

---

SUBSTITUTE HOUSE BILL 2362

---

State of Washington

65th Legislature

2018 Regular Session

**By** House Public Safety (originally sponsored by Representatives Pellicciotti, Sawyer, Robinson, Dolan, Chapman, Kilduff, Stanford, Macri, Ryu, Ormsby, and Doglio)

READ FIRST TIME 01/29/18.

1 AN ACT Relating to crime committed by business entities; amending  
2 RCW 9A.08.030, 10.01.070, 10.01.090, and 10.01.100; and prescribing  
3 penalties.

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

5 **Sec. 1.** RCW 9A.08.030 and 2011 c 336 s 352 are each amended to  
6 read as follows:

7 (1) As used in this section:

8 (a) "Agent" means any director, officer, or employee of a  
9 (~~corporation~~) business entity, or any other person who is  
10 authorized to act on behalf of the (~~corporation~~) business entity;

11 (b) (~~"Corporation"~~) "Business entity" includes (~~a joint stock~~  
12 ~~association~~) any domestic entity formed under or governed as to its  
13 internal affairs by Title 23, 23B, or 25 RCW, or chapter 24.06 RCW,  
14 or any foreign business entity formed under or governed as to its  
15 internal affairs by the laws of a jurisdiction other than this state;

16 (c) "High managerial agent" means an officer or director of a  
17 (~~corporation~~) business entity or any other agent in a position of  
18 comparable authority (~~with respect to the formulation of corporate~~  
19 ~~policy or the supervision~~) to exercise the powers of the business  
20 entity and manage the affairs and activities of the business entity

1 or to exercise supervision in a managerial capacity of subordinate  
2 employees.

3 (2) A (~~corporation~~) business entity is guilty of an offense  
4 when:

5 (a) The conduct constituting the offense consists of an omission  
6 to discharge a specific duty of performance imposed on  
7 (~~corporations~~) business entities by law; or

8 (b) The conduct constituting the offense is engaged in,  
9 authorized, solicited, requested, commanded, or tolerated by (~~the~~  
10 ~~board of directors or by~~) a high managerial agent acting within the  
11 scope of his or her employment and on behalf of the (~~corporation~~)  
12 business entity; or

13 (c) The conduct constituting the offense is engaged in by an  
14 agent of the (~~corporation~~) business entity, other than a high  
15 managerial agent, while acting within the scope of his or her  
16 employment and (~~in~~) on behalf of the (~~corporation~~) business  
17 entity and (i) the offense is a gross misdemeanor or misdemeanor, or  
18 (ii) the offense is one defined by a statute which clearly indicates  
19 a legislative intent to impose such criminal liability on a  
20 (~~corporation~~) business entity.

21 (3) A person is criminally liable for conduct constituting an  
22 offense which he or she performs or causes to be performed in the  
23 name of or on behalf of a (~~corporation~~) business entity to the same  
24 extent as if such conduct were performed in his or her own name or  
25 behalf.

26 (4) Whenever a duty to act is imposed by law upon a  
27 (~~corporation~~) business entity, any agent of the (~~corporation~~)  
28 business entity who knows he or she has or shares primary  
29 responsibility for the discharge of the duty is criminally liable for  
30 a reckless omission or, if a high managerial agent, criminally  
31 negligent omission to perform the required act to the same extent as  
32 if the duty were by law imposed directly upon such agent.

33 (5) Every (~~corporation~~) business entity, whether foreign or  
34 domestic, which shall violate any provision of RCW 9A.28.040, shall  
35 forfeit every right and franchise to do business in this state. The  
36 attorney general shall begin and conduct all actions and proceedings  
37 necessary to enforce the provisions of this subsection.

38 **Sec. 2.** RCW 10.01.070 and 1987 c 202 s 147 are each amended to  
39 read as follows:

1       (1) Whenever an indictment or information shall be filed in any  
2 superior court against a (~~corporation~~) business entity charging it  
3 with the commission of a crime, a summons shall be issued by the  
4 clerk of such court, signed by one of the judges thereof, commanding  
5 the sheriff forthwith to notify the accused thereof, and commanding  
6 it to appear before such court at such time as shall be specified in  
7 said summons. Such summons and a copy of the indictment or  
8 information shall be at once delivered by such clerk to said sheriff  
9 and by the sheriff forthwith served and returned in the manner  
10 provided for service of summons upon such (~~corporation~~) business  
11 entity in a civil action. Whenever a complaint against a  
12 (~~corporation~~) business entity, charging it with the commission of a  
13 crime, shall be made before any district or municipal judge, a like  
14 summons, signed by such judge, shall be issued, which, together with  
15 a copy of said complaint, shall be delivered to the sheriff at once  
16 and by the sheriff forthwith served as herein provided.

17       (2) For the purposes of this section, "business entity" has the  
18 same meaning as provided in RCW 9A.08.030.

19       **Sec. 3.** RCW 10.01.090 and 1987 c 202 s 148 are each amended to  
20 read as follows:

21       (~~If the corporation shall be found guilty and a fine imposed,~~  
22 ~~it~~) (1) A business entity convicted of an offense may be ordered to  
23 pay legal financial obligations, including restitution, crime  
24 victims' assessments, costs, fines, penalties, and other assessments  
25 authorized or required by law. Legal financial obligations imposed  
26 upon a business entity shall be entered and docketed by the clerk, or  
27 district or municipal court as a judgment against the (~~corporation~~)  
28 business entity, and it shall be of the same force and effect and be  
29 enforced against such (~~corporation~~) business entity in the same  
30 manner as a judgment in a civil action. When a business entity is  
31 ordered to pay restitution, payments to the clerk must be distributed  
32 to restitution prior to all other obligations. Legal financial  
33 obligations imposed upon a business entity are subject to the same  
34 requirements as those imposed upon a person convicted of an offense,  
35 as provided in chapter 9.94A RCW, this title, and other sections  
36 pertaining to legal financial obligations.

37       (2) For the purposes of this section, "business entity" has the  
38 same meaning as provided in RCW 9A.08.030.

1       **Sec. 4.** RCW 10.01.100 and 1925 ex.s. c 101 s 1 are each amended  
2 to read as follows:

3       ~~((Every corporation guilty of a violation of any law of the state  
4 of Washington, where the prescribed penalty is, for any reason,  
5 incapable of execution or enforcement against such corporation, shall  
6 be punished by a fine of not more than ten thousand dollars, if such  
7 offense is a felony; or, by a fine of not more than one thousand  
8 dollars if such offense is a gross misdemeanor; or, by a fine of not  
9 more than five hundred dollars if such offense is a misdemeanor.))~~

10 (1) When imposed on a business entity for any criminal offense for  
11 which no special business fine is specified, a sentence to pay a fine  
12 may not exceed:

13       (a) One million dollars for a class A or B felony;

14       (b) Seven hundred fifty thousand dollars for a class C felony;

15       (c) Two hundred fifty thousand dollars for a gross misdemeanor;

16 and

17       (d) Fifty thousand dollars for a misdemeanor.

18       (2) If a special fine for business entities is expressly  
19 specified in the statute that defines an offense, the fine fixed must  
20 be within the limits specified in the statute.

21       (3) For the purposes of this section, "business entity" has the  
22 same meaning as provided in RCW 9A.08.030.

--- END ---