

funding, subjection to concurrent federal jurisdiction, and initiation of adversarial proceedings to withdraw federal approval. Any of these, however, may be insufficient to trigger the abrogation provision of these bills to avoid such result.

Very truly yours,
J. Joseph Curran, Jr.
Attorney General

¹ This is the short title of the House bill; the short title of the Senate bill is simply Occupational Safety and Health – Penalties. The only other variation in the final versions of the two bills is in the rendering of a phrase in the purpose paragraph: in the House bill it is “a nonserious violation;” in the Senate version it is “not a serious violation.”

² This difference from federal requirements may well be viewed as substantial, even though the grace period would be available only for non-serious violations. A provision that undermines preventive action to maintain a safe workplace could be viewed as substantial.

³ An additional respect in which these bills appear to make MOSH less effective than OSHA is that it is arguable that the penalty for failing to correct the type of violation addressed in the bill within the 10-day grace period would be the penalty assessed for an other than serious violation, rather than the more substantial penalty for failure to correct a previously cited violation (a maximum of \$7,000, rather than \$7,000 per day). See, Labor and Employment Article, § 5-810(a).

⁴ The process includes notice to the state, hearing before an administrative law judge, and decision by the Secretary of Labor, which decision may also be appealed. See 29 U.S.C. 667(f); 29 CFR Part 1955.

Senate Bill No. 270

AN ACT concerning

Occupational Safety and Health – Penalties —~~First Violation~~

FOR the purpose of prohibiting the Commissioner of Labor and Industry from assessing a civil penalty against an employer who receives a citation for certain violations of the Maryland Occupational Safety and Health Act, an order passed under the Act, or a regulation adopted to carry out the Act, ~~if the violation is a first violation the Commissioner of Labor and Industry has not previously notified the employer of the violation,~~ the violation is not a serious violation, and the employer corrects the violation within a certain time; ~~providing that certain civil penalties may not exceed a certain amount for a first violation of the Maryland Occupational Safety and Health Act, an order passed under the Act, or a regulation adopted to carry out the Act or for failure to correct a first violation~~ providing for a certain contingency; and generally relating to civil penalties for ~~a first violation~~ certain violations of the Maryland Occupational Safety and Health Act, an order passed under the Act, or a regulation adopted to carry out the Act.

BY repealing and reenacting, with amendments,