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H.376

Introduced by Representatives Botzow of Pownal, Marcotte of Coventry, and
O'Sullivan of Burlington

Referred to Committee on

Date:

Subject: Labor; occupational safety and health; workers' compensation

Statement of purpose of bill as introduced: This bill proposes to update the
civil penalties under the Vermont Occupational Safety and Health Act.

An act relating to occupational safety and workers' compensation

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 21 V.S.A. § 210 is amended to read:

§ 210. PENALTIES

(a) Upon issuance of a citation under this chapter, the Review Board is
authorized to assess civil penalties for grounds provided in this subsection. In
assessing civil penalties, the Review Board shall follow to the degree
practicable the federal procedures prescribed in rules promulgated under the
Act. The Review Board shall give due consideration to the appropriateness of
the penalty with respect to the size of the business or operation of the
employer being assessed, the gravity of the violation, the good faith of the

1 employer, and the history of previous violations. Civil penalties shall be paid
2 to the Commissioner for deposit with the State Treasurer, and may be
3 recovered in a civil action in the name of the State of Vermont brought in any
4 court of competent jurisdiction. The Commissioner shall not reduce the
5 assessed penalties in any fiscal year by more than 50 percent.

6 (1) Any employer who willfully or repeatedly violates the requirements
7 of this Code or any standard, or rule adopted, or order ~~promulgated~~ issued
8 pursuant to this Code ~~or regulations prescribed pursuant to this Code~~ may be
9 assessed a civil penalty of not more than ~~\$70,000.00~~ \$126,749.00 for each
10 violation, but not less than \$5,000.00 for each willful violation.

11 (2) Any employer who has received a citation for a serious violation of
12 the requirements of this Code, or any standard, or rule adopted, or order
13 ~~promulgated~~ issued pursuant to this Code, ~~or of any regulations prescribed~~
14 ~~pursuant to this Code~~, shall be assessed a civil penalty of up to ~~\$7,000.00~~
15 \$12,675.00 for each violation.

16 (3) Any employer who has received a citation for a violation of the
17 requirements of this Code, or any standard, or rule adopted, or order
18 ~~promulgated~~ issued pursuant to this Code ~~or of regulations prescribed pursuant~~
19 ~~to this Code, and such violation~~ if the violation is specifically determined not
20 to be of a serious nature, may be assessed a civil penalty of up to ~~\$7,000.00~~
21 \$12,675.00 for each such violation.

1 (4) Any employer who fails to correct a violation for which a citation
2 has been issued within the period permitted for its correction, which period
3 shall not begin to run until the date of the final order of the Review Board, in
4 the case of any review proceeding under section 226 of this title initiated by
5 the employer in good faith and not solely for delay or avoidance of penalties,
6 may be assessed a civil penalty of not more than ~~\$7,000.00~~ \$12,675.00 for
7 each day during which the failure or violation continues.

8 (5) Any employer who willfully violates any standard, or rule adopted,
9 or order ~~promulgated~~ issued pursuant to this Code, and that violation caused
10 death to any employee, shall, upon conviction, be punished by a fine of not
11 more than ~~\$20,000.00~~ \$126,749.00 or by imprisonment for not more than one
12 year, or by both.

13 * * *

14 (8) Any employer who violates any of the posting requirements, as
15 prescribed under the provisions of this Code, shall be assessed a civil penalty
16 of up to ~~\$7,000.00~~ \$12,675.00 for each violation.

17 (9)(A) As provided under the federal Civil Penalties Inflation
18 Adjustment Act Improvements Act of 2015 and the Act, the penalties provided
19 in subdivisions (1), (2), (3), (4), (5), and (8) of this section shall annually, on
20 January 1, be adjusted to reflect the increase in the Consumer Price Index,
21 CPI-U, U.S. City Average, not seasonally adjusted, as calculated by the U.S.

1 Department of Labor or successor agency for the 12 months preceding the
2 previous December 1.

3 (B) The Commissioner shall calculate and publish the adjustment to
4 the penalties on or before January 1 of each year and the penalties shall apply
5 to fines imposed on or after that date.

6 * * *

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on July 1, 2017.