

2SSB 6575 - H COMM AMD

By Committee on Commerce & Labor

NOT ADOPTED 3/05/2010

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.27.340 and 1997 c 314 s 17 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of not less than two hundred dollars and not more than five thousand dollars.

(2) The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. For a first offense, the director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person: Becomes registered within ten days of receiving a notice of infraction ((and the notice of infraction is for a first offense)); and registers for a department-approved contractor training class under section 2 of this act within ten days of receiving a notice of infraction, completes the class within one hundred twenty days of receiving the notice of infraction, and pays any required class fees upon class registration.

(4) Until July 1, 2011, monetary penalties collected under this chapter shall be deposited in the general fund. Beginning July 1, 2011, monetary penalties and class fees collected under this chapter shall be deposited in the contractor registration account created in section 4 of this act.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.27 RCW
2 to read as follows:

3 The department will approve or conduct contractor training classes
4 and charge a fee, payable upon class registration, that covers the
5 costs of administering the class. The department may adopt rules
6 relating to the number of classes to be offered by the department, the
7 locations of these classes, class fees, and curriculum. In
8 determining the locations of these classes, the department may
9 consider offering online classes and ensure that classes are
10 reasonably accessible in eastern and western Washington. The
11 department shall deposit all fees in the contractor registration
12 account created in section 4 of this act.

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14 **Sec. 3.** RCW 18.27.070 and 1997 c 314 s 7 are each amended to read
15 as follows:

16 The department shall charge fees for issuance, renewal, and
17 reinstatement of certificates of registration; and changes of name,
18 address, or business structure. The department shall set the fees by
19 rule.

20 The entire amount of the fees are to be used solely to cover the
21 full cost of issuing certificates, filing papers and notices, and
22 administering and enforcing this chapter. The costs shall include
23 reproduction, travel, per diem, and administrative and legal support
24 costs.

25 (3) The department shall deposit all fees in the contractor
26 registration account created in section 4 of this act.

27
28 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.27 RCW
29 to read as follows:

30 The contractor registration account is created in the state
31 treasury. The department shall deposit in the account all moneys from
32 registrations, renewals, or civil penalties assessed and collected
33 under this chapter. Appropriations from the account may be made only
34

1 for the purposes of administration of the chapter, including
2 conducting contractor training classes under section 2 of this act.

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4 **Sec. 5.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are
5 each reenacted and amended to read as follows:

6 (1) Subject to subsection (5) of this section, the amount of all
7 taxes, increases, and penalties due or to become due under Title 82
8 RCW, from a contractor or the contractor's successors or assignees
9 with respect to a public improvement contract wherein the contract
10 price is thirty-five thousand dollars or more, shall be a lien prior
11 to all other liens upon the amount of the retained percentage withheld
12 by the disbursing officer under such contract.

13 (2) Subject to subsection (5) of this section, after payment of
14 all taxes, increases, and penalties due or to become due under Title
15 82 RCW, from a contractor or the contractor's successors or assignees
16 with respect to a public improvement contract wherein the contract
17 price is (~~twenty~~) thirty-five thousand dollars or more, the amount
18 of all other taxes, increases, and penalties under Title 82 RCW, due
19 and owing from the contractor, shall be a lien prior to all other
20 liens upon the amount of the retained percentage withheld by the
21 disbursing officer under such contract.

22 (3) Subject to subsection (5) of this section, after payment of
23 all taxes, increases, and penalties due or to become due under Title
24 82 RCW, the amount of all taxes, increases, and penalties due or to
25 become due under Titles 50 and 51 RCW from the contractor or the
26 contractor's successors or assignees with respect to a public
27 improvement contract wherein the contract price is (~~twenty~~) thirty-
28 five thousand dollars or more, shall be a lien prior to all other
29 liens upon the amount of the retained percentage withheld by the
30 disbursing officer under such contract.

31 (4) Subject to subsection (5) of this section, the amount of all
32 other taxes, increases, and penalties due and owing from the
33 contractor shall be a lien upon the balance of such retained
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1 percentage remaining in the possession of the disbursing officer after
2 all other statutory lien claims have been paid.

3 (5) The employees of a contractor or the contractor's successors
4 or assignees who have not been paid the prevailing wage under such a
5 public improvement contract shall have a first priority lien against
6 the bond or retainage prior to all other liens.

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8 **Sec. 6.** RCW 18.27.020 and 2007 c 436 s 2 are each amended to read
9 as follows:

10 (1) Every contractor shall register with the department.

11 (2) It is a gross misdemeanor for any contractor to:

12 (a) Advertise, offer to do work, submit a bid, or perform any work
13 as a contractor without being registered as required by this chapter;

14 (b) Advertise, offer to do work, submit a bid, or perform any work
15 as a contractor when the contractor's registration is suspended or
16 revoked;

17 (c) Use a false or expired registration number in purchasing or
18 offering to purchase an advertisement for which a contractor
19 registration number is required;

20 (d) Transfer a valid registration to an unregistered contractor or
21 allow an unregistered contractor to work under a registration issued
22 to another contractor; or

23 (e) Subcontract to or use an unregistered contractor.

24 (3) It is not unlawful for a registered contractor to employ an
25 unregistered contractor who was registered at the time he or she
26 entered into a contract with the registered contractor, unless the
27 registered contractor or his or her representative has been notified
28 in writing by the department of labor and industries that the
29 contractor has become unregistered.

30 (4) All gross misdemeanor actions under this chapter shall be
31 prosecuted in the county where the infraction occurs.

32 (5) A person is guilty of a separate gross misdemeanor for each
33 day worked if, after the person receives a (~~citation~~) notice of
34 infraction from the department, the person works while unregistered,

1 or while his or her registration is suspended or revoked, or works
2 under a registration issued to another contractor. A person is guilty
3 of a separate gross misdemeanor for each worksite on which he or she
4 violates subsection (2) of this section. Nothing in this subsection
5 applies to a registered contractor.

6 (6) A person is guilty of a class C felony if, after receiving a
7 third or subsequent final infraction for working as a contractor while
8 unregistered, while his or her registration is suspended or revoked,
9 or under a registration issued to another contractor, he or she works
10 as a contractor while unregistered, while his or her registration is
11 suspended or revoked, or under a registration issued to another
12 contractor.

13 (7) The director by rule shall establish a two-year audit and
14 monitoring program for a contractor not registered under this chapter
15 who becomes registered after receiving an infraction or conviction
16 under this chapter as an unregistered contractor. The director shall
17 notify the departments of revenue and employment security of the
18 infractions or convictions and shall cooperate with these departments
19 to determine whether any taxes or registration, license, or other fees
20 or penalties are owed the state.

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22 NEW SECTION. Sec. 7. A new section is added to chapter 18.27 RCW
23 to read as follows:

24 (1) A contractor commits a violation under this chapter and is
25 subject to an infraction if on a single job site, work is performed
26 together on the same task by more than two contractors which have no
27 workers subject to coverage of Title 51 RCW on that job site.

28 (2) If contractors are working in the same trade or craft on a
29 single job site, the contractors have the burden of proof to show that
30 they are not working together on the same task.

31 (3) The violation under subsection (1) of this section is
32 committed by all parties to the contract.

33 (4) A contractor found to have committed an infraction under this
34 section shall be assessed a fine of not less than one thousand

1 dollars, nor more than five thousand dollars. For a first offense,
2 the director may reduce the penalty to no less than five hundred
3 dollars if the contractor registers for a department-approved training
4 class under section 2 of this act within ten days of receiving a
5 notice of infraction, completes the class within one hundred twenty
6 days of receiving the notice of infraction, and pays any required
7 class fees upon class registration. For a second or subsequent
8 offense under this section, the director may suspend the registration
9 of the contractor.

10 (5) For purposes of this section, a "job site" is a single
11 physical address.

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13 NEW SECTION. Sec. 8. Sections 3 and 4 of this act take effect
14 July 1, 2011."

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16 Correct the title.

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EFFECT: Creates a contractor Registration Account (Account)
beginning July 1, 2011. Requires all registration fees,
penalties, and class fees to be deposited into the Account, and
provides that moneys may be appropriated from the Account only for
purposes of administering the contractor registration provisions.

Creates a contractor registration infraction if, on a single job
site (same physical address), work is performed together on same
task by more than two contractors with no covered workers on the
job site.

- 27 • Provides that if contractors are working in the same trade or
28 craft on a single job site, the contractors have the burden
29 of proof to show that they are not working together on the
30 same task.
- 31 • Provides that all parties to the contract commit the
32 violation. Establishes penalties of not less than \$1000 nor
33 more than \$5000.
- 34 • Provides that for a first offense, the director may reduce
the penalty to no less than \$500 if the contractor registers
for and completes a training class.

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- Provides that for a second or subsequent violation, the director may suspend the contractor's registration.

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