

General Contractor Responsibility

General Contractor Obligation to Oversee Subcontractors for Wage and Benefit Theft

Wage and Benefit theft is a serious problem for workers in the construction industry in Washington State and across the nation. Study after study has shown that the construction industry has problems of wage/benefit theft and illegal practices in the “underground economy.” In the ten most populous states, construction workers lose 22.9 % of their income to wage theft.

Wage theft comes along with other illegal activity in the construction industry. Besides wages and overtime, contractors committing wage theft often fail to pay employee benefits, unemployment insurance, workers compensation premiums and proper business taxes to state and local municipalities. Law abiding contractors that employ domestic workers are repeatedly underbid by law-breakers who shave up to 30 percent off their labor costs. When this is allowed, it pushes honest companies out of the market and depresses wages for workers.

Contractors who use unscrupulous subcontractors and labor brokers to unfairly lower their costs and evade the law must face accountability if this is going to stop. If a subcontractor or labor broker gets caught, the Contractor finds another to do the same; often the original bad actor under a new business name or the subcontractor goes out of business leaving wages and benefits owed unpaid while the Contractors that use them profit.

Profits made by breaking wage and benefit laws are huge. Self-policing in the industry has broken down, and law enforcement cannot keep up.

WHAT THE BILL DOES

- ▶ The bill modernizes the law to address new and complicated marketplace abuses and ensures that honest business competes on a level playing field.
- ▶ This bill is a construction industry solution that fits the unique nature of our industry. Contractors who use wage and benefit stealing subcontractors (including labor brokers) are liable for any unpaid wages and employment benefits.
- ▶ In the bill, a “direct contractor” is any Contractor that is contracting directly from an Owner. On a job where there is a General Contractor, the “direct contractor” would be the General Contractor (GC). Where there is a Construction Manager, the “direct contractor,” for example, would be the first-tier interior-systems subcontractor.
- ▶ Contractors and subcontractors are given time to settle a dispute before a joint Labor/Management Committee can file a civil action. The Committee must provide 30 days notice before bringing suit.
- ▶ The Director of Labor and Industries or a jointly-managed Labor/Management Committee can bring a civil lawsuit to collect the unpaid wages, benefits, and penalties. The jointly-managed Labor/Management Committee can collect expert witness fees.
- ▶ If employee benefits are unpaid, under the bill, a third party owed contributions can sue and can collect the unpaid benefits, reasonable attorney’s fees and expert witness fees. Cheating Contractors usually skip out on benefit payments as well as wages.
- ▶ Government enforcement is primarily through the state Department of Labor and Industries.
- ▶ Contractors can solve wage and benefit problems before they become acute by given authority to collect contract bid, wage and benefit payment records from subcontractors of any tier.

WHAT THE BILL DOES NOT DO

- ▶ Homeowners would not be liable.
- ▶ It does not absolve the Contractor from their responsibility to pay subcontractors.
- ▶ There is no attachment of the Contractor’s property until after a trial to satisfy a Court’s judgment. Even then, an attachment is a possibility, not a certainty.
- ▶ It does not interfere with any contractual remedy the Contractor may have to be reimbursed for any damages, penalties or fees paid.
- ▶ Contractors are not ambushed with claims years after a job is completed. Claims must be made within a year of the job’s completion.



LEARN HOW YOU CAN GET INVOLVED, CONTACT:

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REFERENCES

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