
SUBSTITUTE SENATE BILL 6575

State of Washington

61st Legislature

2010 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Keiser, Kline, Franklin, and McDermott)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to recommendations of the joint legislative task
2 force on the underground economy; amending RCW 18.27.340, 18.27.070,
3 and 18.27.020; reenacting and amending RCW 60.28.040; adding new
4 sections to chapter 18.27 RCW; prescribing penalties; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 18.27.340 and 1997 c 314 s 17 are each amended to read
8 as follows:

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

13 (2) The director may waive collection in favor of payment of
14 restitution to a consumer complainant.

15 (3) A contractor found to have committed an infraction under RCW
16 18.27.200 for failure to register shall be assessed a fine of not less
17 than one thousand dollars, nor more than five thousand dollars. For a
18 first offense, the director may reduce the penalty for failure to
19 register, but in no case below five hundred dollars, if the person:

1 Becomes registered within ten days of receiving a notice of infraction
2 ((and the notice of infraction is for a first offense)); and registers
3 for a department-approved contractor training class under section 2 of
4 this act within ten days of receiving a notice of infraction, completes
5 the class within one hundred twenty days of receiving the notice of
6 infraction, and pays any required class fees upon class registration.

7 (4) Until July 1, 2011, monetary penalties collected under this
8 chapter shall be deposited in the general fund. Beginning July 1,
9 2011, monetary penalties and class fees collected under this chapter
10 shall be deposited in the contractor registration account.

11 NEW SECTION. Sec. 2. A new section is added to chapter 18.27 RCW
12 to read as follows:

13 The department will approve or conduct contractor training classes
14 and charge a fee, payable upon class registration, that covers the
15 costs of administering the class. The department may adopt rules
16 relating to the number of classes to be offered by the department, the
17 locations of these classes, class fees, and curriculum. In determining
18 the locations of these classes, the department may consider offering
19 online classes and ensure that classes are reasonably accessible in
20 eastern and western Washington.

21 **Sec. 3.** RCW 18.27.070 and 1997 c 314 s 7 are each amended to read
22 as follows:

23 (1) The department shall charge fees for issuance, renewal, and
24 reinstatement of certificates of registration; and changes of name,
25 address, or business structure. The department shall set the fees by
26 rule.

27 (2) The entire amount of the fees are to be used solely to cover
28 the full cost of issuing certificates, filing papers and notices, and
29 administering and enforcing this chapter. The costs shall include
30 reproduction, travel, per diem, and administrative and legal support
31 costs.

32 (3) The department shall deposit all fees in the contractor
33 registration account.

34 NEW SECTION. Sec. 4. A new section is added to chapter 18.27 RCW
35 to read as follows:

1 The contractor registration account is created in the state
2 treasury. The department shall deposit in the account all moneys from
3 registrations, renewals, or civil penalties assessed and collected
4 under this chapter. Appropriations from the account may be made only
5 for the purposes of administration of the chapter, including conducting
6 contractor training classes under section 2 of this act.

7 **Sec. 5.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are
8 each reenacted and amended to read as follows:

9 (1) Subject to subsection (5) of this section, the amount of all
10 taxes, increases, and penalties due or to become due under Title 82
11 RCW, from a contractor or the contractor's successors or assignees with
12 respect to a public improvement contract wherein the contract price is
13 thirty-five thousand dollars or more, shall be a lien prior to all
14 other liens upon the amount of the retained percentage withheld by the
15 disbursing officer under such contract.

16 (2) Subject to subsection (5) of this section, after payment of all
17 taxes, increases, and penalties due or to become due under Title 82
18 RCW, from a contractor or the contractor's successors or assignees with
19 respect to a public improvement contract wherein the contract price is
20 (~~twenty~~) thirty-five thousand dollars or more, the amount of all
21 other taxes, increases, and penalties under Title 82 RCW, due and owing
22 from the contractor, shall be a lien prior to all other liens upon the
23 amount of the retained percentage withheld by the disbursing officer
24 under such contract.

25 (3) Subject to subsection (5) of this section, after payment of all
26 taxes, increases, and penalties due or to become due under Title 82
27 RCW, the amount of all taxes, increases, and penalties due or to become
28 due under Titles 50 and 51 RCW from the contractor or the contractor's
29 successors or assignees with respect to a public improvement contract
30 wherein the contract price is (~~twenty~~) thirty-five thousand dollars
31 or more, shall be a lien prior to all other liens upon the amount of
32 the retained percentage withheld by the disbursing officer under such
33 contract.

34 (4) Subject to subsection (5) of this section, the amount of all
35 other taxes, increases, and penalties due and owing from the contractor
36 shall be a lien upon the balance of such retained percentage remaining

1 in the possession of the disbursing officer after all other statutory
2 lien claims have been paid.

3 (5) The employees of a contractor or the contractor's successors or
4 assignees who have not been paid the prevailing wage under such a
5 public improvement contract shall have a first priority lien against
6 the bond or retainage prior to all other liens.

7 **Sec. 6.** RCW 18.27.020 and 2007 c 436 s 2 are each amended to read
8 as follows:

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

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

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

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

16 (c) Use a false or expired registration number in purchasing or
17 offering to purchase an advertisement for which a contractor
18 registration number is required;

19 (d) Transfer a valid registration to an unregistered contractor or
20 allow an unregistered contractor to work under a registration issued to
21 another contractor; or

22 (e) Subcontract to or use an unregistered contractor.

23 (3) It is not unlawful for a registered contractor to employ an
24 unregistered contractor who was registered at the time he or she
25 entered into a contract with the registered contractor, unless the
26 registered contractor or his or her representative has been notified in
27 writing by the department of labor and industries that the contractor
28 has become unregistered.

29 (4) All gross misdemeanor actions under this chapter shall be
30 prosecuted in the county where the infraction occurs.

31 (5) A person is guilty of a separate gross misdemeanor for each day
32 worked if, after the person receives a (~~citation~~) notice of
33 infraction from the department, the person works while unregistered, or
34 while his or her registration is suspended or revoked, or works under
35 a registration issued to another contractor. A person is guilty of a
36 separate gross misdemeanor for each worksite on which he or she

1 violates subsection (2) of this section. Nothing in this subsection
2 applies to a registered contractor.

3 (6) A person is guilty of a class C felony if, after receiving a
4 third or subsequent final infraction for working as a contractor while
5 unregistered, while his or her registration is suspended or revoked, or
6 under a registration issued to another contractor, he or she works as
7 a contractor while unregistered, while his or her registration is
8 suspended or revoked, or under a registration issued to another
9 contractor.

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

18 NEW SECTION. **Sec. 7.** Sections 3 and 4 of this act take effect
19 July 1, 2011.

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