
SUBSTITUTE HOUSE BILL 1903

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Cairnes, Linville, Conway, Honeyford, Hatfield, Clements, Kenney, Blalock, Cody, Cole, Gardner, Cooke and Tokuda)

Read first time 03/05/97.

1 AN ACT Relating to registration of contractors; amending RCW
2 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.060, 18.27.070,
3 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117,
4 18.27.200, 18.27.230, 18.27.270, and 18.27.340; reenacting and amending
5 RCW 51.12.020; adding new sections to chapter 18.27 RCW; repealing RCW
6 18.27.140; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.27 RCW
9 to read as follows:

10 The purpose of this chapter is to promote compliance and
11 enforcement of this chapter by providing swift and meaningful penalties
12 for those failing to register as required by this chapter.

13 This chapter shall be strictly enforced to accomplish these
14 purposes. Therefore, the doctrine of substantial compliance shall not
15 be used by the department in the application and construction of this
16 chapter. Anyone engaged in the activities of a contractor is presumed
17 to know the requirements of this chapter.

1 **Sec. 2.** RCW 18.27.010 and 1993 c 454 s 2 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Contractor" means any person, firm, or corporation who or
6 which, in the pursuit of an independent business undertakes to, or
7 offers to undertake, or submits a bid to, construct, alter, repair, add
8 to, subtract from, improve, move, wreck or demolish, for another, any
9 building, highway, road, railroad, excavation or other structure,
10 project, development, or improvement attached to real estate or to do
11 any part thereof including the installation of carpeting or other floor
12 covering, the erection of scaffolding or other structures or works in
13 connection therewith or who installs or repairs roofing or siding; or,
14 who, to do similar work upon his or her own property, employs members
15 of more than one trade upon a single job or project or under a single
16 building permit except as otherwise provided herein. "Contractor"
17 includes any person, firm, or corporation covered by this subsection,
18 whether or not registered as required under this chapter.

19 (2) "General contractor" means a contractor whose business
20 operations require the use of more than two unrelated building trades
21 or crafts whose work the contractor shall superintend or do in whole or
22 in part. "General contractor" shall not include an individual who does
23 all work personally without employees or other "specialty contractors"
24 as defined (~~herein~~) in this section. The terms "general contractor"
25 and "builder" are synonymous.

26 (3) "Specialty contractor" means a contractor whose operations (~~as~~
27 ~~such~~) do not fall within the foregoing definition of "general
28 contractor".

29 (4) "Unregistered contractor" means a person, firm, or corporation
30 doing work as a contractor without being registered in compliance with
31 this chapter. "Unregistered contractor" includes contractors whose
32 registration is expired for more than thirty days beyond the renewal
33 date or has been suspended.

34 (5) "Department" means the department of labor and industries.

35 (~~(5)~~) (6) "Director" means the director of the department of
36 labor and industries.

37 (~~(6)~~) (7) "Verification" means the receipt and duplication by the
38 city, town, or county of a contractor registration card that is current
39 on its face, checking the department's contractor registration data

1 base, or calling the department to confirm that the contractor is
2 registered.

3 **Sec. 3.** RCW 18.27.020 and 1993 c 454 s 6 are each amended to read
4 as follows:

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

6 (2) It is a misdemeanor for any contractor to:

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

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

12 (c) Use a false or expired registration number in purchasing or
13 offering to purchase an advertisement for which a contractor
14 registration number is required; or

15 (d) Transfer a valid registration to an unregistered contractor or
16 allow an unregistered contractor to work under a registration issued to
17 another contractor.

18 (3) It is not unlawful for a general contractor to employ an
19 unregistered contractor who was registered at the time he or she
20 entered into a contract with the general contractor, unless the general
21 contractor has been notified by the department of labor and industries
22 that the contractor has become unregistered.

23 (4) All misdemeanor actions under this chapter shall be prosecuted
24 in the county where the infraction occurs.

25 (5) Nothing in this chapter shall be construed to create a cause of
26 action under chapter 19.86 RCW, the consumer protection act. No act or
27 omission made unlawful by this chapter is an unfair trade practice as
28 defined under chapter 19.86 RCW or otherwise creates liability under
29 chapter 19.86 RCW.

30 (6) A person is guilty of a separate misdemeanor for each day
31 worked if, after the person receives a citation from the department,
32 the person works while unregistered, or while his or her registration
33 is suspended or revoked, or works under a registration issued to
34 another contractor. A person is guilty of a separate misdemeanor for
35 each worksite on which he or she violates subsection (2) of this
36 section. Nothing in this subsection applies to a registered
37 contractor.

1 (7) The director by rule shall establish a two-year audit and
2 monitoring program for a contractor not registered under this chapter
3 who becomes registered after receiving an infraction or conviction
4 under this chapter as an unregistered contractor. The director shall
5 notify the departments of revenue and employment security of the
6 infractions or convictions and shall cooperate with these departments
7 to determine whether any taxes or registration, license, or other fees
8 or penalties are owed the state.

9 **Sec. 4.** RCW 18.27.030 and 1996 c 147 s 1 are each amended to read
10 as follows:

11 (1) An applicant for registration as a contractor shall submit an
12 application under oath upon a form to be prescribed by the director and
13 which shall include the following information pertaining to the
14 applicant:

15 (a) Employer social security number.

16 (b) As applicable: (i) The industrial insurance account number
17 covering employees domiciled in Washington; and (ii) evidence of
18 workers' compensation coverage in the applicant's state of domicile for
19 the applicant's employees working in Washington who are not domiciled
20 in Washington.

21 (c) Employment security department number.

22 (d) State excise tax registration number.

23 (e) Unified business identifier (UBI) account number may be
24 substituted for the information required by (b), (c), and (d) of this
25 subsection.

26 (f) Type of contracting activity, whether a general or a specialty
27 contractor and if the latter, the type of specialty.

28 (g) The name and address of each partner if the applicant be a firm
29 or partnership, or the name and address of the owner if the applicant
30 be an individual proprietorship, or the name and address of the
31 corporate officers and statutory agent, if any, if the applicant be a
32 corporation. The information contained in such application shall be a
33 matter of public record and open to public inspection.

34 (2) The department may verify the workers' compensation coverage
35 information provided by the applicant under subsection (1)(b) of this
36 section, including but not limited to information regarding the
37 coverage of an individual employee of the applicant. If coverage is

1 provided under the laws of another state, the department may notify the
2 other state that the applicant is employing employees in Washington.

3 (3) The department shall deny an application for registration
4 ((shall be denied)) if the applicant has been previously registered as
5 a sole proprietor, partnership, or corporation((, and was a principal
6 or officer of the corporation,)) and ((if)) the applicant has an
7 unsatisfied final judgment against him or her in an action based on
8 this chapter that was incurred during a previous registration under
9 this chapter.

10 **Sec. 5.** RCW 18.27.040 and 1988 c 139 s 1 are each amended to read
11 as follows:

12 (1) Each applicant shall~~((, at the time of applying for or renewing~~
13 ~~a certificate of registration,))~~ file with the department a surety bond
14 issued by a surety insurer who meets the requirements of chapter 48.28
15 RCW in ~~((a form acceptable to the department running to the state of~~
16 ~~Washington if a general contractor, in the sum of six thousand dollars;~~
17 ~~if a specialty contractor, in the sum of four thousand dollars,))~~ the
18 sum of six thousand dollars if the applicant is a general contractor
19 and four thousand dollars if the applicant is a specialty contractor.
20 If no valid bond is already on file with the department at the time the
21 application is filed, a bond must accompany the registration
22 application. The bond shall have the state of Washington named as
23 obligee with good and sufficient surety in a form to be approved by the
24 department. The bond shall be continuous and may be canceled by the
25 surety upon the surety giving written notice to the director of its
26 intent to cancel the bond. A cancellation or revocation of the bond or
27 withdrawal of the surety from the bond suspends the registration issued
28 to the registrant until a new bond or reinstatement notice has been
29 filed and approved as provided in this section. Whether or not the
30 bond is renewed, continued, reinstated, reissued, or otherwise
31 extended, replaced, or modified, including increases or decreases in
32 the penal sum, it shall be considered one continuous obligation, and
33 the surety upon the bond shall not be liable in an aggregate or
34 cumulative amount exceeding the penal sum set forth on the face of the
35 bond. In no event shall the penal sum, or a portion thereof, at two or
36 more points in time be added together in determining the surety's
37 liability. The bond shall be conditioned that the applicant will pay
38 all persons performing labor, including employee benefits, for the

1 contractor, will pay all taxes and contributions due to the state of
2 Washington, and will pay all persons furnishing labor or material or
3 renting or supplying equipment to the contractor and will pay all
4 amounts that may be adjudged against the contractor by reason of
5 (~~negligent or improper work or~~) breach of contract including
6 negligent or improper work in the conduct of the contracting business.
7 A change in the name of a business or a change in the type of business
8 entity shall not impair a bond for the purposes of this section so long
9 as one of the original applicants for such bond maintains partial
10 ownership in the business covered by the bond.

11 (2) Any contractor registered as of (~~the effective date of this~~
12 ~~1983 act~~) July 1, 1997, who maintains such registration in accordance
13 with this chapter shall be in compliance with this chapter until the
14 next annual renewal of the contractor's certificate of registration.
15 At that time, the contractor shall provide a bond, cash deposit, or
16 other security deposit as required by this chapter and comply with all
17 of the other provisions of this chapter before the department shall
18 renew the contractor's certificate of registration.

19 (3) Any person, firm, or corporation having a claim against the
20 contractor for any of the items referred to in this section may bring
21 suit upon (~~such~~) the bond or deposit in the superior court of the
22 county in which the work was done or of any county in which
23 jurisdiction of the contractor may be had. The surety issuing the bond
24 shall be named as a party to any suit upon the bond. Action upon
25 (~~such~~) the bond or deposit shall be commenced by filing the summons
26 and complaint with the clerk of the appropriate superior court within
27 one year from the date of expiration of the certificate of registration
28 in force at the time the claimed labor was performed and benefits
29 accrued, taxes and contributions owing the state of Washington became
30 due, materials and equipment were furnished, or the claimed contract
31 work was completed or abandoned. Service of process in an action
32 against the contractor, the contractor's bond, or the deposit shall be
33 exclusively by service upon the department. Three copies of the
34 summons and complaint and a fee of ten dollars to cover the handling
35 costs shall be served by registered or certified mail upon the
36 department at the time suit is started and the department shall
37 maintain a record, available for public inspection, of all suits so
38 commenced. Service is not complete until the department receives the
39 ten-dollar fee and three copies of the summons and complaint. (~~Sueh~~)

1 The service shall constitute service on the registrant and the surety
2 for suit upon the bond or deposit and the department shall transmit the
3 summons and complaint or a copy thereof to the registrant at the
4 address listed in ((his)) the registrant's application and to the
5 surety within forty-eight hours after it shall have been received.

6 (4) The surety upon the bond shall not be liable in an aggregate
7 amount in excess of the amount named in the bond nor for any monetary
8 penalty assessed pursuant to this chapter for an infraction. The
9 liability of the surety shall not cumulate where the bond has been
10 renewed, continued, reinstated, reissued or otherwise extended. The
11 surety upon the bond may, upon notice to the department and the
12 parties, tender to the clerk of the court having jurisdiction of the
13 action an amount equal to the claims thereunder or the amount of the
14 bond less the amount of judgments, if any, previously satisfied
15 therefrom and to the extent of such tender the surety upon the bond
16 shall be exonerated but if the actions commenced and pending at any one
17 time exceed the amount of the bond then unimpaired, claims shall be
18 satisfied from the bond in the following order:

19 (a) Employee labor, including employee benefits;

20 (b) Claims for breach of contract by a party to the construction
21 contract;

22 (c) Material and equipment;

23 (d) Taxes and contributions due the state of Washington;

24 (e) Any court costs, interest, and attorney's fees plaintiff may be
25 entitled to recover. The prevailing party in a bond claim action
26 against the contractor and the contractor's bond, as required by this
27 section, for breach of a construction contract is entitled to costs,
28 interest, and reasonable attorneys' fees. However, the surety is not
29 liable for any amount in excess of the penal limit of its bond.

30 A payment made by the surety in good faith exonerates the bond to
31 the extent of any payment made by the surety.

32 (5) ~~((In the event that any))~~ If a final judgment ((shall)) impairs
33 the liability of the surety upon the bond so furnished that there shall
34 not be in effect a bond undertaking in the full amount prescribed in
35 this section, the department shall suspend the registration of ((such))
36 the contractor until the bond liability in the required amount
37 unimpaired by unsatisfied judgment claims ((shall have been)) is
38 furnished. If ((such)) the bond becomes fully impaired, a new bond

1 must be furnished at the (~~increased~~) rates prescribed by this section
2 (~~as now or hereafter amended~~).

3 (6) In lieu of the surety bond required by this section the
4 contractor may file with the department a deposit consisting of cash or
5 other security acceptable to the department.

6 (7) Any person having filed and served a summons and complaint as
7 required by this section having an unsatisfied final judgment against
8 the registrant for any items referred to in this section may execute
9 upon the security held by the department by serving a certified copy of
10 the unsatisfied final judgment by registered or certified mail upon the
11 department within one year of the date of entry of such judgment. Upon
12 the receipt of service of such certified copy the department shall pay
13 or order paid from the deposit, through the registry of the superior
14 court which rendered judgment, towards the amount of the unsatisfied
15 judgment. The priority of payment by the department shall be the order
16 of receipt by the department, but the department shall have no
17 liability for payment in excess of the amount of the deposit.

18 (8) The director may (~~promulgate~~) adopt rules necessary for the
19 proper administration of the security.

20 **Sec. 6.** RCW 18.27.060 and 1983 1st ex.s. c 2 s 19 are each amended
21 to read as follows:

22 (1) A certificate of registration shall be valid for one year and
23 shall be renewed on or before the expiration date. The department
24 shall issue to the applicant a certificate of registration upon
25 compliance with the registration requirements of this chapter.

26 (2) If the department approves an application, it shall issue a
27 certificate of registration to the applicant. The certificate shall be
28 valid for:

29 (a) One year;

30 (b) Until the bond expires; or

31 (c) Until the insurance expires, whichever comes first. The
32 department shall place the expiration date on the certificate.

33 (3) A contractor may supply a short-term bond or insurance policy
34 to bring its registration period to the full one year.

35 (4) If a contractor's surety bond or other security has an
36 unsatisfied judgment against it or is canceled, or if the contractor's
37 insurance policy is canceled, the contractor's registration shall be
38 automatically suspended on the effective date of the impairment or

1 cancellation. The department shall ~~((give))~~ mail notice of the
2 suspension to the ~~((contractor))~~ contractor's address on the
3 certificate of registration by certified and by first class mail within
4 forty-eight hours after suspension.

5 (5) Renewal of registration is valid on the date the department
6 receives the required fee and proof of bond and liability insurance, if
7 sent by certified mail or other means requiring proof of delivery. The
8 receipt or proof of delivery shall serve as the contractor's proof of
9 renewed registration until he or she receives verification from the
10 department.

11 **Sec. 7.** RCW 18.27.070 and 1983 c 74 s 1 are each amended to read
12 as follows:

13 The department shall charge fees for issuance, renewal, and
14 reinstatement of certificates of registration; and changes of name,
15 address, or business structure. The department shall set the fees by
16 rule.

17 The ~~((fees shall))~~ entire amount of the fees are to be used solely
18 to cover the full cost of issuing certificates, filing papers and
19 notices, and administering and enforcing this chapter. The costs shall
20 include reproduction, travel, per diem, and administrative and legal
21 support costs.

22 **Sec. 8.** RCW 18.27.090 and 1987 c 313 s 1 are each amended to read
23 as follows:

24 This chapter ~~((shall))~~ does not apply to:

25 (1) An authorized representative of the United States government,
26 the state of Washington, or any incorporated city, town, county,
27 township, irrigation district, reclamation district, or other municipal
28 or political corporation or subdivision of this state;

29 (2) Officers of a court when they are acting within the scope of
30 their office;

31 (3) Public utilities operating under the regulations of the
32 utilities and transportation commission in construction, maintenance,
33 or development work incidental to their own business;

34 (4) Any construction, repair, or operation incidental to the
35 discovering or producing of petroleum or gas, or the drilling, testing,
36 abandoning, or other operation of any petroleum or gas well or any

1 surface or underground mine or mineral deposit when performed by an
2 owner or lessee;

3 (5) The sale or installation of any finished products, materials,
4 or articles of merchandise which are not actually fabricated into and
5 do not become a permanent fixed part of a structure;

6 (6) Any construction, alteration, improvement, or repair of
7 personal property, except this chapter shall apply to all
8 mobile/manufactured housing. A mobile/manufactured home may be
9 installed, set up, or repaired by the registered or legal owner, by a
10 contractor (~~licensed~~) registered under this chapter, or by a
11 mobile/manufactured home retail dealer or manufacturer licensed under
12 chapter 46.70 RCW who shall warranty service and repairs under chapter
13 46.70 RCW;

14 (7) Any construction, alteration, improvement, or repair carried on
15 within the limits and boundaries of any site or reservation under the
16 legal jurisdiction of the federal government;

17 (8) Any person who only furnished materials, supplies, or equipment
18 without fabricating them into, or consuming them in the performance of,
19 the work of the contractor;

20 (9) Any work or operation on one undertaking or project by one or
21 more contracts, the aggregate contract price of which for labor and
22 materials and all other items is less than five hundred dollars, such
23 work or operations being considered as of a casual, minor, or
24 inconsequential nature. The exemption prescribed in this subsection
25 does not apply in any instance wherein the work or construction is only
26 a part of a larger or major operation, whether undertaken by the same
27 or a different contractor, or in which a division of the operation is
28 made into contracts of amounts less than five hundred dollars for the
29 purpose of evasion of this chapter or otherwise. The exemption
30 prescribed in this subsection does not apply to a person who advertises
31 or puts out any sign or card or other device which might indicate to
32 the public that he or she is a contractor, or that he or she is
33 qualified to engage in the business of contractor;

34 (10) Any construction or operation incidental to the construction
35 and repair of irrigation and drainage ditches of regularly constituted
36 irrigation districts or reclamation districts; or to farming, dairying,
37 agriculture, viticulture, horticulture, or stock or poultry raising; or
38 to clearing or other work upon land in rural districts for fire

1 prevention purposes; except when any of the above work is performed by
2 a registered contractor;

3 (11) An owner who contracts for a project with a registered
4 contractor;

5 (12) Any person working on his or her own property, whether
6 occupied by him or her or not, and any person working on his or her
7 personal residence, whether owned by him or her or not but this
8 exemption shall not apply to any person otherwise covered by this
9 chapter who constructs an improvement on his or her own property with
10 the intention and for the purpose of selling the improved property;

11 (13) Owners of commercial properties who use their own employees to
12 do maintenance, repair, and alteration work in or upon their own
13 properties;

14 (14) A licensed architect or civil or professional engineer acting
15 solely in his or her professional capacity, an electrician licensed
16 under the laws of the state of Washington, or a plumber licensed under
17 the laws of the state of Washington or licensed by a political
18 subdivision of the state of Washington while operating within the
19 boundaries of such political subdivision. The exemption provided in
20 this subsection is applicable only when the licensee is operating
21 within the scope of his or her license;

22 (15) Any person who engages in the activities herein regulated as
23 an employee of a registered contractor with wages as his or her sole
24 compensation or as an employee with wages as his or her sole
25 compensation;

26 (16) Contractors on highway projects who have been prequalified as
27 required by (~~chapter 13 of the Laws of 1961,~~) RCW 47.28.070, with the
28 department of transportation to perform highway construction,
29 reconstruction, or maintenance work.

30 **Sec. 9.** RCW 18.27.100 and 1996 c 147 s 2 are each amended to read
31 as follows:

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

37 (2) All advertising and all contracts, correspondence, cards,
38 signs, posters, papers, and documents which show a contractor's name or

1 address shall show the contractor's name or address as registered under
2 this chapter.

3 (3)(a) All advertising that shows the contractor's name or address
4 shall show the contractor's current registration number. The
5 registration number may be omitted in an alphabetized listing of
6 registered contractors stating only the name, address, and telephone
7 number: PROVIDED, That signs on motor vehicles subject to RCW
8 46.16.010 and on-premise signs shall not constitute advertising as
9 provided in this section. All materials used to directly solicit
10 business from retail customers who are not businesses shall show the
11 contractor's current registration number. A contractor shall not use
12 a false or expired registration number in purchasing or offering to
13 purchase an advertisement for which a contractor registration number is
14 required. Advertising by airwave transmission shall not be subject to
15 this subsection (~~if the person selling the advertisement obtains the~~
16 ~~contractor's current registration number from the contractor~~) (3)(a).

17 (b) The director may issue a subpoena to any person or entity
18 selling any advertising subject to this section for the name, address,
19 and telephone number provided to the seller of the advertising by the
20 purchaser of the advertising. The subpoena must have enclosed a
21 stamped, self-addressed envelope and blank form to be filled out by the
22 seller of the advertising. If the seller of the advertising has the
23 information on file, the seller shall, within a reasonable time, return
24 the completed form to the department. The subpoena must be issued
25 before forty-eight hours after the expiration of the issue or
26 publication containing the advertising or after the broadcast of the
27 advertising. The good-faith compliance by a seller of advertising with
28 a written request of the department for information concerning the
29 purchaser of advertising shall constitute a complete defense to any
30 civil or criminal action brought against the seller of advertising
31 arising from such compliance. Advertising by airwave or electronic
32 transmission is subject to this subsection (3)(b).

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

36 (5) A contractor shall not falsify a registration number and use
37 it, or use an expired registration number, in connection with any
38 solicitation or identification as a contractor. All individual
39 contractors and all partners, associates, agents, salesmen, solicitors,

1 officers, and employees of contractors shall use their true names and
2 addresses at all times while engaged in the business or capacity of a
3 contractor or activities related thereto.

4 (6) Any advertising by a person, firm, or corporation soliciting
5 work as a contractor when that person, firm, or corporation is not
6 registered pursuant to this chapter is a violation of this chapter.

7 (7)(a) The finding of a violation of this section by the director
8 at a hearing held in accordance with the Administrative Procedure Act,
9 chapter 34.05 RCW, shall subject the person committing the violation to
10 a penalty of not more than five thousand dollars as determined by the
11 director.

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

14 **Sec. 10.** RCW 18.27.104 and 1989 c 175 s 61 are each amended to
15 read as follows:

16 (1) If, upon investigation, the director or the director's designee
17 has probable cause to believe that a person holding a registration, an
18 applicant for registration, or ~~((an unregistered))~~ a person acting in
19 the capacity of a contractor who is not otherwise exempted from this
20 chapter, has violated RCW 18.27.100 by unlawfully advertising for work
21 covered by this chapter ~~((in an alphabetical or classified directory))~~,
22 the department may issue a citation containing an order of correction.
23 Such order shall require the violator to cease the unlawful
24 advertising.

25 (2) If the person to whom a citation is issued under subsection (1)
26 of this section notifies the department in writing that he or she
27 contests the citation, the department shall afford an opportunity for
28 an adjudicative proceeding under chapter 34.05 RCW ~~((, the~~
29 ~~Administrative Procedure Act,))~~ within thirty days after receiving the
30 notification.

31 **Sec. 11.** RCW 18.27.110 and 1993 c 454 s 5 are each amended to read
32 as follows:

33 (1) No city, town or county shall issue a construction building
34 permit for work which is to be done by any contractor required to be
35 registered under this chapter without verification that such contractor
36 is currently registered as required by law. When such verification is
37 made, nothing contained in this section is intended to be, nor shall be

1 construed to create, or form the basis for any liability under this
2 chapter on the part of any city, town or county, or its officers,
3 employees or agents. However, failure to verify the contractor
4 registration number results in liability to the city, town, or county
5 to a penalty to be imposed according to RCW 18.27.100(~~(+6+)~~) (7)(a).

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

8 (a) Printing the contractor registration number on the building
9 permit; and

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

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

17 **Sec. 12.** RCW 18.27.114 and 1988 c 182 s 1 are each amended to read
18 as follows:

19 ~~(1) ((Until July 1, 1989, any contractor agreeing to perform any~~
20 ~~contracting project: (a) For the repair, alteration, or construction~~
21 ~~of four or fewer residential units or accessory structures on such~~
22 ~~residential property when the bid or contract price totals one thousand~~
23 ~~dollars or more; or (b) for the repair, alteration, or construction of~~
24 ~~a commercial building when the bid or contract price totals one~~
25 ~~thousand dollars or more but less than sixty thousand dollars, must~~
26 ~~provide the customer with the following disclosure statement prior to~~
27 ~~starting work on the project:~~

28 ~~"NOTICE TO CUSTOMER~~

29 ~~This contractor is registered with the state of Washington,~~
30 ~~registration no., as a general/specialty contractor and~~
31 ~~has posted with the state a bond or cash deposit of~~
32 ~~\$6,000/\$4,000 for the purpose of satisfying claims against the~~
33 ~~contractor for negligent or improper work or breach of contract~~
34 ~~in the conduct of the contractor's business. This bond or cash~~
35 ~~deposit may not be sufficient to cover a claim which might~~
36 ~~arise from the work done under your contract. If any supplier~~
37 ~~of materials used in your construction project or any employee~~

1 of the ~~contractor or subcontractor is not paid by the~~
2 ~~contractor or subcontractor on your job, your property may be~~
3 ~~liened to force payment. If you wish additional protection, you~~
4 ~~may request the contractor to provide you with original "lien~~
5 ~~release" documents from each supplier or subcontractor on your~~
6 ~~project. The contractor is required to provide you with~~
7 ~~further information about lien release documents if you request~~
8 ~~it. General information is also available from the department~~
9 ~~of labor and industries."~~

10 ~~(2) On and after July 1, 1989,))~~ Any contractor agreeing to perform
11 any contracting project: (a) For the repair, alteration, or
12 construction of four or fewer residential units or accessory structures
13 on such residential property when the bid or contract price totals one
14 thousand dollars or more; or (b) for the repair, alteration, or
15 construction of a commercial building when the bid or contract price
16 totals one thousand dollars or more but less than sixty thousand
17 dollars, must provide the customer with the following disclosure
18 statement prior to starting work on the project:

19 "NOTICE TO CUSTOMER

20 This contractor is registered with the state of Washington,
21 registration no., as a general/specialty contractor and
22 has posted with the state a bond or cash deposit of
23 \$6,000/\$4,000 for the purpose of satisfying claims against the
24 contractor for negligent or improper work or breach of contract
25 in the conduct of the contractor's business. The expiration
26 date of this contractor's registration is This
27 bond or cash deposit may not be sufficient to cover a claim
28 which might arise from the work done under your contract. If
29 any supplier of materials used in your construction project or
30 any employee of the contractor or subcontractor is not paid by
31 the contractor or subcontractor on your job, your property may
32 be liened to force payment. If you wish additional protection,
33 you may request the contractor to provide you with original
34 "lien release" documents from each supplier or subcontractor on
35 your project. The contractor is required to provide you with
36 further information about lien release documents if you request
37 it. General information is also available from the department
38 of labor and industries."

1 (~~(3)~~ On and after July 1, 1989,) (2) A contractor subject to this
2 section shall notify any consumer to whom notice is required under
3 subsection ~~((+2))~~ (1) of this section if the contractor's registration
4 has expired or is revoked or suspended by the department prior to
5 completion or other termination of the contract with the consumer.

6 (~~(4)~~) (3) No contractor subject to this section may bring or
7 maintain any lien claim under chapter 60.04 RCW based on any contract
8 to which this section applies without alleging and proving that the
9 contractor has provided the customer with a copy of the disclosure
10 statement as required in subsection (1) ~~((or (2)))~~ of this section.

11 (~~(5)~~) (4) This section does not apply to contracts authorized
12 under chapter 39.04 RCW or to contractors contracting with other
13 contractors.

14 (~~(6)~~) (5) Failure to comply with this section shall constitute an
15 infraction under the provisions of this chapter.

16 (~~(7)~~) (6) The department shall produce model disclosure
17 statements, and public service announcements detailing the information
18 needed to assist contractors and contractors' customers to comply under
19 this section. As necessary, the department shall periodically update
20 these education materials.

21 **Sec. 13.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read
22 as follows:

23 The legislature finds that setting up and siting mobile/
24 manufactured homes must be done properly for the health, safety, and
25 enjoyment of the occupants. Therefore, when any of the following cause
26 a health and safety risk to the occupants of a mobile/manufactured
27 home, or severely hinder the use and enjoyment of the mobile/
28 manufactured home, a violation of RCW 19.86.020 shall have occurred:

29 (1) The mobile/manufactured home has been improperly installed by
30 a contractor ~~((licensed))~~ registered under chapter 18.27 RCW, or a
31 mobile/manufactured dealer or manufacturer licensed under chapter 46.70
32 RCW;

33 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW
34 has not been fulfilled by the person or business giving the warranty;
35 and

36 (3) A bonding company that issues a bond under chapter 18.27 RCW or
37 chapter 46.70 RCW does not reasonably and professionally investigate
38 and resolve claims made by injured parties.

1 **Sec. 14.** RCW 18.27.200 and 1993 c 454 s 7 are each amended to read
2 as follows:

3 (1) It is a violation of this chapter and an infraction for any
4 contractor to:

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

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

10 (c) Transfer a valid registration to an unregistered contractor or
11 allow an unregistered contractor to work under a registration issued to
12 another contractor.

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

21 **Sec. 15.** RCW 18.27.230 and 1993 c 454 s 9 are each amended to read
22 as follows:

23 The department may issue a notice of infraction if the department
24 reasonably believes that the contractor (~~((required to be registered by~~
25 ~~this chapter has failed to do so or~~)) has (~~((otherwise))~~) committed (~~((a~~
26 ~~violation under RCW 18.27.200))~~) an infraction under this chapter. A
27 notice of infraction issued under this section shall be personally
28 served on the contractor named in the notice by the department's
29 compliance inspectors or service can be made by certified mail directed
30 to the contractor named in the notice of infraction. If the contractor
31 named in the notice of infraction is a firm or corporation, the notice
32 may be personally served on any employee of the firm or corporation.
33 If a notice of infraction is personally served upon an employee of a
34 firm or corporation, the department shall within four days of service
35 send a copy of the notice by certified mail to the contractor if the
36 department is able to obtain the contractor's address.

1 **Sec. 16.** RCW 18.27.270 and 1986 c 197 s 6 are each amended to read
2 as follows:

3 (1) A contractor who is issued a notice of infraction shall respond
4 within twenty days of the date of issuance of the notice of infraction.

5 (2) If the contractor named in the notice of infraction does not
6 elect to contest the notice of infraction, then the contractor shall
7 pay to the department, by check or money order, the amount of the
8 penalty prescribed for the infraction. When a response which does not
9 contest the notice of infraction is received by the department with the
10 appropriate penalty, the department shall make the appropriate entry in
11 its records.

12 (3) If the contractor named in the notice of infraction elects to
13 contest the notice of infraction, the contractor shall respond by
14 filing an answer of protest with the department specifying the grounds
15 of protest.

16 (4) If any contractor issued a notice of infraction fails to
17 respond within the prescribed response period, the contractor shall be
18 guilty of a misdemeanor and prosecuted in the county where the
19 infraction occurred.

20 (5) After final determination by an administrative law judge that
21 an infraction has been committed, a contractor who fails to pay a
22 monetary penalty within thirty days, that is not waived, reduced, or
23 suspended pursuant to RCW 18.27.340(2), and who fails to file an appeal
24 pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor and be
25 prosecuted in the county where the infraction occurred.

26 (6) A contractor who fails to pay a monetary penalty within thirty
27 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),
28 shall be guilty of a misdemeanor and be prosecuted in the county where
29 the infraction occurred.

30 (7) If a contractor who is issued a notice of infraction is a
31 contractor who has failed to register as a contractor under this
32 chapter, the contractor is subject to a monetary penalty per infraction
33 as provided in the schedule of penalties established by the department,
34 and each day the person works without becoming registered is a separate
35 infraction.

36 **Sec. 17.** RCW 18.27.340 and 1986 c 197 s 10 are each amended to
37 read as follows:

1 (1) Except as otherwise provided in subsection (3) of this section,
2 a contractor found to have committed an infraction under RCW 18.27.200
3 shall be assessed a monetary penalty of not less than two hundred
4 dollars and not more than ~~((three))~~ five thousand dollars.

5 ~~((The administrative law judge may waive, reduce, or suspend~~
6 ~~the monetary penalty imposed for the infraction only upon a showing of~~
7 ~~good cause that the penalty would be unduly burdensome to the~~
8 ~~contractor.))~~ The director may waive collection in favor of payment of
9 restitution to a consumer complainant.

10 (3) A contractor found to have committed an infraction under RCW
11 18.27.200 for failure to register shall be assessed a fine of not less
12 than one thousand dollars, nor more than five thousand dollars. The
13 director may reduce the penalty for failure to register, but in no case
14 below five hundred dollars, if the person becomes registered within ten
15 days of receiving a notice of infraction and the notice of infraction
16 is for a first offense.

17 (4) Monetary penalties collected under this chapter shall be
18 deposited in the general fund.

19 **Sec. 18.** RCW 51.12.020 and 1991 c 324 s 18 and 1991 c 246 s 4 are
20 each reenacted and amended to read as follows:

21 The following are the only employments which shall not be included
22 within the mandatory coverage of this title:

23 (1) Any person employed as a domestic servant in a private home by
24 an employer who has less than two employees regularly employed forty or
25 more hours a week in such employment.

26 (2) Any person employed to do gardening, maintenance, or repair,
27 ~~((remodeling, or similar work))~~ in or about the private home of the
28 employer. For the purposes of this subsection, "maintenance" means the
29 work of keeping in proper condition, "repair" means to restore to sound
30 condition after damage, and "private home" means a person's place of
31 residence.

32 (3) A person whose employment is not in the course of the trade,
33 business, or profession of his or her employer and is not in or about
34 the private home of the employer.

35 (4) Any person performing services in return for aid or sustenance
36 only, received from any religious or charitable organization.

37 (5) Sole proprietors or partners.

1 (6) Any child under eighteen years of age employed by his or her
2 parent or parents in agricultural activities on the family farm.

3 (7) Jockeys while participating in or preparing horses for race
4 meets licensed by the Washington horse racing commission pursuant to
5 chapter 67.16 RCW.

6 (8)(a) Except as otherwise provided in (b) of this subsection, any
7 bona fide officer of a corporation voluntarily elected or voluntarily
8 appointed in accordance with the articles of incorporation or bylaws of
9 the corporation, who at all times during the period involved is also a
10 bona fide director, and who is also a shareholder of the corporation.
11 Only such officers who exercise substantial control in the daily
12 management of the corporation and whose primary responsibilities do not
13 include the performance of manual labor are included within this
14 subsection.

15 (b) Alternatively, a corporation that is not a "public company" as
16 defined in RCW 23B.01.400(~~(+19+)~~) (20) may exempt eight or fewer bona
17 fide officers, who are voluntarily elected or voluntarily appointed in
18 accordance with the articles of incorporation or bylaws of the
19 corporation and who exercise substantial control in the daily
20 management of the corporation, from coverage under this title without
21 regard to the officers' performance of manual labor if the exempted
22 officer is a shareholder of the corporation, or may exempt any number
23 of officers if all the exempted officers are related by blood within
24 the third degree or marriage. If a corporation that is not a "public
25 company" elects to be covered under subsection (8)(a) of this section,
26 the corporation's election must be made on a form prescribed by the
27 department and under such reasonable rules as the department may adopt.

28 (c) Determinations respecting the status of persons performing
29 services for a corporation shall be made, in part, by reference to
30 Title 23B RCW and to compliance by the corporation with its own
31 articles of incorporation and bylaws. For the purpose of determining
32 coverage under this title, substance shall control over form, and
33 mandatory coverage under this title shall extend to all workers of this
34 state, regardless of honorary titles conferred upon those actually
35 serving as workers.

36 (d) A corporation may elect to cover officers who are exempted by
37 this subsection in the manner provided by RCW 51.12.110.

38 (9) Services rendered by a musician or entertainer under a contract
39 with a purchaser of the services, for a specific engagement or

1 engagements when such musician or entertainer performs no other duties
2 for the purchaser and is not regularly and continuously employed by the
3 purchaser. A purchaser does not include the leader of a group or
4 recognized entity who employs other than on a casual basis musicians or
5 entertainers.

6 (10) Services performed by a newspaper carrier selling or
7 distributing newspapers on the street or from house to house.

8 (11) Services performed by an insurance agent, insurance broker, or
9 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
10 48.17.030, respectively.

11 (12) Services performed by a booth renter as defined in RCW
12 18.16.020. However, a person exempted under this subsection may elect
13 coverage under RCW 51.32.030.

14 NEW SECTION. **Sec. 19.** A new section is added to chapter 18.27 RCW
15 to read as follows:

16 Beginning December 1, 1997, the department shall report by December
17 1st each year to the commerce and labor committees of the senate and
18 house of representatives and the ways and means committee of the senate
19 and the appropriations committee of the house of representatives, or
20 successor committees, the following information for the previous three
21 fiscal years:

22 (1) The number of contractors found to have committed an infraction
23 for failure to register;

24 (2) The number of contractors identified in subsection (1) of this
25 section who were assessed a monetary penalty and the amount of the
26 penalties assessed;

27 (3) The amount of the penalties reported in subsection (2) of this
28 section that was collected; and

29 (4) The amount of the penalties reported in subsection (2) of this
30 section that was waived.

31 NEW SECTION. **Sec. 20.** RCW 18.27.140 and 1983 1st ex.s. c 2 s 21
32 & 1973 1st ex.s. c 161 s 2 are each repealed.

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