

1 **SB 5570** - H COMM AMD

**ADOPTED 4-9-97**

2 By Committee on Commerce & Labor

3 Strike everything after the enacting clause and insert the  
4 following:

5 "Sec. 1. RCW 51.48.020 and 1995 c 160 s 4 are each amended to  
6 read as follows:

7 (1)(a) Any employer, who knowingly misrepresents to the  
8 department the amount of his or her payroll or employee hours upon  
9 which the premium under this title is based, shall be liable to the  
10 state (~~(in)~~) for up to ten times the amount of the difference in  
11 premiums paid and the amount the employer should have paid and for  
12 the reasonable expenses of auditing his or her books and collecting  
13 such sums. Such liability may be enforced in the name of the  
14 department.

15 (b) An employer is guilty of a class C felony, if((such)):

16 (i) The employer, with intent to evade determination and  
17 payment of the correct amount of the premiums, knowingly makes  
18 misrepresentations ((are made knowingly, an employer shall also be  
19 guilty of a felony, or gross misdemeanor in accordance with the  
20 theft and anticipatory provisions of Title 9A RCW)) regarding  
21 payroll or employee hours; or

22 (ii) The employer engages in employment covered under this  
23 title and, with intent to evade determination and payment of the  
24 correct amount of the premiums, knowingly fails to secure payment  
25 of compensation under this title or knowingly fails to report the  
26 payroll or employee hours related to that employment.

27 (c) Upon conviction under (b) of this subsection, the employer  
28 shall be ordered by the court to pay the premium due and owing, a  
29 penalty in the amount of one hundred percent of the premium due and  
30 owing, and interest on the premium and penalty from the time the  
31 premium was due until the date of payment. The court shall:

32 (A) Collect the premium and interest and transmit it to the  
33 department of labor and industries; and

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

5           Payments collected under this subsection must be applied until  
6 satisfaction of the obligation in the following order: Premium  
7 payments; penalty; and interest.

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

13           NEW SECTION. Sec. 2. RCW 51.48.015 and 1971 ex.s. c 289 s 62  
14 are each repealed."

15           Correct the title.

**EFFECT:** The amendment strikes the underlying bill and adds these provisions:

(1) Misrepresentation of payroll or employee hours is subject to a civil penalty if made knowingly. The penalty of 10 times the difference in premiums paid and premiums that should have been paid is made a maximum penalty.

(2) It is a class C felony if an employer, with intent to evade premium payments, knowingly makes misrepresentations about payroll or employee hours, knowingly fails to secure payment of compensation, or knowingly fails to report payroll or employee hours.

(3) On conviction, the court must order payment of premiums due, a penalty equal to the premiums due, and interest. The penalty is disbursed in equal amounts to the investigating agencies, the prosecuting authority, and the county in which the prosecution takes place.

The amendment also repeals the current misdemeanor penalty for willful failure to secure payment of compensation.