

REFERENCE TITLE: occupational safety; violations; penalties

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2508

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTION 23-418, ARIZONA REVISED STATUTES; RELATING TO THE
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-418, Arizona Revised Statutes, is amended to
3 read:

4 23-418. Penalties; violation; classification

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

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

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

29 D. Any employer ~~who~~ THAT fails to correct a violation for which a
30 citation has been issued within the abatement period ~~permitted~~ ALLOWED for
31 its correction, which ~~period~~ shall be suspended in case of a review
32 proceeding before an administrative law judge or the review board
33 initiated by the employer in good faith and not solely for delay or
34 avoidance of penalties, may be assessed a civil penalty of not more than
35 ~~seven thousand dollars~~ THE MAXIMUM CIVIL PENALTY FOR ABATEMENT VIOLATIONS
36 ADOPTED BY THE UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
37 PURSUANT TO THE FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT
38 IMPROVEMENTS ACT OF 2015 (P.L. 114-74; 129 STAT. 599) for each day during
39 which such failure or violation continues after the abatement date.

40 E. Any employer ~~who~~ THAT knowingly violates the requirements of
41 section 23-403 or any standard or regulation adopted pursuant to section
42 23-410 or 23-414 or ~~any provision of~~ this article and that violation
43 causes death to an employee is guilty of a class 6 felony, except that if
44 the conviction is for a second or subsequent violation the employer is
45 guilty of a class 5 felony.

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

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

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

14 I. The commission shall have authority to assess all civil
15 penalties provided in this section, giving due consideration to the
16 appropriateness of the penalty with respect to the gravity of the
17 violation, the number of employees employed by the employer, the good
18 faith of the employer and the history of previous violations under this
19 article.

20 J. Civil penalties owed under this article shall be paid to the
21 commission for deposit in the state general fund. After an order or
22 decision on a civil penalty becomes final pursuant to section 23-417,
23 23-421 or 23-423, the civil penalty shall act as a judgment against the
24 employer. The commission shall file the civil penalty in the office of
25 the clerk of the superior court in any county in this state and the clerk
26 shall enter the civil penalty in the civil order book and judgment docket.
27 When the civil penalty is filed and entered it is a lien for eight years
28 ~~from~~ AFTER the date of the final order or decision on the property of the
29 employer located in the county. Execution may issue on the civil penalty
30 within eight years in the same manner and with like effect as a judgment
31 of the superior court. The civil penalty judgment shall accrue interest
32 pursuant to section 44-1201. The commission may recover reasonable
33 attorney fees incurred pursuant to this section.