

SENATE, No. 2960

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED AUGUST 8, 2022

Sponsored by:

Senator ANTHONY M. BUCCO

District 25 (Morris and Somerset)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

Suspends fines for certain first-time paperwork violations committed by small businesses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/22/2022)

1 AN ACT suspending fines for certain first-time paperwork violations
2 committed by small businesses and supplementing Title 52 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. For any small business that commits a paperwork violation
9 of a requirement regarding the collection of information by a State
10 agency or regulatory authority, the State agency or regulatory
11 authority shall suspend any administrative fine or civil penalty to be
12 assessed against a business for the violation, if the paperwork
13 violation is a first-time offense, unless the State agency or authority
14 determines:

15 (1) the violation has the potential to cause serious harm to the
16 public interest;

17 (2) failure to impose a fine or penalty would impede or interfere
18 with the detection of criminal activity;

19 (3) the violation is a violation of a law concerning the
20 assessment or collection of any tax, debt, revenue, or receipt;

21 (4) the violation was not corrected on or before the date that is
22 six months after the date on which the small business receives
23 notification of the violation in writing from the agency or authority;
24 or

25 (5) except as provided in subsection b. of this section, the
26 violation presents a danger to the public safety.

27 b. If a State agency or regulatory authority makes a
28 determination that a violation committed by a small business
29 presents a danger to public safety, the agency or authority shall
30 have the discretion to determine whether the imposition of a fine or
31 penalty is appropriate if the violation is corrected not later than 24
32 hours after the receipt by the owner of the small business of
33 notification of the violation in writing.

34 In determining whether to allow a small business 24 hours to
35 correct a violation under this subsection, the agency or regulatory
36 authority shall take into account all of the facts and circumstances
37 regarding the violation, including:

38 (1) the nature and seriousness of the violation, including
39 whether the violation is technical or inadvertent or involves willful
40 or criminal conduct;

41 (2) whether the small business has made a good faith effort to
42 comply with applicable laws and to remedy the violation within the
43 shortest practicable period of time; and

44 (3) whether the small business has obtained a significant
45 economic benefit from the violation.

46 c. As used in this act, "small business" means a business entity
47 that employs not more than 50 full-time employees or the
48 equivalent thereof and qualifies as a small business concern within

1 the meaning of the federal “Small Business Act,” Pub.L.85-536 (15
2 U.S.C. s.631 et seq.).

3 d. This act shall not apply to any violation by a small business
4 of a requirement regarding collection of information by a State
5 agency or regulatory authority if the small business previously
6 violated any requirement regarding collection of information by the
7 agency or authority.

8 For purposes of making a determination under this subsection,
9 the State agency or regulatory authority shall not take into account
10 any violation of a requirement regarding collection of information
11 by another agency or regulatory authority.

12 e. A State agency or authority shall adopt rules and regulations
13 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
14 (C.52:14B-1 et seq.), as may be needed to effectuate this section.

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16 2. This act shall take effect immediately.

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STATEMENT

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21 This bill would suspend the assessment of fines against small
22 businesses for certain minor first-time paperwork violations. Under
23 the bill, a small business means a business entity that employs 50
24 full-time employees or fewer and qualifies as a small business
25 concern as defined in the federal “Small Business Act.”

26 Under the bill, a fine would not be suspended if:

- 27 • the violation has the potential to cause serious harm to the
28 public interest;
- 29 • failure to impose a fine or penalty would impede or interfere
30 with the detection of criminal activity;
- 31 • the violation concerns the assessment or collection of any
32 tax, debt, revenue, or receipt;
- 33 • the violation was not corrected within six months of the date
34 the small business received notification of the violation; or
- 35 • except as provided below, the violation presents a danger to
36 public safety.

37 If a State agency or regulatory authority determines that the
38 violation presents a danger to the public safety, the agency or
39 regulatory authority may nevertheless suspend the assessment of a
40 fine under certain circumstances if the violation is corrected within
41 24 hours after notification to the business of the violation.

42 This bill is based upon a federal bill that was sponsored in the
43 114th United States Congress, introduced on January 7, 2015. The
44 federal bill provided for the suspension of fines under certain
45 circumstances for first-time paperwork violations by small
46 businesses.