

1 **2SHB 2041** - H AMD **363**

2 By Representative Conway

3 On page 2, after line 25, insert the following:

4 "Sec. 4. RCW 51.48.020 and 1995 c 160 s 4 are each amended to
5 read as follows:

6 (1) Any employer, who misrepresents to the department the
7 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 in
9 ten times the amount of the difference in premiums paid and the
10 amount the employer should have paid and for the reasonable
11 expenses of auditing his or her books and collecting such sums.
12 Such liability may be enforced in the name of the department. (~~If~~
13 ~~such misrepresentations are made knowingly, an employer shall also~~
14 ~~be guilty of a felony, or gross misdemeanor in accordance with the~~
15 ~~theft and anticipatory provisions of Title 9A RCW.))~~

16 (2) Any person claiming benefits under this title, who
17 knowingly gives false information required in any claim or
18 application under this title shall be guilty of a felony, or gross
19 misdemeanor in accordance with the theft and anticipatory
20 provisions of Title 9A RCW.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 51.48
22 RCW to read as follows:

23 (1) It is unlawful for a person or corporation:

24 (a) To knowingly make or cause to be made a false statement or
25 representation of a material fact in a report, form, other written
26 document, or electronic transmittal in connection with the
27 determination of an obligation for payment of premiums or taxes, or
28 the amount of premiums or taxes owed, under this title with an
29 intent fraudulently to evade determination and payment of the
30 premiums or taxes;

31 (b) To knowingly accept or cause acceptance of facts or
32 assertions that contain a materially false statement or materially
33 false information in connection with the determination of an
34 obligation for payment of premiums or taxes, or the amount of
35 premiums or taxes owed, under this title with an intent

1 fraudulently to evade determination and payment of the premiums or
2 taxes;

3 (c) Having knowledge of the occurrence of an event material to
4 the initial or continuing determination of an obligation for
5 payment of premiums or taxes or the amount of premiums or taxes
6 owed under this title, to conceal or fail to disclose the event
7 with an intent fraudulently to secure a determination that is for
8 a lesser amount than is owed; or

9 (d) Having knowledge of the obligation to notify the
10 department of information necessary for the determination and
11 payment of premiums or taxes owed under this title, to conceal, or
12 fail to file or disclose the information with an intent
13 fraudulently to evade determination and payment of the premiums or
14 taxes.

15 (2) In addition to other penalties and remedies provided by
16 law, a person or corporation violating subsection (1) of this
17 section:

18 (a) Is, upon conviction, guilty of a class C felony and is
19 subject to imprisonment for not more than five years and a fine of
20 not more than twenty-five thousand dollars, except in the case of
21 a corporation where the fine may not exceed one hundred thousand
22 dollars; and

23 (b) Shall, upon conviction, be ordered by the court to pay the
24 tax or premium due and owing, a penalty in the amount of one
25 hundred percent of the tax or premium due and owing, and interest
26 on the tax or premium and penalty from the time the tax or premium
27 was due until the date of payment.

28 (3) The court shall collect the tax or premium and interest
29 imposed under court order after a conviction under this section and
30 transmit it to the department of labor and industries.

31 The court shall collect the penalty imposed under court order
32 after a conviction under this section and disburse it pro rata as
33 follows: One-third to law enforcement and the investigative
34 agencies involved; one-third to the prosecuting authority; and one-
35 third to the general fund of the county where the matter was
36 prosecuted.

37 In addition to any other order of the court after conviction,
38 payments made under court order following a conviction under this

1 section are applied until satisfaction of the obligation in the
2 following order: (a) Tax or premium payments; (b) penalties; (c)
3 interest.

4 **Sec. 6.** RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1
5 are each reenacted and amended to read as follows:

6 (1) Prosecutions for criminal offenses shall not be commenced
7 after the periods prescribed in this section.

8 (a) The following offenses may be prosecuted at any time after
9 their commission:

- 10 (i) Murder;
- 11 (ii) Homicide by abuse;
- 12 (iii) Arson if a death results.

13 (b) The following offenses shall not be prosecuted more than
14 ten years after their commission:

15 (i) Any felony committed by a public officer if the commission
16 is in connection with the duties of his or her office or
17 constitutes a breach of his or her public duty or a violation of
18 the oath of office;

19 (ii) Arson if no death results; or

20 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
21 reported to a law enforcement agency within one year of its
22 commission; except that if the victim is under fourteen years of
23 age when the rape is committed and the rape is reported to a law
24 enforcement agency within one year of its commission, the violation
25 may be prosecuted up to three years after the victim's eighteenth
26 birthday or up to ten years after the rape's commission, whichever
27 is later. If a violation of RCW 9A.44.040 or 9A.44.050 is not
28 reported within one year, the rape may not be prosecuted: (A) More
29 than three years after its commission if the violation was
30 committed against a victim fourteen years of age or older; or (B)
31 more than three years after the victim's eighteenth birthday or
32 more than seven years after the rape's commission, whichever is
33 later, if the violation was committed against a victim under
34 fourteen years of age.

35 (c) Violations of the following statutes shall not be
36 prosecuted more than three years after the victim's eighteenth
37 birthday or more than seven years after their commission, whichever

1 is later: RCW 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086,
2 9A.44.070, 9A.44.080, 9A.44.100(1)(b), or 9A.64.020.

3 (d) The following offenses shall not be prosecuted more than
4 six years after their commission: Violations of RCW 9A.82.060 or
5 9A.82.080.

6 (e) The following offenses shall not be prosecuted more than
7 five years after their commission: Any class C felony under
8 chapter 74.09, 82.36, or 82.38 RCW, RCW 51.48.020, 51.48.270,
9 82.32.290, or section 5 of this act.

10 (f) Bigamy shall not be prosecuted more than three years after
11 the time specified in RCW 9A.64.010.

12 (g) No other felony may be prosecuted more than three years
13 after its commission.

14 (h) No gross misdemeanor may be prosecuted more than two years
15 after its commission.

16 (i) No misdemeanor may be prosecuted more than one year after
17 its commission.

18 (2) The periods of limitation prescribed in subsection (1) of
19 this section do not run during any time when the person charged is
20 not usually and publicly resident within this state.

21 (3) If, before the end of a period of limitation prescribed in
22 subsection (1) of this section, an indictment has been found or a
23 complaint or an information has been filed, and the indictment,
24 complaint, or information is set aside, then the period of
25 limitation is extended by a period equal to the length of time from
26 the finding or filing to the setting aside."

27 Correct the title.

EFFECT: Modifies the current penalties under the industrial insurance law for employers who fail to cover their workers or misrepresent the hours worked by adding a class C felony for: (1) knowingly making false representations about industrial insurance obligations with an intent to defraud; (2) knowingly accepting false information about obligations with an intent to defraud; (3) concealing information with an intent to defraud; or 4) knowingly failing to file required information with an intent to defraud.

The felony provisions of the workers' compensation laws and felonious tax evasion under the state's revenue requirements are given a five year statute of limitations.