

SB 92 STAFF MEASURE SUMMARY

Carrier: Rep. Doherty

House Committee On Business and Labor

Action Date: 05/03/17

Action: Do Pass.

Vote: 6-3-0-0

Yeas: 6 - Bynum, Doherty, Evans, Fahey, Holvey, Kennemer

Nays: 3 - Barreto, Hack, Heard

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Gives Director of Department of Consumer and Business Services authority to set maximum penalties for violations of occupational safety and health requirements with instruction to consider and not exceed maximum penalties under federal Occupational Safety and Health Act of 1970. Specifies that penalty for willful or repeat violations may not be less than minimum penalty under the federal Act.

ISSUES DISCUSSED:

- Oregon's practice of conducting inspections more frequently, but imposing lower penalties, relative to other states
- Average federal penalty is \$2,200, whereas Oregon average is \$400 to \$500
- Consequence of not aligning State Plan penalties to federal penalties
- Oregon has second lowest penalty levels
- Agency typically considers employer size when assessing penalty

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon is one of 22 states or territories that regulate private-sector worker safety through a federally 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 designed to protect the life, safety and health of employees. Oregon's State Plan is administered by the Department's Occupational Safety and Health Division, also known as Oregon OSHA.

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, the federal Occupational Safety and Health Administration (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.

Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which directed Federal OSHA to increase maximum and minimum penalties for violations and adjust for inflation in the future. Federal OSHA penalties were last increased in 1990. In response, the 1991 Oregon Legislative Assembly raised the maximum penalty for serious violations and the maximum penalty for repeat or willful violations. Under current This Summary has not been adopted or officially endorsed by action of the committee.

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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. Senate Bill 92 aligns the Oregon Safe Employment Act to the newly established federal penalty changes by replacing the express maximum penalties on all violation types with authority for the DCBS Director to set the maximum penalty with the guidance of the federal Occupational Safety and Health Act of 1970.