

SENATE BILL REPORT

SB 5570

As Passed Senate, March 12, 1997

Title: An act relating to tax evasion.

Brief Description: Expanding tax evasion penalties.

Sponsors: Senators Newhouse, Schow, Horn, Heavey, Franklin, Fraser and Oke; by request of Joint Task Force on Nonpayment of Employer Obligations.

Brief History:

Committee Activity: Commerce & Labor: 2/20/97, 2/25/97 [DP].
Passed Senate, 3/12/97, 48-0.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Franklin, Fraser, Heavey and Newhouse.

Staff: Jack Brummel (786-7428)

Background: A significant number of potential criminal fraud cases, many involving hundreds of thousands of dollars, are routinely rejected by the AG's office because the employer never filed a quarterly report and did not, therefore, violate existing felony laws. The current statute on "failure to secure payment of compensation" (RCW 51.48.015) makes such failure a misdemeanor with a maximum \$100 fine per day. Personnel in the Department of Labor and Industries have no recollection of anyone being prosecuted under the misdemeanor provisions. According to the Assistant Attorney General with the economic crimes unit, that unit has never prosecuted misdemeanors and local prosecutors would generally not consider a misdemeanor prosecution for this offense worth the expenditure of resources.

Summary of Bill: The current employer misrepresentation provisions of the workers' compensation statutes are modified to make an employer who intentionally misrepresents payroll or employee hours liable for up to ten times the difference between the amount due and the amount paid. It is a felony to: (1) knowingly make false representations about obligations with an intent to defraud; (2) knowingly accept false information about obligations with an intent to defraud; (3) conceal information with an intent to defraud; or 4) knowingly fail to file required information with an intent to defraud.

The felony provisions of the workers' compensation laws and felonious tax evasion under the state's revenue requirements have a five year statute of limitations.

Appropriation: None.

Fiscal Note: Requested on February 3, 1997.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: No one.

House Amendment(s): The amendment strikes the underlying bill and adds these provisions:

Misrepresentation of payroll or employee hours is subject to a civil penalty if made knowingly. The penalty of ten times the difference in premiums paid and premiums that should have been paid is made a maximum penalty.

It is a class C felony if an employer, with intent to evade premium payments, knowingly makes misrepresentations about payroll or employee hours, knowingly fails to secure payment of compensation, or knowingly fails to report payroll or employee hours.

On conviction, the court must order payment of premiums due, a penalty equal to the premiums due, and interest. The penalty is disbursed in equal amounts to the investigating agencies, the prosecuting authority, and the county in which the prosecution takes place.

The amendment also repeals the current misdemeanor penalty for wilful failure to secure payment of compensation, and removes the bill's provisions for a five-year statute of limitations and a fine of from \$25,000 to \$100,000.