative fines owed under this chapter must be paid to the Division. The fines may be recovered in a civil action in the name of the Division brought in a court of competent jurisdiction in the county where the violation is alleged to have occurred or where the employer has his or her principal office.

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

618.635 Any employer who willfully or repeatedly violates any requirements of this chapter, any standard, rule, regulation or



order promulgated or prescribed pursuant to this chapter, may be assessed an administrative fine ~~[of not more than \$70,000 for each violation, but not less than \$5,000]~~ *in a monetary amount established by the Division for willful or repeated violations pursuant to subsection 2 of NRS 618.625* for each willful 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, or any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, must be assessed an administrative fine ~~[of not more than \$7,000]~~ *in a monetary amount established by the Division for a serious violation pursuant to subsection 2 of NRS 618.625* 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]~~ *in a monetary amount established by the Division for a nonserious violation pursuant to subsection 2 of NRS 618.625* may be assessed.

Sec. 4. NRS 618.655 is hereby amended to read as follows:

618.655 Any employer who fails to correct a violation for which a citation has been issued under this chapter within the period permitted for its correction may be assessed an administrative fine ~~[of not more than \$7,000]~~ *in a monetary amount established by the Division for a failure to correct a violation for which a citation has been issued pursuant to subsection 2 of NRS 618.625* for each day during which the failure or violation continues. If a review proceeding is initiated by the employer in good faith and not solely to delay or avoid any penalties, the period permitted to correct a violation does not begin until the date of the final order of the Division.

Sec. 5. NRS 618.675 is hereby amended to read as follows:

618.675 1. An employer who fails to post the notice and records as required under the provisions of this chapter must be assessed an administrative fine ~~[of not more than \$7,000]~~ *in a monetary amount established by the Division for a failure to post the notice and records pursuant to subsection 2 of NRS 618.625* for each violation.

2. An employer who fails to maintain the notice or notices and records required by this chapter must be assessed an administrative fine ~~[of not more than \$7,000]~~ *in a monetary amount established by the Division for a failure to maintain the notice or notices and records pursuant to subsection 2 of NRS 618.625* for each violation.



- 1 **Sec. 6.** This act becomes effective:
2 1. Upon passage and approval for the purposes of performing
3 any preparatory administrative tasks and adopting any regulations
4 necessary to carry out the provisions of this act; and
5 2. On July 1, 2019, for all other purposes.

