

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1903**

Chapter 314, Laws of 1997

55th Legislature  
1997 Regular Session

CONTRACTOR REGISTRATION--MODIFICATIONS

EFFECTIVE DATE: 7/27/97

Passed by the House April 21, 1997  
Yeas 93 Nays 0

CLYDE BALLARD  
**Speaker of the  
House of Representatives**

Passed by the Senate April 10, 1997  
Yeas 46 Nays 1

BRAD OWEN  
**President of the Senate**

Approved May 12, 1997

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1903** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

May 12, 1997 - 3:12 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1903**

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Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Cairnes, Linville, Conway, Honeyford, Hatfield, Clements, Kenney, Blalock, Cody, Cole, Gardner, Cooke and Tokuda)

Read first time 03/05/97.

1       AN ACT Relating to registration of contractors; amending RCW  
2 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.060, 18.27.070,  
3 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117,  
4 18.27.200, 18.27.230, 18.27.270, and 18.27.340; reenacting and amending  
5 RCW 51.12.020; adding new sections to chapter 18.27 RCW; and  
6 prescribing penalties.

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

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

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

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

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

1 (1) "Contractor" means any person, firm, or corporation who or  
2 which, in the pursuit of an independent business undertakes to, or  
3 offers to undertake, or submits a bid to, construct, alter, repair, add  
4 to, subtract from, improve, move, wreck or demolish, for another, any  
5 building, highway, road, railroad, excavation or other structure,  
6 project, development, or improvement attached to real estate or to do  
7 any part thereof including the installation of carpeting or other floor  
8 covering, the erection of scaffolding or other structures or works in  
9 connection therewith or who installs or repairs roofing or siding; or,  
10 who, to do similar work upon his or her own property, employs members  
11 of more than one trade upon a single job or project or under a single  
12 building permit except as otherwise provided herein. "Contractor"  
13 includes any person, firm, or corporation covered by this subsection,  
14 whether or not registered as required under this chapter.

15 (2) "General contractor" means a contractor whose business  
16 operations require the use of more than two unrelated building trades  
17 or crafts whose work the contractor shall superintend or do in whole or  
18 in part. "General contractor" shall not include an individual who does  
19 all work personally without employees or other "specialty contractors"  
20 as defined (~~herein~~) in this section. The terms "general contractor"  
21 and "builder" are synonymous.

22 (3) "Specialty contractor" means a contractor whose operations (~~as~~  
23 ~~such~~) do not fall within the foregoing definition of "general  
24 contractor".

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

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

31 (~~(+5)~~) (6) "Director" means the director of the department of  
32 labor and industries.

33 (~~(+6)~~) (7) "Verification" means the receipt and duplication by the  
34 city, town, or county of a contractor registration card that is current  
35 on its face, checking the department's contractor registration data  
36 base, or calling the department to confirm that the contractor is  
37 registered.

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

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

4       (2) It is a misdemeanor for any 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;

10       (c) Use a false or expired registration number in purchasing or  
11 offering to purchase an advertisement for which a contractor  
12 registration number is required; or

13       (d) Transfer a valid registration to an unregistered contractor or  
14 allow an unregistered contractor to work under a registration issued to  
15 another contractor.

16       (3) It is not unlawful for a general contractor to employ an  
17 unregistered contractor who was registered at the time he or she  
18 entered into a contract with the general contractor, unless the general  
19 contractor or his or her representative has been notified in writing by  
20 the department of labor and industries that the contractor has become  
21 unregistered.

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

24       (5) A person is guilty of a separate misdemeanor for each day  
25 worked if, after the person receives a citation from the department,  
26 the person works while unregistered, or while his or her registration  
27 is suspended or revoked, or works under a registration issued to  
28 another contractor. A person is guilty of a separate misdemeanor for  
29 each worksite on which he or she violates subsection (2) of this  
30 section. Nothing in this subsection applies to a registered  
31 contractor.

32       (6) The director by rule shall establish a two-year audit and  
33 monitoring program for a contractor not registered under this chapter  
34 who becomes registered after receiving an infraction or conviction  
35 under this chapter as an unregistered contractor. The director shall  
36 notify the departments of revenue and employment security of the  
37 infractions or convictions and shall cooperate with these departments  
38 to determine whether any taxes or registration, license, or other fees  
39 or penalties are owed the state.

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

3       (1) An applicant for registration as a contractor shall submit an  
4 application under oath upon a form to be prescribed by the director and  
5 which shall include the following information pertaining to the  
6 applicant:

7       (a) Employer social security number.

8       (b) As applicable: (i) The industrial insurance account number  
9 covering employees domiciled in Washington; and (ii) evidence of  
10 workers' compensation coverage in the applicant's state of domicile for  
11 the applicant's employees working in Washington who are not domiciled  
12 in Washington.

13       (c) Employment security department number.

14       (d) State excise tax registration number.

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

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

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

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

32       (3) The department shall deny an application for registration  
33 ~~((shall be denied))~~ if the applicant has been previously registered as  
34 a sole proprietor, partnership, or corporation ~~((, and was a principal~~  
35 ~~or officer of the corporation,))~~ and ~~((if))~~ the applicant has an  
36 unsatisfied final judgment against him or her in an action based on  
37 this chapter that was incurred during a previous registration under  
38 this chapter.

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

3       (1) Each applicant shall(~~(, at the time of applying for or renewing~~  
4 ~~a certificate of registration,)~~) file with the department a surety bond  
5 issued by a surety insurer who meets the requirements of chapter 48.28  
6 RCW in (~~(a form acceptable to the department running to the state of~~  
7 ~~Washington if a general contractor, in the sum of six thousand dollars;~~  
8 ~~if a specialty contractor, in the sum of four thousand dollars,)~~) the  
9 sum of six thousand dollars if the applicant is a general contractor  
10 and four thousand dollars if the applicant is a specialty contractor.  
11 If no valid bond is already on file with the department at the time the  
12 application is filed, a bond must accompany the registration  
13 application. The bond shall have the state of Washington named as  
14 obligee with good and sufficient surety in a form to be approved by the  
15 department. The bond shall be continuous and may be canceled by the  
16 surety upon the surety giving written notice to the director of its  
17 intent to cancel the bond. A cancellation or revocation of the bond or  
18 withdrawal of the surety from the bond suspends the registration issued  
19 to the registrant until a new bond or reinstatement notice has been  
20 filed and approved as provided in this section. The bond shall be  
21 conditioned that the applicant will pay all persons performing labor,  
22 including employee benefits, for the contractor, will pay all taxes and  
23 contributions due to the state of Washington, and will pay all persons  
24 furnishing labor or material or renting or supplying equipment to the  
25 contractor and will pay all amounts that may be adjudged against the  
26 contractor by reason of (~~(negligent or improper work or)~~) breach of  
27 contract including negligent or improper work in the conduct of the  
28 contracting business. A change in the name of a business or a change  
29 in the type of business entity shall not impair a bond for the purposes  
30 of this section so long as one of the original applicants for such bond  
31 maintains partial ownership in the business covered by the bond.

32       (2) Any contractor registered as of (~~(the effective date of this~~  
33 ~~1983 act))~~ July 1, 1997, who maintains such registration in accordance  
34 with this chapter shall be in compliance with this chapter until the  
35 next annual renewal of the contractor's certificate of registration.  
36 At that time, the contractor shall provide a bond, cash deposit, or  
37 other security deposit as required by this chapter and comply with all  
38 of the other provisions of this chapter before the department shall  
39 renew the contractor's certificate of registration.

1 (3) Any person, firm, or corporation having a claim against the  
2 contractor for any of the items referred to in this section may bring  
3 suit upon ((sueh)) the bond or deposit in the superior court of the  
4 county in which the work was done or of any county in which  
5 jurisdiction of the contractor may be had. The surety issuing the bond  
6 shall be named as a party to any suit upon the bond. Action upon  
7 ((sueh)) the bond or deposit shall be commenced by filing the summons  
8 and complaint with the clerk of the appropriate superior court within  
9 one year from the date of expiration of the certificate of registration  
10 in force at the time the claimed labor was performed and benefits  
11 accrued, taxes and contributions owing the state of Washington became  
12 due, materials and equipment were furnished, or the claimed contract  
13 work was completed or abandoned. Service of process in an action  
14 against the contractor, the contractor's bond, or the deposit shall be  
15 exclusively by service upon the department. Three copies of the  
16 summons and complaint and a fee of ten dollars to cover the handling  
17 costs shall be served by registered or certified mail upon the  
18 department at the time suit is started and the department shall  
19 maintain a record, available for public inspection, of all suits so  
20 commenced. Service is not complete until the department receives the  
21 ten-dollar fee and three copies of the summons and complaint. ((Sueh))  
22 The service shall constitute service on the registrant and the surety  
23 for suit upon the bond or deposit and the department shall transmit the  
24 summons and complaint or a copy thereof to the registrant at the  
25 address listed in ((his)) the registrant's application and to the  
26 surety within forty-eight hours after it shall have been received.

27 (4) The surety upon the bond shall not be liable in an aggregate  
28 amount in excess of the amount named in the bond nor for any monetary  
29 penalty assessed pursuant to this chapter for an infraction. The  
30 liability of the surety shall not cumulate where the bond has been  
31 renewed, continued, reinstated, reissued or otherwise extended. The  
32 surety upon the bond may, upon notice to the department and the  
33 parties, tender to the clerk of the court having jurisdiction of the  
34 action an amount equal to the claims thereunder or the amount of the  
35 bond less the amount of judgments, if any, previously satisfied  
36 therefrom and to the extent of such tender the surety upon the bond  
37 shall be exonerated but if the actions commenced and pending at any one  
38 time exceed the amount of the bond then unimpaired, claims shall be  
39 satisfied from the bond in the following order:

1 (a) Employee labor and claims of laborers, including employee  
2 benefits;

3 (b) Claims for breach of contract by a party to the construction  
4 contract;

5 (c) Subcontractors, material, and equipment;

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

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

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

12 (5) ~~((In the event that any))~~ If a final judgment ~~((shall))~~ impairs  
13 the liability of the surety upon the bond so furnished that there shall  
14 not be in effect a bond undertaking in the full amount prescribed in  
15 this section, the department shall suspend the registration of ~~((such))~~  
16 the contractor until the bond liability in the required amount  
17 unimpaired by unsatisfied judgment claims ~~((shall have been))~~ is  
18 furnished. If ~~((such))~~ the bond becomes fully impaired, a new bond  
19 must be furnished at the ~~((increased))~~ rates prescribed by this section  
20 ~~((as now or hereafter amended))~~.

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

24 (7) Any person having filed and served a summons and complaint as  
25 required by this section having an unsatisfied final judgment against  
26 the registrant for any items referred to in this section may execute  
27 upon the security held by the department by serving a certified copy of  
28 the unsatisfied final judgment by registered or certified mail upon the  
29 department within one year of the date of entry of such judgment. Upon  
30 the receipt of service of such certified copy the department shall pay  
31 or order paid from the deposit, through the registry of the superior  
32 court which rendered judgment, towards the amount of the unsatisfied  
33 judgment. The priority of payment by the department shall be the order  
34 of receipt by the department, but the department shall have no  
35 liability for payment in excess of the amount of the deposit.

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



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

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

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

10       (a) One year;

11       (b) Until the bond expires; or

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

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

16       (4) If a contractor's surety bond or other security has an  
17 unsatisfied judgment against it or is canceled, or if the contractor's  
18 insurance policy is canceled, the contractor's registration shall be  
19 automatically suspended on the effective date of the impairment or  
20 cancellation. The department shall ~~((give))~~ mail notice of the  
21 suspension to the ~~((contractor))~~ contractor's address on the  
22 certificate of registration by certified and by first class mail within  
23 forty-eight hours after suspension.

24       (5) Renewal of registration is valid on the date the department  
25 receives the required fee and proof of bond and liability insurance, if  
26 sent by certified mail or other means requiring proof of delivery. The  
27 receipt or proof of delivery shall serve as the contractor's proof of  
28 renewed registration until he or she receives verification from the  
29 department.

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

32       The department shall charge fees for issuance, renewal, and  
33 reinstatement of certificates of registration; and changes of name,  
34 address, or business structure. The department shall set the fees by  
35 rule.

36       The ~~((fees shall))~~ entire amount of the fees are to be used solely  
37 to cover the full cost of issuing certificates, filing papers and  
38 notices, and administering and enforcing this chapter. The costs shall

1 include reproduction, travel, per diem, and administrative and legal  
2 support costs.

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

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

6 (1) An authorized representative of the United States government,  
7 the state of Washington, or any incorporated city, town, county,  
8 township, irrigation district, reclamation district, or other municipal  
9 or political corporation or subdivision of this state;

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

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

15 (4) Any construction, repair, or operation incidental to the  
16 discovering or producing of petroleum or gas, or the drilling, testing,  
17 abandoning, or other operation of any petroleum or gas well or any  
18 surface or underground mine or mineral deposit when performed by an  
19 owner or lessee;

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

23 (6) Any construction, alteration, improvement, or repair of  
24 personal property, except this chapter shall apply to all  
25 mobile/manufactured housing. A mobile/manufactured home may be  
26 installed, set up, or repaired by the registered or legal owner, by a  
27 contractor (~~licensed~~) registered under this chapter, or by a  
28 mobile/manufactured home retail dealer or manufacturer licensed under  
29 chapter 46.70 RCW who shall warranty service and repairs under chapter  
30 46.70 RCW;

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

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

37 (9) Any work or operation on one undertaking or project by one or  
38 more contracts, the aggregate contract price of which for labor and

1 materials and all other items is less than five hundred dollars, such  
2 work or operations being considered as of a casual, minor, or  
3 inconsequential nature. The exemption prescribed in this subsection  
4 does not apply in any instance wherein the work or construction is only  
5 a part of a larger or major operation, whether undertaken by the same  
6 or a different contractor, or in which a division of the operation is  
7 made into contracts of amounts less than five hundred dollars for the  
8 purpose of evasion of this chapter or otherwise. The exemption  
9 prescribed in this subsection does not apply to a person who advertises  
10 or puts out any sign or card or other device which might indicate to  
11 the public that he or she is a contractor, or that he or she is  
12 qualified to engage in the business of contractor;

13 (10) Any construction or operation incidental to the construction  
14 and repair of irrigation and drainage ditches of regularly constituted  
15 irrigation districts or reclamation districts; or to farming, dairying,  
16 agriculture, viticulture, horticulture, or stock or poultry raising; or  
17 to clearing or other work upon land in rural districts for fire  
18 prevention purposes; except when any of the above work is performed by  
19 a registered contractor;

20 (11) An owner who contracts for a project with a registered  
21 contractor;

22 (12) Any person working on his or her own property, whether  
23 occupied by him or her or not, and any person working on his or her  
24 personal residence, whether owned by him or her or not but this  
25 exemption shall not apply to any person otherwise covered by this  
26 chapter who constructs an improvement on his or her own property with  
27 the intention and for the purpose of selling the improved property;

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

31 (14) A licensed architect or civil or professional engineer acting  
32 solely in his or her professional capacity, an electrician licensed  
33 under the laws of the state of Washington, or a plumber licensed under  
34 the laws of the state of Washington or licensed by a political  
35 subdivision of the state of Washington while operating within the  
36 boundaries of such political subdivision. The exemption provided in  
37 this subsection is applicable only when the licensee is operating  
38 within the scope of his or her license;

1 (15) Any person who engages in the activities herein regulated as  
2 an employee of a registered contractor with wages as his or her sole  
3 compensation or as an employee with wages as his or her sole  
4 compensation;

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

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

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

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

20 (3)(a) All advertising that shows the contractor's name or address  
21 shall show the contractor's current registration number. The  
22 registration number may be omitted in an alphabetized listing of  
23 registered contractors stating only the name, address, and telephone  
24 number: PROVIDED, That signs on motor vehicles subject to RCW  
25 46.16.010 and on-premise signs shall not constitute advertising as  
26 provided in this section. All materials used to directly solicit  
27 business from retail customers who are not businesses shall show the  
28 contractor's current registration number. A contractor shall not use  
29 a false or expired registration number in purchasing or offering to  
30 purchase an advertisement for which a contractor registration number is  
31 required. Advertising by airwave transmission shall not be subject to  
32 this subsection (~~(if the person selling the advertisement obtains the~~  
33 ~~contractor's current registration number from the contractor)) (3)(a).~~

34 (b) The director may issue a subpoena to any person or entity  
35 selling any advertising subject to this section for the name, address,  
36 and telephone number provided to the seller of the advertising by the  
37 purchaser of the advertising. The subpoena must have enclosed a  
38 stamped, self-addressed envelope and blank form to be filled out by the

1 seller of the advertising. If the seller of the advertising has the  
2 information on file, the seller shall, within a reasonable time, return  
3 the completed form to the department. The subpoena must be issued  
4 before forty-eight hours after the expiration of the issue or  
5 publication containing the advertising or after the broadcast of the  
6 advertising. The good-faith compliance by a seller of advertising with  
7 a written request of the department for information concerning the  
8 purchaser of advertising shall constitute a complete defense to any  
9 civil or criminal action brought against the seller of advertising  
10 arising from such compliance. Advertising by airwave or electronic  
11 transmission is subject to this subsection (3)(b).

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

15 (5) A contractor shall not falsify a registration number and use  
16 it, or use an expired registration number, in connection with any  
17 solicitation or identification as a contractor. All individual  
18 contractors and all partners, associates, agents, salesmen, solicitors,  
19 officers, and employees of contractors shall use their true names and  
20 addresses at all times while engaged in the business or capacity of a  
21 contractor or activities related thereto.

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

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

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

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

34 (1) If, upon investigation, the director or the director's designee  
35 has probable cause to believe that a person holding a registration, an  
36 applicant for registration, or ~~((an unregistered))~~ a person acting in  
37 the capacity of a contractor who is not otherwise exempted from this  
38 chapter, has violated RCW 18.27.100 by unlawfully advertising for work

1 covered by this chapter (~~(in an alphabetical or classified directory)~~),  
2 the department may issue a citation containing an order of correction.  
3 Such order shall require the violator to cease the unlawful  
4 advertising.

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

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

13 (1) No city, town or county shall issue a construction building  
14 permit for work which is to be done by any contractor required to be  
15 registered under this chapter without verification that such contractor  
16 is currently registered as required by law. When such verification is  
17 made, nothing contained in this section is intended to be, nor shall be  
18 construed to create, or form the basis for any liability under this  
19 chapter on the part of any city, town or county, or its officers,  
20 employees or agents. However, failure to verify the contractor  
21 registration number results in liability to the city, town, or county  
22 to a penalty to be imposed according to RCW 18.27.100(~~((+6+))~~) (7)(a).

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

25 (a) Printing the contractor registration number on the building  
26 permit; and

27 (b) Providing a written notice to the building permit applicant  
28 informing them of contractor registration laws and the potential risk  
29 and monetary liability to the homeowner for using an unregistered  
30 contractor.

31 (3) If a building permit is obtained by an applicant or contractor  
32 who falsifies information to obtain an exemption provided under RCW  
33 18.27.090, the building permit shall be forfeited.

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

36 (1) (~~Until July 1, 1989, any contractor agreeing to perform any~~  
37 ~~contracting project:~~ (a) ~~For the repair, alteration, or construction~~

1 of four or fewer residential units or accessory structures on such  
2 residential property when the bid or contract price totals one thousand  
3 dollars or more; or (b) for the repair, alteration, or construction of  
4 a commercial building when the bid or contract price totals one  
5 thousand dollars or more but less than sixty thousand dollars, must  
6 provide the customer with the following disclosure statement prior to  
7 starting work on the project:

8 "NOTICE TO CUSTOMER

9 This contractor is registered with the state of Washington,  
10 registration no. . . . ., as a general/specialty contractor and  
11 has posted with the state a bond or cash deposit of  
12 \$6,000/\$4,000 for the purpose of satisfying claims against the  
13 contractor for negligent or improper work or breach of contract  
14 in the conduct of the contractor's business. This bond or cash  
15 deposit may not be sufficient to cover a claim which might  
16 arise from the work done under your contract. If any supplier  
17 of materials used in your construction project or any employee  
18 of the contractor or subcontractor is not paid by the  
19 contractor or subcontractor on your job, your property may be  
20 liened to force payment. If you wish additional protection, you  
21 may request the contractor to provide you with original "lien  
22 release" documents from each supplier or subcontractor on your  
23 project. The contractor is required to provide you with  
24 further information about lien release documents if you request  
25 it. General information is also available from the department  
26 of labor and industries."

27 (2) On and after July 1, 1989,) Any contractor agreeing to perform  
28 any contracting project: (a) For the repair, alteration, or  
29 construction of four or fewer residential units or accessory structures  
30 on such residential property when the bid or contract price totals one  
31 thousand dollars or more; or (b) for the repair, alteration, or  
32 construction of a commercial building when the bid or contract price  
33 totals one thousand dollars or more but less than sixty thousand  
34 dollars, must provide the customer with the following disclosure  
35 statement prior to starting work on the project:

"NOTICE TO CUSTOMER

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

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

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

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

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

~~((7))~~ (6) The department shall produce model disclosure statements, and public service announcements detailing the information needed to assist contractors and contractors' customers to comply under



1 this section. As necessary, the department shall periodically update  
2 these education materials.

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

5 The legislature finds that setting up and siting mobile/  
6 manufactured homes must be done properly for the health, safety, and  
7 enjoyment of the occupants. Therefore, when any of the following cause  
8 a health and safety risk to the occupants of a mobile/manufactured  
9 home, or severely hinder the use and enjoyment of the mobile/  
10 manufactured home, a violation of RCW 19.86.020 shall have occurred:

11 (1) The mobile/manufactured home has been improperly installed by  
12 a contractor (~~licensed~~) registered under chapter 18.27 RCW, or a  
13 mobile/manufactured dealer or manufacturer licensed under chapter 46.70  
14 RCW;

15 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW  
16 has not been fulfilled by the person or business giving the warranty;  
17 and

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

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

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

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

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

30 (c) Transfer a valid registration to an unregistered contractor or  
31 allow an unregistered contractor to work under a registration issued to  
32 another contractor.

33 (2) Each day that a contractor works without being registered as  
34 required by this chapter, works while the contractor's registration is  
35 suspended or revoked, or works under a registration issued to another  
36 contractor is a separate infraction. Each worksite at which a  
37 contractor works without being registered as required by this chapter,

1 works while the contractor's registration is suspended or revoked, or  
2 works under a registration issued to another contractor is a separate  
3 infraction.

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

6 The department may issue a notice of infraction if the department  
7 reasonably believes that the contractor (~~((required to be registered by  
8 this chapter has failed to do so or))~~) has (~~((otherwise))~~) committed (~~((a  
9 violation under RCW 18.27.200))~~) an infraction under this chapter. A  
10 notice of infraction issued under this section shall be personally  
11 served on the contractor named in the notice by the department's  
12 compliance inspectors or service can be made by certified mail directed  
13 to the contractor named in the notice of infraction. If the contractor  
14 named in the notice of infraction is a firm or corporation, the notice  
15 may be personally served on any employee of the firm or corporation.  
16 If a notice of infraction is personally served upon an employee of a  
17 firm or corporation, the department shall within four days of service  
18 send a copy of the notice by certified mail to the contractor if the  
19 department is able to obtain the contractor's address.

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

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

24 (2) If the contractor named in the notice of infraction does not  
25 elect to contest the notice of infraction, then the contractor shall  
26 pay to the department, by check or money order, the amount of the  
27 penalty prescribed for the infraction. When a response which does not  
28 contest the notice of infraction is received by the department with the  
29 appropriate penalty, the department shall make the appropriate entry in  
30 its records.

31 (3) If the contractor named in the notice of infraction elects to  
32 contest the notice of infraction, the contractor shall respond by  
33 filing an answer of protest with the department specifying the grounds  
34 of protest.

35 (4) If any contractor issued a notice of infraction fails to  
36 respond within the prescribed response period, the contractor shall be

1 guilty of a misdemeanor and prosecuted in the county where the  
2 infraction occurred.

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

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

13 (7) If a contractor who is issued a notice of infraction is a  
14 contractor who has failed to register as a contractor under this  
15 chapter, the contractor is subject to a monetary penalty per infraction  
16 as provided in the schedule of penalties established by the department,  
17 and each day the person works without becoming registered is a separate  
18 infraction.

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

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

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

30 (3) A contractor found to have committed an infraction under RCW  
31 18.27.200 for failure to register shall be assessed a fine of not less  
32 than one thousand dollars, nor more than five thousand dollars. The  
33 director may reduce the penalty for failure to register, but in no case  
34 below five hundred dollars, if the person becomes registered within ten  
35 days of receiving a notice of infraction and the notice of infraction  
36 is for a first offense.

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

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

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

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

8       (2) Any person employed to do gardening, maintenance, or repair,  
9 (~~remodeling, or similar work~~) in or about the private home of the  
10 employer. For the purposes of this subsection, "maintenance" means the  
11 work of keeping in proper condition, "repair" means to restore to sound  
12 condition after damage, and "private home" means a person's place of  
13 residence.

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

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

19       (5) Sole proprietors or partners.

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

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

25       (8)(a) Except as otherwise provided in (b) of this subsection, any  
26 bona fide officer of a corporation voluntarily elected or voluntarily  
27 appointed in accordance with the articles of incorporation or bylaws of  
28 the corporation, who at all times during the period involved is also a  
29 bona fide director, and who is also a shareholder of the corporation.  
30 Only such officers who exercise substantial control in the daily  
31 management of the corporation and whose primary responsibilities do not  
32 include the performance of manual labor are included within this  
33 subsection.

34       (b) Alternatively, a corporation that is not a "public company" as  
35 defined in RCW 23B.01.400(~~(+19)~~) (20) may exempt eight or fewer bona  
36 fide officers, who are voluntarily elected or voluntarily appointed in  
37 accordance with the articles of incorporation or bylaws of the  
38 corporation and who exercise substantial control in the daily  
39 management of the corporation, from coverage under this title without

1 regard to the officers' performance of manual labor if the exempted  
2 officer is a shareholder of the corporation, or may exempt any number  
3 of officers if all the exempted officers are related by blood within  
4 the third degree or marriage. If a corporation that is not a "public  
5 company" elects to be covered under subsection (8)(a) of this section,  
6 the corporation's election must be made on a form prescribed by the  
7 department and under such reasonable rules as the department may adopt.

8 (c) Determinations respecting the status of persons performing  
9 services for a corporation shall be made, in part, by reference to  
10 Title 23B RCW and to compliance by the corporation with its own  
11 articles of incorporation and bylaws. For the purpose of determining  
12 coverage under this title, substance shall control over form, and  
13 mandatory coverage under this title shall extend to all workers of this  
14 state, regardless of honorary titles conferred upon those actually  
15 serving as workers.

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

18 (9) Services rendered by a musician or entertainer under a contract  
19 with a purchaser of the services, for a specific engagement or  
20 engagements when such musician or entertainer performs no other duties  
21 for the purchaser and is not regularly and continuously employed by the  
22 purchaser. A purchaser does not include the leader of a group or  
23 recognized entity who employs other than on a casual basis musicians or  
24 entertainers.

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

27 (11) Services performed by an insurance agent, insurance broker, or  
28 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and  
29 48.17.030, respectively.

30 (12) Services performed by a booth renter as defined in RCW  
31 18.16.020. However, a person exempted under this subsection may elect  
32 coverage under RCW 51.32.030.

33 NEW SECTION. **Sec. 19.** A new section is added to chapter 18.27 RCW  
34 to read as follows:

35 Beginning December 1, 1997, the department shall report by December  
36 1st each year to the commerce and labor committees of the senate and  
37 house of representatives and the ways and means committee of the senate  
38 and the appropriations committee of the house of representatives, or

1 successor committees, the following information for the previous three  
2 fiscal years:

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

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

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

10 (4) The amount of the penalties reported in subsection (2) of this  
11 section that was waived.

Passed the House April 21, 1997.

Passed the Senate April 10, 1997.

Approved by the Governor May 12, 1997.

Filed in Office of Secretary of State May 12, 1997.