

SENATE BILL 653

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 50,
Chapter 3, relative to the occupational safety and
health act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-3-403, is amended by deleting the section and substituting instead the following:

(a) If an employer knows or has reason to know that an employment condition or practice in the employer's business seriously endangers the health or safety of the employer's employees, and if the condition or practice is not in compliance with any standard promulgated pursuant to this chapter, then a penalty of not less than five thousand dollars (\$5,000) and up to fifty thousand dollars (\$50,000) shall be assessed for each violation.

(b) If an employer knows or has reason to know that an employment condition or practice in the employer's business seriously endangers the health or safety of the employer's employees, and if the condition or practice is not in compliance with a standard promulgated pursuant to this chapter, then in addition to any fine or civil penalty otherwise provided for the violation, a further civil penalty of up to fifty thousand dollars (\$50,000) shall be assessed for each violation that materially contributes to causing the death of an employee, subject to the following:

(1) The additional penalty may be increased to not more than two hundred fifty thousand dollars (\$250,000) for an employer with two hundred fifty (250) or more employees.

(2) If the commissioner issues a valid citation and penalty assessment to an entity other than the employer for a safety violation that materially contributes to the death of a person, then the entity shall be assessed an additional civil penalty of up to fifty thousand dollars (\$50,000). This penalty shall be separate from and in addition to any penalty assessed against the employer or its parent or subsidiary.

(3) The commissioner may waive or reduce the penalty provided by this subsection (b) only if:

(A) The deceased employee owns ten percent (10%) or more of the employing entity and the imposition of the penalty would pose a financial hardship on the employee's family or dependents; or

(B) The employer or the owner of the employer is a natural person who is also killed or severely injured as a result of the violation that materially contributed to the death of the employee and the imposition of the penalty would pose a financial hardship on the employer's family or dependents.

(4) If the penalties assessed pursuant to this section threaten the financial solvency of the violator or impair the violator's ability to implement needed safety measures, then the department may negotiate a payment plan to collect the full penalties due over a time period not to exceed five (5) years.

SECTION 2. Tennessee Code Annotated, Section 50-3-404, is amended by deleting the language "seven thousand dollars (\$7,000)" and substituting instead the language "twelve thousand dollars (\$12,000)".

SECTION 3. Tennessee Code Annotated, Section 50-3-405(b), is amended by designating the subsection as subsection (c) and by deleting the language "seventy thousand dollars (\$70,000)" and substituting instead the language "one hundred thousand dollars (\$100,000)".

SECTION 4. Tennessee Code Annotated, Section 50-3-405, is further amended by adding the following new, appropriately designated subsection:

(b) Any employer who has received a citation for a violation of this chapter or standard or regulation promulgated pursuant to this chapter, and the violation is specifically determined to be of a serious nature, may be assessed a penalty of up to twelve thousand dollars (\$12,000) for each violation.

SECTION 5. Tennessee Code Annotated, Section 50-3-406, is amended by deleting the language “seven thousand dollars (\$7,000)” and substituting instead the language “twelve thousand dollars (\$12,000)”.

SECTION 6. This act shall take effect July 1, 2015, the public welfare requiring it, and shall apply to violations occurring on or after that date.