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SENATE BILL 5360

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State of Washington

58th Legislature

2003 Regular Session

By Senators West, Sheahan, Honeyford, Hewitt, Roach, Hale, Esser and Mulliken

Read first time 01/23/2003. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to false industrial insurance claims; amending RCW  
2 51.48.020 and 51.48.270; and prescribing penalties.

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

4 **Sec. 1.** RCW 51.48.020 and 1997 c 324 s 1 are each amended to read  
5 as follows:

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

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

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

17 (ii) The employer engages in employment covered under this title  
18 and, with intent to evade determination and payment of the correct

1 amount of the premiums, knowingly fails to secure payment of  
2 compensation under this title or knowingly fails to report the payroll  
3 or employee hours related to that employment.

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

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

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

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

18 (2)(a) Any person claiming benefits under this title, who knowingly  
19 gives false information required in any claim or application under this  
20 title (~~(shall be)~~) is guilty of a class B felony(~~(, or gross~~  
21 ~~misdemeanor in accordance with the theft and anticipatory provisions of~~  
22 ~~Title 9A RCW)~~) if the benefits received based on false information  
23 exceed the benefits actually due or authorized by at least one thousand  
24 dollars; and is a class C felony if the benefits received exceed the  
25 benefits actually due or authorized by less than one thousand dollars.

26 (b) Upon conviction under (a) of this subsection, in addition to  
27 any other penalties imposed, the person shall be ordered by the court  
28 to pay restitution to the department in the amount of the excess  
29 benefits received, a penalty in the amount of one hundred percent of  
30 the excess benefits received, and interest on the excess benefits and  
31 penalty from the time the benefits were paid to the date the person  
32 repays the benefits and penalty. The court shall:

33 (i) Collect the excess benefit payment and interest and transmit it  
34 to the department; and

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

1        (c) Payments collected under this subsection must be applied until  
2 satisfaction of the obligation in the following order: Excess benefit  
3 repayment; penalty; and interest.

4        **Sec. 2.** RCW 51.48.270 and 1987 c 470 s 2 are each amended to read  
5 as follows:

6        Any person, firm, corporation, partnership, association, agency,  
7 institution, or other legal entity, but not including an injured worker  
8 or beneficiary, that:

9        (1) Knowingly makes or causes to be made any false statement or  
10 representation of a material fact in any application for any payment  
11 under this title; or

12        (2) At any time knowingly makes or causes to be made any false  
13 statement or representation of a material fact for use in determining  
14 rights to such payment, or knowingly falsifies, conceals, or covers up  
15 by any trick, scheme, or device a material fact in connection with such  
16 application or payment; or

17        (3) Having knowledge of the occurrence of any event affecting (a)  
18 the initial or continued right to any payment, or (b) the initial or  
19 continued right to any such payment of any other individual in whose  
20 behalf he or she has applied for or is receiving such payment, conceals  
21 or fails to disclose such event with an intent fraudulently to secure  
22 such payment either in a greater amount or quantity than is due or when  
23 no such payment is authorized;

24 ~~((shall be))~~ is guilty of a class B felony if the false statements or  
25 representations, concealments, or failures to disclose result in  
26 payments that are more than one thousand dollars greater than what is  
27 due or authorized, and guilty of a class C felony~~((: PROVIDED, That~~  
28 ~~the fine, if imposed, shall not be in an amount more than twenty five~~  
29 ~~thousand dollars, except as authorized by RCW 9A.20.030))~~ if the  
30 payments are not more than one thousand dollars greater than what is  
31 due or authorized.

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