



Phil Mullin

Bill Analysis
Legislative Service Commission

H.B. 285

127th General Assembly
(As Reported by H. State Government and Elections)

Reps. R. McGregor, Widener, Wagner, J. McGregor, Fessler, Combs, Setzer, Flowers, Oelslager, Zehringer, Adams, Webster, Wachtmann, Huffman, Evans, Collier, Reinhard, Uecker, Daniels, Gibbs, Wagoner, Batchelder, Brinkman, Hite, D. Stewart, Book, Brown, Carmichael, Domenick, Lundy, Schneider

BILL SUMMARY

- Generally requires a state agency or regulatory authority to waive administrative fines or civil penalties for paperwork violations that are first-time offenses committed by a small business.

CONTENT AND OPERATION

Waiver of administrative fines or civil penalties in case of a first-time paperwork violation by a small business

The bill generally provides that, for any small business¹ that engages in a paperwork violation, the state agency or regulatory authority that regulates the field of operation in which the business operates must waive any and all administrative fines or civil penalties on the small business for the violation, if the violation is a first-time offense (R.C. 119.14(A) and (E)). Upon doing so, however, the agency or authority must require the small business to correct the paperwork violation within a reasonable period of time (R.C. 119.14(B)). A "paperwork violation" is the violation of any statutory or regulatory requirement in the Revised Code mandating the collection of information by a state agency or regulatory body (R.C. 119.14(F)(2)). A "first-time offense" is the first instance of a violation of the particular statutory or regulatory requirement mandating the collection of information by a state agency or regulatory body (R.C. 119.14(F)(3)).

¹ "Small business" has the same meaning as in Title 13 of the Code of Federal Regulations, which specifies the various conditions under which a business qualifies as a small business for purposes of federal law (R.C. 119.14(F)(1)).

The bill provides that it does not prohibit a state agency or regulatory authority from waiving administrative fines or civil penalties incurred by a small business for a paperwork violation that is not a first-time offense (R.C. 119.14(D)).

Exceptions to the waiver requirement for a first-time violation

The bill does authorize a state agency or regulatory authority to impose administrative fines or civil penalties incurred by a small business for a paperwork violation that is a first-time offense for any of the following reasons:

- The violation has the potential to cause serious harm to the public interest.
- The violation involves a small business knowingly or willfully engaging in conduct that results in a felony conviction.
- Failure to impose an administrative fine or civil penalty for a violation would impede or interfere with the detection of criminal activity.
- The violation is of a law concerning the assessment or collection of any tax, debt, revenue, or receipt.
- The violation presents a direct danger to the public health or safety, or presents the risk of severe environmental harm, as determined by the head of the agency or regulatory authority. (R.C. 119.14(C).)

The bill does not authorize or require the waiver of any criminal fines that may result from a first-time paperwork violation that is a criminal offense.

HISTORY

ACTION	DATE
Introduced	07-10-07
Reported, H. State Gov't & Elections	02-19-08

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