

Senate Bill 442

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT (at the request of Oregon Self-Insurers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that correction of alleged violation of occupational safety laws and payment of civil penalty are not required until final order is issued if employer files request for hearing to contest citation or proposed penalty.

A BILL FOR AN ACT

1
2 Relating to alleged violations of occupational safety laws; amending ORS 654.078.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 654.078 is amended to read:

5 654.078. (1) An employer may contest a citation, a proposed assessment of civil penalty and the
6 period of time fixed for correction of a violation, or any of these, by filing with the Department of
7 Consumer and Business Services, within 20 days after receipt of the citation, notice or order, a
8 written request for a hearing before the Workers' Compensation Board. [*Such a*] **The** request need
9 not be in any particular form, but shall specify the alleged violation that is contested and the
10 grounds upon which the employer considers the citation or proposed penalty or correction period
11 unjust or unlawful.

12 (2) An affected employee or **a** representative of [*such employees*] **an affected employee** may
13 contest the time fixed for correction of a violation by filing with the department, within 20 days
14 after the receipt by the employer of the citation, notice or order [*which fixes such*] **that fixes the**
15 time for correction, a written request for a hearing before the board. [*Such a*] **The** request need not
16 be in any particular form, but shall specify the violation in question and the grounds upon which
17 the employee considers the correction period to be unreasonable.

18 (3) A hearing on any question relating to the validity of a citation or the proposed civil penalty
19 to be assessed therefor [*shall*] **may** not be granted unless a request for hearing is filed by the em-
20 ployer within the period specified in subsection (1) of this section. **If a request for hearing is so**
21 **filed, correction of the alleged violation and payment of penalties are not required until a**
22 **final order is issued.** If a request for hearing is not so filed, the citation and the assessment of
23 penalty as proposed [*shall be*] **become** a final order of the department and [*shall not be*] **are not**
24 subject to review by any agency or court.

25 (4) A hearing relating to the reasonableness of the time prescribed for the correction of a vio-
26 lation [*shall*] **may** not be granted, except for good cause shown, unless a request for hearing is filed
27 within the period specified in subsections (1) and (2) of this section. If a request for hearing is not
28 so filed, the time fixed for correction of the violation [*shall be*] **becomes** a final order of the de-
29 partment and [*shall not be*] **is not** subject to review by any agency or court.

30 (5) [*Where*] **When** an employer contests, in good faith and not solely for delay or avoidance of

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 penalties, the period of time fixed for correction of a nonserious violation, [*such*] **the** period of time
2 [*shall*] **does** not run between the date the request for hearing is filed and the date the order of the
3 department becomes final by operation of law or on appeal.

4 (6) [*Where*] **When** an employer or employee contests the period of time fixed for correction of
5 a serious violation, any hearing on that issue shall be conducted as soon as possible and shall take
6 precedence over other hearings conducted by the board under the provisions of ORS 654.001 to
7 654.295 and 654.750 to 654.780.

8 (7) [*Where*] **When** informal disposition of a contested case is made by stipulation, agreed
9 settlement or a consent order, [*such*] **the** stipulation, settlement or order [*shall*] **may** not be pleaded
10 [*or*] **and is not** admissible in evidence as an admission or confession in any criminal prosecution or
11 in any other civil proceeding that may be instituted against the employer, except in the case of a
12 civil proceeding brought to enforce [*such*] **the** stipulation, settlement or order.

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