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SENATE BILL 5570

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State of Washington

55th Legislature

1997 Regular Session

By Senators Newhouse, Schow, Horn, Heavey, Franklin, Fraser and Oke; by request of Joint Task Force on Nonpayment of Employer Obligations

Read first time 01/31/97. 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 intentionally 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 for up to 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

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

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.48 RCW  
4 to read as follows:

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

6 (a) To knowingly make or cause to be made a false statement or  
7 representation of a material fact in a report, form, other written  
8 document, or electronic transmittal in connection with the  
9 determination of an obligation for payment of premiums or taxes, or the  
10 amount of premiums or taxes owed, under this title with an intent  
11 fraudulently to evade determination and payment of the premiums or  
12 taxes;

13 (b) To knowingly accept or cause acceptance of facts or assertions  
14 that contain a materially false statement or materially false  
15 information in connection with the determination of an obligation for  
16 payment of premiums or taxes, or the amount of premiums or taxes owed,  
17 under this title with an intent fraudulently to evade determination and  
18 payment of the premiums or taxes;

19 (c) Having knowledge of the occurrence of an event material to the  
20 initial or continuing determination of an obligation for payment of  
21 premiums or taxes or the amount of premiums or taxes owed under this  
22 title, to conceal or fail to disclose the event with an intent  
23 fraudulently to secure a determination that is for a lesser amount than  
24 is owed; or

25 (d) Having knowledge of the obligation to notify the department of  
26 information necessary for the determination and payment of premiums or  
27 taxes owed under this title, to conceal, or fail to file or disclose  
28 the information with an intent fraudulently to evade determination and  
29 payment of the premiums or taxes.

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

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

36 (b) Shall, upon conviction, be ordered by the court to pay the tax  
37 or premium due and owing, a penalty in the amount of one hundred  
38 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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