STATE OF NEW YORK

5815--C

Cal. No. 1349

2019-2020 Regular Sessions

IN SENATE

May 15, 2019

Introduced by Sens. KAPLAN, AKSHAR, LIU -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- reported favorably from said committee, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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

§ 170-c. Regulatory penalties for small businesses. 1. Unless explicitly exempted or excluded by any other law, rule or regulation, upon a first time violation of a state agency's rules or regulations related to paperwork submitted to a state agency or actions or omissions that are de minimus, a small business shall be afforded a cure period or other opportunity for ameliorative action if the violation can be corrected, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement. However, no waiver of penalties or cure period or other opportunity for ameliorative action may be given if the agency determines that the violation resulted in a natural resource damage claim or serious actual harm, or may have presented an imminent and substantial endangerment to public safety, human health or the environment, is a violation of human or civil rights law, results in loss of employee wages or benefits, interferes with any remedy, review, or resolution related to harassment or discrimination

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

LBD11565-12-9

claims, was a willful violation, involved tax fraud, violates requirements related to federal funding to the state, relates to state funding or procurement, is similar to prior violations, is a penal law violation, or relates to a material or substantive portion of the business. Upon such first violation, a state agency shall (a) provide the small business with a copy of any applicable small business regulation guides pursuant to section one hundred two-a of the state administrative procedure act and any other helpful compliance information detailing the agency's rules and regulations, or (b) provide an opportunity for an in-person meeting, teleconference or videoconference with the small business to help assist such small business with compliance with the agency's rules and regulations. The agency shall have the discretion to determine the appropriate period of time to allow for such ameliorative action to occur, which shall be reasonable but shall not be less than ninety days.

2. As used in this section: (a) "Small business" shall mean a business which is resident in this state, independently owned and operated, not dominant in its field and employs one hundred or less persons.

(b) "State agency" shall mean an agency as defined in subdivision one of section one hundred two of the state administrative procedure act; provided that "state agency" shall not include the department of taxation and finance but shall also mean the workers' compensation board.

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

§ 2. This act shall take effect immediately.