

2 **SHB 1903** - S COMM AMD  
3 By Committee on Commerce & Labor

4 ADOPTED 4/10/97

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.27 RCW  
8 to read as follows:

9 This chapter shall be strictly enforced. Therefore, the doctrine  
10 of substantial compliance shall not be used by the department in the  
11 application and construction of this chapter. Anyone engaged in the  
12 activities of a contractor is presumed to know the requirements of this  
13 chapter.

14 **Sec. 2.** RCW 18.27.010 and 1993 c 454 s 2 are each amended to read  
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

18 (1) "Contractor" means any person, firm, or corporation who or  
19 which, in the pursuit of an independent business undertakes to, or  
20 offers to undertake, or submits a bid to, construct, alter, repair, add  
21 to, subtract from, improve, move, wreck or demolish, for another, any  
22 building, highway, road, railroad, excavation or other structure,  
23 project, development, or improvement attached to real estate or to do  
24 any part thereof including the installation of carpeting or other floor  
25 covering, the erection of scaffolding or other structures or works in  
26 connection therewith or who installs or repairs roofing or siding; or,  
27 who, to do similar work upon his or her own property, employs members  
28 of more than one trade upon a single job or project or under a single  
29 building permit except as otherwise provided herein. "Contractor"  
30 includes any person, firm, or corporation covered by this subsection,  
31 whether or not registered as required under this chapter.

32 (2) "General contractor" means a contractor whose business  
33 operations require the use of more than two unrelated building trades  
34 or crafts whose work the contractor shall superintend or do in whole or  
35 in part. "General contractor" shall not include an individual who does

1 all work personally without employees or other "specialty contractors"  
2 as defined (~~(herein)~~) in this section. The terms "general contractor"  
3 and "builder" are synonymous.

4 (3) "Specialty contractor" means a contractor whose operations (~~(as~~  
5 ~~such)~~) do not fall within the foregoing definition of "general  
6 contractor".

7 (4) "Unregistered contractor" means a person, firm, or corporation  
8 doing work as a contractor without being registered in compliance with  
9 this chapter. "Unregistered contractor" includes contractors whose  
10 registration is expired for more than thirty days beyond the renewal  
11 date or has been suspended.

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

13 (~~((5))~~) (6) "Director" means the director of the department of  
14 labor and industries.

15 (~~((6))~~) (7) "Verification" means the receipt and duplication by the  
16 city, town, or county of a contractor registration card that is current  
17 on its face, checking the department's contractor registration data  
18 base, or calling the department to confirm that the contractor is  
19 registered.

20 **Sec. 3.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read  
21 as follows:

22 (1) Every contractor shall register with the department.

23 (2) It is a misdemeanor for any contractor to:

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

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

29 (c) Use a false or expired registration number in purchasing or  
30 offering to purchase an advertisement for which a contractor  
31 registration number is required; or

32 (d) Transfer a valid registration to an unregistered contractor or  
33 allow an unregistered contractor to work under a registration issued to  
34 another contractor.

35 (3) It is not unlawful for a general contractor to employ an  
36 unregistered contractor who was registered at the time he or she  
37 entered into a contract with the general contractor, unless the general  
38 contractor or his or her representative has been notified in writing by

1 the department of labor and industries that the contractor has become  
2 unregistered.

3 (4) All misdemeanor actions under this chapter shall be prosecuted  
4 in the county where the infraction occurs.

5 (5) A person is guilty of a separate misdemeanor for each day  
6 worked if, after the person receives a citation from the department,  
7 the person works while unregistered, or while his or her registration  
8 is suspended or revoked, or works under a registration issued to  
9 another contractor. A person is guilty of a separate misdemeanor for  
10 each worksite on which he or she violates subsection (2) of this  
11 section. Nothing in this subsection applies to a registered  
12 contractor.

13 (6) The director by rule shall establish a two-year audit and  
14 monitoring program for a contractor not registered under this chapter  
15 who becomes registered after receiving an infraction or conviction  
16 under this chapter as an unregistered contractor. The director shall  
17 notify the departments of revenue and employment security of the  
18 infractions or convictions and shall cooperate with these departments  
19 to determine whether any taxes or registration, license, or other fees  
20 or penalties are owed the state.

21 **Sec. 4.** RCW 18.27.030 and 1996 c 147 s 1 are each amended to read  
22 as follows:

23 (1) An applicant for registration as a contractor shall submit an  
24 application under oath upon a form to be prescribed by the director and  
25 which shall include the following information pertaining to the  
26 applicant:

27 (a) Employer social security number.

28 (b) As applicable: (i) The industrial insurance account number  
29 covering employees domiciled in Washington; and (ii) evidence of  
30 workers' compensation coverage in the applicant's state of domicile for  
31 the applicant's employees working in Washington who are not domiciled  
32 in Washington.

33 (c) Employment security department number.

34 (d) State excise tax registration number.

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

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

3 (g) The name and address of each partner if the applicant be a firm  
4 or partnership, or the name and address of the owner if the applicant  
5 be an individual proprietorship, or the name and address of the  
6 corporate officers and statutory agent, if any, if the applicant be a  
7 corporation. The information contained in such application shall be a  
8 matter of public record and open to public inspection.

9 (2) The department may verify the workers' compensation coverage  
10 information provided by the applicant under subsection (1)(b) of this  
11 section, including but not limited to information regarding the  
12 coverage of an individual employee of the applicant. If coverage is  
13 provided under the laws of another state, the department may notify the  
14 other state that the applicant is employing employees in Washington.

15 (3) The department shall deny an application for registration  
16 ((shall be denied)) if the applicant has been previously registered as  
17 a sole proprietor, partnership, or corporation ((, and was a principal  
18 or officer of the corporation,)) and ((if)) the applicant has an  
19 unsatisfied final judgment against him or her in an action based on  
20 this chapter that was incurred during a previous registration under  
21 this chapter.

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

24 (1) Each applicant shall ((, at the time of applying for or renewing  
25 a certificate of registration,)) file with the department a surety bond  
26 issued by a surety insurer who meets the requirements of chapter 48.28  
27 RCW in ((a form acceptable to the department running to the state of  
28 Washington if a general contractor, in the sum of six thousand dollars;  
29 if a specialty contractor, in the sum of four thousand dollars,)) the  
30 sum of six thousand dollars if the applicant is a general contractor  
31 and four thousand dollars if the applicant is a specialty contractor.  
32 If no valid bond is already on file with the department at the time the  
33 application is filed, a bond must accompany the registration  
34 application. The bond shall have the state of Washington named as  
35 obligee with good and sufficient surety in a form to be approved by the  
36 department. The bond shall be continuous and may be canceled by the  
37 surety upon the surety giving written notice to the director of its  
38 intent to cancel the bond. A cancellation or revocation of the bond or

1 withdrawal of the surety from the bond suspends the registration issued  
2 to the registrant until a new bond or reinstatement notice has been  
3 filed and approved as provided in this section. The bond shall be  
4 conditioned that the applicant will pay all persons performing labor,  
5 including employee benefits, for the contractor, will pay all taxes and  
6 contributions due to the state of Washington, and will pay all persons  
7 furnishing labor or material or renting or supplying equipment to the  
8 contractor and will pay all amounts that may be adjudged against the  
9 contractor by reason of (~~negligent or improper work or~~) breach of  
10 contract including negligent or improper work in the conduct of the  
11 contracting business. A change in the name of a business or a change  
12 in the type of business entity shall not impair a bond for the purposes  
13 of this section so long as one of the original applicants for such bond  
14 maintains partial ownership in the business covered by the bond.

15 (2) Any contractor registered as of (~~the effective date of this~~  
16 ~~1983 act~~) July 1, 1997, who maintains such registration in accordance  
17 with this chapter shall be in compliance with this chapter until the  
18 next annual renewal of the contractor's certificate of registration.  
19 At that time, the contractor shall provide a bond, cash deposit, or  
20 other security deposit as required by this chapter and comply with all  
21 of the other provisions of this chapter before the department shall  
22 renew the contractor's certificate of registration.

23 (3) Any person, firm, or corporation having a claim against the  
24 contractor for any of the items referred to in this section may bring  
25 suit upon (~~such~~) the bond or deposit in the superior court of the  
26 county in which the work was done or of any county in which  
27 jurisdiction of the contractor may be had. The surety issuing the bond  
28 shall be named as a party to any suit upon the bond. Action upon  
29 (~~such~~) the bond or deposit shall be commenced by filing the summons  
30 and complaint with the clerk of the appropriate superior court within  
31 one year from the date of expiration of the certificate of registration  
32 in force at the time the claimed labor was performed and benefits  
33 accrued, taxes and contributions owing the state of Washington became  
34 due, materials and equipment were furnished, or the claimed contract  
35 work was completed or abandoned. Service of process in an action  
36 against the contractor, the contractor's bond, or the deposit shall be  
37 exclusively by service upon the department. Three copies of the  
38 summons and complaint and a fee of ten dollars to cover the handling  
39 costs shall be served by registered or certified mail upon the

1 department at the time suit is started and the department shall  
2 maintain a record, available for public inspection, of all suits so  
3 commenced. Service is not complete until the department receives the  
4 ten-dollar fee and three copies of the summons and complaint. ((Such))  
5 The service shall constitute service on the registrant and the surety  
6 for suit upon the bond or deposit and the department shall transmit the  
7 summons and complaint or a copy thereof to the registrant at the  
8 address listed in ((his)) the registrant's application and to the  
9 surety within forty-eight hours after it shall have been received.

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

23 (a) Employee labor and claims of laborers, including employee  
24 benefits;

25 (b) Claims for breach of contract by a party to the construction  
26 contract;

27 (c) Subcontractors, material, and equipment;

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

29 (e) Any court costs, interest, and attorney's fees plaintiff may be  
30 entitled to recover. The surety is not liable for any amount in excess  
31 of the penal limit of its bond.

32 A payment made by the surety in good faith exonerates the bond to  
33 the extent of any payment made by the surety.

34 (5) ((In the event that any)) If a final judgment ((shall)) impairs  
35 the liability of the surety upon the bond so furnished that there shall  
36 not be in effect a bond undertaking in the full amount prescribed in  
37 this section, the department shall suspend the registration of ((such))  
38 the contractor until the bond liability in the required amount  
39 unimpaired by unsatisfied judgment claims ((shall have been)) is

1 furnished. If (~~such~~) the bond becomes fully impaired, a new bond  
2 must be furnished at the (~~increased~~) rates prescribed by this section  
3 (~~as now or hereafter amended~~).

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

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

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

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

23 (1) A certificate of registration shall be valid for one year and  
24 shall be renewed on or before the expiration date. The department  
25 shall issue to the applicant a certificate of registration upon  
26 compliance with the registration requirements of this chapter.

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

30 (a) One year;

31 (b) Until the bond expires; or

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

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

36 (4) If a contractor's surety bond or other security has an  
37 unsatisfied judgment against it or is canceled, or if the contractor's  
38 insurance policy is canceled, the contractor's registration shall be

1 automatically suspended on the effective date of the impairment or  
2 cancellation. The department shall ~~((give))~~ mail notice of the  
3 suspension to the ~~((contractor))~~ contractor's address on the  
4 certificate of registration by certified and by first class mail within  
5 forty-eight hours after suspension.

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

12 **Sec. 7.** RCW 18.27.070 and 1983 c 74 s 1 are each amended to read  
13 as follows:

14 The department shall charge fees for issuance, renewal, and  
15 reinstatement of certificates of registration; and changes of name,  
16 address, or business structure. The department shall set the fees by  
17 rule.

18 The ~~((fees shall))~~ entire amount of the fees are to be used solely  
19 to cover the full cost of issuing certificates, filing papers and  
20 notices, and administering and enforcing this chapter. The costs shall  
21 include reproduction, travel, per diem, and administrative and legal  
22 support costs.

23 **Sec. 8.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read  
24 as follows:

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

26 (1) An authorized representative of the United States government,  
27 the state of Washington, or any incorporated city, town, county,  
28 township, irrigation district, reclamation district, or other municipal  
29 or political corporation or subdivision of this state;

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

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

35 (4) Any construction, repair, or operation incidental to the  
36 discovering or producing of petroleum or gas, or the drilling, testing,  
37 abandoning, or other operation of any petroleum or gas well or any



1 surface or underground mine or mineral deposit when performed by an  
2 owner or lessee;

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

6 (6) Any construction, alteration, improvement, or repair of  
7 personal property, except this chapter shall apply to all  
8 mobile/manufactured housing. A mobile/manufactured home may be  
9 installed, set up, or repaired by the registered or legal owner, by a  
10 contractor (~~licensed~~) registered under this chapter, or by a  
11 mobile/manufactured home retail dealer or manufacturer licensed under  
12 chapter 46.70 RCW who shall warranty service and repairs under chapter  
13 46.70 RCW;

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

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

20 (9) Any work or operation on one undertaking or project by one or  
21 more contracts, the aggregate contract price of which for labor and  
22 materials and all other items is less than five hundred dollars, such  
23 work or operations being considered as of a casual, minor, or  
24 inconsequential nature. The exemption prescribed in this subsection  
25 does not apply in any instance wherein the work or construction is only  
26 a part of a larger or major operation, whether undertaken by the same  
27 or a different contractor, or in which a division of the operation is  
28 made into contracts of amounts less than five hundred dollars for the  
29 purpose of evasion of this chapter or otherwise. The exemption  
30 prescribed in this subsection does not apply to a person who advertises  
31 or puts out any sign or card or other device which might indicate to  
32 the public that he or she is a contractor, or that he or she is  
33 qualified to engage in the business of contractor;

34 (10) Any construction or operation incidental to the construction  
35 and repair of irrigation and drainage ditches of regularly constituted  
36 irrigation districts or reclamation districts; or to farming, dairying,  
37 agriculture, viticulture, horticulture, or stock or poultry raising; or  
38 to clearing or other work upon land in rural districts for fire

1 prevention purposes; except when any of the above work is performed by  
2 a registered contractor;

3 (11) An owner who contracts for a project with a registered  
4 contractor;

5 (12) Any person working on his or her own property, whether  
6 occupied by him or her or not, and any person working on his or her  
7 personal residence, whether owned by him or her or not but this  
8 exemption shall not apply to any person otherwise covered by this  
9 chapter who constructs an improvement on his or her own property with  
10 the intention and for the purpose of selling the improved property;

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

14 (14) A licensed architect or civil or professional engineer acting  
15 solely in his or her professional capacity, an electrician licensed  
16 under the laws of the state of Washington, or a plumber licensed under  
17 the laws of the state of Washington or licensed by a political  
18 subdivision of the state of Washington while operating within the  
19 boundaries of such political subdivision. The exemption provided in  
20 this subsection is applicable only when the licensee is operating  
21 within the scope of his or her license;

22 (15) Any person who engages in the activities herein regulated as  
23 an employee of a registered contractor with wages as his or her sole  
24 compensation or as an employee with wages as his or her sole  
25 compensation;

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

30 **Sec. 9.** RCW 18.27.100 and 1996 c 147 s 2 are each amended to read  
31 as follows:

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

37 (2) All advertising and all contracts, correspondence, cards,  
38 signs, posters, papers, and documents which show a contractor's name or

1 address shall show the contractor's name or address as registered under  
2 this chapter.

3 (3)(a) All advertising that shows the contractor's name or address  
4 shall show the contractor's current registration number. The  
5 registration number may be omitted in an alphabetized listing of  
6 registered contractors stating only the name, address, and telephone  
7 number: PROVIDED, That signs on motor vehicles subject to RCW  
8 46.16.010 and on-premise signs shall not constitute advertising as  
9 provided in this section. All materials used to directly solicit  
10 business from retail customers who are not businesses shall show the  
11 contractor's current registration number. A contractor shall not use  
12 a false or expired registration number in purchasing or offering to  
13 purchase an advertisement for which a contractor registration number is  
14 required. Advertising by airwave transmission shall not be subject to  
15 this subsection (~~if the person selling the advertisement obtains the~~  
16 ~~contractor's current registration number from the contractor~~) (3)(a).

17 (b) The director may issue a subpoena to any person or entity  
18 selling any advertising subject to this section for the name, address,  
19 and telephone number provided to the seller of the advertising by the  
20 purchaser of the advertising. The subpoena must have enclosed a  
21 stamped, self-addressed envelope and blank form to be filled out by the  
22 seller of the advertising. If the seller of the advertising has the  
23 information on file, the seller shall, within a reasonable time, return  
24 the completed form to the department. The subpoena must be issued  
25 before forty-eight hours after the expiration of the issue or  
26 publication containing the advertising or after the broadcast of the  
27 advertising. The good-faith compliance by a seller of advertising with  
28 a written request of the department for information concerning the  
29 purchaser of advertising shall constitute a complete defense to any  
30 civil or criminal action brought against the seller of advertising  
31 arising from such compliance. Advertising by airwave or electronic  
32 transmission is subject to this subsection (3)(b).

33 (4) No contractor shall advertise that he or she is bonded and  
34 insured because of the bond required to be filed and sufficiency of  
35 insurance as provided in this chapter.

36 (5) A contractor shall not falsify a registration number and use  
37 it, or use an expired registration number, in connection with any  
38 solicitation or identification as a contractor. All individual  
39 contractors and all partners, associates, agents, salesmen, solicitors,

1 officers, and employees of contractors shall use their true names and  
2 addresses at all times while engaged in the business or capacity of a  
3 contractor or activities related thereto.

4 (6) Any advertising by a person, firm, or corporation soliciting  
5 work as a contractor when that person, firm, or corporation is not  
6 registered pursuant to this chapter is a violation of this chapter.

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

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

14 **Sec. 10.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to  
15 read as follows:

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

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

31 **Sec. 11.** RCW 18.27.110 and 1993 c 454 s 5 are each amended to read  
32 as follows:

33 (1) No city, town or county shall issue a construction building  
34 permit for work which is to be done by any contractor required to be  
35 registered under this chapter without verification that such contractor  
36 is currently registered as required by law. When such verification is  
37 made, nothing contained in this section is intended to be, nor shall be

1 construed to create, or form the basis for any liability under this  
2 chapter on the part of any city, town or county, or its officers,  
3 employees or agents. However, failure to verify the contractor  
4 registration number results in liability to the city, town, or county  
5 to a penalty to be imposed according to RCW 18.27.100(~~(+6+)~~) (7)(a).

6 (2) At the time of issuing the building permit, all cities, towns,  
7 or counties are responsible for:

8 (a) Printing the contractor registration number on the building  
9 permit; and

10 (b) Providing a written notice to the building permit applicant  
11 informing them of contractor registration laws and the potential risk  
12 and monetary liability to the homeowner for using an unregistered  
13 contractor.

14 (3) If a building permit is obtained by an applicant or contractor  
15 who falsifies information to obtain an exemption provided under RCW  
16 18.27.090, the building permit shall be forfeited.

17 **Sec. 12.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read  
18 as follows:

19 ~~(1) ((Until July 1, 1989, any contractor agreeing to perform any~~  
20 ~~contracting project: (a) For the repair, alteration, or construction~~  
21 ~~of four or fewer residential units or accessory structures on such~~  
22 ~~residential property when the bid or contract price totals one thousand~~  
23 ~~dollars or more; or (b) for the repair, alteration, or construction of~~  
24 ~~a commercial building when the bid or contract price totals one~~  
25 ~~thousand dollars or more but less than sixty thousand dollars, must~~  
26 ~~provide the customer with the following disclosure statement prior to~~  
27 ~~starting work on the project:~~

28 ~~"NOTICE TO CUSTOMER~~

29 ~~This contractor is registered with the state of Washington,~~  
30 ~~registration no. . . . ., as a general/specialty contractor and~~  
31 ~~has posted with the state a bond or cash deposit of~~  
32 ~~\$6,000/\$4,000 for the purpose of satisfying claims against the~~  
33 ~~contractor for negligent or improper work or breach of contract~~  
34 ~~in the conduct of the contractor's business. This bond or cash~~  
35 ~~deposit may not be sufficient to cover a claim which might~~  
36 ~~arise from the work done under your contract. If any supplier~~  
37 ~~of materials used in your construction project or any employee~~

1 of the ~~contractor or subcontractor is not paid by the~~  
2 ~~contractor or subcontractor on your job, your property may be~~  
3 ~~liened to force payment. If you wish additional protection, you~~  
4 ~~may request the contractor to provide you with original "lien~~  
5 ~~release" documents from each supplier or subcontractor on your~~  
6 ~~project. The contractor is required to provide you with~~  
7 ~~further information about lien release documents if you request~~  
8 ~~it. General information is also available from the department~~  
9 ~~of labor and industries."~~

10 ~~(2) On and after July 1, 1989,)~~ Any contractor agreeing to perform  
11 any contracting project: (a) For the repair, alteration, or  
12 construction of four or fewer residential units or accessory structures  
13 on such residential property when the bid or contract price totals one  
14 thousand dollars or more; or (b) for the repair, alteration, or  
15 construction of a commercial building when the bid or contract price  
16 totals one thousand dollars or more but less than sixty thousand  
17 dollars, must provide the customer with the following disclosure  
18 statement prior to starting work on the project:

19 "NOTICE TO CUSTOMER

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

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

6       (~~(4)~~) (3) No contractor subject to this section may bring or  
7 maintain any lien claim under chapter 60.04 RCW based on any contract  
8 to which this section applies without alleging and proving that the  
9 contractor has provided the customer with a copy of the disclosure  
10 statement as required in subsection (1) (~~(or (2))~~) of this section.

11       (~~(5)~~) (4) This section does not apply to contracts authorized  
12 under chapter 39.04 RCW or to contractors contracting with other  
13 contractors.

14       (~~(6)~~) (5) Failure to comply with this section shall constitute an  
15 infraction under the provisions of this chapter.

16       (~~(7)~~) (6) The department shall produce model disclosure  
17 statements, and public service announcements detailing the information  
18 needed to assist contractors and contractors' customers to comply under  
19 this section. As necessary, the department shall periodically update  
20 these education materials.

21       **Sec. 13.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read  
22 as follows:

23       The legislature finds that setting up and siting mobile/  
24 manufactured homes must be done properly for the health, safety, and  
25 enjoyment of the occupants. Therefore, when any of the following cause  
26 a health and safety risk to the occupants of a mobile/manufactured  
27 home, or severely hinder the use and enjoyment of the mobile/  
28 manufactured home, a violation of RCW 19.86.020 shall have occurred:

29       (1) The mobile/manufactured home has been improperly installed by  
30 a contractor (~~(licensed)~~) registered under chapter 18.27 RCW, or a  
31 mobile/manufactured dealer or manufacturer licensed under chapter 46.70  
32 RCW;

33       (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW  
34 has not been fulfilled by the person or business giving the warranty;  
35 and

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

1       **Sec. 14.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read  
2 as follows:

3       (1) It is a violation of this chapter and an infraction for any  
4 contractor to:

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

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

10       (c) Transfer a valid registration to an unregistered contractor or  
11 allow an unregistered contractor to work under a registration issued to  
12 another contractor.

13       (2) Each day that a contractor works without being registered as  
14 required by this chapter, works while the contractor's registration is  
15 suspended or revoked, or works under a registration issued to another  
16 contractor is a separate infraction. Each worksite at which a  
17 contractor works without being registered as required by this chapter,  
18 works while the contractor's registration is suspended or revoked, or  
19 works under a registration issued to another contractor is a separate  
20 infraction.

21       **Sec. 15.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read  
22 as follows:

23       The department may issue a notice of infraction if the department  
24 reasonably believes that the contractor (~~((required to be registered by~~  
25 ~~this chapter has failed to do so or~~)) has (~~((otherwise))~~) committed (~~((a~~  
26 ~~violation under RCW 18.27.200))~~) an infraction under this chapter. A  
27 notice of infraction issued under this section shall be personally  
28 served on the contractor named in the notice by the department's  
29 compliance inspectors or service can be made by certified mail directed  
30 to the contractor named in the notice of infraction. If the contractor  
31 named in the notice of infraction is a firm or corporation, the notice  
32 may be personally served on any employee of the firm or corporation.  
33 If a notice of infraction is personally served upon an employee of a  
34 firm or corporation, the department shall within four days of service  
35 send a copy of the notice by certified mail to the contractor if the  
36 department is able to obtain the contractor's address.



1       **Sec. 16.** RCW 18.27.270 and 1986 c 197 s 6 are each amended to read  
2 as follows:

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

5       (2) If the contractor named in the notice of infraction does not  
6 elect to contest the notice of infraction, then the contractor shall  
7 pay to the department, by check or money order, the amount of the  
8 penalty prescribed for the infraction. When a response which does not  
9 contest the notice of infraction is received by the department with the  
10 appropriate penalty, the department shall make the appropriate entry in  
11 its records.

12       (3) If the contractor named in the notice of infraction elects to  
13 contest the notice of infraction, the contractor shall respond by  
14 filing an answer of protest with the department specifying the grounds  
15 of protest.

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

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

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

30       (7) If a contractor who is issued a notice of infraction is a  
31 contractor who has failed to register as a contractor under this  
32 chapter, the contractor is subject to a monetary penalty per infraction  
33 as provided in the schedule of penalties established by the department,  
34 and each day the person works without becoming registered is a separate  
35 infraction.

36       **Sec. 17.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to  
37 read as follows:

1 (1) Except as otherwise provided in subsection (3) of this section,  
2 a contractor found to have committed an infraction under RCW 18.27.200  
3 shall be assessed a monetary penalty of not less than two hundred  
4 dollars and not more than ((three)) five thousand dollars.

5 (2) ~~((The administrative law judge may waive, reduce, or suspend~~  
6 ~~the monetary penalty imposed for the infraction only upon a showing of~~  
7 ~~good cause that the penalty would be unduly burdensome to the~~  
8 ~~contractor.))~~ The director may waive collection in favor of payment of  
9 restitution to a consumer complainant.

10 (3) A contractor found to have committed an infraction under RCW  
11 18.27.200 for failure to register shall be assessed a fine of not less  
12 than one thousand dollars, nor more than five thousand dollars. The  
13 director may reduce the penalty for failure to register, but in no case  
14 below five hundred dollars, if the person becomes registered within ten  
15 days of receiving a notice of infraction and the notice of infraction  
16 is for a first offense.

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

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

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

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

26 (2) Any person employed to do gardening, maintenance, or repair,  
27 ~~((remodeling, or similar work))~~ in or about the private home of the  
28 employer. For the purposes of this subsection, "maintenance" means the  
29 work of keeping in proper condition, "repair" means to restore to sound  
30 condition after damage, and "private home" means a person's place of  
31 residence.

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

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

37 (5) Sole proprietors or partners.

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

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

6 (8)(a) Except as otherwise provided in (b) of this subsection, any  
7 bona fide officer of a corporation voluntarily elected or voluntarily  
8 appointed in accordance with the articles of incorporation or bylaws of  
9 the corporation, who at all times during the period involved is also a  
10 bona fide director, and who is also a shareholder of the corporation.  
11 Only such officers who exercise substantial control in the daily  
12 management of the corporation and whose primary responsibilities do not  
13 include the performance of manual labor are included within this  
14 subsection.

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

28 (c) Determinations respecting the status of persons performing  
29 services for a corporation shall be made, in part, by reference to  
30 Title 23B RCW and to compliance by the corporation with its own  
31 articles of incorporation and bylaws. For the purpose of determining  
32 coverage under this title, substance shall control over form, and  
33 mandatory coverage under this title shall extend to all workers of this  
34 state, regardless of honorary titles conferred upon those actually  
35 serving as workers.

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

38 (9) Services rendered by a musician or entertainer under a contract  
39 with a purchaser of the services, for a specific engagement or

1 engagements when such musician or entertainer performs no other duties  
2 for the purchaser and is not regularly and continuously employed by the  
3 purchaser. A purchaser does not include the leader of a group or  
4 recognized entity who employs other than on a casual basis musicians or  
5 entertainers.

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

8 (11) Services performed by an insurance agent, insurance broker, or  
9 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
10 48.17.030, respectively.

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

14 NEW SECTION. Sec. 19. A new section is added to chapter 18.27 RCW  
15 to read as follows:

16 Beginning December 1, 1997, the department shall report by December  
17 1st each year to the commerce and labor committees of the senate and  
18 house of representatives and the ways and means committee of the senate  
19 and the appropriations committee of the house of representatives, or  
20 successor committees, the following information for the previous three  
21 fiscal years:

22 (1) The number of contractors found to have committed an infraction  
23 for failure to register;

24 (2) The number of contractors identified in subsection (1) of this  
25 section who were assessed a monetary penalty and the amount of the  
26 penalties assessed;

27 (3) The amount of the penalties reported in subsection (2) of this  
28 section that was collected; and

29 (4) The amount of the penalties reported in subsection (2) of this  
30 section that was waived."

31 **SHB 1903** - S COMM AMD  
32 By Committee on Commerce & Labor

33 ADOPTED 4/10/97

34 On page 1, line 1 of the title, after "contractors;" strike the  
35 remainder of the title and insert "amending RCW 18.27.010, 18.27.020,  
36 18.27.030, 18.27.040, 18.27.060, 18.27.070, 18.27.090, 18.27.100,

1 18.27.104, 18.27.110, 18.27.114, 18.27.117, 18.27.200, 18.27.230,  
2 18.27.270, and 18.27.340; reenacting and amending RCW 51.12.020; adding  
3 new sections to chapter 18.27 RCW; and prescribing penalties."

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