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HOUSE BILL 2146

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State of Washington

63rd Legislature

2014 Regular Session

By Representative Condotta

Prefiled 01/06/14.

1 AN ACT Relating to department of labor and industries appeal bonds;  
2 and amending RCW 18.27.250, 19.28.131, 19.28.381, 19.28.490, and  
3 70.87.170.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.27.250 and 2011 c 15 s 1 are each amended to read  
6 as follows:

7 A violation designated as an infraction under this chapter shall be  
8 heard and determined by an administrative law judge of the office of  
9 administrative hearings. If a party desires to contest the notice of  
10 infraction, the party shall file a notice of appeal with the department  
11 specifying the grounds of the appeal within thirty days of service of  
12 the infraction in a manner provided by this chapter. The appeal must  
13 be accompanied by a certified check for two hundred dollars or ten  
14 percent of the penalty amount, whichever is less, which shall be  
15 returned to the assessed party if the decision of the department is not  
16 sustained following the final decision in the appeal. If the final  
17 decision sustains the decision of the department, the department must  
18 apply the ((two hundred dollars)) amount of the check to the payment of  
19 the expenses of the appeal, including costs charged by the office of

1 administrative hearings. The administrative law judge shall conduct  
2 hearings in these cases at locations in the county where the infraction  
3 occurred.

4 **Sec. 2.** RCW 19.28.131 and 2011 c 301 s 6 are each amended to read  
5 as follows:

6 Until July 1, 2007, the department shall issue a written warning to  
7 any specialty contractor, performing the scope of work defined by rule  
8 for the pump and irrigation or domestic pump specialties, not having a  
9 valid electrical contractor license. The warning will state that the  
10 contractor must be qualified for and apply for a specialty electrical  
11 contractor license under the requirements in RCW 19.28.041 within  
12 thirty calendar days of the warning. Only one warning will be issued  
13 to any contractor. If the contractor fails to comply with this  
14 section, the department shall issue a penalty or penalties as  
15 authorized in this section to the contractor. Any person, firm,  
16 partnership, corporation, or other entity violating any of the  
17 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through  
18 19.28.361 shall be assessed a penalty of not less than fifty dollars or  
19 more than ten thousand dollars. The department shall set by rule a  
20 schedule of penalties for violating RCW 19.28.010 through 19.28.141 and  
21 19.28.311 through 19.28.361. The department shall notify the person,  
22 firm, partnership, corporation, or other entity violating any of the  
23 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through  
24 19.28.361 of the amount of the penalty and of the specific violation  
25 using a method by which the mailing can be tracked or the delivery can  
26 be confirmed sent to the last known address of the assessed party. Any  
27 penalty is subject to review by an appeal to the board. The filing of  
28 an appeal stays the effect of the penalty until the board makes its  
29 decision. The appeal shall be filed within twenty days after notice of  
30 the penalty is given to the assessed party using a method by which the  
31 mailing can be tracked or the delivery can be confirmed, sent to the  
32 last known address of the assessed party and shall be made by filing a  
33 written notice of appeal with the department. The notice shall be  
34 accompanied by a certified check for two hundred dollars or ten percent  
35 of the penalty amount, whichever is less, which shall be returned to  
36 the assessed party if the decision of the department is not sustained  
37 by the board. If the board sustains the decision of the department,

1 the (~~two hundred dollars~~) amount of the check shall be applied by the  
2 department to the payment of the per diem and expenses of the members  
3 of the board incurred in the matter, and any balance remaining after  
4 payment of per diem and expenses shall be paid into the electrical  
5 license fund. The hearing and review procedures shall be conducted in  
6 accordance with chapter 34.05 RCW. The board shall assign its hearings  
7 to an administrative law judge to conduct the hearing and issue a  
8 proposed decision and order. The board shall be allowed a minimum of  
9 twenty days to review a proposed decision and shall issue its decision  
10 no later than the next regularly scheduled board meeting.

11 **Sec. 3.** RCW 19.28.381 and 1996 c 241 s 1 are each amended to read  
12 as follows:

13 The department may deny renewal of a certificate or license issued  
14 under this chapter, if the applicant for renewal owes outstanding  
15 penalties for a final judgment under this chapter. The department  
16 shall notify the applicant of the denial by registered mail, return  
17 receipt requested, to the address on the application. The applicant  
18 may appeal the denial within twenty days by filing a notice of appeal  
19 with the department accompanied by a certified check for two hundred  
20 dollars (~~which~~) or the amount of the outstanding penalties, whichever  
21 is less. The check shall be returned to the applicant if the decision  
22 of the department is not upheld by the board. The office of  
23 administrative hearings shall conduct the hearing under chapter 34.05  
24 RCW. The electrical board shall review the proposed decision at the  
25 next regularly scheduled board meeting. If the board sustains the  
26 decision of the department, the (~~two hundred dollars~~) amount of the  
27 check must be applied to the cost of the hearing.

28 **Sec. 4.** RCW 19.28.490 and 2011 c 301 s 9 are each amended to read  
29 as follows:

30 Any person, firm, partnership, corporation, or other entity  
31 violating any of the provisions of this chapter may be assessed a  
32 penalty of not less than one hundred dollars or more than ten thousand  
33 dollars per violation. The department, after consulting with the board  
34 and receiving the board's recommendations, shall set by rule a schedule  
35 of penalties for violating this chapter. The department shall notify  
36 the person, firm, partnership, corporation, or other entity violating

1 any of these provisions of the amount of the penalty and of the  
2 specific violation. The notice shall be sent using a method by which  
3 the mailing can be tracked or the delivery can be confirmed to the last  
4 known address of the assessed party. Penalties are subject to review  
5 by an appeal to the board. The filing of an appeal stays the effect of  
6 the penalty until the board makes its decision. The appeal shall be  
7 filed within twenty days after notice of the penalty is given to the  
8 assessed party, and shall be made by filing a written notice of appeal  
9 with the department. The notice shall be accompanied by a certified  
10 check for two hundred dollars(~~(, that)~~) or ten percent of the penalty  
11 amount, whichever is less. The check shall be returned to the assessed  
12 party if the decision of the department is not sustained by the board.  
13 If the board sustains the decision of the department, the (~~two hundred~~  
14 ~~dollars~~) amount of the check shall be applied by the department to the  
15 payment of the per diem and expenses of the members of the board  
16 incurred in the matter, and any balance remaining after payment of per  
17 diem and expenses shall be paid into the electrical license fund. The  
18 hearing and review procedures shall be conducted in accordance with  
19 chapter 34.05 RCW. The board shall assign its hearings to an  
20 administrative law judge to conduct the hearing and issue a proposed  
21 decision and order. The board shall be allowed a minimum of twenty  
22 days to review a proposed decision and shall issue its decision no  
23 later than the next regularly scheduled board meeting.

24 **Sec. 5.** RCW 70.87.170 and 2003 c 143 s 18 are each amended to read  
25 as follows:

26 (1) Any person aggrieved by an order or action of the department  
27 denying, suspending, revoking, or refusing to renew a permit or  
28 license; assessing a penalty for a violation of this chapter; or  
29 ordering the operation of a conveyance to be discontinued, may request  
30 a hearing within fifteen days after notice of the department's order or  
31 action is received. The date the hearing was requested shall be the  
32 date the request for hearing was postmarked.

33 (2) The party requesting the hearing must accompany the request  
34 with a certified or cashier's check for two hundred dollars payable to  
35 the department, except that if a penalty assessment is the issue for  
36 the hearing, the check amount shall be ten percent of the penalty  
37 amount or two hundred dollars, whichever is less. The department shall

1 refund the (~~two hundred dollars~~) amount of the check if the party  
2 requesting the hearing prevails at the hearing; otherwise, the  
3 department shall retain the (~~two hundred dollars~~) amount of the  
4 check.

5 (3) If the department does not receive a timely request for  
6 hearing, the department's order or action is final and may not be  
7 appealed.

8 (~~(+2)~~) (4) If the aggrieved party requests a hearing, the  
9 department shall ask an administrative law judge to preside over the  
10 hearing. The hearing shall be conducted in accordance with chapter  
11 34.05 RCW.

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