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**SUBSTITUTE SENATE BILL 5360**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Commerce & Trade (originally sponsored by Senators West, Sheahan, Honeyford, Hewitt, Roach, Hale, Esser and Mulliken)

READ FIRST TIME 02/21/03.

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 C felony(~~(, or gross~~  
21 ~~misdemeanor in accordance with the theft and anticipatory provisions of~~  
22 ~~Title 9A RCW)~~) unless (b) of this subsection applies.

23 (b) Any person claiming benefits under this title, who knowingly  
24 gives false information required in any claim or application under this  
25 title is guilty of a class B felony if the benefits received exceed by  
26 one thousand dollars or more the lesser of the benefits actually due or  
27 the benefits which, but for the false information, would have been  
28 authorized.

29 (c) Upon conviction under either (a) or (b) of this subsection, in  
30 addition to any other penalties imposed, the person shall be ordered by  
31 the court to pay restitution to the entity from which the excess  
32 benefits were received in the amount of the excess benefits received,  
33 a penalty in the amount of one hundred percent of the excess benefits  
34 received, and interest on the excess benefits and penalty from the time  
35 the benefits were paid to the date the person repays the benefits and  
36 penalty. The court shall:

37 (i) Collect the excess benefit payment and interest and transmit it  
38 to the entity from which the excess benefits were received; and

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

5 (d) Payments collected under this subsection must be applied until  
6 satisfaction of the obligation in the following order: Excess benefit  
7 repayment; penalty; and interest.

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

10 ~~((Any))~~ (1) A person, firm, corporation, partnership, association,  
11 agency, institution, or other legal entity, but not including an  
12 injured worker or beneficiary, ~~((that))~~ shall not:

13 ~~((1))~~ (a) Knowingly make~~((s))~~ or cause~~((s))~~ to be made any false  
14 statement or representation of a material fact in any application for  
15 any payment under this title; or

16 ~~((2))~~ (b) At any time knowingly make~~((s))~~ or cause~~((s))~~ to be  
17 made any false statement or representation of a material fact for use  
18 in determining rights to such payment, or knowingly ~~((falsifies))~~  
19 falsify, conceal~~((s))~~, or cover~~((s))~~ up by any trick, scheme, or device  
20 a material fact in connection with such application or payment; or

21 ~~((3))~~ (c) Having knowledge of the occurrence of any event  
22 affecting ~~((a))~~ (i) the initial or continued right to any payment, or  
23 ~~((b))~~ (ii) the initial or continued right to any such payment of any  
24 other individual in whose behalf he or she has applied for or is  
25 receiving such payment, conceal~~((s))~~ or fail~~((s))~~ to disclose such  
26 event with an intent fraudulently to secure such payment either in a  
27 greater amount or quantity than is due or when no such payment is  
28 authorized(~~(+~~

29 ~~shall be guilty of a class C felony: PROVIDED, That the fine, if~~  
30 ~~imposed, shall not be in an amount more than twenty five thousand~~  
31 ~~dollars, except as authorized by RCW 9A.20.030)).~~

32 (2)(a) A person who violates subsection (1) of this section is  
33 guilty of a class C felony unless (b) of this subsection applies.

34 (b) If one or more false statements, representations, concealments,  
35 or failures to disclose made in violation of subsection (1) of this  
36 section result in payments that exceed by one thousand dollars or more  
37 the lesser of payments that are actually due or the payments which, but

1 for the false information, would have been authorized, any person  
2 responsible for any such statement, representation, concealment, or  
3 failure is guilty of a class B felony.

4 (3)(a) Upon conviction under subsection (2)(a) or (b) of this  
5 section, in addition to any other penalties imposed, the person shall  
6 be ordered by the court to pay restitution to the entity from which the  
7 excess payments were received in the amount of the excess payments  
8 received, a penalty in the amount of one hundred percent of the excess  
9 payments received, and interest on the excess payments and penalty from  
10 the time the payments were made to the date the person repays the  
11 payments and penalty. The court shall:

12 (i) Collect the excess payment and interest and transmit it to the  
13 entity from which the excess payments were received; and

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

18 (b) Payments collected under this subsection must be applied until  
19 satisfaction of the obligation in the following order: Excess payment  
20 repayment; penalty; and interest.

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