

HB 1252 - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/08/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act shall be known and cited as the
4 corporate crime act.

5 **Sec. 2.** RCW 9A.08.030 and 2011 c 336 s 352 are each amended to
6 read as follows:

7 (1) As used in this section:

8 (a) "Agent" means any director, officer, or employee of (~~a~~
9 ~~corporation~~) an entity, or any other person who is authorized to act
10 on behalf of the (~~corporation~~) entity;

11 (b) (~~"Corporation"~~) "Entity" includes (~~a joint stock~~
12 ~~association~~) any domestic entity formed under or governed as to its
13 internal affairs by Title 23, 23B, 24, or 25 RCW or any foreign
14 business entity formed under or governed as to its internal affairs
15 by the laws of a jurisdiction other than this state;

16 (c) "Governor" has the same meaning as provided in RCW 23.95.105.

17 (d) "High managerial agent" means (~~an officer or director of a~~
18 ~~corporation or any other agent~~) a governor or person in a position
19 of comparable authority (~~with respect to the formulation of~~
20 ~~corporate policy or the supervision in a managerial capacity of~~) in
21 an entity not governed by chapter 23.95 RCW, and any other agent who
22 manages subordinate employees.

23 (2) (~~A corporation~~) An entity is guilty of an offense when:

24 (a) The conduct constituting the offense consists of an omission
25 to discharge a specific duty of performance imposed on
26 (~~corporations~~) entities by law; or

27 (b) The conduct constituting the offense is engaged in,
28 authorized, solicited, requested, commanded, or tolerated by (~~the~~
29 ~~board of directors or by~~) a high managerial agent acting within the
30 scope of his or her (~~employment~~) duties and on behalf of the
31 (~~corporation~~) entity; or

1 (c) The conduct constituting the offense is engaged in by an
2 agent of the (~~corporation~~) entity, other than a high managerial
3 agent, while acting within the scope of his or her (~~employment~~)
4 duties and (~~in~~) on behalf of the (~~corporation~~) entity and (i) the
5 offense is a gross misdemeanor or misdemeanor, or (ii) the offense is
6 one defined by a statute which clearly indicates a legislative intent
7 to impose such criminal liability on (~~a corporation~~) an entity.

8 (3) A person is criminally liable for conduct constituting an
9 offense which he or she performs or causes to be performed in the
10 name of or on behalf of (~~a corporation~~) an entity to the same
11 extent as if such conduct were performed in his or her own name or
12 behalf.

13 (4) Whenever a duty to act is imposed by law upon (~~a~~
14 ~~corporation~~) an entity, any agent of the (~~corporation~~) entity who
15 knows he or she has or shares primary responsibility for the
16 discharge of the duty is criminally liable for a reckless omission
17 or, if a high managerial agent, criminally negligent omission to
18 perform the required act to the same extent as if the duty were by
19 law imposed directly upon such agent.

20 (5) Every (~~corporation~~) entity, whether foreign or domestic,
21 which shall violate any provision of RCW 9A.28.040, shall forfeit
22 every right and franchise to do business in this state. The attorney
23 general shall begin and conduct all actions and proceedings necessary
24 to enforce the provisions of this subsection.

25 **Sec. 3.** RCW 10.01.070 and 1987 c 202 s 147 are each amended to
26 read as follows:

27 (1) Whenever an indictment or information shall be filed in any
28 superior court against (~~a corporation~~) an entity charging it with
29 the commission of a crime, a summons shall be issued by the clerk of
30 such court, signed by one of the judges thereof, commanding the
31 sheriff forthwith to notify the accused thereof, and commanding it to
32 appear before such court at such time as shall be specified in said
33 summons. Such summons and a copy of the indictment or information
34 shall be at once delivered by such clerk to said sheriff and by the
35 sheriff forthwith served and returned in the manner provided for
36 service of summons upon such (~~corporation~~) entity in a civil
37 action. Whenever a complaint against (~~a corporation~~) an entity,
38 charging it with the commission of a crime, shall be made before any
39 district or municipal judge, a like summons, signed by such judge,

1 shall be issued, which, together with a copy of said complaint, shall
2 be delivered to the sheriff at once and by the sheriff forthwith
3 served as herein provided.

4 (2) For the purposes of this section, "entity" has the same
5 meaning as provided in RCW 9A.08.030.

6 **Sec. 4.** RCW 10.01.090 and 1987 c 202 s 148 are each amended to
7 read as follows:

8 ~~((If the corporation shall be found guilty and a fine imposed,~~
9 ~~it))~~ (1) An entity convicted of an offense may be ordered to pay
10 legal financial obligations, including restitution, crime victims'
11 assessments, costs, fines, penalties, and other assessments
12 authorized or required by law. Legal financial obligations imposed
13 upon an entity shall be entered and docketed by the clerk, or
14 district or municipal court as a judgment against the ((corporation))
15 entity, and it shall be of the same force and effect and be enforced
16 against such ((corporation)) entity in the same manner as a judgment
17 in a civil action. Notwithstanding any other provisions pertaining to
18 legal financial obligations, all legal financial obligations imposed
19 in a judgment against an entity under this section bear interest from
20 the date of the judgment until payment at the rate applicable to
21 civil judgments under RCW 4.56.110. When an entity is ordered to pay
22 restitution, payments to the clerk must be distributed to restitution
23 prior to all other obligations.

24 (2) Except as otherwise provided under subsection (1) of this
25 section, payments on legal financial obligations must be collected
26 and distributed according to the requirements under RCW 3.50.100,
27 3.62.020, 3.62.040, 9.92.070, 9.94A.760, 10.01.160, 10.01.170,
28 10.01.180, 10.46.190, 10.64.015, 10.73.160, 10.82.090, 35.20.220, and
29 any other sections applicable to legal financial obligations imposed
30 as a result of a criminal conviction.

31 (3) For the purposes of this section, "entity" has the same
32 meaning as provided in RCW 9A.08.030.

33 **Sec. 5.** RCW 10.01.100 and 1925 ex.s. c 101 s 1 are each amended
34 to read as follows:

35 ~~((Every corporation guilty of a violation of any law of the state~~
36 ~~of Washington, where the prescribed penalty is, for any reason,~~
37 ~~incapable of execution or enforcement against such corporation, shall~~
38 ~~be punished by a fine of not more than ten thousand dollars, if such~~

1 ~~offense is a felony; or, by a fine of not more than one thousand~~
2 ~~dollars if such offense is a gross misdemeanor; or, by a fine of not~~
3 ~~more than five hundred dollars if such offense is a misdemeanor.))~~
4 (1) When imposed on an entity for any criminal offense for which no
5 special business fine is specified, a sentence to pay a fine may not
6 exceed:
7 (a) One million dollars for a class A felony;
8 (b) Seven hundred fifty thousand dollars for a class B felony;
9 (c) Five hundred thousand dollars for a class C felony;
10 (d) Two hundred fifty thousand dollars for a gross misdemeanor;
11 and
12 (e) Fifty thousand dollars for a misdemeanor.
13 (2) If a special fine for entities is expressly specified in the
14 statute that defines an offense, the fine fixed must be within the
15 limits specified in the statute.
16 (3) For the purposes of this section, "entity" has the same
17 meaning as provided in RCW 9A.08.030."

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18 On page 1, line 1 of the title, after "entities;" strike the
19 remainder of the title and insert "amending RCW 9A.08.030, 10.01.070,
20 10.01.090, and 10.01.100; creating a new section; and prescribing
21 penalties."

EFFECT: Updates definitions to be consistent with the Uniform Business Organizations Code and expands the definition of entity to include all types of entities formed under Titles 23, 23B, 24, and 25 RCW.

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