

SB 92 STAFF MEASURE SUMMARY

Senate Committee On Workforce

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Meeting Dates: 2/20, 3/27

WHAT THE MEASURE DOES:

Restricts amount of civil penalties Department of Consumer and Business Services can assess for violations of state occupational safety or health statute, lawful rules, standard or order in conformity with minimum and maximum penalties under federal Occupational Safety and Health Act of 1970.

ISSUES DISCUSSED:

- Change in federal law requiring Oregon to align civil penalty authority
- Need for greater flexibility in setting maximum and minimum civil penalties

EFFECT OF AMENDMENT:

BACKGROUND:

Oregon is one of 22 states or territories that regulate private sector worker safety through a federal OSHA-approved State Plan. The Oregon Safe Employment Act authorizes the Department of Consumer and Business Services (DCBS) to set reasonable and mandatory occupational safety and health standards for all employment and places of employment that are designed to protect the life, safety and health of employees. Oregon's State Plan is administered by Oregon OSHA, a division of DCBS.

Under federal law, the state program must include effective sanctions for violations. While the exact application of such sanctions can and does vary between states, federal OSHA has long taken the position that penalty maximums and minimums must be at least equivalent to those under federal law. Therefore, failure to adjust the state's penalty authority to reflect changes in federal law could jeopardize Oregon's State Plan status.

In November 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The Act directed Federal Occupational Safety and Health Administration (Federal OSHA) to increase maximum and minimum penalties for alleged violations by up to 78 percent and tied future annual penalty increases to the Consumer Price Index (CPI). Federal OSHA has indicated that states will be expected to adopt the same maximum penalties by August 1, 2016.

Federal OSHA penalties were last increased in 1990. In response, the 1991 Oregon Legislative Assembly raised the maximum penalty for a serious violation and the maximum penalty for a repeat or willful violation. Under current guidance, federal OSHA has proposed increases to both of those penalties. Current Oregon law provides an express range of civil penalties for different types of violations. SB 92 aligns the newly established federal penalty changes to the Oregon Safe Employment Act by replacing the express maximum penalties on all violation types with authority for the DCBS Director to set the maximum penalty for serious violations and the maximum and minimum penalties for repeat or willful violations by rule with the guidance of the federal Occupational Safety and Health Act.