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SENATE BILL 6415

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State of Washington

52nd Legislature

1992 Regular Session

By Senator Nelson

Read first time 01/29/92. Referred to Committee on Law & Justice.

1 AN ACT Relating to fraud; amending RCW 4.24.230 and 19.48.110; and  
2 prescribing penalties.

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

4 **Sec. 1.** RCW 4.24.230 and 1987 c 353 s 1 are each amended to read  
5 as follows:

6 (1) An adult or emancipated minor who takes possession of any  
7 goods, wares, or merchandise displayed or offered for sale, by contract  
8 or otherwise, by any wholesale or retail store, mercantile, or other  
9 mercantile establishment, any public utility, any rental or leased  
10 property, or any service offered by a service provider without the  
11 consent of the owner ((or)), seller, landlord, or service provider, and  
12 with the intention of converting such goods, wares, ((or)) merchandise,  
13 utility service, rental property, or service to his or her own use  
14 without having paid the purchase, rental, or service price thereof

1 shall be liable in addition to actual damages, for a penalty to the  
2 owner ~~((or))~~, seller, utility, landlord, or service provider in the  
3 amount of the retail value, rental amount, or service price thereof not  
4 to exceed ~~((one))~~ two thousand dollars, ~~((plus an additional penalty of~~  
5 ~~not less than one hundred dollars nor more than two hundred dollars,))~~  
6 plus all reasonable attorney's fees and court costs expended by the  
7 owner ~~((or))~~, seller, utility, landlord, or service provider. A  
8 customer who orders a meal in a restaurant or other eating  
9 establishment, receives at least a portion thereof, and then leaves  
10 without paying, is subject to liability under this section. A person  
11 who ~~((shall))~~ receives any food, money, credit, lodging, or  
12 accommodation at any hotel, motel, boarding house, or lodging house,  
13 and then leaves without paying the proprietor, manager, or authorized  
14 employee thereof, is subject to liability under this section. A person  
15 who intentionally gives false information in order to receive goods,  
16 wares, merchandise, utility service, or other service, who fails or  
17 refuses to make payment at the time service is provided, who fails or  
18 refuses to return rented goods at the end of the rental period, or who  
19 fails or refuses to make a contracted-for payment after service is  
20 rendered, is subject to liability under this section. Tenants who  
21 intentionally give false information in order to secure a rental  
22 property or who move and fail or refuse to make any rental payments  
23 due, are subject to liability under this section.

24 (2) The parent or legal guardian having the custody of an  
25 unemancipated minor who takes possession of any goods, wares, or  
26 merchandise displayed or offered for sale by any wholesale or retail  
27 store or other mercantile establishment or any services offered by a  
28 service provider without the consent of the owner ~~((or))~~, seller, or  
29 service provider and with the intention of converting such goods,  
30 wares, ~~((or))~~ merchandise, or services to his or her own use without

1 having paid the purchase price thereof, shall be liable as a penalty to  
2 the owner ~~((or))~~, seller, or service provider for the retail value of  
3 such goods, wares, ~~((or))~~ merchandise, or service not to exceed ~~((five~~  
4 ~~hundred))~~ one thousand dollars ~~((plus an additional penalty of not less~~  
5 ~~than one hundred dollars nor more than two hundred dollars))~~, plus all  
6 reasonable attorney's fees and court costs expended by the owner  
7 ~~((or))~~, seller, or service provider. The parent or legal guardian  
8 having the custody of an unemancipated minor, who orders a meal in a  
9 restaurant or other eating establishment, receives at least a portion  
10 thereof, and then leaves without paying, is subject to liability under  
11 this section. The parent or legal guardian having the custody of an  
12 unemancipated minor, who receives any food, money, credit, lodging, or  
13 accommodation at any hotel, motel, boarding house, or lodging house,  
14 and then leaves without paying the proprietor, manager, or authorized  
15 employee thereof, is subject to liability under this section. The  
16 parent or legal guardian having the custody of an unemancipated minor  
17 who intentionally gives false information in order to receive goods,  
18 wares, merchandise, utility service, or other service, who fails or  
19 refuses to make payment at the time service is provided, who fails or  
20 refuses to return rented goods at the end of the rental period, or who  
21 fails or refuses to make a contracted-for payment after service is  
22 rendered, is subject to liability under this section. For the purposes  
23 of this subsection, liability shall not be imposed upon any  
24 governmental entity, private agency, or foster parent assigned  
25 responsibility for the minor child pursuant to court order or action of  
26 the department of social and health services.

27 (3) Judgments, but not claims, arising under this section may be  
28 assigned.

1 (4) A conviction for violation of chapter 9A.56 RCW or RCW  
2 (~~9.45.040~~) 19.48.110 shall not be a condition precedent to  
3 maintenance of a civil action authorized by this section.

4 (5) An owner (~~or~~), seller, utility, landlord, or service provider  
5 demanding payment of a penalty under subsection (1) or (2) of this  
6 section shall give written notice to the person or persons from whom  
7 the penalty is sought. The notice shall state:

8 "IMPORTANT NOTICE: The payment of any penalty demanded of you does  
9 not prevent criminal prosecution under a related criminal provision."

10 This notice shall be boldly and conspicuously displayed, in at  
11 least the same size type as is used in the demand, and shall be sent  
12 with the demand for payment of a penalty described in subsection (1)  
13 (~~or~~) or (2) of this section.

14 (6) For the purposes of this section, "service provider" means any  
15 person who performs work or labor of any kind for which he or she  
16 reasonably expects to be paid.

17 (7) For the purposes of this section, "services" means work or  
18 labor of any kind.

19 **Sec. 2.** RCW 19.48.110 and 1985 c 129 s 2 are each amended to read  
20 as follows:

21 Any person who shall willfully obtain food, money, credit, use of  
22 ski area facilities, lodging or accommodation at any hotel, inn,  
23 restaurant, commercial ski area, boarding house, or lodging house,  
24 without paying therefor, with intent to defraud the proprietor, owner,  
25 operator, or keeper thereof; or who obtains services, utility service,  
26 or the use of rental property without paying therefor; or who obtains  
27 food, money, credit, use of ski area facilities, lodging or  
28 accommodation at such hotel, inn, restaurant, commercial ski area,  
29 boarding house, or lodging house, by the use of any false pretense; or

1 who, after obtaining food, money, credit, use of ski area facilities,  
2 lodging, or accommodation at such hotel, inn, restaurant, commercial  
3 ski area, boarding house, or lodging house, removes or causes to be  
4 removed from such hotel, inn, restaurant, commercial ski area, boarding  
5 house, or lodging house, his or her baggage, without the permission or  
6 consent of the proprietor, manager, or authorized employee thereof,  
7 before paying for such food, money, credit, use of ski area facilities,  
8 lodging, or accommodation, shall be guilty of a gross misdemeanor:  
9 PROVIDED, That if the aggregate amount of food, money, use of ski area  
10 facilities, services, utility service, use of rental property, lodging,  
11 or accommodation, or credit so obtained is seventy-five dollars or more  
12 such person shall be guilty of a felony. Proof that food, money,  
13 credit, use of ski area facilities, services, utility service, use of  
14 rental property, lodging, or accommodation were obtained by false  
15 pretense or by false or fictitious show or pretense of any baggage or  
16 other property, or that the person refused or neglected to pay for such  
17 food, money, credit, use of ski area facilities, services, utility  
18 service, use of rental property, lodging, or accommodation on demand,  
19 or that he or she gave in payment for such food, money, credit, use of  
20 ski area facilities, services, utility service, use of rental property,  
21 lodging, or accommodation, negotiable paper on which payment was  
22 refused, or that he or she absconded, or departed from, or left, the  
23 premises without paying for such food, money, credit, use of ski area  
24 facilities, services, utility service, use of rental property, lodging,  
25 or accommodation, or that he or she removed, or attempted to remove, or  
26 caused to be removed, or caused to be attempted to be removed his or  
27 her property or baggage, shall be prima facie evidence of the  
28 fraudulent intent hereinbefore mentioned.

29 For the purposes of this section, "services" means work or labor of  
30 any kind for which the person performing the work or labor reasonably

1 expects to be paid.