
SECOND SUBSTITUTE SENATE BILL 6575

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kohl-Welles, Keiser, Kline, Franklin, and McDermott)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to recommendations of the joint legislative task
2 force on the underground economy; amending RCW 18.27.340 and 18.27.020;
3 reenacting and amending RCW 60.28.040; adding a new section to chapter
4 18.27 RCW; and prescribing penalties.

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

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

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

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

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

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

6 (4) Monetary penalties collected under this chapter shall be
7 deposited in the general fund.

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

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

18 **Sec. 3.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are
19 each reenacted and amended to read as follows:

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

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

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

10 (4) Subject to subsection (5) of this section, the amount of all
11 other taxes, increases, and penalties due and owing from the contractor
12 shall be a lien upon the balance of such retained percentage remaining
13 in the possession of the disbursing officer after all other statutory
14 lien claims have been paid.

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

19 **Sec. 4.** RCW 18.27.020 and 2007 c 436 s 2 are each amended to read
20 as follows:

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

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

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

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

28 (c) Use a false or expired registration number in purchasing or
29 offering to purchase an advertisement for which a contractor
30 registration number is required;

31 (d) Transfer a valid registration to an unregistered contractor or
32 allow an unregistered contractor to work under a registration issued to
33 another contractor; or

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

35 (3) It is not unlawful for a registered contractor to employ an
36 unregistered contractor who was registered at the time he or she
37 entered into a contract with the registered contractor, unless the

1 registered contractor or his or her representative has been notified in
2 writing by the department of labor and industries that the contractor
3 has become unregistered.

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

6 (5) A person is guilty of a separate gross misdemeanor for each day
7 worked if, after the person receives a (~~citation~~) notice of
8 infraction from the department, the person works while unregistered, or
9 while his or her registration is suspended or revoked, or works under
10 a registration issued to another contractor. A person is guilty of a
11 separate gross misdemeanor for each worksite on which he or she
12 violates subsection (2) of this section. Nothing in this subsection
13 applies to a registered contractor.

14 (6) A person is guilty of a class C felony if, after receiving a
15 third or subsequent final infraction for working as a contractor while
16 unregistered, while his or her registration is suspended or revoked, or
17 under a registration issued to another contractor, he or she works as
18 a contractor while unregistered, while his or her registration is
19 suspended or revoked, or under a registration issued to another
20 contractor.

21 (7) The director by rule shall establish a two-year audit and
22 monitoring program for a contractor not registered under this chapter
23 who becomes registered after receiving an infraction or conviction
24 under this chapter as an unregistered contractor. The director shall
25 notify the departments of revenue and employment security of the
26 infractions or convictions and shall cooperate with these departments
27 to determine whether any taxes or registration, license, or other fees
28 or penalties are owed the state.

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