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HOUSE BILL 2544

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State of Washington

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By Representatives Cairnes, Conway, Benton, Thompson, D. Schmidt, Sterk, Chandler and Cooke

Read first time 01/12/96. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to registration of contractors; amending RCW  
2 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.060, 18.27.070,  
3 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117,  
4 18.27.200, 18.27.230, 18.27.270, and 18.27.340; reenacting and amending  
5 RCW 51.12.020; adding a new section to chapter 18.27 RCW; repealing RCW  
6 18.27.140; and prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

10 The purposes of this chapter are to protect the general welfare of  
11 the residents of this state who purchase construction services and the  
12 general economic welfare of businesses in compliance with this chapter,  
13 to enhance state revenue collections, and to promote compliance and  
14 enforcement of this chapter by providing swift and meaningful penalties  
15 for those failing to register as required by this chapter.

16 This chapter shall be strictly enforced to accomplish these  
17 purposes. Therefore, the doctrine of substantial compliance shall not  
18 be used by the department in the application and construction of this

1 chapter. Anyone engaged in the activities of a contractor is presumed  
2 to know the requirements of this chapter.

3 **Sec. 2.** RCW 18.27.010 and 1993 c 454 s 2 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Contractor" means any person, firm, or corporation who or  
8 which, in the pursuit of an independent business undertakes to, or  
9 offers to undertake, or submits a bid to, construct, alter, repair, add  
10 to, subtract from, improve, move, wreck or demolish, for another, any  
11 building, highway, road, railroad, excavation or other structure,  
12 project, development, or improvement attached to real estate or to do  
13 any part thereof including the installation of carpeting or other floor  
14 covering, the erection of scaffolding or other structures or works in  
15 connection therewith or who installs or repairs roofing or siding; or,  
16 who, to do similar work upon his or her own property, employs members  
17 of more than one trade upon a single job or project or under a single  
18 building permit except as otherwise provided herein. "Contractor"  
19 includes any person, firm, or corporation covered by this subsection,  
20 whether or not registered as required under this chapter.

21 (2) "General contractor" means a contractor whose business  
22 operations require the use of more than two unrelated building trades  
23 or crafts whose work the contractor shall superintend or do in whole or  
24 in part. "General contractor" shall not include an individual who does  
25 all work personally without employees or other "specialty contractors"  
26 as defined (~~herein~~) in this section. The terms "general contractor"  
27 and "builder" are synonymous.

28 (3) "Specialty contractor" means a contractor whose operations (~~as~~  
29 ~~such~~) do not fall within the foregoing definition of "general  
30 contractor".

31 (4) "Unregistered contractor" means a person, firm, or corporation  
32 doing work as a contractor without being registered in compliance with  
33 this chapter. "Unregistered contractor" includes contractors whose  
34 registration is expired for more than thirty days beyond the renewal  
35 date or has been suspended.

36 (5) "Department" means the department of labor and industries.

37 (~~(5)~~) (6) "Director" means the director of the department of  
38 labor and industries.

1       (~~(6)~~) (7) "Verification" means the receipt and duplication by the  
2 city, town, or county of a contractor registration card that is current  
3 on its face.

4       **Sec. 3.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read  
5 as follows:

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

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

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

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

13       (c) Use a false or expired registration number in purchasing or  
14 offering to purchase an advertisement for which a contractor  
15 registration number is required; (~~(or)~~)

16       (d) Transfer a valid registration to an unregistered contractor or  
17 allow an unregistered contractor to work under a registration issued to  
18 another contractor; or

19       (e) Knowingly subcontract work to a person, firm, or corporation  
20 not registered as required under this chapter. However, a contractor  
21 does not commit a misdemeanor under this section if a subcontractor  
22 becomes unregistered during the course of its work without the  
23 knowledge of the contractor.

24       (3) All misdemeanor actions under this chapter shall be prosecuted  
25 in the county where the (~~infraction~~) violation occurs.

26       (4) Each day beyond the date of citation that a person works  
27 without being registered as required by this chapter, works while his  
28 or her contractor's registration is suspended or revoked, or works  
29 under a registration issued to another contractor is a separate  
30 misdemeanor. Each worksite at which a person works without being  
31 registered as required by this chapter, works while his or her  
32 contractor's registration is suspended or revoked, or works under a  
33 registration issued to another contractor is a separate misdemeanor.

34       (5) The director by rule shall establish a two-year audit and  
35 monitoring program for a contractor not registered under this chapter  
36 who becomes registered after receiving an infraction or conviction  
37 under this chapter as an unregistered contractor. The director shall  
38 notify the departments of revenue and employment security of the

1 infractions or convictions and shall cooperate with these departments  
2 to determine whether any taxes or registration, license, or other fees  
3 or penalties are owed the state.

4 **Sec. 4.** RCW 18.27.030 and 1992 c 217 s 1 are each amended to read  
5 as follows:

6 (1) An applicant for registration as a contractor shall submit an  
7 application under oath upon a form to be prescribed by the director and  
8 which shall include the following information pertaining to the  
9 applicant:

10 (a) Employer social security number.

11 (b) As applicable: (i) The industrial insurance account number  
12 covering employees domiciled in Washington; and (ii) evidence of  
13 workers' compensation coverage in the applicant's state of domicile for  
14 the applicant's employees working in Washington who are not domiciled  
15 in Washington.

16 (c) Employment security department number.

17 (d) State excise tax registration number.

18 (e) Unified business identifier (UBI) account number may be  
19 substituted for the information required by (b), (c), and (d) of this  
20 subsection.

21 (f) Type of contracting activity, whether a general or a specialty  
22 contractor and if the latter, the type of specialty.

23 (g) The name and address of each partner if the applicant be a firm  
24 or partnership, or the name and address of the owner if the applicant  
25 be an individual proprietorship, or the name and address of the  
26 corporate officers and statutory agent, if any, if the applicant be a  
27 corporation. The information contained in such application shall be a  
28 matter of public record and open to public inspection.

29 (2) The department may verify the workers' compensation coverage  
30 information provided by the applicant under subsection (1)(b) of this  
31 section, including but not limited to information regarding the  
32 coverage of an individual employee of the applicant. If coverage is  
33 provided under the laws of another state, the department may notify the  
34 other state that the applicant is employing employees in Washington.

35 (3) The department shall deny an application for registration  
36 ((shall be denied)) if the applicant has been previously registered as  
37 a sole proprietor, partnership, or corporation ((, and was a principal  
38 or officer of the corporation,)) and ((if)) the applicant has an

1 unsatisfied final judgment against him or her in an action based on RCW  
2 18.27.040((7)) that was incurred during a previous registration under  
3 this chapter. In addition, the department shall check for an  
4 applicant's past noncompliance with this chapter, including checking  
5 for evidence of violations of this chapter, suspended or revoked  
6 registrations, or misdemeanors or infractions under this chapter  
7 relating to the construction industry. Multiple instances of past  
8 noncompliance may be grounds for application denial.

9 **Sec. 5.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read  
10 as follows:

11 (1) ~~Each applicant shall((, at the time of applying for or renewing~~  
12 ~~a certificate of registration, file with the department a surety bond~~  
13 ~~issued by a surety insurer who meets the requirements of chapter 48.28~~  
14 ~~RCW in a form acceptable to the department running to the state of~~  
15 ~~Washington if a general contractor, in the sum of six thousand dollars;~~  
16 ~~if a specialty contractor, in the sum of four thousand dollars,))~~  
17 accompany the registration application with a surety bond or  
18 continuation certificate issued by a surety insurer who meets the  
19 requirements of chapter 48.28 RCW in the sum of six thousand dollars if  
20 the applicant is a general contractor and four thousand dollars if the  
21 applicant is a specialty contractor. The bond shall have the state of  
22 Washington named as obligee with good and sufficient surety in a form  
23 to be approved by the department. The bond shall be continuous and may  
24 be canceled by the surety upon the surety giving written notice to the  
25 director of its intent to cancel the bond. A cancellation or  
26 revocation of the bond or withdrawal of the surety from the bond  
27 suspends the registration until a new bond or reinstatement notice has  
28 been filed and approved as provided in this section. Whether or not  
29 the bond is renewed, continued, reinstated, reissued, or otherwise  
30 extended, replaced, or modified, including increases or decreases in  
31 the penal sum, it shall be considered one continuous obligation, and  
32 the surety upon the bond shall not be liable in an aggregate or  
33 cumulative amount exceeding the penal sum set forth on the face of the  
34 bond. In no event shall the penal sum, or a portion thereof, at two or  
35 more points in time be added together in determining the surety's  
36 liability. The bond shall be conditioned that the applicant will pay  
37 all persons performing labor, including employee benefits, for the  
38 contractor, will pay all taxes and contributions due to the state of

1 Washington, and will pay all persons furnishing labor or material or  
2 renting or supplying equipment to the contractor and will pay all  
3 amounts that may be adjudged against the contractor by reason of  
4 (~~negligent or improper work or~~) breach of contract including  
5 negligent or improper work in the conduct of the contracting business.  
6 A change in the name of a business or a change in the type of business  
7 entity shall not impair a bond for the purposes of this section so long  
8 as one of the original applicants for such bond maintains partial  
9 ownership in the business covered by the bond.

10 (2) Any contractor registered as of (~~the effective date of this~~  
11 ~~1983 act~~) July 1, 1996, who maintains such registration in accordance  
12 with this chapter shall be in compliance with this chapter until the  
13 next annual renewal of the contractor's certificate of registration.  
14 At that time, the contractor shall provide a bond, cash deposit, or  
15 other security deposit as required by this chapter and comply with all  
16 of the other provisions of this chapter before the department shall  
17 renew the contractor's certificate of registration.

18 (3) Any person, firm, or corporation having a claim against the  
19 contractor for any of the items referred to in this section may bring  
20 suit upon (~~such~~) the bond or deposit in the superior court of the  
21 county in which the work was done or of any county in which  
22 jurisdiction of the contractor may be had. The surety issuing the bond  
23 shall be named as a party to any suit upon the bond. Action upon  
24 (~~such~~) the bond or deposit shall be commenced by filing the summons  
25 and complaint with the clerk of the appropriate superior court within  
26 one year from the date of expiration of the certificate of registration  
27 in force at the time the claimed labor was performed and benefits  
28 accrued, taxes and contributions owing the state of Washington became  
29 due, materials and equipment were furnished, or the claimed contract  
30 work was completed or abandoned. Service of process in an action  
31 against the contractor, the contractor's bond, or the deposit shall be  
32 exclusively by service upon the department. Three copies of the  
33 summons and complaint and a fee of ten dollars to cover the handling  
34 costs shall be served by registered or certified mail upon the  
35 department at the time suit is started and the department shall  
36 maintain a record, available for public inspection, of all suits so  
37 commenced. Service is not complete until the department receives the  
38 ten-dollar fee and three copies of the summons and complaint. (~~Such~~)  
39 The service shall constitute service on the registrant and the surety

1 for suit upon the bond or deposit and the department shall transmit the  
2 summons and complaint or a copy thereof to the registrant at the  
3 address listed in his or her application and to the surety within  
4 forty-eight hours after it shall have been received.

5 (4) The surety upon the bond shall not be liable in an aggregate  
6 amount in excess of the amount named in the bond nor for any monetary  
7 penalty assessed pursuant to this chapter for an infraction. The  
8 liability of the surety shall not cumulate where the bond has been  
9 renewed, continued, reinstated, reissued or otherwise extended. The  
10 surety upon the bond may, upon notice to the department and the  
11 parties, tender to the clerk of the court having jurisdiction of the  
12 action an amount equal to the claims thereunder or the amount of the  
13 bond less the amount of judgments, if any, previously satisfied  
14 therefrom and to the extent of such tender the surety upon the bond  
15 shall be exonerated but if the actions commenced and pending at any one  
16 time exceed the amount of the bond then unimpaired, claims shall be  
17 satisfied from the bond in the following order:

18 (a) Employee labor, including employee benefits;

19 (b) Claims for breach of contract by a party to the construction  
20 contract;

21 (c) Material and equipment;

22 (d) Taxes and contributions due the state of Washington;

23 (e) Any court costs, interest, and attorney's fees plaintiff may be  
24 entitled to recover. The prevailing party in a bond claim action  
25 against the contractor and the contractor's bond, as required by this  
26 section, for breach of a construction contract is entitled to costs,  
27 interest, and reasonable attorneys' fees. In no event, however, may  
28 the combined costs, interest, attorneys' fees, and bond loss exceed the  
29 penal limit of the bond.

30 A payment made by the surety in good faith shall exonerate the bond  
31 to extent of any payment made by the surety.

32 (5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs  
33 the liability of the surety upon the bond so furnished that there shall  
34 not be in effect a bond undertaking in the full amount prescribed in  
35 this section, the department shall suspend the registration of ~~((such))~~  
36 the contractor until the bond liability in the required amount  
37 unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is  
38 furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond

1 must be furnished at the (~~increased~~) rates prescribed by this section  
2 (~~as now or hereafter amended~~).

3 (6) In lieu of the surety bond required by this section the  
4 contractor may file with the department a deposit consisting of cash or  
5 other security acceptable to the department.

6 (7) Any person having filed and served a summons and complaint as  
7 required by this section having an unsatisfied final judgment against  
8 the registrant for any items referred to in this section may execute  
9 upon the security held by the department by serving a certified copy of  
10 the unsatisfied final judgment by registered or certified mail upon the  
11 department within one year of the date of entry of such judgment. Upon  
12 the receipt of service of (~~such~~) the certified copy the department  
13 shall pay or order paid from the deposit, through the registry of the  
14 superior court which rendered judgment, towards the amount of the  
15 unsatisfied judgment. The priority of payment by the department shall  
16 be the order of receipt by the department, but the department shall  
17 have no liability for payment in excess of the amount of the deposit.

18 (8) The director may (~~promulgate~~) adopt rules necessary for the  
19 proper administration of the security.

20 **Sec. 6.** RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each amended  
21 to read as follows:

22 (1) A certificate of registration shall be valid for one year and  
23 shall be renewed on or before the expiration date. The department  
24 shall issue to the applicant a certificate of registration upon  
25 compliance with the registration requirements of this chapter.

26 (2) If the department approves an application, it shall issue a  
27 certificate of registration to the applicant. The certificate shall be  
28 valid for:

29 (a) One year;

30 (b) Until the bond expires; or

31 (c) Until the insurance expires, whichever comes first. The  
32 department shall place the expiration date on the certificate.

33 (3) A contractor may supply a short-term bond or insurance policy  
34 to bring its registration period to the full one year.

35 (4) If a contractor's surety bond or other security has an  
36 unsatisfied judgment against it or is canceled, or if the contractor's  
37 insurance policy is canceled, the contractor's registration shall be  
38 automatically suspended on the effective date of the impairment or



1 cancellation. The department shall (~~give~~) mail notice of the  
2 suspension to the (~~contractor~~) contractor's address on the  
3 certificate of registration by certified and by first class mail within  
4 forty-eight hours after suspension.

5 (5) Renewal of registration is valid on the date the department  
6 receives the required fee and proof of bond and liability insurance, if  
7 sent by certified mail or other means requiring proof of delivery. The  
8 receipt or proof of delivery shall serve as the contractor's proof of  
9 renewed registration until he or she receives verification from the  
10 department.

11 **Sec. 7.** RCW 18.27.070 and 1983 c 74 s 1 are each amended to read  
12 as follows:

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

17 The fees shall cover the full cost of issuing certificates, filing  
18 papers and notices, consumer education activities, and administering  
19 and enforcing this chapter. The costs shall include reproduction,  
20 travel, per diem, and administrative and legal support costs.

21 No less than twenty percent of yearly revenues derived from  
22 registration fees shall be committed to consumer education activities  
23 administered by the department.

24 **Sec. 8.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read  
25 as follows:

26 This chapter (~~shall~~) does not apply to:

27 (1) An authorized representative of the United States government,  
28 the state of Washington, or any incorporated city, town, county,  
29 township, irrigation district, reclamation district, or other municipal  
30 or political corporation or subdivision of this state;

31 (2) Officers of a court when they are acting within the scope of  
32 their office;

33 (3) Public utilities operating under the regulations of the  
34 utilities and transportation commission in construction, maintenance,  
35 or development work incidental to their own business;

36 (4) Any construction, repair, or operation incidental to the  
37 discovering or producing of petroleum or gas, or the drilling, testing,

1 abandoning, or other operation of any petroleum or gas well or any  
2 surface or underground mine or mineral deposit when performed by an  
3 owner or lessee;

4 (5) The sale or installation of any finished products, materials,  
5 or articles of merchandise which are not actually fabricated into and  
6 do not become a permanent fixed part of a structure;

7 (6) Any construction, alteration, improvement, or repair of  
8 personal property, except this chapter shall apply to all  
9 mobile/manufactured housing. A mobile/manufactured home may be  
10 installed, set up, or repaired by the registered or legal owner, by a  
11 contractor (~~licensed~~) registered under this chapter, or by a  
12 mobile/manufactured home retail dealer or manufacturer licensed under  
13 chapter 46.70 RCW who shall warranty service and repairs under chapter  
14 46.70 RCW;

15 (7) Any construction, alteration, improvement, or repair carried on  
16 within the limits and boundaries of any site or reservation under the  
17 legal jurisdiction of the federal government;

18 (8) Any person who only furnished materials, supplies, or equipment  
19 without fabricating them into, or consuming them in the performance of,  
20 the work of the contractor;

21 (9) Any work or operation on one undertaking or project by one or  
22 more contracts, the aggregate contract price of which for labor and  
23 materials and all other items is less than five hundred dollars, such  
24 work or operations being considered as of a casual, minor, or  
25 inconsequential nature. The exemption prescribed in this subsection  
26 does not apply in any instance wherein the work or construction is only  
27 a part of a larger or major operation, whether undertaken by the same  
28 or a different contractor, or in which a division of the operation is  
29 made into contracts of amounts less than five hundred dollars for the  
30 purpose of evasion of this chapter or otherwise. The exemption  
31 prescribed in this subsection does not apply to a person who advertises  
32 or puts out any sign or card or other device which might indicate to  
33 the public that he or she is a contractor, or that he or she is  
34 qualified to engage in the business of contractor;

35 (10) Any construction or operation incidental to the construction  
36 and repair of irrigation and drainage ditches of regularly constituted  
37 irrigation districts or reclamation districts; or to farming, dairying,  
38 agriculture, viticulture, horticulture, or stock or poultry raising; or  
39 to clearing or other work upon land in rural districts for fire

1 prevention purposes; except when any of the above work is performed by  
2 a registered contractor;

3 (11) An owner who contracts for a project with a registered  
4 contractor;

5 (12) Any person working on his or her own property, whether  
6 occupied by him or her or not, and any person working on his or her  
7 personal residence, whether owned by him or her or not but this  
8 exemption shall not apply to any person otherwise covered by this  
9 chapter who constructs an improvement on his or her own property with  
10 the intention and for the purpose of selling the improved property;

11 (13) Owners of commercial properties who use their own employees to  
12 do maintenance, repair, and alteration work in or upon their own  
13 properties;

14 (14) A licensed architect or civil or professional engineer acting  
15 solely in his or her professional capacity, an electrician licensed  
16 under the laws of the state of Washington, or a plumber licensed under  
17 the laws of the state of Washington or licensed by a political  
18 subdivision of the state of Washington while operating within the  
19 boundaries of such political subdivision. The exemption provided in  
20 this subsection is applicable only when the licensee is operating  
21 within the scope of his or her license;

22 (15) Any person who engages in the activities herein regulated as  
23 an employee of a registered contractor with wages as his or her sole  
24 compensation or as an employee with wages as his or her sole  
25 compensation;

26 (16) Contractors on highway projects who have been prequalified as  
27 required by (~~chapter 13 of the Laws of 1961,~~) RCW 47.28.070, with the  
28 department of transportation to perform highway construction,  
29 reconstruction, or maintenance work.

30 **Sec. 9.** RCW 18.27.100 and 1993 c 454 s 3 are each amended to read  
31 as follows:

32 (1) Except as provided in RCW 18.27.065 for partnerships and joint  
33 ventures, no person who has registered under one name as provided in  
34 this chapter shall engage in the business, or act in the capacity, of  
35 a contractor under any other name unless such name also is registered  
36 under this chapter.

37 (2) All advertising and all contracts, correspondence, cards,  
38 signs, posters, papers, and documents which show a contractor's name or

1 address shall show the contractor's name or address as registered under  
2 this chapter.

3 (3)(a) (~~The alphabetized listing of contractors appearing in the~~  
4 ~~advertising section of telephone books or other directories and~~) All  
5 advertising that shows the contractor's name or address shall show the  
6 contractor's current registration number. The registration number may  
7 be omitted in an alphabetized listing of registered contractors stating  
8 only the name, address, and telephone number: PROVIDED, That signs on  
9 motor vehicles subject to RCW 46.16.010 and on-premise signs shall not  
10 constitute advertising as provided in this section. All materials used  
11 to directly solicit business from retail customers who are not  
12 businesses shall show the contractor's current registration number. A  
13 contractor shall not use a false or expired registration number in  
14 purchasing or offering to purchase an advertisement for which a  
15 contractor registration number is required. Advertising by airwave  
16 transmission shall not be subject to this subsection (3)(a) (~~if the~~  
17 ~~person selling the advertisement obtains the contractor's current~~  
18 ~~registration number from the contractor~~)).

19 (b) (~~A person selling advertising should not accept advertisements~~  
20 ~~for which the contractor registration number is required under (a) of~~  
21 ~~this subsection if the contractor fails to provide the contractor~~  
22 ~~registration number.)) The director may issue a subpoena to any person  
23 or entity selling any advertising subject to this section for the name,  
24 address, and telephone number provided to the seller of the advertising  
25 by the purchaser of the advertising. The subpoena must have enclosed  
26 a stamped, self-addressed envelope and blank form to be filled out by  
27 the seller of the advertising. If the seller of the advertising has  
28 the information on file, the seller shall, within a reasonable time,  
29 return the completed form to the department. The subpoena must be  
30 issued before forty-eight hours after the expiration of the issue or  
31 publication containing the advertising or after the broadcast of the  
32 advertising. The good-faith compliance by a seller of advertising with  
33 a written request of the department for information concerning the  
34 purchaser of advertising shall constitute a complete defense to any  
35 civil or criminal action brought against the seller of advertising  
36 arising from such compliance. Advertising by airwave or electronic  
37 transmission is subject to this subsection (3)(b).~~

1 (4) No contractor shall advertise that he or she is bonded and  
2 insured because of the bond required to be filed and sufficiency of  
3 insurance as provided in this chapter.

4 (5) A contractor shall not falsify a registration number and use  
5 it, or use an expired registration number, in connection with any  
6 solicitation or identification as a contractor. All individual  
7 contractors and all partners, associates, agents, salesmen, solicitors,  
8 officers, and employees of contractors shall use their true names and  
9 addresses at all times while engaged in the business or capacity of a  
10 contractor or activities related thereto.

11 (6) Any advertising by a person, firm, or corporation soliciting  
12 work as a contractor when that person, firm, or corporation is not  
13 registered pursuant to this chapter is a violation of this chapter.

14 (7)(a) The finding of a violation of this section by the director  
15 at a hearing held in accordance with ~~((the Administrative Procedure~~  
16 ~~Act,))~~ chapter 34.05 RCW~~((,))~~ shall subject the person committing the  
17 violation to a penalty of not more than five thousand dollars as  
18 determined by the director.

19 (b) Penalties under this section shall not apply to a violation  
20 determined to be an inadvertent error.

21 **Sec. 10.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to  
22 read as follows:

23 (1) If, upon investigation, the director or the director's designee  
24 has probable cause to believe that a person holding a registration, an  
25 applicant for registration, or ~~((an unregistered))~~ a person acting in  
26 the capacity of a contractor who is not otherwise exempted from this  
27 chapter, has violated RCW 18.27.100 by unlawfully advertising for work  
28 covered by this chapter ~~((in an alphabetical or classified directory)),~~  
29 the department may issue a citation containing an order of correction.  
30 Such order shall require the violator to cease the unlawful  
31 advertising.

32 (2) If the person to whom a citation is issued under subsection (1)  
33 of this section notifies the department in writing that he or she  
34 contests the citation, the department shall afford an opportunity for  
35 an adjudicative proceeding under chapter 34.05 RCW~~((, the~~  
36 ~~Administrative Procedure Act,))~~ within thirty days after receiving the  
37 notification.

1       **Sec. 11.** RCW 18.27.110 and 1993 c 454 s 5 are each amended to read  
2 as follows:

3       (1) No city, town or county shall issue a construction building  
4 permit for work which is to be done by any contractor required to be  
5 registered under this chapter without verification that such contractor  
6 is currently registered as required by law. When such verification is  
7 made, nothing contained in this section is intended to be, nor shall be  
8 construed to create, or form the basis for any liability under this  
9 chapter on the part of any city, town or county, or its officers,  
10 employees or agents. However, failure to verify the contractor  
11 registration number results in liability to the city, town, or county  
12 to a penalty to be imposed according to RCW 18.27.100((+6+)) (7)(a).

13       (2) At the time of issuing the building permit, all cities, towns,  
14 or counties are responsible for:

15       (a) Printing the contractor registration number on the building  
16 permit; and

17       (b) Providing a written notice to the building permit applicant  
18 informing them of contractor registration laws and the potential risk  
19 and monetary liability to the homeowner for using an unregistered  
20 contractor.

21       (3) If a building permit is obtained by an applicant or contractor  
22 who falsifies information to obtain an exemption provided under RCW  
23 18.27.090, the building permit shall be forfeited.

24       **Sec. 12.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read  
25 as follows:

26       (1) (~~Until July 1, 1989, any contractor agreeing to perform any~~  
27 ~~contracting project: (a) For the repair, alteration, or construction~~  
28 ~~of four or fewer residential units or accessory structures on such~~  
29 ~~residential property when the bid or contract price totals one thousand~~  
30 ~~dollars or more; or (b) for the repair, alteration, or construction of~~  
31 ~~a commercial building when the bid or contract price totals one~~  
32 ~~thousand dollars or more but less than sixty thousand dollars, must~~  
33 ~~provide the customer with the following disclosure statement prior to~~  
34 ~~starting work on the project:~~

35   ~~"NOTICE TO CUSTOMER~~

36               ~~This contractor is registered with the state of Washington,~~  
37               ~~registration no. . . . ., as a general/specialty contractor and~~

1 has posted with the state a bond or cash deposit of  
2 \$6,000/\$4,000 for the purpose of satisfying claims against the  
3 contractor for negligent or improper work or breach of contract  
4 in the conduct of the contractor's business. This bond or cash  
5 deposit may not be sufficient to cover a claim which might  
6 arise from the work done under your contract. If any supplier  
7 of materials used in your construction project or any employee  
8 of the contractor or subcontractor is not paid by the  
9 contractor or subcontractor on your job, your property may be  
10 liened to force payment. If you wish additional protection, you  
11 may request the contractor to provide you with original "lien  
12 release" documents from each supplier or subcontractor on your  
13 project. The contractor is required to provide you with  
14 further information about lien release documents if you request  
15 it. General information is also available from the department  
16 of labor and industries."

17 (~~2) On and after July 1, 1989,~~) Any contractor agreeing to perform  
18 any contracting project: (a) For the repair, alteration, or  
19 construction of four or fewer residential units or accessory structures  
20 on such residential property when the bid or contract price totals one  
21 thousand dollars or more; or (b) for the repair, alteration, or  
22 construction of a commercial building when the bid or contract price  
23 totals one thousand dollars or more but less than sixty thousand  
24 dollars, must provide the customer with the following disclosure  
25 statement prior to starting work on the project:

26 "NOTICE TO CUSTOMER

27 This contractor is registered with the state of Washington,  
28 registration no. . . . , as a general/specialty contractor and  
29 has posted with the state a bond or cash deposit of  
30 \$6,000/\$4,000 for the purpose of satisfying claims against the  
31 contractor for negligent or improper work or breach of contract  
32 in the conduct of the contractor's business. The expiration  
33 date of this contractor's registration is . . . . . This  
34 bond or cash deposit may not be sufficient to cover a claim  
35 which might arise from the work done under your contract. If  
36 any supplier of materials used in your construction project or  
37 any employee of the contractor or subcontractor is not paid by  
38 the contractor or subcontractor on your job, your property may

1 be liened to force payment. If you wish additional protection,  
2 you may request the contractor to provide you with original  
3 "lien release" documents from each supplier or subcontractor on  
4 your project. The contractor is required to provide you with  
5 further information about lien release documents if you request  
6 it. General information is also available from the department  
7 of labor and industries."

8 (~~(3) On and after July 1, 1989,~~) (2) A contractor subject to this  
9 section shall notify any consumer to whom notice is required under  
10 subsection ~~((+2))~~ (1) of this section if the contractor's registration  
11 has expired or is revoked or suspended by the department prior to  
12 completion or other termination of the contract with the consumer.

13 ~~((+4))~~ (3) No contractor subject to this section may bring or  
14 maintain any lien claim under chapter 60.04 RCW based on any contract  
15 to which this section applies without alleging and proving that the  
16 contractor has provided the customer with a copy of the disclosure  
17 statement as required in subsection (1) ~~((or (2)))~~ of this section.

18 ~~((+5))~~ (4) This section does not apply to contracts authorized  
19 under chapter 39.04 RCW or to contractors contracting with other  
20 contractors.

21 ~~((+6))~~ (5) Failure to comply with this section shall constitute an  
22 infraction under the provisions of this chapter.

23 ~~((+7))~~ (6) The department shall produce model disclosure  
24 statements, and public service announcements detailing the information  
25 needed to assist contractors and contractors' customers to comply under  
26 this section. As necessary, the department shall periodically update  
27 these education materials.

28 **Sec. 13.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read  
29 as follows:

30 The legislature finds that setting up and siting mobile/  
31 manufactured homes must be done properly for the health, safety, and  
32 enjoyment of the occupants. Therefore, when any of the following cause  
33 a health and safety risk to the occupants of a mobile/manufactured  
34 home, or severely hinder the use and enjoyment of the mobile/  
35 manufactured home, a violation of RCW 19.86.020 shall have occurred:

36 (1) The mobile/manufactured home has been improperly installed by  
37 a contractor ~~((licensed))~~ registered under chapter 18.27 RCW, or a



1 mobile/manufactured dealer or manufacturer licensed under chapter 46.70  
2 RCW;

3 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW  
4 has not been fulfilled by the person or business giving the warranty;  
5 and

6 (3) A bonding company that issues a bond under chapter 18.27 RCW or  
7 chapter 46.70 RCW does not reasonably and professionally investigate  
8 and resolve claims made by injured parties.

9 **Sec. 14.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read  
10 as follows:

11 (1) It is a violation of this chapter and an infraction for any  
12 contractor to:

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

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

18 (c) Transfer a valid registration to an unregistered contractor or  
19 allow an unregistered contractor to work under a registration issued to  
20 another contractor; or

21 (d) Knowingly subcontract work to a person not registered as  
22 required under this chapter. However, a contractor does not commit an  
23 infraction if the subcontractor becomes unregistered during the course  
24 of its work without the knowledge of the contractor.

25 (2) Each day that a contractor works without being registered as  
26 required by this chapter, works while the contractor's registration is  
27 suspended or revoked, or works under a registration issued to another  
28 contractor is a separate infraction. Each worksite at which a  
29 contractor works without being registered as required by this chapter,  
30 works while the contractor's registration is suspended or revoked, or  
31 works under a registration issued to another contractor is a separate  
32 infraction.

33 **Sec. 15.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read  
34 as follows:

35 The department may issue a notice of infraction if the department  
36 reasonably believes that the contractor (~~required to be registered by~~  
37 ~~this chapter has failed to do so or~~) has (~~otherwise~~) committed ((a

1 ~~violation under RCW 18.27.200))~~ an infraction under this chapter. A  
2 notice of infraction issued under this section shall be personally  
3 served on the contractor named in the notice by the department's  
4 compliance inspectors or service can be made by certified mail directed  
5 to the contractor named in the notice of infraction. If the contractor  
6 named in the notice of infraction is a firm or corporation, the notice  
7 may be personally served on any employee of the firm or corporation.  
8 If a notice of infraction is personally served upon an employee of a  
9 firm or corporation, the department shall within four days of service  
10 send a copy of the notice by certified mail to the contractor if the  
11 department is able to obtain the contractor's address.

12 **Sec. 16.** RCW 18.27.270 and 1986 c 197 s 6 are each amended to read  
13 as follows:

14 (1) A contractor who is issued a notice of infraction shall respond  
15 within twenty days of the date of issuance of the notice of infraction.

16 (2) If the contractor named in the notice of infraction does not  
17 elect to contest the notice of infraction, then the contractor shall  
18 pay to the department, by check or money order, the amount of the  
19 penalty prescribed for the infraction. When a response which does not  
20 contest the notice of infraction is received by the department with the  
21 appropriate penalty, the department shall make the appropriate entry in  
22 its records.

23 (3) If the contractor named in the notice of infraction elects to  
24 contest the notice of infraction, the contractor shall respond by  
25 filing an answer of protest with the department specifying the grounds  
26 of protest.

27 (4) If any contractor issued a notice of infraction fails to  
28 respond within the prescribed response period, the contractor shall be  
29 guilty of a misdemeanor and prosecuted in the county where the  
30 infraction occurred.

31 (5) After final determination by an administrative law judge that  
32 an infraction has been committed, a contractor who fails to pay a  
33 monetary penalty within thirty days, that is not waived, reduced, or  
34 suspended pursuant to RCW 18.27.340(2), and who fails to file an appeal  
35 pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be  
36 prosecuted in the county where the infraction occurred.

37 (6) A contractor who fails to pay a monetary penalty within thirty  
38 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),

1 shall be guilty of a misdemeanor and be prosecuted in the county where  
2 the infraction occurred.

3 (7) If a person who is issued a notice of infraction is a person  
4 who has failed to register as a contractor under this chapter, the  
5 person is subject to a monetary penalty of one thousand dollars per  
6 infraction and each day the person works without becoming registered is  
7 a separate infraction. The director may reduce the penalty, but in no  
8 case below five hundred dollars, if the person registers as a  
9 contractor within ten days after the first notice of infraction.

10 (8) If a person performs work as a contractor after an  
11 administrative law judge determines that the person has committed an  
12 infraction involving failure to register, the person is guilty of a  
13 class C felony for each day of work beyond the date of the  
14 administrative law judge's final determination. Venue for any action  
15 under this subsection is in the county where the work occurred.

16 **Sec. 17.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to  
17 read as follows:

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

22 (2) ((The administrative law judge may waive, reduce, or suspend  
23 the monetary penalty imposed for the infraction only upon a showing of  
24 good cause that the penalty would be unduly burdensome to the  
25 contractor.)) The director may waive collection in favor of payment of  
26 restitution to a consumer complainant.

27 (3) A contractor found to have committed an infraction under RCW  
28 18.27.200 for failure to register shall be assessed a fine of not less  
29 than one thousand dollars, nor more than five thousand dollars. The  
30 penalty for failure to register may be reduced, but in no case below  
31 five hundred dollars, if the person becomes registered within ten days  
32 of receiving a notice of infraction and the notice of infraction is for  
33 a first offense.

34 (4) Monetary penalties collected under this chapter shall be  
35 deposited in the general fund.

36 **Sec. 18.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are  
37 each reenacted and amended to read as follows:

1 The following are the only employments which shall not be included  
2 within the mandatory coverage of this title:

3 (1) Any person employed as a domestic servant in a private home by  
4 an employer who has less than two employees regularly employed forty or  
5 more hours a week in such employment.

6 (2) Any person employed to do gardening, maintenance, or repair,  
7 (~~remodeling, or similar work~~) in or about the private home of the  
8 employer. For the purposes of this subsection, "maintenance" means the  
9 work of keeping in proper condition, "repair" means to restore to sound  
10 condition after damage, and "private home" means a person's place of  
11 residence.

12 (3) A person whose employment is not in the course of the trade,  
13 business, or profession of his or her employer and is not in or about  
14 the private home of the employer.

15 (4) Any person performing services in return for aid or sustenance  
16 only, received from any religious or charitable organization.

17 (5) Sole proprietors or partners.

18 (6) Any child under eighteen years of age employed by his or her  
19 parent or parents in agricultural activities on the family farm.

20 (7) Jockeys while participating in or preparing horses for race  
21 meets licensed by the Washington horse racing commission pursuant to  
22 chapter 67.16 RCW.

23 (8)(a) Except as otherwise provided in (b) of this subsection, any  
24 bona fide officer of a corporation voluntarily elected or voluntarily  
25 appointed in accordance with the articles of incorporation or bylaws of  
26 the corporation, who at all times during the period involved is also a  
27 bona fide director, and who is also a shareholder of the corporation.  
28 Only such officers who exercise substantial control in the daily  
29 management of the corporation and whose primary responsibilities do not  
30 include the performance of manual labor are included within this  
31 subsection.

32 (b) Alternatively, a corporation that is not a "public company" as  
33 defined in RCW 23B.01.400(~~(+19)~~) (20) may exempt eight or fewer bona  
34 fide officers, who are voluntarily elected or voluntarily appointed in  
35 accordance with the articles of incorporation or bylaws of the  
36 corporation and who exercise substantial control in the daily  
37 management of the corporation, from coverage under this title without  
38 regard to the officers' performance of manual labor if the exempted  
39 officer is a shareholder of the corporation, or may exempt any number

1 of officers if all the exempted officers are related by blood within  
2 the third degree or marriage. If a corporation that is not a "public  
3 company" elects to be covered under subsection (8)(a) of this section,  
4 the corporation's election must be made on a form prescribed by the  
5 department and under such reasonable rules as the department may adopt.

6 (c) Determinations respecting the status of persons performing  
7 services for a corporation shall be made, in part, by reference to  
8 Title 23B RCW and to compliance by the corporation with its own  
9 articles of incorporation and bylaws. For the purpose of determining  
10 coverage under this title, substance shall control over form, and  
11 mandatory coverage under this title shall extend to all workers of this  
12 state, regardless of honorary titles conferred upon those actually  
13 serving as workers.

14 (d) A corporation may elect to cover officers who are exempted by  
15 this subsection in the manner provided by RCW 51.12.110.

16 (9) Services rendered by a musician or entertainer under a contract  
17 with a purchaser of the services, for a specific engagement or  
18 engagements when such musician or entertainer performs no other duties  
19 for the purchaser and is not regularly and continuously employed by the  
20 purchaser. A purchaser does not include the leader of a group or  
21 recognized entity who employs other than on a casual basis musicians or  
22 entertainers.

23 (10) Services performed by a newspaper carrier selling or  
24 distributing newspapers on the street or from house to house.

25 (11) Services performed by an insurance agent, insurance broker, or  
26 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
27 48.17.030, respectively.

28 (12) Services performed by a booth renter as defined in RCW  
29 18.16.020. However, a person exempted under this subsection may elect  
30 coverage under RCW 51.32.030.

31 NEW SECTION. **Sec. 19.** RCW 18.27.140 and 1983 1st ex.s. c 2 s 21  
32 & 1973 1st ex.s. c 161 s 2 are each repealed.

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