

BILL ANALYSIS

Senate Research Center
89R670 MPF-F

S.B. 437
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rehabilitation centers are struggling to keep up with demand for both treatment and counseling, amid a surge of cases of addiction driven by a rise in the prevalence of fentanyl. Substance-abuse inquiries increased by 22 percent in the wake of the Covid-19 pandemic. At a time when we need these treatment centers the most, we are seeing that many of them are financially struggling, with some on the verge of shutting down due to the burden of administrative penalties.

Currently, penalties for violations are determined based on factors such as prior offenses, severity, and potential health and safety risks. However, the financial viability of treatment facilities is not considered when imposing fines. During the 87th Legislature, S.B. 2013 required the Health and Human Services Commission (HHSC) to study the impact of transferring oversight of substance use disorder providers. The study sought to evaluate the economic effects of this shift, assess potential inequities in enforcement, and determine whether penalties could be structured to avoid punitive consequences. It also aimed to address concerns about the elimination of a published penalty schedule and a cooperative compliance process between providers and the state. However, only an email survey was conducted and it failed to analyze responses in relation to economic conditions or gather further stakeholder input.

As a result of these shortcomings, S.B. 2474 (88R) was introduced to modify civil and administrative penalties for chemical dependency treatment facilities. It established a civil penalty of up to \$25,000 per day and per act of violation, considering prior violations, severity, and the facility's ability to pay. It also required HHSC to post administrative penalty schedules online based on economic impact. Unfortunately, after passing both chambers, S.B. 2474 (88R) was vetoed in 2023 due to property tax negotiations. S.B. 437 is an exact refile of S.B. 2474 (88R).

As proposed, S.B. 437 amends current law relating to civil and administrative penalties assessed for violations of statutes or rules governing chemical dependency treatment facilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 464.017(a), Health and Safety Code, as follows:

(a) Requires the court, in determining the amount of the civil penalty imposed under this subsection, to consider:

- (1)-(3) makes no changes to these subdivisions;
- (4)-(5) makes nonsubstantive changes to these subdivisions;
- (6) the person's or facility's ability to pay the penalty; and

(7) if the person's or facility's license is not revoked under Section 464.014 (Denial, Revocation, Suspension, or Nonrenewal of License) because of the violation, the ability of the person or facility to continue providing services under Chapter 464 (Facilities Treating Persons With a Chemical Dependency) after paying the penalty.

SECTION 2. Amends Sections 464.019(c) and (s), Health and Safety Code, as follows:

(c) Requires that the amount of the administrative penalty imposed under Section 464.019 (Administrative Penalty) be based on:

(1)-(4) makes no changes to these subdivisions;

(5) makes a nonsubstantive change to this subdivision;

(6) the person's ability to pay the penalty;

(7) if the person's license is not revoked under Section 464.014 because of the violation, the person's ability to continue providing services under Chapter 464 after paying the penalty;

(8) the degree of the person's culpability in causing the violation; and

(9) creates this subdivision from existing text and makes no further changes.

(s) Requires that the administrative penalty schedules consider the economic impact of an assessed penalty on a person licensed or regulated under this chapter and the factors described by Subsection (c).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2025.