
SENATE BILL 6617

State of Washington 58th Legislature 2004 Regular Session

By Senators Kline, Keiser, Regala and Prentice

Read first time 01/27/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to penalties for corporate crimes; adding a new
2 chapter to Title 23B RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 corporate three strikes act.

6 NEW SECTION. **Sec. 2.** The legislature finds and declares all of
7 the following:

8 (1) The people of Washington have declared that the public safety
9 and welfare are priorities for them and critical to the preservation
10 and improvement of their quality of life. This declaration of policy
11 includes adoption of Initiative 593, to reduce threats to the enjoyment
12 of life and security by eliminating the ability of certain offenders to
13 repeat their victimization of the people and businesses of Washington.

14 (2) The principles of equity and consistency, as well as the goal
15 of improving public safety and welfare, require the extension of the
16 goals in Initiative 593 to another class of repeat offenders when the
17 consequences to the repeated offenses may not otherwise achieve a
18 sufficient deterrent or preventive effect to protect Washingtonians.

1 (3) The penalties available to the judiciary for criminal conduct
2 by corporations are restricted by the inability of the judicial system
3 to imprison a fictional person, generally leaving only temporary
4 monetary penalties as the practical method of punishment and deterrent
5 in cases of corporate criminal conduct. These penalties may not prove
6 to be sufficient in all cases, leading to an ongoing risk of harm to
7 public safety and welfare.

8 (4) Therefore, the legislature intends to expand the protections
9 afforded Washingtonians by establishing an additional set of
10 protections to be invoked only when existing remedies prove
11 insufficient to end the repeated commission of felonies by a limited
12 number of corporations conducting intrastate business in Washington.

13 NEW SECTION. **Sec. 3.** This chapter applies to the following
14 entities:

15 (1) Business corporations subject to Title 23B RCW;

16 (2) Nonprofit corporations and associations subject to Title 24
17 RCW, except those operating under chapter 24.12 RCW or operating
18 primarily or exclusively for any religious purposes;

19 (3) Partnerships and limited liability companies subject to Title
20 25 RCW.

21 NEW SECTION. **Sec. 4.** (1) An entity subject to this chapter is a
22 repeat offender if it has three or more strikes against it within any
23 ten-year period after the effective date of this act.

24 (a) For purposes of this chapter, a strike against a wholly owned
25 subsidiary shall also be considered a strike against the parent entity.
26 A strike against a predecessor entity shall be considered a strike
27 against the entity.

28 (b) For purposes of this chapter, the following terms shall have
29 the following meanings:

30 (i) "Conviction" means a conviction by a court of competent
31 jurisdiction in the United States, whether entered upon a verdict or a
32 plea, including a plea of nolo contendere.

33 (ii) "Felony crime" means a crime that is classified as a felony
34 under Washington law, a crime that would be classified as a felony
35 under Washington law if the crime was committed in Washington, or a

1 federal crime that is classified as a class A, B, C, D, or E felony in
2 the United States Code.

3 (iii) "Predecessor entity" means an entity subject to this chapter
4 for which a majority of its directors or officers at the time of a
5 strike are now directors or officers of the existing entity, as
6 determined by the secretary of state.

7 (iv) "Strike" means the conviction of a felony crime arising from
8 any violation of fraud, tax, bribery, extortion, consumer protection,
9 environmental protection, civil rights, labor, employment, antitrust,
10 political campaign, or finance law.

11 (2) A repeat offender shall not transact intrastate business in
12 Washington if its third or subsequent strike was a conviction by a
13 state or federal court in Washington or if the facts giving rise to the
14 third or subsequent strike occurred in Washington.

15 (3) An entity subject to this chapter shall not be incorporated,
16 formed, or transact intrastate business in Washington if a majority of
17 its directors or officers were directors or officers of a repeat
18 offender when it became subject to subsection (2) of this section, as
19 determined by the secretary of state after notice to the entity and an
20 opportunity for the entity to respond.

21 (4) An entity subject to this chapter shall not be incorporated,
22 formed, or transact intrastate business in Washington if it is legally
23 controlled by an entity with a majority of directors or officers who
24 were directors or officers of a repeat offender when it became subject
25 to subsection (2) of this section, as determined by the secretary of
26 state after notice to the entity and an opportunity for the entity to
27 respond.

28 (5) Multiple convictions arising out of the same facts and
29 circumstances and heard by the same court shall be considered one
30 conviction for purposes of this chapter.

31 NEW SECTION. **Sec. 5.** (1) An entity subject to this chapter that
32 is formed under the laws of this state or is qualified to transact
33 intrastate business in this state shall file with the secretary of
34 state an annual statement of any criminal convictions against the
35 entity during the previous year. No statement shall be filed if there
36 are no convictions to report.

1 (2) The secretary of state shall prescribe an electronic form for
2 submission of these statements and shall make them available to the
3 public in a timely fashion through the secretary's internet web site.
4 A statement shall be accessible on the web site of the secretary for a
5 minimum of ten years.

6 (3) If the entity is a wholly owned subsidiary of another entity,
7 the statement shall also indicate the following information:

8 (a) The parent entity's name.

9 (b) The parent entity's place of incorporation.

10 (4) Whether the parent entity is authorized to transact intrastate
11 business in Washington.

12 NEW SECTION. **Sec. 6.** (1) If a repeat offender is a corporation
13 formed under the laws of this state, and its third or subsequent strike
14 was a conviction by a state or federal court in Washington or if the
15 facts giving rise to the third or subsequent strike occurred in
16 Washington, the attorney general shall bring an action to dissolve the
17 corporation and provide for forfeiture of its corporate existence.

18 (2) If a repeat offender is a partnership or limited liability
19 company formed under the laws of this state, and its third or
20 subsequent strike was a conviction by a state or federal court in
21 Washington or if the facts giving rise to the third or subsequent
22 strike occurred in Washington, the attorney general shall bring an
23 action for unlawful exercise of a franchise.

24 (3) If an entity is subject to subsection (1) or (2) of this
25 section, the court may appoint a receiver to take over and manage the
26 business and affairs of the entity, and to preserve its property, until
27 final dissolution and forfeiture is complete. In the process of
28 dissolving and forfeiture, the court shall endeavor to assure, within
29 reason, that following dissolution and forfeiture existing jobs and
30 wages are not lost, to protect community interests and legitimate
31 investor interests, and to maintain the entity's obligations to protect
32 the health, safety, and environment of workers and the public.

33 NEW SECTION. **Sec. 7.** If a repeat offender is an entity formed
34 under the laws of a jurisdiction other than this state and is qualified
35 to transact intrastate business in this state, and its third or
36 subsequent strike was a conviction by a state or federal court in

1 Washington or if the facts giving rise to the conviction occurred in
2 Washington, the secretary of state shall, after a fair hearing and on
3 the basis of substantial evidence that the entity is a repeat offender,
4 order forfeiture of the entity's qualification to transact intrastate
5 business.

6 NEW SECTION. **Sec. 8.** (1) In addition to all other civil and
7 criminal remedies, an entity subject to this chapter that has committed
8 a first strike offense shall publish the details of its offense in a
9 full page statement in the largest newspaper of general circulation in
10 Washington.

11 (2) In addition to all other civil and criminal remedies, an entity
12 subject to this chapter that has committed a second strike offense
13 shall publish the details of its offense in a full page statement in
14 the six largest newspapers of general circulation in Washington.

15 NEW SECTION. **Sec. 9.** (1) A person may petition the attorney
16 general or the secretary of state to enforce this chapter against a
17 repeat offender or a first or second strike offender.

18 (2) If the attorney general or the secretary of state rejects the
19 petition, or fails to act within one hundred eighty days of the
20 submission of the petition, a person may bring an action for a writ of
21 mandate to compel enforcement of this chapter.

22 (3) The person bringing the action for writ of mandate shall be
23 entitled to an award of costs and reasonable attorneys' fees if he or
24 she is the prevailing party.

25 NEW SECTION. **Sec. 10.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
30 constitute a new chapter in Title 23B RCW.

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