
SENATE BILL 5761

State of Washington

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1995 Regular Session

By Senators Heavey, Newhouse, Spanel, Fraser, A. Anderson, Cantu and
Wojahn

Read first time 02/06/95. Referred to Committee on Labor, Commerce &
Trade.

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, 18.27.090,
3 18.27.100, 18.27.104, 18.27.114, 18.27.117, 18.27.200, 18.27.230,
4 18.27.270, and 18.27.340; reenacting and amending RCW 51.12.020; adding
5 a new section to chapter 18.27 RCW; repealing RCW 18.27.140; and
6 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 contractors conducting business in
13 compliance with this chapter, to enhance state revenue collections, and
14 to promote compliance and enforcement of this chapter by providing
15 swift and meaningful remedies for those failing to register as required
16 by this chapter.

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

1 engaged in the activities of a contractor is presumed to know the
2 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.

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

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

29 (4) "Unregistered contractor" means anyone doing work as a
30 contractor without being registered in compliance with state statutes.
31 "Unregistered contractor" includes contractors whose registration has
32 been suspended or is expired for more than thirty days beyond the
33 renewal date.

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

35 (~~(+5)~~) (6) "Director" means the director of the department of
36 labor and industries.

37 (~~(+6)~~) (7) "Verification" means the receipt and duplication by the
38 city, town, or county of a contractor registration card that is current

1 on its face, checking the department's contractor registration data
2 base, or calling the department to confirm that the contractor is
3 registered.

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;

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

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

18 (e) Knowingly subcontract work to a person not registered as
19 required under this chapter. A contractor is not liable under this
20 section if a subcontractor becomes unregistered during the course of
21 its work without the knowledge of the contractor.

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

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

32 (5) The director by rule shall establish a two-year audit and
33 monitoring program for a person not registered under this chapter who
34 becomes registered after receiving an infraction or conviction under
35 this chapter as a person not registered under this chapter. The
36 director shall notify the department of revenue and the employment
37 security department of such infractions or convictions and shall

1 cooperate with such departments in determining whether any taxes or
2 registration, license, or other fees or penalties are owed the state.

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

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

9 (a) Employer social security number.

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

15 (c) Employment security department number.

16 (d) State excise tax registration number.

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

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

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

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

34 (3) The department shall deny an application for registration
35 ((shall be denied)) if the applicant has been previously registered as
36 a sole proprietor, partnership, or corporation ((, and was a principal
37 or officer of the corporation,)) and ((if)) the applicant has an
38 unsatisfied final judgment in an action based on RCW 18.27.040 ((,))

1 that was incurred during a previous registration under this chapter.
2 The department shall check for unsatisfied judgments under RCW
3 18.27.040 and a history of violations and felonies when application is
4 made. A history of violations, revoked and suspended registrations or
5 licenses, or felonies relating to the construction business may be
6 grounds for denial.

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

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

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

8 (2) Any contractor registered as of (~~the effective date of this~~
9 ~~1983 act~~) July 1, 1995, who maintains such registration in accordance
10 with this chapter shall be in compliance with this chapter until the
11 next annual renewal of the contractor's certificate of registration.
12 At that time, the contractor shall provide a bond, cash deposit, or
13 other security deposit as required by this chapter and comply with all
14 of the other provisions of this chapter before the department shall
15 renew the contractor's certificate of registration.

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

1 address listed in his or her application and to the surety within
2 forty-eight hours after it shall have been received.

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

16 (a) Employee labor, including employee benefits;

17 (b) Claims for breach of contract by a party to the construction
18 contract;

19 (c) Material and equipment;

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

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

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

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

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

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

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

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

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

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

27 (a) One year;

28 (b) Until the bond expires; or

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

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

33 (4) If a contractor's surety bond or other security has an
34 unsatisfied judgment against it or is canceled, or if the contractor's
35 insurance policy is canceled, the contractor's registration shall be
36 automatically suspended on the effective date of the impairment or
37 cancellation. The department shall give notice of the suspension to

1 the contractor by certified and by first class mail within forty-eight
2 hours after suspension.

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

9 **Sec. 7.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read
10 as follows:

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

12 (1) An authorized representative of the United States government,
13 the state of Washington, or any incorporated city, town, county,
14 township, irrigation district, reclamation district, or other municipal
15 or political corporation or subdivision of this state;

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

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

21 (4) Any construction, repair, or operation incidental to the
22 discovering or producing of petroleum or gas, or the drilling, testing,
23 abandoning, or other operation of any petroleum or gas well or any
24 surface or underground mine or mineral deposit when performed by an
25 owner or lessee;

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

29 (6) Any construction, alteration, improvement, or repair of
30 personal property, except this chapter shall apply to all
31 mobile/manufactured housing. A mobile/manufactured home may be
32 installed, set up, or repaired by the registered or legal owner, by a
33 contractor (~~licensed~~) registered under this chapter, or by a
34 mobile/manufactured home retail dealer or manufacturer licensed under
35 chapter 46.70 RCW who shall warranty service and repairs under chapter
36 46.70 RCW;

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

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

7 (9) Any work or operation on one undertaking or project by one or
8 more contracts, the aggregate contract price of which for labor and
9 materials and all other items is less than five hundred dollars, such
10 work or operations being considered as of a casual, minor, or
11 inconsequential nature. The exemption prescribed in this subsection
12 does not apply in any instance wherein the work or construction is only
13 a part of a larger or major operation, whether undertaken by the same
14 or a different contractor, or in which a division of the operation is
15 made into contracts of amounts less than five hundred dollars for the
16 purpose of evasion of this chapter or otherwise. The exemption
17 prescribed in this subsection does not apply to a person who advertises
18 or puts out any sign or card or other device which might indicate to
19 the public that he or she is a contractor, or that he or she is
20 qualified to engage in the business of contractor;

21 (10) Any construction or operation incidental to the construction
22 and repair of irrigation and drainage ditches of regularly constituted
23 irrigation districts or reclamation districts; or to farming, dairying,
24 agriculture, viticulture, horticulture, or stock or poultry raising; or
25 to clearing or other work upon land in rural districts for fire
26 prevention purposes; except when any of the above work is performed by
27 a registered contractor;

28 (11) An owner who contracts for a project with a registered
29 contractor;

30 (12) Any person working on his or her own property, whether
31 occupied by him or her or not, and any person working on his or her
32 personal residence, whether owned by him or her or not (~~but~~).

33 (a) This exemption (~~shall~~) does not apply to any person otherwise
34 covered by this chapter who constructs an improvement on his (~~own~~) or
35 her property with the intention and (~~for the~~) sole purpose of selling
36 the improved property within one year of completion of work.

37 (b) This exemption does not apply to any person who constructs a
38 residence on his or her property for purposes or uses other than a

1 personal residence for a period of at least two years from receipt of
2 occupancy certificate.

3 (c) This exemption is limited to the construction of one residence
4 for personal use by any person in a one-year period, unless registered
5 as a contractor in compliance with this chapter.

6 (d) Sellers of residential property shall make a full disclosure to
7 a bona fide purchaser, lending bank or institution, and the title
8 company of any work, construction, or alteration of the property that
9 the seller performed, commenced, or completed within three years prior
10 to entering into the purchase and sales agreement, and that, except for
11 this exemption, would have been performed by a contractor registered as
12 required under this chapter.

13 (e) This exemption does not apply when used by a person operating
14 a business for the sole purpose of earning income or profiting through
15 sale or resale of personal residences by repeated or frequent use of
16 this exemption, nor shall it apply when used to avoid state taxation
17 and the contractor registration requirements of this chapter;

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

21 (14) A licensed architect or civil or professional engineer acting
22 solely in his or her professional capacity, an electrician licensed
23 under the laws of the state of Washington, or a plumber licensed under
24 the laws of the state of Washington or licensed by a political
25 subdivision of the state of Washington while operating within the
26 boundaries of such political subdivision. The exemption provided in
27 this subsection is applicable only when the licensee is operating
28 within the scope of his or her license;

29 (15) Any person who engages in the activities herein regulated as
30 an employee of a registered contractor with wages as his or her sole
31 compensation or as an employee with wages as his or her sole
32 compensation;

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

37 **Sec. 8.** RCW 18.27.100 and 1993 c 454 s 3 are each amended to read
38 as follows:

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

6 (2) All advertising and all contracts, correspondence, cards,
7 signs, posters, papers, and documents which show a contractor's name or
8 address shall show the contractor's name or address as registered under
9 this chapter.

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

26 (b) (~~A person selling advertising should not accept advertisements~~
27 ~~for which the contractor registration number is required under (a) of~~
28 ~~this subsection if the contractor fails to provide the contractor~~
29 ~~registration number.)) The director or the director's designee may
30 issue a subpoena to any person or entity selling any advertising for
31 all information provided to the person or entity regarding the
32 purchaser of the advertising. The subpoena must be issued within
33 forty-eight hours after the expiration of the issue or publication
34 containing the advertising. The good-faith compliance by a seller of
35 advertising with a written request of the department for information
36 concerning the purchaser of advertising shall constitute a complete
37 defense to any civil or criminal action brought against the seller of
38 advertising arising from such compliance. Advertising by airwave or
39 electronic transmission is subject to this subsection.~~

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 it
5 in connection with any solicitation or identification as a contractor.
6 All individual contractors and all partners, associates, agents,
7 salesmen, solicitors, officers, and employees of contractors shall use
8 their true names and addresses at all times while engaged in the
9 business or capacity of a contractor or activities related thereto.

10 (6) Any advertising by a person or business entity soliciting work
11 as a contractor when that person or business entity is not registered
12 pursuant to this chapter is a violation of this chapter.

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

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

20 **Sec. 9.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to read
21 as follows:

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

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

36 **Sec. 10.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read
37 as follows:

1 (1) (~~Until July 1, 1989, any contractor agreeing to perform any~~
2 ~~contracting project: (a) For the repair, alteration, or construction~~
3 ~~of four or fewer residential units or accessory structures on such~~
4 ~~residential property when the bid or contract price totals one thousand~~
5 ~~dollars or more; or (b) for the repair, alteration, or construction of~~
6 ~~a commercial building when the bid or contract price totals one~~
7 ~~thousand dollars or more but less than sixty thousand dollars, must~~
8 ~~provide the customer with the following disclosure statement prior to~~
9 ~~starting work on the project:~~

10 "NOTICE TO CUSTOMER

11 This contractor is registered with the state of Washington,
12 registration no., as a general/specialty contractor and
13 has posted with the state a bond or cash deposit of
14 \$6,000/\$4,000 for the purpose of satisfying claims against the
15 contractor for negligent or improper work or breach of contract
16 in the conduct of the contractor's business. This bond or cash
17 deposit may not be sufficient to cover a claim which might
18 arise from the work done under your contract. If any supplier
19 of materials used in your construction project or any employee
20 of the contractor or subcontractor is not paid by the
21 contractor or subcontractor on your job, your property may be
22 liened to force payment. If you wish additional protection, you
23 may request the contractor to provide you with original "lien
24 release" documents from each supplier or subcontractor on your
25 project. The contractor is required to provide you with
26 further information about lien release documents if you request
27 it. General information is also available from the department
28 of labor and industries."

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

"NOTICE TO CUSTOMER

This contractor is registered with the state of Washington, registration no. . . . , as a general/specialty contractor and has posted with the state a bond or cash deposit of \$6,000/\$4,000 for the purpose of satisfying claims against the contractor for negligent or improper work or breach of contract in the conduct of the contractor's business. The expiration date of this contractor's registration is This bond or cash deposit may not be sufficient to cover a claim which might arise from the work done under your contract. If any supplier of materials used in your construction project or any employee of the contractor or subcontractor is not paid by the contractor or subcontractor on your job, your property may be liened to force payment. If you wish additional protection, you may request the contractor to provide you with original "lien release" documents from each supplier or subcontractor on your project. The contractor is required to provide you with further information about lien release documents if you request it. General information is also available from the department of labor and industries."

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

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

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

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

~~((7))~~ (6) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under

1 this section. As necessary, the department shall periodically update
2 these education materials.

3 **Sec. 11.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read
4 as follows:

5 The legislature finds that setting up and siting mobile/
6 manufactured homes must be done properly for the health, safety, and
7 enjoyment of the occupants. Therefore, when any of the following cause
8 a health and safety risk to the occupants of a mobile/manufactured
9 home, or severely hinder the use and enjoyment of the mobile/
10 manufactured home, a violation of RCW 19.86.020 shall have occurred:

11 (1) The mobile/manufactured home has been improperly installed by
12 a contractor (~~(licensed)~~) registered under chapter 18.27 RCW, or a
13 mobile/manufactured dealer or manufacturer licensed under chapter 46.70
14 RCW;

15 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW
16 has not been fulfilled by the person or business giving the warranty;
17 and

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

21 **Sec. 12.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read
22 as follows:

23 (1) It is a violation of this chapter and an infraction for any
24 contractor not registered as required by this chapter to:

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

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

30 (c) Transfer a valid registration to an unregistered contractor or
31 allow an unregistered contractor to work under a registration issued to
32 another contractor.

33 (2) Each day that a contractor works without being registered as
34 required by this chapter, works while the contractor's registration is
35 suspended, or works under a registration issued to another contractor
36 is a separate infraction. Each worksite at which a contractor works
37 without being registered as required by this chapter, works while the

1 contractor's registration is suspended, or works under a registration
2 issued to another contractor is a separate infraction.

3 (3) It is a violation of this chapter and an infraction for any
4 person to knowingly enter into a contract with, or hire, a person not
5 registered under this chapter, for work covered by this chapter, and
6 with the knowledge that such contract is in violation of this chapter.

7 **Sec. 13.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read
8 as follows:

9 The department may issue a notice of infraction if the department
10 reasonably believes that the contractor (~~((required to be registered by~~
11 ~~this chapter has failed to do so or))~~) has (~~((otherwise))~~) committed (~~((a~~
12 ~~violation under RCW 18.27.200))~~) an infraction under this chapter. A
13 notice of infraction issued under this section shall be personally
14 served on the contractor named in the notice by the department's
15 compliance inspectors or service can be made by certified mail directed
16 to the contractor named in the notice of infraction. If the contractor
17 named in the notice of infraction is a firm or corporation, the notice
18 may be personally served on any employee of the firm or corporation.
19 If a notice of infraction is personally served upon an employee of a
20 firm or corporation, the department shall within four days of service
21 send a copy of the notice by certified mail to the contractor if the
22 department is able to obtain the contractor's address.

23 **Sec. 14.** RCW 18.27.270 and 1986 c 197 s 6 are each amended to read
24 as follows:

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

27 (2) If the contractor named in the notice of infraction does not
28 elect to contest the notice of infraction, then the contractor shall
29 pay to the department, by check or money order, the amount of the
30 penalty prescribed for the infraction. When a response which does not
31 contest the notice of infraction is received by the department with the
32 appropriate penalty, the department shall make the appropriate entry in
33 its records.

34 (3) If the contractor named in the notice of infraction elects to
35 contest the notice of infraction, the contractor shall respond by
36 filing an answer of protest with the department specifying the grounds
37 of protest.

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

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

11 (6) A contractor who fails to pay a monetary penalty within thirty
12 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),
13 shall be guilty of a misdemeanor and be prosecuted in the county where
14 the infraction occurred.

15 (7) If a person who is issued a notice of infraction is a person
16 who has failed to register as a contractor under this chapter, then
17 that person is subject to a penalty in the amount of one thousand
18 dollars per violation and each day of violation is a separate
19 violation. The director may reduce the penalty, but in no case below
20 five hundred dollars, if the person registers as a contractor within
21 ten days of the notice of infraction.

22 **Sec. 15.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to
23 read as follows:

24 (1) A registered contractor found to have committed an infraction
25 under (~~RCW 18.27.200~~) this chapter shall be assessed a monetary
26 penalty of not less than two hundred dollars and not more than three
27 thousand dollars.

28 (2) The administrative law judge may waive, reduce, or suspend the
29 monetary penalty imposed for the infraction only upon a showing of good
30 cause that the penalty would be unduly burdensome (~~(to)~~) for the
31 registered contractor.

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

34 (4) A contractor found to have committed an infraction of RCW
35 18.27.020 for failure to register shall be assessed a fine of not less
36 than one thousand dollars, nor more than five thousand dollars.

37 (5) The director may reduce the penalty for failure to register,
38 but in no case below five hundred dollars, if the person becomes

1 registered within ten days of receiving a citation and the citation is
2 for a first offense.

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

5 **Sec. 16.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are
6 each reenacted and amended to read as follows:

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

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

12 (2) Any person employed to do gardening, maintenance, or repair,
13 (~~remodeling, or similar work~~) in or about the private home of the
14 employer.

15 For the purposes of this subsection, "maintenance" means the work
16 of keeping in proper condition, "repair" means to restore to sound
17 condition after damage, and "private home" means a person's place of
18 residence.

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

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

24 (5) Sole proprietors or partners.

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

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

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

1 (b) Alternatively, a corporation that is not a "public company" as
2 defined in RCW 23B.01.400(~~(+19)~~) (20) may exempt eight or fewer bona
3 fide officers, who are voluntarily elected or voluntarily appointed in
4 accordance with the articles of incorporation or bylaws of the
5 corporation and who exercise substantial control in the daily
6 management of the corporation, from coverage under this title without
7 regard to the officers' performance of manual labor if the exempted
8 officer is a shareholder of the corporation, or may exempt any number
9 of officers if all the exempted officers are related by blood within
10 the third degree or marriage. If a corporation that is not a "public
11 company" elects to be covered under subsection (8)(a) of this section,
12 the corporation's election must be made on a form prescribed by the
13 department and under such reasonable rules as the department may adopt.

14 (c) Determinations respecting the status of persons performing
15 services for a corporation shall be made, in part, by reference to
16 Title 23B RCW and to compliance by the corporation with its own
17 articles of incorporation and bylaws. For the purpose of determining
18 coverage under this title, substance shall control over form, and
19 mandatory coverage under this title shall extend to all workers of this
20 state, regardless of honorary titles conferred upon those actually
21 serving as workers.

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

24 (9) Services rendered by a musician or entertainer under a contract
25 with a purchaser of the services, for a specific engagement or
26 engagements when such musician or entertainer performs no other duties
27 for the purchaser and is not regularly and continuously employed by the
28 purchaser. A purchaser does not include the leader of a group or
29 recognized entity who employs other than on a casual basis musicians or
30 entertainers.

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

33 (11) Services performed by an insurance agent, insurance broker, or
34 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
35 48.17.030, respectively.

36 (12) Services performed by a booth renter as defined in RCW
37 18.16.020. However, a person exempted under this subsection may elect
38 coverage under RCW 51.32.030.

1 NEW SECTION. **Sec. 17.** RCW 18.27.140 and 1983 1st ex.s. c 2 s 21
2 & 1973 1st ex.s. c 161 s 2 are each repealed.

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