
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; revising the period of time in which an employer must notify the Division of Industrial Relations of the Department of Business and Industry of the employer’s intent to contest the issuance of a citation or proposed assessment of a penalty by the Division; revising provisions governing 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:

- 1 Existing law provides that an employer has 15 working days within which to
- 2 notify the Division of Industrial Relations of the Department of Business and
- 3 Industry that the employer wishes to contest the issuance of a citation or proposed
- 4 assessment of a penalty by the Division after an inspection of a workplace or an
- 5 investigation of an imminent danger or suspected violation of certain safety or
- 6 health standards. (NRS 618.475) **Section 1** of this bill increases the notification
- 7 period to 30 calendar days.
- 8 Existing law authorizes the Division to assess against an employer
- 9 administrative fines in monetary amounts established in statute for violations of
- 10 certain occupational safety and health laws. (NRS 618.625) **Section 1.5** of this bill
- 11 provides that the monetary amounts of those administrative fines may not be
- 12 greater than the monetary amounts set forth for those violations in the federal
- 13 Occupational Safety and Health Act, 29 U.S.C. § 666, including any adjustments to



14 the monetary amounts in that Act which are made pursuant to the Federal Civil
15 Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74.

16 Existing law: (1) authorizes the Division to assess against an employer an
17 administrative fine of not more than \$70,000, but not less than \$5,000, for each
18 willful or repeated violation of the requirements of chapter 618 of NRS or standard,
19 rule, regulation or order promulgated or prescribed pursuant to that chapter; (2)
20 requires the Division to assess an administrative fine of not more than \$7,000 for
21 each serious violation and authorizes the Division to assess an administrative fine
22 of not more than \$7,000 for each nonserious violation; (3) authorizes the Division
23 to assess an administrative fine of not more than \$7,000 for each day during which
24 an employer's failure to correct a cited violation continues; and (4) requires the
25 Division to assess an administrative fine of not more than \$7,000 for each violation
26 consisting of the failure to post and maintain certain required notices and records.
27 (NRS 618.635, 618.645, 618.655, 618.675) **Sections 2-5** of this bill revise these
28 provisions to provide that those administrative fines may not be greater than the
29 monetary amounts authorized pursuant to **section 1.5**.

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

1 **Section 1.** NRS 618.475 is hereby amended to read as follows:
2 618.475 1. If, after an inspection or investigation, the
3 Division issues a citation under the provisions of this chapter, it
4 shall, within a reasonable time after the termination of the inspection
5 or investigation, notify the employer by certified mail of the penalty,
6 if any, proposed to be assessed under this chapter and that the
7 employer has ~~[15 working]~~ *30 calendar* days within which to notify
8 the Division that the employer wishes to contest the citation or
9 proposed assessment of penalty. If, within ~~[15 working]~~ *30 calendar*
10 days from the receipt of the notice issued by the Division, the
11 employer fails to notify the Division that the employer intends to
12 contest the citation or proposed assessment of penalty, and no notice
13 is filed by any employee or representative of employees under this
14 chapter within such time, the citation and assessment as proposed
15 shall be deemed a final order of the review board and not subject to
16 review by any court or agency. Upon a showing by an employer of a
17 good faith effort to comply with the abatement requirements of a
18 citation, and that the abatement has not been completed because of
19 factors beyond the reasonable control of the employer, the Division
20 shall issue an order affirming or modifying the abatement
21 requirements in the citation.
22 2. In the case of an accident or motor vehicle crash occurring in
23 the course of employment which is fatal to one or more employees,
24 if an employer notifies the Division that the employer wishes to
25 contest a citation or proposed assessment of penalty, the Division
26 shall provide the Board with information as to how to contact the
27 immediate family of each deceased employee.



3. Any employee or the representative of the employee alleging that the time fixed in the citation for the abatement of a violation by his or her employer is unreasonable may, within ~~15 working~~ **30 calendar** days after the date of posting of the notice of abatement pursuant to this chapter, file an appeal with the Division to contest the reasonableness of the period of time for abatement of the violation and must be notified in writing as to the time and place of hearing before the review board.

4. If no appeal is filed by an employee or the representative of the employee under subsection 3 within the time limit of ~~15 working~~ **30 calendar** days, the period of time fixed for the abatement of the violation is final and not subject to review by any court or the review board.

Sec. 1.5. 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 administrative fines which may be imposed pursuant to NRS 618.635, 618.645, 618.655 and 618.675 may not be 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.~~ 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**



1 *authorized pursuant to subsection 2 of NRS 618.625* for each
2 willful violation.

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

4 618.645 Any employer who has received a citation for a
5 serious violation of any requirement of this chapter, or any standard,
6 rule, regulation or order promulgated or prescribed pursuant to this
7 chapter, must be assessed an administrative fine ~~{of not more than~~
8 ~~\$7,000}~~ *in a monetary amount authorized pursuant to subsection 2*
9 *of NRS 618.625* for each such violation. If a violation is specifically
10 determined to be of a nonserious nature an administrative fine ~~{of~~
11 ~~not more than \$7,000}~~ *in a monetary amount authorized pursuant*
12 *to subsection 2 of NRS 618.625* may be assessed.

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

14 618.655 Any employer who fails to correct a violation for
15 which a citation has been issued under this chapter within the period
16 permitted for its correction may be assessed an administrative fine
17 ~~{of not more than \$7,000}~~ *in a monetary amount authorized*
18 *pursuant to subsection 2 of NRS 618.625* for each day during
19 which the failure or violation continues. If a review proceeding is
20 initiated by the employer in good faith and not solely to delay or
21 avoid any penalties, the period permitted to correct a violation does
22 not begin until the date of the final order of the Division.

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

24 618.675 1. An employer who fails to post the notice and
25 records as required under the provisions of this chapter must be
26 assessed an administrative fine ~~{of not more than \$7,000}~~ *in a*
27 *monetary amount authorized pursuant to subsection 2 of NRS*
28 *618.625* for each violation.

29 2. An employer who fails to maintain the notice or notices and
30 records required by this chapter must be assessed an administrative
31 fine ~~{of not more than \$7,000}~~ *in a monetary amount authorized*
32 *pursuant to subsection 2 of NRS 618.625* for each violation.

33 **Sec. 6.** This act becomes effective:

34 1. Upon passage and approval for the purposes of performing
35 any preparatory administrative tasks and adopting any regulations
36 necessary to carry out the provisions of this act; and

37 2. On October 1, 2019, for all other purposes.

