
SUBSTITUTE HOUSE BILL 1175

State of Washington

64th Legislature

2015 Regular Session

By House Public Safety (originally sponsored by Representatives Van De Wege, S. Hunt, Pettigrew, Moeller, Tharinger, Bergquist, Fitzgibbon, Tarleton, Gregerson, Ormsby, Ryu, Stanford, Walkinshaw, and Farrell)

READ FIRST TIME 02/18/15.

1 AN ACT Relating to creating a penalty for concealing the source
2 of a campaign contribution; amending RCW 42.17A.750, 42.17A.755, and
3 42.17A.765; and prescribing penalties.

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

5 **Sec. 1.** RCW 42.17A.750 and 2013 c 166 s 1 are each amended to
6 read as follows:

7 (1) In addition to the penalties in subsection (2) of this
8 section, and any other remedies provided by law, one or more of the
9 following civil remedies and sanctions may be imposed by court order
10 (~~in addition to any other remedies provided by law~~):

11 (a) If the court finds that the violation of any provision of
12 this chapter by any candidate or political committee probably
13 affected the outcome of any election, the result of that election may
14 be held void and a special election held within sixty days of the
15 finding. Any action to void an election shall be commenced within one
16 year of the date of the election in question. It is intended that
17 this remedy be imposed freely in all appropriate cases to protect the
18 right of the electorate to an informed and knowledgeable vote.

19 (b) If any lobbyist or sponsor of any grass roots lobbying
20 campaign violates any of the provisions of this chapter, his or her
21 registration may be revoked or suspended and he or she may be

1 enjoined from receiving compensation or making expenditures for
2 lobbying. The imposition of a sanction shall not excuse the lobbyist
3 from filing statements and reports required by this chapter.

4 (c) A person who violates any of the provisions of this chapter
5 may be subject to a civil penalty of not more than ten thousand
6 dollars for each violation. However, a person or entity who violates
7 RCW 42.17A.405 may be subject to a civil penalty of ten thousand
8 dollars or three times the amount of the contribution illegally made
9 or accepted, whichever is greater.

10 (d) A person who fails to file a properly completed statement or
11 report within the time required by this chapter may be subject to a
12 civil penalty of ten dollars per day for each day each delinquency
13 continues.

14 (e) Each state agency director who knowingly fails to file
15 statements required by RCW 42.17A.635 shall be subject to personal
16 liability in the form of a civil penalty in the amount of one hundred
17 dollars per statement. These penalties are in addition to any other
18 civil remedies or sanctions imposed on the agency.

19 (f) A person who fails to report a contribution or expenditure as
20 required by this chapter may be subject to a civil penalty equivalent
21 to the amount not reported as required.

22 (g) Any state agency official, officer, or employee who is
23 responsible for or knowingly directs or expends public funds in
24 violation of RCW 42.17A.635 (2) or (3) may be subject to personal
25 liability in the form of a civil penalty in an amount that is at
26 least equivalent to the amount of public funds expended in the
27 violation.

28 (h) The court may enjoin any person to prevent the doing of any
29 act herein prohibited, or to compel the performance of any act
30 required herein.

31 ~~((The commission may refer the following violations for~~
32 ~~criminal prosecution)) In addition to the penalties in subsection (1)
33 of this section, and any other remedies provided by law, a court may
34 impose criminal penalties under the following circumstances:~~

35 (a) A person who ~~((, with actual malice, violates a provision of~~
36 ~~this chapter)) intentionally violates a contribution limit provided
37 in RCW 42.17A.405 or 42.17A.410 is guilty of a misdemeanor under
38 chapter 9.92 RCW;~~

39 (b) A person who, within a five-year period, ~~((with actual~~
40 ~~malice,)) intentionally violates ~~((three)) one or more provisions of~~~~

1 this chapter on three separate occasions is guilty of a gross
2 misdemeanor under chapter 9.92 RCW; (~~and~~)

3 (c) A person who intentionally violates RCW 42.17A.435 is guilty
4 of a misdemeanor offense punishable under chapter 9A.20 RCW. A second
5 or subsequent offense is a gross misdemeanor offense punishable under
6 chapter 9A.20 RCW; and

7 (d) A person who (~~, with actual malice,~~) intentionally procures
8 or offers any false or forged document to be filed, registered, or
9 recorded with the commission under this chapter is guilty of a class
10 C felony under chapter 9.94A RCW.

11 **Sec. 2.** RCW 42.17A.755 and 2011 c 145 s 7 are each amended to
12 read as follows:

13 (1) The commission may (a) determine whether an actual violation
14 of this chapter has occurred; and (b) issue and enforce an
15 appropriate order following such a determination.

16 (2) The commission, in cases where it chooses to determine
17 whether an actual violation has occurred, shall hold a hearing
18 pursuant to the administrative procedure act, chapter 34.05 RCW, to
19 make a determination. Any order that the commission issues under this
20 section shall be pursuant to such a hearing.

21 (3) In lieu of holding a hearing or issuing an order under this
22 section, the commission may refer (~~the matter~~) an apparent
23 violation of this chapter to the attorney general or other law
24 enforcement agency as provided in RCW 42.17A.105 when it has reason
25 to believe the commission's administrative remedies provided in this
26 section would not be adequate to address the seriousness of the
27 alleged violations. In the event the attorney general or other law
28 enforcement agency declines to bring an action under RCW
29 42.17A.765(1), the commission may proceed under subsection (1) of
30 this section.

31 (4) The person against whom an order is directed under this
32 section shall be designated as the respondent. The order may require
33 the respondent to cease and desist from the activity that constitutes
34 a violation and in addition, or alternatively, may impose one or more
35 of the remedies provided in RCW 42.17A.750(1) (b) through (~~(e)~~)
36 (f). The commission may assess a penalty in an amount not to exceed
37 ten thousand dollars.

38 (5) The commission has the authority to waive a fine for a first-
39 time violation. A second violation of the same rule by the same

1 person or individual, regardless if the person or individual
2 committed the violation for a different political committee, shall
3 result in a fine. Succeeding violations of the same rule shall result
4 in successively increased fines.

5 (6) An order issued by the commission under this section shall be
6 subject to judicial review under the administrative procedure act,
7 chapter 34.05 RCW. If the commission's order is not satisfied and no
8 petition for review is filed within thirty days, the commission may
9 petition a court of competent jurisdiction of any county in which a
10 petition for review could be filed under that section, for an order
11 of enforcement. Proceedings in connection with the commission's
12 petition shall be in accordance with RCW 42.17A.760.

13 **Sec. 3.** RCW 42.17A.765 and 2010 c 204 s 1004 are each amended to
14 read as follows:

15 (1) The attorney general and the prosecuting authorities of
16 political subdivisions of this state may bring civil or criminal
17 actions in the name of the state for any appropriate (~~(civil)~~)
18 remedy, including but not limited to the special remedies provided in
19 RCW 42.17A.750.

20 (2) The attorney general and the prosecuting authorities of
21 political subdivisions of this state may investigate or cause to be
22 investigated the activities of any person who there is reason to
23 believe is or has been acting in violation of this chapter, and may
24 require any such person or any other person reasonably believed to
25 have information concerning the activities of such person to appear
26 at a time and place designated in the county in which such person
27 resides or is found, to give such information under oath and to
28 produce all accounts, bills, receipts, books, paper and documents
29 which may be relevant or material to any investigation authorized
30 under this chapter.

31 (3) When the attorney general or the prosecuting authority of any
32 political subdivision of this state requires the attendance of any
33 person to obtain such information or produce the accounts, bills,
34 receipts, books, papers, and documents that may be relevant or
35 material to any investigation authorized under this chapter, he or
36 she shall issue an order setting forth the time when and the place
37 where attendance is required and shall cause the same to be delivered
38 to or sent by registered mail to the person at least fourteen days
39 before the date fixed for attendance. The order shall have the same

1 force and effect as a subpoena, shall be effective statewide, and,
2 upon application of the attorney general or the prosecuting
3 authority, obedience to the order may be enforced by any superior
4 court judge in the county where the person receiving it resides or is
5 found, in the same manner as though the order were a subpoena. The
6 court, after hearing, for good cause, and upon application of any
7 person aggrieved by the order, shall have the right to alter, amend,
8 revise, suspend, or postpone all or any part of its provisions. In
9 any case where the order is not enforced by the court according to
10 its terms, the reasons for the court's actions shall be clearly
11 stated in writing, and the action shall be subject to review by the
12 appellate courts by certiorari or other appropriate proceeding.

13 (4) A person who has notified the attorney general and the
14 prosecuting attorney in the county in which the violation occurred in
15 writing that there is reason to believe that some provision of this
16 chapter is being or has been violated may himself or herself bring in
17 the name of the state any of the civil actions (hereinafter referred
18 to as a citizen's action) authorized under this chapter.

19 (a) This citizen action may be brought only if:

20 (i) The attorney general and the prosecuting attorney have failed
21 to commence an action hereunder within forty-five days after the
22 notice;

23 (ii) The person has thereafter further notified the attorney
24 general and prosecuting attorney that the person will commence a
25 citizen's action within ten days upon their failure to do so;

26 (iii) The attorney general and the prosecuting attorney have in
27 fact failed to bring such action within ten days of receipt of said
28 second notice; and

29 (iv) The citizen's action is filed within two years after the
30 date when the alleged violation occurred.

31 (b) If the person who brings the citizen's action prevails, the
32 judgment awarded shall escheat to the state, but he or she shall be
33 entitled to be reimbursed by the state of Washington for costs and
34 attorneys' fees he or she has incurred. In the case of a citizen's
35 action that is dismissed and that the court also finds was brought
36 without reasonable cause, the court may order the person commencing
37 the action to pay all costs of trial and reasonable attorneys' fees
38 incurred by the defendant.

39 (5) In any action brought under this section, the court may award
40 to the state all costs of investigation and trial, including

1 reasonable attorneys' fees to be fixed by the court. If the violation
2 is found to have been intentional, the amount of the judgment, which
3 shall for this purpose include the costs, may be trebled as punitive
4 damages. If damages or trebled damages are awarded in such an action
5 brought against a lobbyist, the judgment may be awarded against the
6 lobbyist, and the lobbyist's employer or employers joined as
7 defendants, jointly, severally, or both. If the defendant prevails,
8 he or she shall be awarded all costs of trial, and may be awarded
9 reasonable attorneys' fees to be fixed by the court to be paid by the
10 state of Washington.

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