

# STATE OF NEW YORK

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5815--A

2019-2020 Regular Sessions

## IN SENATE

May 15, 2019

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Introduced by Sens. KAPLAN, AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to regulatory penalties for small businesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 170-c  
2 to read as follows:

3 § 170-c. Regulatory penalties for small businesses. 1. Unless explic-  
4 itly exempted or excluded by any other law, rule or regulation, upon a  
5 first time violation of a state agency's rules or regulations related to  
6 paperwork submitted to a state agency or actions or omissions that are  
7 de minimus, a small business shall be afforded a cure period or other  
8 opportunity for ameliorative action if the violation can be corrected,  
9 the successful completion of which will prevent the imposition of penal-  
10 ties on the party or parties subject to enforcement. However, no waiver  
11 of penalties or cure period or other opportunity for ameliorative action  
12 may be given if the agency determines that the violation directly  
13 affected public health, environment, safety, is a violation of human or  
14 civil rights law results in loss of employee wages or benefits, inter-  
15 feres with any remedy, review, or resolution related to harassment or  
16 discrimination claims, was a willful violation, involved tax fraud,  
17 violates requirements related to federal funding to the state, relates  
18 to state funding or procurement, is similar to prior violations, is a  
19 penal law violation, or relates to a material or substantive portion of  
20 the business. Upon such first violation, a state agency shall (a)  
21 provide the small business with a copy of any applicable small business  
22 regulation guides pursuant to section one hundred two-a of the state  
23 administrative procedure act and any other helpful compliance informa-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 tion detailing the agency's rules and regulations, or (b) hold an  
2 in-person meeting with the small business to help assist such small  
3 business with compliance with the agency's rules and regulations. The  
4 agency shall have the discretion to determine the appropriate period of  
5 time to allow for such ameliorative action to occur, provided such peri-  
6 od is not less than ninety days.

7 2. "Small business" as used in this section shall mean a business  
8 which is resident in this state, independently owned and operated, not  
9 dominant in its field and employs one hundred or less persons.

10 3. Nothing herein shall prevent or preclude any other waivers of  
11 penalties that may be applicable by this or any other agency.

12 § 2. This act shall take effect immediately.