

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1505

53rd Legislature
1993 Regular Session

Passed by the House March 9, 1993
Yeas 95 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 22, 1993
Yeas 36 Nays 9

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1505** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1505

Passed Legislature - 1993 Regular Session

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, 18.27.102, 18.27.110, 18.27.020, 18.27.200,
3 18.27.210, 18.27.230, 18.27.310, and 18.27.320; creating a new section;
4 and 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. A
9 contractor shall not use a false or expired registration number in
10 purchasing or offering to purchase an advertisement for which a
11 contractor registration number is required. Advertising by airwave
12 transmission shall not be subject to this subsection if the person
13 selling the advertisement obtains the contractor's current registration
14 number from the contractor.

15 (~~(3)~~) (b) A person selling advertising should not accept
16 advertisements for which the contractor registration number is required
17 under (a) of this subsection if the contractor fails to provide the
18 contractor registration number.

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

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

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

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

36 **Sec. 4.** RCW 18.27.102 and 1987 c 362 s 4 are each amended to read
37 as follows:

1 When determining a violation of RCW 18.27.100, the director and
2 administrative law judge shall hold responsible the person who
3 purchased or offered to purchase the advertising.

4 **Sec. 5.** RCW 18.27.110 and 1986 c 197 s 14 are each amended to read
5 as follows:

6 (1) No city, town or county shall issue a construction building
7 permit for work which is to be done by any contractor required to be
8 registered under this chapter ((77, Laws of 1963 and chapter 18.27
9 RCW)) without verification that such contractor is currently registered
10 as required by law. When such verification is made, nothing contained
11 in this section is intended to be, nor shall be construed to create, or
12 form the basis for any liability under this chapter on the part of any
13 city, town or county, or its officers, employees or agents. However,
14 failure to verify the contractor registration number results in
15 liability to the city, town, or county to a penalty to be imposed
16 according to RCW 18.27.100(6)(a).

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

19 (a) Printing the contractor registration number on the building
20 permit; and

21 (b) Providing a written notice to the building permit applicant
22 informing them of contractor registration laws and the potential risk
23 and monetary liability to the homeowner for using an unregistered
24 contractor.

25 (3) If a building permit is obtained by an applicant or contractor
26 who falsifies information to obtain an exemption provided under RCW
27 18.27.090, the building permit shall be forfeited.

28 **Sec. 6.** RCW 18.27.020 and 1987 c 362 s 1 are each amended to read
29 as follows:

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

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

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

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

1 (c) Use a false or expired registration number in purchasing or
2 offering to purchase an advertisement for which a contractor
3 registration number is required; or

4 (d) Transfer a valid registration to an unregistered contractor or
5 allow an unregistered contractor to work under a registration issued to
6 another contractor.

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

9 **Sec. 7.** RCW 18.27.200 and 1983 1st ex.s. c 2 s 1 are each amended
10 to read as follows:

11 ~~((An offer to do work, submission of a bid, or performance of any~~
12 ~~work by a contractor who is not registered with the department of labor~~
13 ~~and industries as required by this chapter is an infraction.)) (1) It
14 is a violation of this chapter and an infraction for any contractor to:~~

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

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

19 (c) Transfer a valid registration to an unregistered contractor or
20 allow an unregistered contractor to work under a registration issued to
21 another contractor.

22 (2) Each day that a contractor works without being registered as
23 required by this chapter, works while the contractor's registration is
24 suspended, or works under a registration issued to another contractor
25 is a separate infraction. Each worksite at which a contractor works
26 without being registered as required by this chapter, works while the
27 contractor's registration is suspended, or works under a registration
28 issued to another contractor is a separate infraction.

29 **Sec. 8.** RCW 18.27.210 and 1987 c 419 s 2 are each amended to read
30 as follows:

31 (1) The director shall appoint compliance inspectors to investigate
32 alleged or apparent violations of this chapter. The director, or
33 authorized compliance inspector, upon presentation of appropriate
34 credentials, may inspect and investigate job sites at which a
35 contractor had bid or presently is working to determine whether the
36 contractor is registered in accordance with this chapter or the rules
37 adopted under this chapter or whether there is a violation of RCW

1 18.27.200. Upon request of the compliance inspector of the department,
2 a contractor or an employee of the contractor shall provide information
3 identifying the contractor.

4 (2) If the employee of an unregistered contractor is cited by a
5 compliance inspector, that employee is cited as the agent of the
6 employer-contractor, and issuance of the infraction to the employee is
7 notice to the employer-contractor that the contractor is in violation
8 of this chapter. An employee who is cited by a compliance inspector
9 shall not be liable for any of the alleged violations contained in the
10 citation unless the employee is also the contractor.

11 **Sec. 9.** RCW 18.27.230 and 1986 c 197 s 3 are each amended to read
12 as follows:

13 The department may issue a notice of infraction if the department
14 reasonably believes that the contractor required to be registered by
15 this chapter has failed to do so or has otherwise committed a violation
16 under RCW 18.27.200. A notice of infraction issued under this section
17 shall be personally served on the contractor named in the notice by the
18 department's compliance inspectors or service can be made by certified
19 mail directed to the contractor named in the notice of infraction. If
20 the contractor named in the notice of infraction is a firm or
21 corporation, the notice may be personally served on any employee of the
22 firm or corporation. If a notice of infraction is personally served
23 upon an employee of a firm or corporation, the department shall within
24 four days of service send a copy of the notice by certified mail to the
25 contractor if the department is able to obtain the contractor's
26 address.

27 **Sec. 10.** RCW 18.27.310 and 1986 c 197 s 8 are each amended to read
28 as follows:

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

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

36 (3) After consideration of the evidence and argument, the
37 administrative law judge shall determine whether the infraction was

1 committed. If it has not been established that the infraction was
2 committed, an order dismissing the notice shall be entered in the
3 record of the proceedings. If it has been established that the
4 infraction was committed, the administrative law judge shall issue
5 findings of fact and conclusions of law in its decision and order
6 determining whether the infraction was committed.

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

11 **Sec. 11.** RCW 18.27.320 and 1986 c 197 s 9 are each amended to read
12 as follows:

13 The administrative law judge shall dismiss the notice of infraction
14 at any time upon written notification from the department that the
15 contractor named in the notice of infraction was registered, without
16 suspension, at the time the notice of infraction was issued.

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