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**SUBSTITUTE HOUSE BILL 1505**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Kremen, King, Lisk, G. Cole, Linville, Springer, Vance and R. Johnson)

Read first time 03/03/93.

1 AN ACT Relating to registration of contractors; amending RCW  
2 18.27.010, 18.27.100, 18.27.110, 18.27.020, 18.27.200, 18.27.210,  
3 18.27.230, 18.27.310, and 18.27.320; creating a new section; and  
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that unregistered  
7 contractors are a serious threat to the general public and are costing  
8 the state millions of dollars each year in lost revenue. To assist in  
9 solving this problem, the department of labor and industries and the  
10 department of revenue should coordinate and communicate with each other  
11 to identify unregistered contractors.

12 **Sec. 2.** RCW 18.27.010 and 1973 1st ex.s. c 153 s 1 are each  
13 amended to read as follows:

14 ((A)) Unless the context clearly requires otherwise, the  
15 definitions in this section apply throughout this chapter.

16 (1) "Contractor" (~~((as used in this chapter is))~~) means any person,  
17 firm or corporation who or which, in the pursuit of an independent  
18 business undertakes to, or offers to undertake, or submits a bid to,

1 construct, alter, repair, add to, subtract from, improve, move, wreck  
2 or demolish, for another, any building, highway, road, railroad,  
3 excavation or other structure, project, development, or improvement  
4 attached to real estate or to do any part thereof including the  
5 installation of carpeting or other floor covering, the erection of  
6 scaffolding or other structures or works in connection therewith or who  
7 installs or repairs roofing or siding; or, who, to do similar work upon  
8 his own property, employs members of more than one trade upon a single  
9 job or project or under a single building permit except as otherwise  
10 provided herein.

11 ((A)) (2) "General contractor" ((is)) means a contractor whose  
12 business operations require the use of more than two unrelated building  
13 trades or crafts whose work the contractor shall superintend or do in  
14 whole or in part(~~(; the term)~~). "General contractor" shall not include  
15 an individual who does all work personally without employees or other  
16 "specialty contractors" as defined herein. The terms "general  
17 contractor" and "builder" are synonymous.

18 ((A)) (3) "Specialty contractor" ((is)) means a contractor whose  
19 operations as such do not fall within the foregoing definition of  
20 "general contractor".

21 (4) "Department" (~~(as used in this chapter)~~) means the department  
22 of labor and industries.

23 (5) "Director" (~~(as used in this chapter)~~) means the director of  
24 the department of labor and industries.

25 (6) "Verification" means the receipt and duplication by the city,  
26 town, or county of a contractor registration card that is current on  
27 its face.

28 **Sec. 3.** RCW 18.27.100 and 1990 c 46 s 1 are each amended to read  
29 as follows:

30 (1) Except as provided in RCW 18.27.065 for partnerships and joint  
31 ventures, no person who has registered under one name as provided in  
32 this chapter shall engage in the business, or act in the capacity, of  
33 a contractor under any other name unless such name also is registered  
34 under this chapter.

35 (2) All advertising and all contracts, correspondence, cards,  
36 signs, posters, papers, and documents which show a contractor's name or  
37 address shall show the contractor's name or address as registered under  
38 this chapter.

1       (3)(a) The alphabetized listing of contractors appearing in the  
2 advertising section of telephone books or other directories and all  
3 advertising that shows the contractor's name or address shall show the  
4 contractor's current registration number: PROVIDED, That signs on  
5 motor vehicles subject to RCW 46.16.010 and on-premise signs shall not  
6 constitute advertising as provided in this section. All materials used  
7 to directly solicit business from retail customers who are not  
8 businesses shall show the contractor's current registration number.  
9 Advertising by airwave transmission shall not be subject to this  
10 subsection if the person selling the advertisement obtains the  
11 contractor's current registration number from the contractor.

12       (~~(3)~~) (b) A person selling advertising shall not accept  
13 advertisements for which the contractor registration number is required  
14 under (a) of this subsection if the contractor fails to provide the  
15 contractor registration number.

16       (4) No contractor shall advertise that he or she is bonded and  
17 insured because of the bond required to be filed and sufficiency of  
18 insurance as provided in this chapter.

19       (~~(4)~~) (5) A contractor shall not falsify a registration number  
20 and use it in connection with any solicitation or identification as a  
21 contractor. All individual contractors and all partners, associates,  
22 agents, salesmen, solicitors, officers, and employees of contractors  
23 shall use their true names and addresses at all times while engaged in  
24 the business or capacity of a contractor or activities related thereto.

25       (~~(5) Any person who is found to be in~~) (6)(a) The finding of a  
26 violation of this section by the director at a hearing held in  
27 accordance with the administrative procedure act, chapter 34.05 RCW,  
28 shall (~~be required to pay~~) subject the person committing the  
29 violation to a penalty of not more than five thousand dollars as  
30 determined by the director. (~~However, the penalty~~)

31       (b) Penalties under this section shall not apply to a violation  
32 determined to be an inadvertent error.

33       **Sec. 4.** RCW 18.27.110 and 1986 c 197 s 14 are each amended to read  
34 as follows:

35       (1) No city, town or county shall issue a construction building  
36 permit for work which is to be done by any contractor required to be  
37 registered under this chapter (~~(77, Laws of 1963 and chapter 18.27~~  
38 ~~RCW)) without verification that such contractor is currently registered~~

1 as required by law. When such verification is made, nothing contained  
2 in this section is intended to be, nor shall be construed to create, or  
3 form the basis for any liability under this chapter on the part of any  
4 city, town or county, or its officers, employees or agents. However,  
5 failure to verify the contractor registration number results in  
6 liability to the city, town, or county to a penalty to be imposed  
7 according to RCW 18.27.100(6)(a).

8 (2) At the time of issuing the building permit, all cities, towns,  
9 or counties are responsible for:

10 (a) Printing the contractor registration number on the building  
11 permit; and

12 (b) Providing a written notice to the building permit applicant  
13 informing them of contractor registration laws and the potential risk  
14 and monetary liability to the homeowner for using an unregistered  
15 contractor.

16 (3) If a building permit is obtained by an applicant or contractor  
17 who falsifies information to obtain an exemption provided under RCW  
18 18.27.090, the building permit shall be forfeited.

19 **Sec. 5.** RCW 18.27.020 and 1987 c 362 s 1 are each amended to read  
20 as follows:

21 (1) Every contractor shall register with the department.

22 (2) It is a misdemeanor for any contractor (~~having knowledge of~~  
23 ~~the registration requirements of this chapter~~) to:

24 (a) Advertise, offer to do work, submit a bid, or perform any work  
25 as a contractor without being registered as required by this chapter;

26 (b) Advertise, offer to do work, submit a bid, or perform any work  
27 as a contractor when the contractor's registration is suspended; or

28 (c) Transfer a valid registration to an unregistered contractor or  
29 allow an unregistered contractor to work under a registration issued to  
30 another contractor.

31 (3) All misdemeanor actions under this chapter shall be prosecuted  
32 in the county where the infraction occurs.

33 **Sec. 6.** RCW 18.27.200 and 1983 1st ex.s. c 2 s 1 are each amended  
34 to read as follows:

35 (~~An offer to do work, submission of a bid, or performance of any~~  
36 ~~work by a contractor who is not registered with the department of labor~~

1 ~~and industries as required by this chapter is an infraction.))~~ (1) It  
2 is a violation of this chapter and an infraction for any contractor to:

3 (a) Advertise, offer to do work, submit a bid, or perform any work  
4 as a contractor without being registered as required by this chapter;

5 (b) Advertise, offer to do work, submit a bid, or perform any work  
6 as a contractor when the contractor's registration is suspended; or

7 (c) Transfer a valid registration to an unregistered contractor or  
8 allow an unregistered contractor to work under a registration issued to  
9 another contractor.

10 (2) Each day that a contractor works without being registered as  
11 required by this chapter, works while the contractor's registration is  
12 suspended, or works under a registration issued to another contractor  
13 is a separate infraction. Each worksite at which a contractor works  
14 without being registered as required by this chapter, works while the  
15 contractor's registration is suspended, or works under a registration  
16 issued to another contractor is a separate infraction.

17 **Sec. 7.** RCW 18.27.210 and 1987 c 419 s 2 are each amended to read  
18 as follows:

19 (1) The director shall appoint compliance inspectors to investigate  
20 alleged or apparent violations of this chapter. The director, or  
21 authorized compliance inspector, upon presentation of appropriate  
22 credentials, may inspect and investigate job sites at which a  
23 contractor had bid or presently is working to determine whether the  
24 contractor is registered in accordance with this chapter or the rules  
25 adopted under this chapter or whether there is a violation of RCW  
26 18.27.200. Upon request of the compliance inspector of the department,  
27 a contractor or an employee of the contractor shall provide information  
28 identifying the contractor.

29 (2) If the employee of an unregistered contractor is cited by a  
30 compliance inspector, that employee is cited as the agent of the  
31 employer-contractor, and issuance of the infraction to the employee is  
32 notice to the employer-contractor that the contractor is in violation  
33 of this chapter. An employee who is cited by a compliance inspector  
34 shall not be liable for any of the alleged violations contained in the  
35 citation unless the employee is also the contractor.

36 **Sec. 8.** RCW 18.27.230 and 1986 c 197 s 3 are each amended to read  
37 as follows:

1       The department may issue a notice of infraction if the department  
2 reasonably believes that the contractor required to be registered by  
3 this chapter has failed to do so or has otherwise committed a violation  
4 under RCW 18.27.200. A notice of infraction issued under this section  
5 shall be personally served on the contractor named in the notice by the  
6 department's compliance inspectors or service can be made by certified  
7 mail directed to the contractor named in the notice of infraction. If  
8 the contractor named in the notice of infraction is a firm or  
9 corporation, the notice may be personally served on any employee of the  
10 firm or corporation. If a notice of infraction is personally served  
11 upon an employee of a firm or corporation, the department shall within  
12 four days of service send a copy of the notice by certified mail to the  
13 contractor if the department is able to obtain the contractor's  
14 address.

15       **Sec. 9.** RCW 18.27.310 and 1986 c 197 s 8 are each amended to read  
16 as follows:

17       (1) The administrative law judge shall conduct contractors' notice  
18 of infraction cases pursuant to chapter 34.05 RCW.

19       (2) The burden of proof is on the department to establish the  
20 commission of the infraction by a preponderance of the evidence. The  
21 notice of infraction shall be dismissed if the defendant establishes  
22 that, at the time the notice was issued, the defendant was registered  
23 by the department, without suspension, or was exempt from registration.

24       (3) After consideration of the evidence and argument, the  
25 administrative law judge shall determine whether the infraction was  
26 committed. If it has not been established that the infraction was  
27 committed, an order dismissing the notice shall be entered in the  
28 record of the proceedings. If it has been established that the  
29 infraction was committed, the administrative law judge shall issue  
30 findings of fact and conclusions of law in its decision and order  
31 determining whether the infraction was committed.

32       (4) An appeal from the administrative law judge's determination or  
33 order shall be to the superior court. The decision of the superior  
34 court is subject only to discretionary review pursuant to Rule 2.3 of  
35 the Rules of Appellate Procedure.

36       **Sec. 10.** RCW 18.27.320 and 1986 c 197 s 9 are each amended to read  
37 as follows:

1       The administrative law judge shall dismiss the notice of infraction  
2 at any time upon written notification from the department that the  
3 contractor named in the notice of infraction was registered, without  
4 suspension, at the time the notice of infraction was issued.

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