

HOUSE BILL REPORT

HB 1806

As Passed House:
March 2, 2017

Title: An act relating to increasing monetary penalties for crimes committed by corporations.

Brief Description: Increasing monetary penalties for crimes committed by corporations.

Sponsors: Representatives Pellicciotti, Lovick, Dolan, Goodman, Stanford, Riccelli, Ryu, Bergquist, Kilduff, Pollet, Sells, Orwall, Robinson, Stonier, Macri, Clibborn, Pettigrew, Chapman, Gregerson, McBride, Tharinger, Fitzgibbon, Wylie, Sawyer, Appleton, Doglio, Hudgins, Farrell, Ormsby, Senn, Fey, Frame and Jinkins.

Brief History:

Committee Activity:

Public Safety: 2/13/17, 2/16/17 [DP].

Floor Activity:

Passed House: 3/2/17, 67-31.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Increases the maximum fines for crimes committed by corporations.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 6 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Appleton, Chapman, Orwall and Pettigrew.

Minority Report: Do not pass. Signed by 5 members: Representatives Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Griffey, Holy and Van Werven.

Staff: Kelly Leonard (786-7147).

Background:

Classification of Crimes. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of

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confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When someone is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement for the offender within the statutory maximum.

Crimes Committed by Corporations. Other maximum fines are established for corporations convicted of crimes in some circumstances. If a prescribed penalty is incapable of execution or enforcement against a corporation, the maximum fines are as follows:

<u>Classification</u>	<u>Maximum Fine</u>
Misdemeanor	\$500
Gross Misdemeanor	\$1,000
Felony	\$10,000

Summary of Bill:

The maximum fines established for corporations convicted of offenses are modified. When a corporation is convicted of any criminal offense, the maximum fines are as follows:

<u>Classification</u>	<u>Maximum Fine</u>
Misdemeanor	\$50,000
Gross Misdemeanor	\$250,000
Class C Felony	\$750,000
Class A or B Felony	\$1,000,000

However, if a special fine for a corporation is expressly specified for an offense, then the special fine applies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It has been 93 years since the current maximum fines for crimes committed by corporations were established. The Legislature should adjust the maximums, not just for

inflation, but to take into account the nature of corporate crime. When prosecutors decide whether to bring an enforcement action, the maximum fine a judge can impose is \$10,000 for a felony. The only available alternative is extreme, where the Attorney General can seek to dissolve the corporation. Corporations provide a range of services to the community, and dissolution may not always be in the public interest. However, the bad actors should still be held accountable. Crimes committed by corporations may not be proven at the individual level, but in fact are part of a scheme with multiple persons acting at different levels of the corporation.

The United States Supreme Court has held that corporations can be criminally liable, but there are protections in place to limit these prosecutions: each element of an offense must be proved beyond a reasonable doubt; there must have been managerial authority involved in the criminal act; and the act must have been committed to benefit the corporation. Therefore, these cases are quite rare. Examples include bribery and false insurance claims. Currently, the allowable fines do not incentivize corporations to comply with the law. A corporation may weigh the risk of a prosecution (which are rarely brought) and possible fines (which are very low), and decide it is more cost beneficial to violate the law than to comply with it. On the other side, there is also a disincentive for prosecutors to file these cases because the fines do not adequately punish the corporation. The bill sufficiently raises the fines to encourage compliance with the law and to support possible future prosecutions and convictions.

(Opposed) None.

Persons Testifying: Representative Pellicciotti, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; Mark Lindquist, Pierce County Prosecuting Attorney's Office; and Farshad Talebi, Office of the Attorney General.

Persons Signed In To Testify But Not Testifying: None.