

FINAL BILL REPORT

HB 1252

C 211 L 19

Synopsis as Enacted

Brief Description: Concerning crime committed by business entities.

Sponsors: Representatives Pellicciotti, Klippert, Dolan, Valdez, Orwall, Pollet, Riccelli, Goodman, Kilduff, Bergquist, Robinson, Doglio, Macri, Appleton, Hudgins, Peterson, Fitzgibbon, Stonier, Lovick, Jinkins, Tharinger, Stanford, Senn, Leavitt, Slatter, Chapman, Frame, Fey and Wylie.

House Committee on Public Safety
Senate Committee on Law & Justice

Background:

Crimes Committed by Corporations. The Washington Criminal Code (Criminal Code) contains criminal standards for corporate liability. In the Criminal Code, a "corporation" includes any joint stock association. A "high managerial agent" means an officer or director of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

A corporation is guilty of an offense when one of the following applies:

- the conduct constituting the offense consists of an omission to discharge a specific duty of performance imposed on corporations by law;
- the conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by the board of directors or by a high managerial agent acting within the scope of his or her employment and on behalf of the corporation; or
- the conduct constituting the offense is engaged in by an agent of the corporation, other than a high managerial agent, while acting within the scope of his or her employment and on behalf of the corporation and:
 - the offense is a gross misdemeanor or misdemeanor; or
 - the offense is one defined by a statute that clearly indicates a legislative intent to impose such criminal liability on a corporation.

An individual is criminally liable for conduct constituting an offense which he or she performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in his or her own name or on his or her behalf. In

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addition, whenever a duty to act is legally imposed upon a corporation, any agent who knows he or she has or shares primary responsibility for the duty is criminally liable for a reckless or, if a high managerial agent, a criminally negligent omission to perform the required act to the same extent as if the duty were imposed directly upon the agent.

Every corporation convicted of criminal conspiracy to commit any offense forfeits the right to do business in Washington. The Office of the Attorney General is required to conduct proceedings to enforce the requirement relating to forfeiture of business rights.

Classification of Crimes and Fines. Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement for the offender within the statutory maximum.

Other maximum fines are established for corporations convicted of crimes in some circumstances. If a prescribed penalty is unable to be executed or enforced against a corporation, the maximum fines are as follows:

<u>Classification</u>	<u>Maximum Fine</u>
Misdemeanor	\$500
Gross Misdemeanor	\$1,000
Felony	\$10,000

If a corporation is found guilty of an offense and the court imposes a fine, the judgment is enforced in the same manner as a civil judgment.

Summary:

The criminal liability standards for corporations are modified and updated to include business and nonprofit entities, including any domestic entity formed under or governed as to its internal affairs by specified statutes, or any foreign business entity formed under or governed as to its internal affairs by the laws of a jurisdiction other than this state. Entities governed by the specified statutes include, for example, business corporations, limited liability companies, partnerships, limited partnerships, and nonprofit corporations and associations.

The definition of "high managerial agent" is modified, and means a governor or person in a position of comparable authority in an entity not governed by the Uniform Business Organizations Code, and any other agent who manages subordinate employees.

The fines established for corporations convicted of offenses are expanded to include business and nonprofit entities. The maximum thresholds for fines are increased. Except where a special fine for entities is expressly specified for an offense, the maximum fines for entities are as follows:

<u>Classification</u>	<u>Maximum Fine</u>
Misdemeanor	\$50,000
Gross Misdemeanor	\$250,000
Class C Felony	\$500,000
Class B Felony	\$750,000
Class A Felony	\$1,000,000

An entity convicted of an offense may be ordered to pay legal financial obligations (LFOs), including restitution, crime victims' assessments, costs, fines, penalties, and other assessments authorized or required by law. Legal financial obligations bear interest from the date of the judgment until payment at the rate applicable to civil judgments. Payments on LFOs must be distributed to restitution prior to all other obligations. Payments must be collected and distributed according to current requirements applicable to LFOs imposed as a result of a criminal conviction.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: July 28, 2014