

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE SENATE BILL 6732**

Chapter 120, Laws of 2008  
(partial veto)

60th Legislature  
2008 Regular Session

CONSTRUCTION--UNDERGROUND ECONOMY

EFFECTIVE DATE: 06/12/08

Passed by the Senate March 10, 2008  
YEAS 47 NAYS 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House March 5, 2008  
YEAS 94 NAYS 2

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Approved March 21, 2008, 2:12 p.m.,  
with the exception of sections 11 and  
13 which are vetoed.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of  
the Senate of the State of  
Washington, do hereby certify that  
the attached is **SECOND SUBSTITUTE  
SENATE BILL 6732** as passed by the  
Senate and the House of  
Representatives on the dates  
hereon set forth.

THOMAS HOEMANN

\_\_\_\_\_  
**Secretary**

FILED

March 24, 2008

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE SENATE BILL 6732

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AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington                      60th Legislature                      2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Kline, Keiser, Marr, Murray, Hobbs, Regala, Tom, Oemig, and Fairley)

READ FIRST TIME 02/12/08.

1            AN ACT Relating to implementing the recommendations of the joint  
2 legislative task force on the underground economy in the construction  
3 industry; amending RCW 18.27.030, 18.27.100, 51.16.070, 50.13.060,  
4 50.12.070, 51.48.103, and 51.48.020; amending 2007 c 288 s 2  
5 (uncodified); adding a new section to chapter 39.12 RCW; adding new  
6 sections to chapter 18.27 RCW; adding a new section to chapter 43.22  
7 RCW; creating new sections; and providing expiration dates.

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

9            **Sec. 1.** RCW 18.27.030 and 2007 c 436 s 3 are each amended to read  
10 as follows:

11            (1) An applicant for registration as a contractor shall submit an  
12 application under oath upon a form to be prescribed by the director and  
13 which shall include the following information pertaining to the  
14 applicant:

15            (a) Employer social security number.

16            (b) Unified business identifier number(~~(, if required by the~~  
17 ~~department of revenue)~~).

18            (c) Evidence of workers' compensation coverage for the applicant's  
19 employees working in Washington, as follows:

1 (i) The applicant's industrial insurance account number issued by  
2 the department;

3 (ii) The applicant's self-insurer number issued by the department;  
4 or

5 (iii) For applicants domiciled in a state or province of Canada  
6 subject to an agreement entered into under RCW 51.12.120(7), as  
7 permitted by the agreement, filing a certificate of coverage issued by  
8 the agency that administers the workers' compensation law in the  
9 applicant's state or province of domicile certifying that the applicant  
10 has secured the payment of compensation under the other state's or  
11 province's workers' compensation law.

12 (d) Employment security department number.

13 (e) ~~((State excise tax registration number.~~

14 ~~(f))~~ Unified business identifier (UBI) account number may be  
15 substituted for the information required by (c) and (d) of this  
16 subsection if the applicant will not employ employees in Washington(~~(~~  
17 ~~and by (d) and (e) of this subsection))~~.

18 ~~((g))~~ (f) Type of contracting activity, whether a general or a  
19 specialty contractor and if the latter, the type of specialty.

20 ~~((h))~~ (g) The name and address of each partner if the applicant  
21 is a firm or partnership, or the name and address of the owner if the  
22 applicant is an individual proprietorship, or the name and address of  
23 the corporate officers and statutory agent, if any, if the applicant is  
24 a corporation or the name and address of all members of other business  
25 entities. The information contained in such application is a matter of  
26 public record and open to public inspection.

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

33 (3)(a) The department shall deny an application for registration  
34 if: (i) The applicant has been previously performing work subject to  
35 this chapter as a sole proprietor, partnership, corporation, or other  
36 entity and the department has notice that the applicant has an  
37 unsatisfied final judgment against him or her in an action based on  
38 work performed subject to this chapter or the applicant owes the

1 department money for penalties assessed or fees due under this chapter  
2 as a result of a final judgment; (ii) the applicant was an owner,  
3 principal, or officer of a partnership, corporation, or other entity  
4 that either has an unsatisfied final judgment against it in an action  
5 that was incurred for work performed subject to this chapter or owes  
6 the department money for penalties assessed or fees due under this  
7 chapter as a result of a final judgment; ~~((or))~~ (iii) the applicant  
8 does not have a valid unified business identifier number(~~(, if required~~  
9 ~~by the department of revenue))~~); (iv) the department determines that the  
10 applicant has falsified information on the application, unless the  
11 error was inadvertent; or (v) the applicant does not have an active and  
12 valid certificate of registration with the department of revenue.

13 (b) The department shall suspend an active registration if (i) the  
14 department has determined that the registrant has an unsatisfied final  
15 judgment against it for work within the scope of this chapter; (ii) the  
16 department has determined that the registrant is a sole proprietor or  
17 an owner, principal, or officer of a registered contractor that has an  
18 unsatisfied final judgment against it for work within the scope of this  
19 chapter; ~~((or))~~ (iii) the registrant does not maintain a valid unified  
20 business identifier number(~~(, if required by the department of~~  
21 ~~revenue))~~); (iv) the department has determined that the registrant  
22 falsified information on the application, unless the error was  
23 inadvertent; or (v) the registrant does not have an active and valid  
24 certificate of registration with the department of revenue.

25 (c) The department may suspend an active registration if the  
26 department has determined that an owner, principal, partner, or officer  
27 of the registrant was an owner, principal, or officer of a previous  
28 partnership, corporation, or other entity that has an unsatisfied final  
29 judgment against it.

30 (4) The department shall not deny an application or suspend a  
31 registration because of an unsatisfied final judgment if the  
32 applicant's or registrant's unsatisfied final judgment was determined  
33 by the director to be the result of the fraud or negligence of another  
34 party.

35 **Sec. 2.** RCW 18.27.100 and 2001 c 159 s 8 are each amended to read  
36 as follows:

37 (1) Except as provided in RCW 18.27.065 for partnerships and joint

1 ventures, no person who has registered under one name as provided in  
2 this chapter shall engage in the business, or act in the capacity, of  
3 a contractor under any other name unless such name also is registered  
4 under this chapter.

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

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

22 (b) The director may issue a subpoena to any person or entity  
23 selling any advertising subject to this section for the name, address,  
24 and telephone number provided to the seller of the advertising by the  
25 purchaser of the advertising. The subpoena must have enclosed a  
26 stamped, self-addressed envelope and blank form to be filled out by the  
27 seller of the advertising. If the seller of the advertising has the  
28 information on file, the seller shall, within a reasonable time, return  
29 the completed form to the department. The subpoena must be issued no  
30 more than two days after the expiration of the issue or publication  
31 containing the advertising or after the broadcast of the advertising.  
32 The good-faith compliance by a seller of advertising with a written  
33 request of the department for information concerning the purchaser of  
34 advertising shall constitute a complete defense to any civil or  
35 criminal action brought against the seller of advertising arising from  
36 such compliance. Advertising by airwave or electronic transmission is  
37 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) An applicant or registrant who falsifies information on an  
15 application for registration commits a violation under this section.

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

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

23 NEW SECTION. Sec. 3. A new section is added to chapter 39.12 RCW  
24 to read as follows:

25 A contractor shall not be allowed to bid on any public works  
26 contract for one year from the date of a final determination that the  
27 contractor has committed any combination of two of the following  
28 violations or infractions within a five-year period:

29 (1) Violated RCW 51.48.020(1) or 51.48.103; or

30 (2) Committed an infraction or violation under chapter 18.27 RCW  
31 for performing work as an unregistered contractor.

32 NEW SECTION. Sec. 4. A new section is added to chapter 18.27 RCW  
33 to read as follows:

34 A contractor found to have committed an infraction or violation  
35 under this chapter for performing work as an unregistered contractor

1 shall, in addition to any penalties under this chapter, be subject to  
2 the penalties in section 3 of this act.

3 **Sec. 5.** RCW 51.16.070 and 1997 c 54 s 3 are each amended to read  
4 as follows:

5 (1)(a) Every employer shall keep at his or her place of business a  
6 record of his or her employment from which the information needed by  
7 the department may be obtained and such record shall at all times be  
8 open to the inspection of the director, supervisor of industrial  
9 insurance, or the traveling auditors, agents, or assistants of the  
10 department, as provided in RCW 51.48.040.

11 (b) An employer who contracts with another person or entity for  
12 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a  
13 record of the unified business identifier account number for and the  
14 compensation paid to the person or entity performing the work. Failure  
15 to obtain or maintain the record is subject to RCW 39.06.010 and to a  
16 penalty under RCW 51.48.030.

17 (2) Information obtained from employing unit records under the  
18 provisions of this title shall be deemed confidential and shall not be  
19 open to public inspection (other than to public employees in the  
20 performance of their official duties), but any interested party shall  
21 be supplied with information from such records to the extent necessary  
22 for the proper presentation of the case in question: PROVIDED, That  
23 any employing unit may authorize inspection of its records by written  
24 consent.

25 **Sec. 6.** RCW 50.13.060 and 2005 c 274 s 322 are each amended to  
26 read as follows:

27 (1) Governmental agencies, including law enforcement agencies,  
28 prosecuting agencies, and the executive branch, whether state, local,  
29 or federal shall have access to information or records deemed private  
30 and confidential under this chapter if the information or records are  
31 needed by the agency for official purposes and:

32 (a) The agency submits an application in writing to the employment  
33 security department for the records or information containing a  
34 statement of the official purposes for which the information or records  
35 are needed and specific identification of the records or information  
36 sought from the department; and

1 (b) The director, commissioner, chief executive, or other official  
2 of the agency has verified the need for the specific information in  
3 writing either on the application or on a separate document; and

4 (c) The agency requesting access has served a copy of the  
5 application for records or information on the individual or employing  
6 unit whose records or information are sought and has provided the  
7 department with proof of service. Service shall be made in a manner  
8 which conforms to the civil rules for superior court. The requesting  
9 agency shall include with the copy of the application a statement to  
10 the effect that the individual or employing unit may contact the public  
11 records officer of the employment security department to state any  
12 objections to the release of the records or information. The  
13 employment security department shall not act upon the application of  
14 the requesting agency until at least five days after service on the  
15 concerned individual or employing unit. The employment security  
16 department shall consider any objections raised by the concerned  
17 individual or employing unit in deciding whether the requesting agency  
18 needs the information or records for official purposes.

19 (2) The requirements of subsections (1) and (9) of this section  
20 shall not apply to the state legislative branch. The state legislature  
21 shall have access to information or records deemed private and  
22 confidential under this chapter, if the legislature or a legislative  
23 committee finds that the information or records are necessary and for  
24 official purposes. If the employment security department does not make  
25 information or records available as provided in this subsection, the  
26 legislature may exercise its authority granted by chapter 44.16 RCW.

27 (3) In cases of emergency the governmental agency requesting access  
28 shall not be required to formally comply with the provisions of  
29 subsection (1) of this section at the time of the request if the  
30 procedures required by subsection (1) of this section are complied with  
31 by the requesting agency following the receipt of any records or  
32 information deemed private and confidential under this chapter. An  
33 emergency is defined as a situation in which irreparable harm or damage  
34 could occur if records or information are not released immediately.

35 (4) The requirements of subsection (1)(c) of this section shall not  
36 apply to governmental agencies where the procedures would frustrate the  
37 investigation of possible violations of criminal laws or to the release  
38 of employing unit names, addresses, number of employees, and aggregate



1 employer wage data for the purpose of state governmental agencies  
2 preparing small business economic impact statements under chapter 19.85  
3 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and  
4 (d). Information provided by the department and held to be private and  
5 confidential under state or federal laws must not be misused or  
6 released to unauthorized parties. A person who misuses such  
7 information or releases such information to unauthorized parties is  
8 subject to the sanctions in RCW 50.13.080.

9 (5) Governmental agencies shall have access to certain records or  
10 information, limited to such items as names, addresses, social security  
11 numbers, and general information about benefit entitlement or employer  
12 information possessed by the department, for comparison purposes with  
13 records or information possessed by the requesting agency to detect  
14 improper or fraudulent claims, or to determine potential tax liability  
15 or employer compliance with registration and licensing requirements.  
16 In those cases the governmental agency shall not be required to comply  
17 with subsection (1)(c) of this section, but the requirements of the  
18 remainder of subsection (1) of this section must be satisfied.

19 (6) Governmental agencies may have access to certain records and  
20 information, limited to employer information possessed by the  
21 department for purposes authorized in chapter 50.38 RCW. Access to  
22 these records and information is limited to only those individuals  
23 conducting authorized statistical analysis, research, and evaluation  
24 studies. Only in cases consistent with the purposes of chapter 50.38  
25 RCW are government agencies not required to comply with subsection  
26 (1)(c) of this section, but the requirements of the remainder of  
27 subsection (1) of this section must be satisfied. Information provided  
28 by the department and held to be private and confidential under state  
29 or federal laws shall not be misused or released to unauthorized  
30 parties subject to the sanctions in RCW 50.13.080.

31 (7) Disclosure to governmental agencies of information or records  
32 obtained by the employment security department from the federal  
33 government shall be governed by any applicable federal law or any  
34 agreement between the federal government and the employment security  
35 department where so required by federal law. When federal law does not  
36 apply to the records or information state law shall control.

37 (8) The department may provide information for purposes of  
38 statistical analysis and evaluation of the WorkFirst program or any

1 successor state welfare program to the department of social and health  
2 services, the office of financial management, and other governmental  
3 entities with oversight or evaluation responsibilities for the program  
4 in accordance with RCW 43.20A.080. The confidential information  
5 provided by the department shall remain the property of the department  
6 and may be used by the authorized requesting agencies only for  
7 statistical analysis, research, and evaluation purposes as provided in  
8 RCW 74.08A.410 and 74.08A.420. The department of social and health  
9 services, the office of financial management, or other governmental  
10 entities with oversight or evaluation responsibilities for the program  
11 are not required to comply with subsection (1)(c) of this section, but  
12 the requirements of the remainder of subsection (1) of this section and  
13 applicable federal laws and regulations must be satisfied. The  
14 confidential information used for evaluation and analysis of welfare  
15 reform supplied to the authorized requesting entities with regard to  
16 the WorkFirst program or any successor state welfare program are exempt  
17 from public inspection and copying under chapter 42.56 RCW.

18 (9) The disclosure of any records or information by a governmental  
19 agency which has obtained the records or information under this section  
20 is prohibited unless the disclosure is (a) directly connected to the  
21 official purpose for which the records or information were obtained or  
22 (b) to another governmental agency which would be permitted to obtain  
23 the records or information under subsection (4) or (5) of this section.

24 (10) In conducting periodic salary or fringe benefit studies  
25 pursuant to law, the department of personnel shall have access to  
26 records of the employment security department as may be required for  
27 such studies. For such purposes, the requirements of subsection (1)(c)  
28 of this section need not apply.

29 (11)(a) To promote the reemployment of job seekers, the  
30 commissioner may enter into data-sharing contracts with partners of the  
31 one-stop career development system. The contracts shall provide for  
32 the transfer of data only to the extent that the transfer is necessary  
33 for the efficient provisions of workforce programs, including but not  
34 limited to public labor exchange, unemployment insurance, worker  
35 training and retraining, vocational rehabilitation, vocational  
36 education, adult education, transition from public assistance, and  
37 support services. The transfer of information under contracts with  
38 one-stop partners is exempt from subsection (1)(c) of this section.

1 (b) An individual who applies for services from the department and  
2 whose information will be shared under (a) of this subsection (11) must  
3 be notified that his or her private and confidential information in the  
4 department's records will be shared among the one-stop partners to  
5 facilitate the delivery of one-stop services to the individual. The  
6 notice must advise the individual that he or she may request that  
7 private and confidential information not be shared among the one-stop  
8 partners and the department must honor the request. In addition, the  
9 notice must:

10 (i) Advise the individual that if he or she requests that private  
11 and confidential information not be shared among one-stop partners, the  
12 request will in no way affect eligibility for services;

13 (ii) Describe the nature of the information to be shared, the  
14 general use of the information by one-stop partner representatives, and  
15 among whom the information will be shared;

16 (iii) Inform the individual that shared information will be used  
17 only for the purpose of delivering one-stop services and that further  
18 disclosure of the information is prohibited under contract and is not  
19 subject to disclosure under chapter 42.56 RCW; and

20 (iv) Be provided in English and an alternative language selected by  
21 the one-stop center or job service center as appropriate for the  
22 community where the center is located.

23 If the notice is provided in-person, the individual who does not  
24 want private and confidential information shared among the one-stop  
25 partners must immediately advise the one-stop partner representative of  
26 that decision. The notice must be provided to an individual who  
27 applies for services telephonically, electronically, or by mail, in a  
28 suitable format and within a reasonable time after applying for  
29 services, which shall be no later than ten working days from the  
30 department's receipt of the application for services. A one-stop  
31 representative must be available to answer specific questions regarding  
32 the nature, extent, and purpose for which the information may be  
33 shared.

34 (12) To facilitate improved operation and evaluation of state  
35 programs, the commissioner may enter into data-sharing contracts with  
36 other state agencies only to the extent that such transfer is necessary  
37 for the efficient operation or evaluation of outcomes for those

1 programs. The transfer of information by contract under this  
2 subsection is exempt from subsection (1)(c) of this section.

3 (13) The misuse or unauthorized release of records or information  
4 by any person or organization to which access is permitted by this  
5 chapter subjects the person or organization to a civil penalty of five  
6 thousand dollars and other applicable sanctions under state and federal  
7 law. Suit to enforce this section shall be brought by the attorney  
8 general and the amount of any penalties collected shall be paid into  
9 the employment security department administrative contingency fund.  
10 The attorney general may recover reasonable attorneys' fees for any  
11 action brought to enforce this section.

12 **Sec. 7.** RCW 50.12.070 and 2007 c 146 s 1 are each amended to read  
13 as follows:

14 (1)(a) Each employing unit shall keep true and accurate work  
15 records, containing such information as the commissioner may prescribe.  
16 Such records shall be open to inspection and be subject to being copied  
17 by the commissioner or his or her authorized representatives at any  
18 reasonable time and as often as may be necessary. The commissioner may  
19 require from any employing unit any sworn or unsworn reports with  
20 respect to persons employed by it, which he or she deems necessary for  
21 the effective administration of this title.

22 (b) An employer who contracts with another person or entity for  
23 work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a  
24 record of the unified business identifier account number for and  
25 compensation paid to the person or entity performing the work. Failure  
26 to obtain or maintain the record is subject to RCW 39.06.010 and to a  
27 penalty determined by the commissioner, but not to exceed two hundred  
28 fifty dollars, to be collected as provided in RCW 50.24.120.

29 (2)(a) Each employer shall register with the department and obtain  
30 an employment security account number. Registration must include the  
31 names and social security numbers of the owners, partners, members, or  
32 corporate officers of the business, as well as their mailing addresses  
33 and telephone numbers and other information the commissioner may by  
34 rule prescribe. Registration of corporations must also include the  
35 percentage of stock ownership for each corporate officer, delineated by  
36 zero percent, less than ten percent, or ten percent or more. Any  
37 changes in the owners, partners, members, or corporate officers of the

1 business, and changes in percentage of ownership of the outstanding  
2 shares of stock of the corporation, must be reported to the department  
3 at intervals prescribed by the commissioner under (b) of this  
4 subsection.

5 (b) Each employer shall make periodic reports at such intervals as  
6 the commissioner may by regulation prescribe, setting forth the  
7 remuneration paid for employment to workers in its employ, the full  
8 names and social security numbers of all such workers, and the total  
9 hours worked by each worker and such other information as the  
10 commissioner may by regulation prescribe.

11 (c) If the employing unit fails or has failed to report the number  
12 of hours in a reporting period for which a worker worked, such number  
13 will be computed by the commissioner and given the same force and  
14 effect as if it had been reported by the employing unit. In computing  
15 the number of such hours worked, the total wages for the reporting  
16 period, as reported by the employing unit, shall be divided by the  
17 dollar amount of the state's minimum wage in effect for such reporting  
18 period and the quotient, disregarding any remainder, shall be credited  
19 to the worker: PROVIDED, That although the computation so made will  
20 not be subject to appeal by the employing unit, monetary entitlement  
21 may be redetermined upon request if the department is provided with  
22 credible evidence of the actual hours worked. Benefits paid using  
23 computed hours are not considered an overpayment and are not subject to  
24 collections when the correction of computed hours results in an invalid  
25 or reduced claim; however:

26 (i) A contribution paying employer who fails to report the number  
27 of hours worked will have its experience rating account charged for all  
28 benefits paid that are based on hours computed under this subsection;  
29 and

30 (ii) An employer who reimburses the trust fund for benefits paid to  
31 workers and fails to report the number of hours worked shall reimburse  
32 the trust fund for all benefits paid that are based on hours computed  
33 under this subsection.

34 **Sec. 8.** RCW 51.48.103 and 2003 c 53 s 283 are each amended to read  
35 as follows:

36 (1) It is a gross misdemeanor:

1 (a) For any employer to engage in business subject to this title  
2 without having obtained a certificate of coverage as provided for in  
3 this title;

4 (b) For the president, vice president, secretary, treasurer, or  
5 other officer of any company to cause or permit the company to engage  
6 in business subject to this title without having obtained a certificate  
7 of coverage as provided for in this title.

8 (2) It is a class C felony punishable according to chapter 9A.20  
9 RCW:

10 (a) For any employer to engage in business subject to this title  
11 after the employer's certificate of coverage has been revoked by order  
12 of the department;

13 (b) For the president, vice president, secretary, treasurer, or  
14 other officer of any company to cause or permit the company to engage  
15 in business subject to this title after revocation of a certificate of  
16 coverage.

17 (3) An employer found to have violated this section shall, in  
18 addition to any other penalties, be subject to the penalties in section  
19 3 of this act.

20 **Sec. 9.** RCW 51.48.020 and 1997 c 324 s 1 are each amended to read  
21 as follows:

22 (1)(a) Any employer, who knowingly misrepresents to the department  
23 the amount of his or her payroll or employee hours upon which the  
24 premium under this title is based, shall be liable to the state for up  
25 to ten times the amount of the difference in premiums paid and the  
26 amount the employer should have paid and for the reasonable expenses of  
27 auditing his or her books and collecting such sums. Such liability may  
28 be enforced in the name of the department.

29 (b) An employer is guilty of a class C felony, if:

30 (i) The employer, with intent to evade determination and payment of  
31 the correct amount of the premiums, knowingly makes misrepresentations  
32 regarding payroll or employee hours; or

33 (ii) The employer engages in employment covered under this title  
34 and, with intent to evade determination and payment of the correct  
35 amount of the premiums, knowingly fails to secure payment of  
36 compensation under this title or knowingly fails to report the payroll  
37 or employee hours related to that employment.

1 (c) Upon conviction under (b) of this subsection, the employer  
2 shall be ordered by the court to pay the premium due and owing, a  
3 penalty in the amount of one hundred percent of the premium due and  
4 owing, and interest on the premium and penalty from the time the  
5 premium was due until the date of payment. The court shall:

6 (i) Collect the premium and interest and transmit it to the  
7 department of labor and industries; and

8 (ii) Collect the penalty and disburse it pro rata as follows: One-  
9 third to the investigative agencies involved; one-third to the  
10 prosecuting authority; and one-third to the general fund of the county  
11 in which the matter was prosecuted.

12 Payments collected under this subsection must be applied until  
13 satisfaction of the obligation in the following order: Premium  
14 payments; penalty; and interest.

15 (d) An employer found to have violated this subsection shall, in  
16 addition to any other penalties, be subject to the penalties in section  
17 3 of this act.

18 (2) Any person claiming benefits under this title, who knowingly  
19 gives false information required in any claim or application under this  
20 title shall be guilty of a felony, or gross misdemeanor in accordance  
21 with the theft and anticipatory provisions of Title 9A RCW.

22 **Sec. 10.** 2007 c 288 s 2 (uncodified) is amended to read as  
23 follows:

24 (1) The joint legislative task force on the underground economy in  
25 the Washington state construction industry is established. For  
26 purposes of this section, "underground economy" means contracting and  
27 construction activities in which payroll is unreported or underreported  
28 with consequent nonpayment of payroll taxes to federal and state  
29 agencies including nonpayment of workers' compensation and unemployment  
30 compensation taxes.

31 (2) The purpose of the task force is to formulate a state policy to  
32 establish cohesion and transparency between state agencies so as to  
33 increase the oversight and regulation of the underground economy  
34 practices in the construction industry in this state. To assist the  
35 task force in achieving this goal and to determine the extent of and  
36 projected costs to the state and workers of the underground economy in

1 the construction industry, the task force shall contract with the  
2 institute for public policy, or, if the institute is unavailable,  
3 another entity with expertise capable of providing such assistance.

4 (3)(a) The task force shall consist of the following members:

5 (i) The chair and ranking minority member of the senate labor,  
6 commerce, research and development committee;

7 (ii) The chair and ranking minority member of the house of  
8 representatives commerce and labor committee;

9 (iii) Four members representing the construction business, selected  
10 from nominations submitted by statewide construction business  
11 organizations and appointed jointly by the president of the senate and  
12 the speaker of the house of representatives;

13 (iv) Four members representing construction laborers, selected from  
14 nominations submitted by statewide labor organizations and appointed  
15 jointly by the president of the senate and the speaker of the house of  
16 representatives.

17 (b) In addition, the employment security department, the department  
18 of labor and industries, and the department of revenue shall cooperate  
19 with the task force and shall each maintain a liaison representative,  
20 who is a nonvoting member of the task force. The departments shall  
21 cooperate with the task force and the institute for public policy, or  
22 other entity as appropriate, and shall provide information and data as  
23 the task force or the institute, or other entity as appropriate, may  
24 reasonably request.

25 (c) The task force shall choose its chair or cochairs from among  
26 its legislative membership. The chairs of the senate labor, commerce,  
27 research and development committee and the house of representatives  
28 commerce and labor committee shall convene the initial meeting of the  
29 task force.

30 (4)(a) The task force shall use legislative facilities and staff  
31 support shall be provided by senate committee services and the house of  
32 representatives office of program research. Within available funding,  
33 the task force may hire additional staff with specific technical  
34 expertise if such expertise is necessary to carry out the mandates of  
35 this study.

36 (b) Legislative members of the task force shall be reimbursed for  
37 travel expenses in accordance with RCW 44.04.120. Nonlegislative



1 members, except those representing an employer or organization, are  
2 entitled to be reimbursed for travel expenses in accordance with RCW  
3 43.03.050 and 43.03.060.

4 (c) The expenses of the task force will be paid jointly by the  
5 senate and house of representatives. Task force expenditures are  
6 subject to approval by the senate facilities and operations committee  
7 and the house of representatives executive rules committee, or their  
8 successor committees.

9 (5) The task force shall report its preliminary findings and  
10 recommendations to the legislature by January 1, 2008, and submit a  
11 final report to the legislature by December 31, 2008.

12 (6) This section expires July 1, (~~2008~~) 2009.

13 **\*NEW SECTION. Sec. 11. (1)(a) Three staff members, one being a**  
14 ***working supervisor, must be added to the department of labor and***  
15 ***industries' fraud audit infraction and revenue contractor fraud team.***

16 ***(b) The department of labor and industries and the employment***  
17 ***security department shall hire more auditors to assist with their***  
18 ***enforcement activities relating to the underground economy in the***  
19 ***construction industry. At a minimum, the department of labor and***  
20 ***industries shall hire three more auditors.***

21 ***(2) If funds are made available in the 2008 supplemental budget,***  
22 ***money must be dedicated to the attorney general's office to be used in***  
23 ***the enforcement of contractor compliance cases.***

*\*Sec. 11 was vetoed. See message at end of chapter.*

24 **NEW SECTION. Sec. 12.** A new section is added to chapter 18.27 RCW  
25 to read as follows:

26 The department shall create an expanded social marketing campaign  
27 using currently available materials and newly created materials as  
28 needed. This campaign should be aimed at consumers and warn them of  
29 the risks and potential consequences of hiring unregistered contractors  
30 or otherwise assisting in the furtherance of the underground economy.  
31 The campaign may include: Providing public service announcements and  
32 other similar materials, made available in English as well as other  
33 languages, to the media and to community groups; providing information  
34 on violations and penalties; and encouraging legitimate contractors and  
35 the public to report fraud.

1           **\*NEW SECTION.**   *Sec. 13. A new section is added to chapter 43.22 RCW*  
2 *to read as follows:*

3           (1) *A pilot project must be established between the department and*  
4 *certain local jurisdictions to explore ways to improve the collection*  
5 *and sharing of building permit information. Participation must be*  
6 *voluntary for the local jurisdictions who participate, but one large*  
7 *city, some smaller cities, and at least one county are encouraged to*  
8 *participate.*

9           (2) *The department must report back to the appropriate committees*  
10 *of the legislature on the progress of the pilot project by November 15,*  
11 *2013.*

12           (3) *The department may adopt rules to undertake the pilot project*  
13 *under this section.*

14           (4) *This section expires December 1, 2014.*

*\*Sec. 13 was vetoed. See message at end of chapter.*

15           **NEW SECTION.**   **Sec. 14.**   An advisory committee must be organized by  
16 the Washington state institute for public policy with the assistance of  
17 the department of revenue, the department of labor and industries, and  
18 the employment security department, with a goal of establishing  
19 benchmarks for future monitoring of activities recommended by the task  
20 force on the underground economy in the construction industry.  
21 Benchmarks should measure the effect of task force recommendations to  
22 determine their efficiency and effectiveness and to determine if  
23 additional approaches should be explored. Establishment of these  
24 benchmarks along with a more concerted effort to develop data that  
25 answer the baseline question of the magnitude of the problem could be  
26 discussed in a legislative extension of the task force. The institute  
27 must provide a preliminary report to the senate labor, commerce,  
28 research and development committee and the house of representatives  
29 commerce and labor committee by December 31, 2008.

30           **NEW SECTION.**   **Sec. 15.**   If any part of this act is found to be in  
31 conflict with federal requirements that are a prescribed condition to  
32 the allocation of federal funds to the state, the conflicting part of  
33 this act is inoperative solely to the extent of the conflict and with  
34 respect to the agencies directly affected, and this finding does not  
35 affect the operation of the remainder of this act in its application to

1 the agencies concerned. Rules adopted under this act must meet federal  
2 requirements that are a necessary condition to the receipt of federal  
3 funds by the state.

4 NEW SECTION. **Sec. 16.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 17.** If specific funding for the purposes of  
9 this act, referencing this act by bill or chapter number, is not  
10 provided by June 30, 2008, in the omnibus appropriations act, this act  
11 is null and void.

Passed by the Senate March 10, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 21, 2008, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State March 24, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 11 and 13, Second  
Substitute Senate Bill 6732 entitled:

"AN ACT Relating to implementing the recommendations of the joint  
legislative task force on the underground economy in the construction  
industry."

This bill provides precise tools to both the Department of Labor and  
Industries and the Employment Security Department to crack down on  
the underground construction economy. This legislation strengthens  
the ability of the two departments to enforce the statutes most  
frequently violated by unregistered contractors. It also provides  
the enforcement staff and the penalties necessary to make an impact  
on the underground construction economy.

Section 11 directs the Department of Labor and Industries to hire  
three staff members, including a working supervisor. While it is  
understandable that the Legislature wishes to make clear its intent  
regarding the Department's enforcement staff, specific reporting  
relationships and staffing levels are decisions best left to the  
Department and its management. The underlying strategies and tools  
described in the bill as a whole depend upon increased staffing in  
the Department's fraud audit infraction and revenue team. Therefore,  
I am directing the Department of Labor and Industries to hire  
investigative staff, consistent with the legislative appropriation  
provided for implementation of this bill, to carry out the activities  
and functions necessary to curb the activities of the underground  
construction economy.

Section 13 directs the Department of Labor and Industries to  
establish a pilot program with local jurisdictions surrounding the  
collection and sharing of building permit information. The intent  
and makeup of this study is unclear and the language provides little  
direction as to the nature of the pilot project. Since the pilot was

intended to run until the end of 2014, I believe the legislature can revisit this idea in the next session.

For these reasons, I have vetoed Sections 11 and 13 of Second Substitute Senate Bill 6732.

With the exception of Sections 11 and 13, Second Substitute Senate Bill 6732 is approved."