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**HOUSE BILL 2362**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Pellicciotti, Sawyer, Robinson, Dolan, Chapman, Kilduff, Stanford, Macri, Ryu, Ormsby, and Doglio

AN ACT Relating to crime committed by business entities; amending RCW 9A.08.030 and 10.01.100; and prescribing penalties.

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

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

(1) As used in this section:

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

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

(c) "High managerial agent" means an officer or director of a ((~~corporation~~)) business entity or any other agent in a position of comparable authority ((~~with respect to the formulation of corporate policy or the supervision~~)) to exercise the powers of the business entity and manage the affairs and activities of the business entity or to exercise supervision in a managerial capacity of subordinate employees.

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

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

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

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

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

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

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

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

((~~Every corporation guilty of a violation of any law of the state of Washington, where the prescribed penalty is, for any reason, incapable of execution or enforcement against such corporation, shall be punished by a fine of not more than ten thousand dollars, if such offense is a felony; or, by a fine of not more than one thousand dollars if such offense is a gross misdemeanor; or, by a fine of not more than five hundred dollars if such offense is a misdemeanor.~~)) (1) When imposed on a business entity for any criminal offense for which no special business fine is specified, a sentence to pay a fine may not exceed:

(a) One million dollars for a class A or B felony;

(b) Seven hundred fifty thousand dollars for a class C felony;

(c) Two hundred fifty thousand dollars for a gross misdemeanor; and

(d) Fifty thousand dollars for a misdemeanor.

(2) If a special fine for business entities is expressly specified in the statute that defines an offense, the fine fixed must be within the limits specified in the statute.

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

**--- END ---**