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SENATE BILL 6817

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State of Washington

60th Legislature

2008 Regular Session

By Senator Swecker

Read first time 01/24/08. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to late reports and late unemployment insurance  
2 contributions; amending RCW 50.12.220; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 50.12.220 and 2007 c 146 s 3 are each amended to read  
5 as follows:

6 (1) If an employer fails to file a timely report as required by RCW  
7 50.12.070, or the rules adopted pursuant thereto, the employer is  
8 subject to a penalty of twenty-five dollars per violation, unless the  
9 penalty is waived by the commissioner.

10 (2) An employer who files an incomplete or incorrectly formatted  
11 tax and wage report as required by RCW 50.12.070 must receive a warning  
12 letter (~~for the first occurrence~~). The warning letter will provide  
13 instructions for accurate reporting or notify the employer how to  
14 obtain technical assistance from the department. The letter will also  
15 notify the employer that the employer has thirty days to correct the  
16 inaccuracy before penalties may be assessed. Except as provided in  
17 subsections (3) and (4) of this section, when an employer has failed to  
18 correct an inaccuracy within thirty days, and for subsequent

1 occurrences within five years of the last occurrence, the employer is  
2 subject to a penalty as follows:

3 (a) When no contributions are due: For the (~~second~~) first  
4 occurrence, the penalty is seventy-five dollars; for the (~~third~~)  
5 second occurrence, the penalty is one hundred fifty dollars; and for  
6 the (~~fourth~~) third occurrence and for each occurrence thereafter, the  
7 penalty is two hundred fifty dollars.

8 (b) When contributions are due: For the (~~second~~) first  
9 occurrence, the penalty is ten percent of the quarterly contributions  
10 due, but not less than seventy-five dollars and not more than two  
11 hundred fifty dollars; for the (~~third~~) second occurrence, the penalty  
12 is ten percent of the quarterly contributions due, but not less than  
13 one hundred fifty dollars and not more than two hundred fifty dollars;  
14 and for the (~~fourth~~) third occurrence and each occurrence thereafter,  
15 the penalty is two hundred fifty dollars.

16 (3) If an employer knowingly misrepresents to the employment  
17 security department the amount of his or her payroll upon which  
18 contributions under this title are based, the employer shall be liable  
19 to the state for up to ten times the amount of the difference in  
20 contributions paid, if any, and the amount the employer should have  
21 paid and for the reasonable expenses of auditing his or her books and  
22 collecting such sums. Such liability may be enforced in the name of  
23 the department.

24 (4) If contributions are not paid on the date on which they are due  
25 and payable as prescribed by the commissioner, there shall be assessed  
26 a penalty of five percent of the amount of the contributions for the  
27 first month or part thereof of delinquency; there shall be assessed a  
28 total penalty of ten percent of the amount of the contributions for the  
29 second month or part thereof of delinquency; and there shall be  
30 assessed a total penalty of twenty percent of the amount of the  
31 contributions for the third month or part thereof of delinquency. No  
32 penalty so added shall be less than ten dollars. These penalties are  
33 in addition to the interest charges assessed under RCW 50.24.040.

34 (5) Penalties shall not accrue on contributions from an estate in  
35 the hands of a receiver, executor, administrator, trustee in  
36 bankruptcy, common law assignee, or other liquidating officer  
37 subsequent to the date when such receiver, executor, administrator,  
38 trustee in bankruptcy, common law assignee, or other liquidating

1 officer qualifies as such, but contributions accruing with respect to  
2 employment of persons by a receiver, executor, administrator, trustee  
3 in bankruptcy, common law assignee, or other liquidating officer shall  
4 become due and shall be subject to penalties in the same manner as  
5 contributions due from other employers.

6 (6) Where adequate information has been furnished to the department  
7 and the department has failed to act or has advised the employer of no  
8 liability or inability to decide the issue, penalties shall be waived  
9 by the commissioner. Penalties may also be waived for good cause if  
10 the commissioner determines that the failure to file timely, complete,  
11 and correctly formatted reports or pay timely contributions was not due  
12 to the employer's fault.

13 (7) Any decision to assess a penalty as provided by this section  
14 shall be made by the chief administrative officer of the tax branch or  
15 his or her designee.

16 (8) Nothing in this section shall be construed to deny an employer  
17 the right to appeal the assessment of any penalty. Such appeal shall  
18 be made in the manner provided in RCW 50.32.030.

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