HOUSE BILL 1515

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State of Washington   **55th Legislature**   **1997 Regular Session**

By Representatives Conway and McMorris; by request of Joint Task Force on Nonpayment of Employer Obligations

Read first time 01/29/97. Referred to Committee on Commerce & Labor.

1   AN ACT Relating to tax evasion; amending RCW 51.48.020; reenacting
2 and amending RCW 9A.04.080; adding a new section to chapter 51.48 RCW;
3 and prescribing penalties.

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

5   **Sec. 1.** RCW 51.48.020 and 1995 c 160 s 4 are each amended to read
6 as follows:
7   (1) Any employer, who <u>intentionally</u> misrepresents to the department
8 the amount of his or her payroll or employee hours upon which the
9 premium under this title is based, shall be liable to the state ((in))
10 <u>for up to</u> ten times the amount of the difference in premiums paid and
11 the amount the employer should have paid and for the reasonable
12 expenses of auditing his or her books and collecting such sums. Such
13 liability may be enforced in the name of the department. ((~~If such~~
14 ~~misrepresentations are made knowingly, an employer shall also be guilty~~
15 ~~of a felony, or gross misdemeanor in accordance with the theft and~~
16 ~~anticipatory provisions of Title 9A RCW.~~))
17   (2) Any person claiming benefits under this title, who knowingly
18 gives false information required in any claim or application under this

title shall be guilty of a felony, or gross misdemeanor in accordance
with the theft and anticipatory provisions of Title 9A RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 51.48 RCW
to read as follows:
(1) It is unlawful for a person or corporation:
(a) To knowingly make or cause to be made a false statement or
representation of a material fact in a report, form, other written
document, or electronic transmittal in connection with the
determination of an obligation for payment of premiums or taxes, or the
amount of premiums or taxes owed, under this title with an intent
fraudulently to evade determination and payment of the premiums or
taxes;
(b) To knowingly accept or cause acceptance of facts or assertions
that contain a materially false statement or materially false
information in connection with the determination of an obligation for
payment of premiums or taxes, or the amount of premiums or taxes owed,
under this title with an intent fraudulently to evade determination and
payment of the premiums or taxes;
(c) Having knowledge of the occurrence of an event material to the
initial or continuing determination of an obligation for payment of
premiums or taxes or the amount of premiums or taxes owed under this
title, to conceal or fail to disclose the event with an intent
fraudulently to secure a determination that is for a lesser amount than
is owed; or
(d) Having knowledge of the obligation to notify the department of
information necessary for the determination and payment of premiums or
taxes owed under this title, to conceal, or fail to file or disclose
the information with an intent fraudulently to evade determination and
payment of the premiums or taxes.
(2) In addition to other penalties and remedies provided by law, a
person or corporation violating subsection (1) of this section:
(a) Is, upon conviction, guilty of a class C felony and is subject
to imprisonment for not more than five years and a fine of not more
than twenty-five thousand dollars, except in the case of a corporation
where the fine may not exceed one hundred thousand dollars; and
(b) Shall, upon conviction, be ordered by the court to pay the tax
or premium due and owing, a penalty in the amount of one hundred
percent of the tax or premium due and owing, and interest on the tax or

1 premium and penalty from the time the tax or premium was due until the
2 date of payment.
3   (3) The court shall collect the tax or premium and interest imposed
4 under court order after a conviction under this section and transmit it
5 to the department of labor and industries.
6   The court shall collect the penalty imposed under court order after
7 a conviction under this section and disburse it pro rata as follows:
8 One-third to law enforcement and the investigative agencies involved;
9 one-third to the prosecuting authority; and one-third to the general
10 fund of the county where the matter was prosecuted.
11   In addition to any other order of the court after conviction,
12 payments made under court order following a conviction under this
13 section are applied until satisfaction of the obligation in the
14 following order: (a) Tax or premium payments; (b) penalties; (c)
15 interest.

16   **Sec. 3.** RCW 9A.04.080 and 1995 c 287 s 5 and 1995 c 17 s 1 are
17 each reenacted and amended to read as follows:
18   (1) Prosecutions for criminal offenses shall not be commenced after
19 the periods prescribed in this section.
20   (a) The following offenses may be prosecuted at any time after
21 their commission:
22   (i) Murder;
23   (ii) Homicide by abuse;
24   (iii) Arson if a death results.
25   (b) The following offenses shall not be prosecuted more than ten
26 years after their commission:
27   (i) Any felony committed by a public officer if the commission is
28 in connection with the duties of his or her office or constitutes a
29 breach of his or her public duty or a violation of the oath of office;
30   (ii) Arson if no death results; or
31   (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
32 reported to a law enforcement agency within one year of its commission;
33 except that if the victim is under fourteen years of age when the rape
34 is committed and the rape is reported to a law enforcement agency
35 within one year of its commission, the violation may be prosecuted up
36 to three years after the victim's eighteenth birthday or up to ten
37 years after the rape's commission, whichever is later. If a violation
38 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape

1 may not be prosecuted: (A) More than three years after its commission
2 if the violation was committed against a victim fourteen years of age
3 or older; or (B) more than three years after the victim's eighteenth
4 birthday or more than seven years after the rape's commission,
5 whichever is later, if the violation was committed against a victim
6 under fourteen years of age.
7 (c) Violations of the following statutes shall not be prosecuted
8 more than three years after the victim's eighteenth birthday or more
9 than seven years after their commission, whichever is later: RCW
10 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
11 9A.44.100(1)(b), or 9A.64.020.
12 (d) The following offenses shall not be prosecuted more than six
13 years after their commission: Violations of RCW 9A.82.060 or
14 9A.82.080.
15 (e) The following offenses shall not be prosecuted more than five
16 years after their commission: Any class C felony under chapter 74.09,
17 82.36, or 82.38 RCW, RCW 51.48.020, 51.48.270, 82.32.290, or section 2
18 of this act.
19 (f) Bigamy shall not be prosecuted more than three years after the
20 time specified in RCW 9A.64.010.
21 (g) No other felony may be prosecuted more than three years after
22 its commission.
23 (h) No gross misdemeanor may be prosecuted more than two years
24 after its commission.
25 (i) No misdemeanor may be prosecuted more than one year after its
26 commission.
27 (2) The periods of limitation prescribed in subsection (1) of this
28 section do not run during any time when the person charged is not
29 usually and publicly resident within this state.
30 (3) If, before the end of a period of limitation prescribed in
31 subsection (1) of this section, an indictment has been found or a
32 complaint or an information has been filed, and the indictment,
33 complaint, or information is set aside, then the period of limitation
34 is extended by a period equal to the length of time from the finding or
35 filing to the setting aside.

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