**1252 AMS LAW S2562.2 - NOT FOR FLOOR USE**

**HB 1252** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/08/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  This act shall be known and cited as the corporate crime act.

**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~~)) an entity, or any other person who is authorized to act on behalf of the ((~~corporation~~)) entity;

(b) ((~~"Corporation"~~)) "Entity" includes ((~~a joint stock association~~)) any domestic entity formed under or governed as to its internal affairs by Title 23, 23B, 24, 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) "Governor" has the same meaning as provided in RCW 23.95.105.

(d) "High managerial agent" means ((~~an officer or director of a corporation or any other agent~~)) a governor or person in a position of comparable authority ((~~with respect to the formulation of corporate policy or the supervision in a managerial capacity of~~)) in an entity not governed by chapter 23.95 RCW, and any other agent who manages subordinate employees.

(2) ((~~A corporation~~)) An 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~~)) 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~~)) duties and on behalf of the ((~~corporation~~)) entity; or

(c) The conduct constituting the offense is engaged in by an agent of the ((~~corporation~~)) entity, other than a high managerial agent, while acting within the scope of his or her ((~~employment~~)) duties and ((~~in~~)) on behalf of the ((~~corporation~~)) 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~~)) an 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~~)) an 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~~)) an entity, any agent of the ((~~corporation~~)) 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~~)) 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 10.01.070 and 1987 c 202 s 147 are each amended to read as follows:

(1) Whenever an indictment or information shall be filed in any superior court against ((~~a corporation~~)) an entity charging it with the commission of a crime, a summons shall be issued by the clerk of such court, signed by one of the judges thereof, commanding the sheriff forthwith to notify the accused thereof, and commanding it to appear before such court at such time as shall be specified in said summons. Such summons and a copy of the indictment or information shall be at once delivered by such clerk to said sheriff and by the sheriff forthwith served and returned in the manner provided for service of summons upon such ((~~corporation~~)) entity in a civil action. Whenever a complaint against ((~~a corporation~~)) an entity, charging it with the commission of a crime, shall be made before any district or municipal judge, a like summons, signed by such judge, shall be issued, which, together with a copy of said complaint, shall be delivered to the sheriff at once and by the sheriff forthwith served as herein provided.

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

**Sec.**  RCW 10.01.090 and 1987 c 202 s 148 are each amended to read as follows:

((~~If the corporation shall be found guilty and a fine imposed, it~~)) (1) An entity convicted of an offense may be ordered to pay legal financial obligations, including restitution, crime victims' assessments, costs, fines, penalties, and other assessments authorized or required by law. Legal financial obligations imposed upon an entity shall be entered and docketed by the clerk, or district or municipal court as a judgment against the ((~~corporation~~)) entity, and it shall be of the same force and effect and be enforced against such ((~~corporation~~)) entity in the same manner as a judgment in a civil action. Notwithstanding any other provisions pertaining to legal financial obligations, all legal financial obligations imposed in a judgment against an entity under this section bear interest from the date of the judgment until payment at the rate applicable to civil judgments under RCW 4.56.110. When an entity is ordered to pay restitution, payments to the clerk must be distributed to restitution prior to all other obligations.

(2) Except as otherwise provided under subsection (1) of this section, payments on legal financial obligations must be collected and distributed according to the requirements under RCW 3.50.100, 3.62.020, 3.62.040, 9.92.070, 9.94A.760, 10.01.160, 10.01.170, 10.01.180, 10.46.190, 10.64.015, 10.73.160, 10.82.090, 35.20.220, and any other sections applicable to legal financial obligations imposed as a result of a criminal conviction.

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

**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 an 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 felony;

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

(c) Five hundred thousand dollars for a class C felony;

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

(e) Fifty thousand dollars for a misdemeanor.

(2) If a special fine for 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, "entity" has the same meaning as provided in RCW 9A.08.030."

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On page 1, line 1 of the title, after "entities;" strike the remainder of the title and insert "amending RCW 9A.08.030, 10.01.070, 10.01.090, and 10.01.100; creating a new section; and prescribing penalties."

EFFECT: Updates definitions to be consistent with the Uniform Business Organizations Code and expands the definition of entity to include all types of entities formed under Titles 23, 23B, 24, and 25 RCW.