

FREE CONFERENCE COMMITTEE AMENDMENTS TO H.B. 2120  
(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 23-414, Arizona Revised Statutes, is amended  
3 to read:

4 23-414. Emergency temporary standards

5 A. The commission may provide for emergency temporary standards  
6 or regulations to take immediate effect upon filing with the secretary  
7 of state, if ~~††~~ THE COMMISSION OR THE UNITED STATES OCCUPATIONAL SAFETY  
8 AND HEALTH ADMINISTRATION determines that employees are exposed to grave  
9 danger from exposure to substances or agents determined to be toxic or  
10 physically harmful or from new hazards and that such emergency standard  
11 or regulation is necessary to protect employees from such danger.

12 B. Such emergency temporary standards or regulations shall be  
13 effective until superseded by standards or regulations promulgated in  
14 accordance with the procedures prescribed in section 23-410.

15 C. Upon filing such a standard or regulation with the secretary  
16 of state the commission shall commence a proceeding in accordance with  
17 section 23-410 and the emergency temporary standard or regulation shall  
18 serve as a proposed standard or regulation for the proceeding. The  
19 commission shall promulgate a standard or regulation under this  
20 subsection no later than six months after filing of the emergency  
21 temporary standard or regulation.

22 Sec. 2. Section 23-418, Arizona Revised Statutes, is amended to  
23 read:

24 23-418. Penalties; violation; classification

1           A. Any employer who wilfully or repeatedly violates the  
2 requirements of section 23-403 or any standard or regulation adopted  
3 pursuant to section 23-410 or 23-414 or ~~any provision of~~ this article  
4 may be assessed a civil penalty ~~of not more than seventy thousand~~  
5 ~~dollars for each violation, but not less than five thousand dollars~~ for  
6 each wilful violation OF NOT MORE THAN THE MAXIMUM CIVIL PENALTY, BUT  
7 NOT LESS THAN THE MINIMUM CIVIL PENALTY, FOR WILFUL OR REPEATED  
8 VIOLATIONS ADOPTED BY THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH  
9 ADMINISTRATION PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION  
10 ADJUSTMENT ACT IMPROVEMENTS ACT OF 2015 (P.L. 114-74; 129 STAT. 599).

11           B. Any employer who has received a citation for a serious  
12 violation of ~~any provision of~~ this article shall be assessed a civil  
13 penalty ~~of up to seven thousand dollars~~ for each such violation OF NOT  
14 MORE THAN THE MAXIMUM CIVIL PENALTY FOR SERIOUS VIOLATIONS ADOPTED BY  
15 THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PURSUANT  
16 TO THE FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT IMPROVEMENTS ACT  
17 OF 2015 (P.L. 114-74; 129 STAT. 599).

18           C. Any employer ~~who~~ THAT has received a citation for a  
19 ~~non-serious~~ NONSERIOUS violation of ~~any provision of~~ this article may be  
20 assessed a civil penalty ~~of up to seven thousand dollars~~ for each such  
21 violation OF NOT MORE THAN THE MAXIMUM CIVIL PENALTY FOR NONSERIOUS  
22 VIOLATIONS ADOPTED BY THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH  
23 ADMINISTRATION PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION  
24 ADJUSTMENT ACT IMPROVEMENTS ACT OF 2015 (P.L. 114-74; 129 STAT. 599).

25           D. Any employer ~~who~~ THAT fails to correct a violation for which a  
26 citation has been issued within the abatement period ~~permitted~~ ALLOWED  
27 for its correction, which ~~period~~ shall be suspended in case of a review  
28 proceeding before an administrative law judge or the review board  
29 initiated by the employer in good faith and not solely for delay or  
30 avoidance of penalties, may be assessed a civil penalty of not more than  
31 ~~seven thousand dollars~~ THE MAXIMUM CIVIL PENALTY FOR ABATEMENT  
32 VIOLATIONS ADOPTED BY THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH

1 ADMINISTRATION PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION  
2 ADJUSTMENT ACT IMPROVEMENTS ACT OF 2015 (P.L. 114-74; 129 STAT. 599) for  
3 each day during which such failure or violation continues after the  
4 abatement date.

5 E. Any employer ~~who~~ THAT knowingly violates the requirements of  
6 section 23-403 or any standard or regulation adopted pursuant to section  
7 23-410 or 23-414 or ~~any provision of~~ this article and that violation  
8 causes death to an employee is guilty of a class 6 felony, except that  
9 if the conviction is for a second or subsequent violation the employer  
10 is guilty of a class 5 felony.

11 F. Any person who knowingly gives advance notice of any  
12 inspection to be conducted under this article without authority from the  
13 director is guilty of a class 2 misdemeanor.

14 G. ~~Whoever~~ A PERSON WHO knowingly makes any false statement,  
15 representation or certification in any application, record, report, plan  
16 or other document filed or required to be maintained pursuant to this  
17 article is guilty of a class 2 misdemeanor.

18 H. Any employer ~~who~~ THAT violates any of the posting requirements  
19 of this article shall be assessed a civil penalty ~~of up to seven~~  
20 ~~thousand dollars~~ for each violation OF NOT MORE THAN THE MAXIMUM CIVIL  
21 PENALTY FOR POSTING VIOLATIONS ADOPTED BY THE UNITED STATES OCCUPATIONAL  
22 SAFETY AND HEALTH ADMINISTRATION PURSUANT TO THE FEDERAL CIVIL PENALTIES  
23 INFLATION ADJUSTMENT ACT IMPROVEMENTS ACT OF 2015 (P.L. 114-74; 129  
24 STAT. 599).

25 I. The commission shall have authority to assess all civil  
26 penalties provided in this section, giving due consideration to the  
27 appropriateness of the penalty with respect to the gravity of the  
28 violation, the number of employees employed by the employer, the good  
29 faith of the employer and the history of previous violations under this  
30 article.

31 J. Civil penalties owed under this article shall be paid to the  
32 commission for deposit in the state general fund. After an order or

1 decision on a civil penalty becomes final pursuant to section 23-417,  
2 23-421 or 23-423, the civil penalty shall act as a judgment against the  
3 employer. The commission shall file the civil penalty in the office of  
4 the clerk of the superior court in any county in this state and the  
5 clerk shall enter the civil penalty in the civil order book and judgment  
6 docket. When the civil penalty is filed and entered it is a lien for  
7 eight years ~~from~~ AFTER the date of the final order or decision on the  
8 property of the employer located in the county. Execution may issue on  
9 the civil penalty within eight years in the same manner and with like  
10 effect as a judgment of the superior court. The civil penalty judgment  
11 shall accrue interest pursuant to section 44-1201. The commission may  
12 recover reasonable attorney fees incurred pursuant to this section."

13 Renumber to conform

14 Amend title to conform

2120Conference  
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08:20 AM  
H: PRB/lis