

# SENATE BILL REPORT

## SHB 1630

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As Reported By Senate Committee On:  
Labor, Commerce & Trade, March 31, 1995

**Title:** An act relating to registration of contractors.

**Brief Description:** Regulating the registration of contractors.

**Sponsors:** House Committee on Commerce & Labor (originally sponsored by Representatives Cairnes, Kremen, Ballasiotes, Cole, Conway, Cooke, Goldsmith, Quall, Cody, Elliot, Romero, Veloria and Thompson).

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 3/28/95, 3/31/95 [DPA].

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** Do pass as amended.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Deccio, Franklin, Fraser, Hale, Newhouse, Palmer and Wojahn.

**Staff:** Erika Lim (786-7488)

**Background:** Construction contractors are required to register with the Department of Labor and Industries. Application, bonding, and insurance requirements, customer disclosures, and penalties are all established by statute.

Current statutes regarding contractor registration are meant to afford protection to the public, including persons furnishing labor, materials, or equipment to a contractor, from fraudulent, financially irresponsible, or incompetent contractors.

An application must be denied if the applicant was previously registered as a sole proprietor, partnership or corporation and was a principal or officer in the corporation, and the applicant has unpaid judgments from the previous registration. Applicants for new registration or renewals must submit proof of bonding, \$6000 for a general contractor and \$4000 for a specialty contractor.

Registration is valid for one year and must be renewed on or before the expiration date.

Persons who do work on their own property, whether or not they live there, and persons who do work on their own residences, whether or not they own them, are exempt from registration requirements. This exemption does not apply if the construction is done with the intention of selling the improved property.

For certain projects, contractors must give disclosures to customers. The disclosure notice must include the contractor's registration number and information about the potential for a

lien against the property if suppliers or laborers are not paid. A contractor may not claim a lien if these disclosures were not given to the customer. Contractors must also inform customers if their registration expires or is revoked or suspended before the project is completed.

All print advertising must contain a contractor's registration number. An advertiser should not accept ads if the contractor fails to provide a registration number.

Certain acts are defined as infractions and subject a contractor to penalties of not less than \$200 and not more than \$3000. Certain acts are defined as misdemeanors and carry standard criminal penalties.

**Summary of Amended Bill:** The statement of purpose is replaced by a new section providing that the contractor registration statutes are meant to protect the general welfare of the residents of the state who purchase construction services and the general economic welfare of businesses. It is also intended to enhance state revenue, and to promote compliance and enforcement by providing swift and meaningful remedies for those who fail to register.

An unregistered contractor is defined as a person who is not registered, whose registration has been suspended, or whose registration has expired for more than 30 days. The definition of contractor is expanded to include all persons who are required to be registered, whether or not they are actually registered.

The requirement that an application be denied to an applicant who was previously registered and who has an outstanding judgment is amended to delete the requirement that the person was a principal or officer of the corporation. Also, the department must examine an applicant's history to look for unsatisfied judgments and violations or convictions related to contractor registration.

Renewal is valid upon receipt of the renewal application and proof of bonding and insurance, if the application is sent by means that require signature for delivery.

Language is added that expressly reverses Painters Trust v. T.R. Coffee, 53 Wn. App. 59, 765 P.2d 352 (1988), which held that bonds "stack." The bond amounts are changed to \$15,000 for a general contractor and \$10,000 for a specialty contractor. The total amount paid from a bond to claimants other than those claiming breach of contract is limited to \$6,000 for a general contractor and \$4,000 for a specialty contractor.

Print advertising must contain a contractor's registration number. However, the registration number may be omitted from advertising that lists only name, address and telephone number. The department may issue a subpoena to an advertising vendor in order to obtain the name, address and telephone number of the purchaser of advertising space.

An additional infraction is created for a contractor who knowingly subcontracts with a person who is not registered. A person who fails to register is subject to a penalty of not less than \$1000 and not more than \$5000. This penalty may be reduced if the person becomes registered within 10 days, but cannot be reduced to less than \$500. A person who is issued an infraction notice while unregistered is subject to a \$1000 penalty. This penalty may be

reduced if the person becomes registered within 10 days but cannot be reduced to less than \$500. The director may waive penalty if a contractor agrees to restitution to a customer who has filed a complaint.

An additional misdemeanor is created for a contractor who knowingly subcontracts with a person who is not registered.

For enforcement purposes, the provisions of this chapter are to be strictly construed. Substantial compliance will not be used. Also, any person engaged in the activities of a contractor is presumed to know the registration requirements. The department must establish a two-year monitoring program for contractors who register after receiving an infraction or conviction. The department must notify the Department of Revenue and the Employment Security Department of the contractors to determine whether any taxes, fees, or penalties are owed.

**Amended Bill Compared to Substitute Bill:** Registration is restored to one year instead of two. Language is added to clarify the liability of a surety on bonds. Bonding amounts are changed and the additional bond amount is reserved for consumer claims.

The homeowner exemption from registration requirements remains consistent with current law. Disclosure notices regarding potential lien claims and expiration, revocation, or suspension of registration remain consistent with current law.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Unregistered contractors do not pay taxes and can therefore underbid those who abide by the registration requirements. The state loses revenue from these unregistered contractors, and consumers have no protection. This bill gives the department enforcement tools and increases penalties for those who are unregistered.

**Testimony Against:** The language limiting liability on the bond is bad for consumers and suppliers.

**Testified:** PRO: Jack Tenhulzen, BIAW; Gary Jensen, PHCC/Sullivan Plumbing; Art Favinger, Favinger Plumbing/PHCC Whatcom County Task Force; Bruce Davis, Day & Night Plumbing; Brian Minnich, BIAW; Frank Immel, RCA; Tony Meinhardt, IBA; Lonnie Moore, Whatcom Task Force Painters Union; Jim Leppala, J.K. Leppala & Sons Plumbing; Charles Mitchel, Mitchel Plumbing Co.; Bob Blayden, BIAW; Doug Bohlke, CBIC; Donna Shirey, Teresa Santerre, Master Builders Assn.; Dale Laylon, Whatcom Task Force; Larry Stevens, United Subcontractors Assoc.; Karen Terwilleger, L&I; Rick Slunaker, Assoc. Contractors of WA; CON: Ron Asmus, Jerry Klein, Washington Cedar; Dan Sexton, O.A. Plumbers; Glen Hudson, Realtors.