

Contractor Compliance Activity

2008 Report to the Legislature

As required by RCW 18.27.342

*“Protecting consumers and adding a
competitive advantage to
responsible contractors as a means of
leveling the playing field”*

December 2008



Introduction

The purpose of this report is to respond to the requirement in RCW 18.27.342 that the Department of Labor and Industries (L&I) report each year by December 1 to the Legislature on specific contractor information. The RCW reads:

Beginning December 1, 1997, the department shall report by December 1st each year to the commerce and labor committees of the senate and house of representatives and the ways and means committee of the senate and the appropriations committee of the house of representatives, or successor committees, the following information for the previous three fiscal years:

(1) The number of contractors found to have committed an infraction for failure to register;

(2) The number of contractors identified in subsection (1) of this section who were assessed a monetary penalty and the amount of the penalties assessed;

(3) The amount of the penalties reported in subsection (2) of this section that was collected; and

(4) The amount of the penalties reported in subsection (2) of this section that was waived.

Brief Summary

L&I is committed to improving consumer protection and leveling the playing field for legitimate contractors by informing and educating consumers, providing timely and customer focused services such as Internet registration, and actively enforcing the law. The following is a summary of the information in this report.

Table 1: Construction Contractor Failure to Register

Construction Contractor Failure to Register	FY 06	FY 07	FY 08
Number found committing an infraction	1,000	1,431	1,538
Of those found committing an infraction; those also assessed a monetary penalty	1,000	1,431	1,538
Monetary penalty assessed	\$1,408,100	\$1,674,500	\$1,892,950
Penalties collected	\$379,814	\$289,498	\$357,840
Penalties waived	\$0*	\$86,500*	\$122,678*

* From the effective date of 1997 legislation (July 27, 1997), the law no longer permits penalties to be waived entirely. This chart represents penalty reductions for contractors that come into compliance within ten days. For further clarification, see page 5.

Background

Consumer protection issues related to construction contractors, such as failure to register and purchase appropriate bonding, continue to receive significant attention from the news media and the Legislature. The exploitation of consumers by unscrupulous and illegal construction contractors has made the news several times this past year. Along with exploiting consumers, illegal contractors operating without the normal business overhead costs (including contractor registration, bonding, and insurance) make it difficult for legal contractors to compete when bidding on and working jobs. Over the past few years,

significant changes to the law have been made in order to promote enhanced consumer protection and a level playing field for legitimate, legal contractors.

L&I is committed to making sure consumers are protected and leveling the playing field for legitimate contractors. To that end, L&I is utilizing several strategies.

- ☑ **SCS Fraud Team** – The Fraud/Audit/Infraction/Review (FAIR) team is comprised of three L&I compliance inspectors. These inspectors are canvassing the state for contractors and electricians who are ignoring registration and licensing laws and gaining an unfair competitive advantage. Last year, the FAIR team did all of the following:
 - Issued 126 infractions to unregistered contractors.
 - Referred 146 contractors to the collection program, where \$1,108,095 in Industrial Insurance premiums was collected.
 - Referred 322 contractors to the audit program, where \$2,503,387 in premiums were assessed and \$510,578 was collected.
 - Three new inspectors were added to the team and began work in December 2008.

- ☑ **Outreach to Homeowners & Contractors** – During the past year L&I has reached more than 20,000 Washington state homeowners and contractors to make sure that both:
 - Consumers are aware of their rights
And
 - Contractors know their responsibilities under the law.

In the last five years, the program has spoken to over 100,000 consumers!!

We have reached these numbers and exceeded outreach targets by:

- Increasing the number of public and consumer awareness campaigns.
- Attending and participating in public forums and home shows.
- Working together with other consumer protection agencies and organizations

The program is working on a small media campaign, which will kick off in the spring before the building season.

- ☑ **Training Contractors** - L&I continues its public/private partnership with the building industry by presenting Contractor Training events around the state in conjunction with Employment Security, Department of Revenue, Community Trade and Economic Development, the Human Rights Commission and the Office of the Insurance Commissioner; along with Associated General Contractors (AGC), Associated Builders and Contractors (ABC), Building Industry Association of Washington (BIAW), Northwest Independent Contractors Association (NICA) and the Better Business Bureau.

These trainings have been consistently well reviewed with approximately 99% of the attendees rating this program average or above average. We are offering over 25 different classes to contractors to assist them in running their business safer, more profitably and with the consumer in mind.

Table 2: Outreach Activities

Year	# of Contractor Training Events	Average Contractor Attendance per event	Total # of Contractors Trained
2004	3	84	258
2005	7, plus 2 mini trainings	134	Over 950
2006	7	158	Over 1,000
2007	8	157	Over 1,100
2008	8	165	Over 1,320

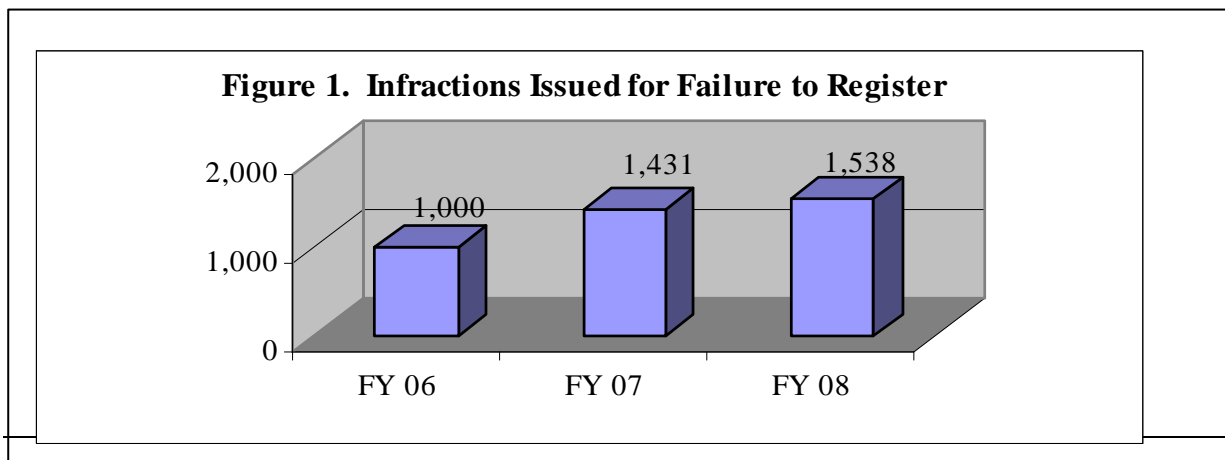
- Technology** - We are upgrading and improving our technology systems so all necessary information for becoming or hiring a legitimate contractor is readily and easily accessible to our customers. For example, our customers can use an Internet-based system to:
 - File Prevailing Wage intents and affidavits;
 - Access contractor registration, industrial insurance, and violation information 24 hours a day;
 - Track a contractor’s status with L&I;
 - Help General contractors avoid prime contractor liabilities;
 - Renew contractor registration quicker; and
 - Provide accurate data for businesses with infractions.

- Compliance** – L&I actively enforces the Contractor Registration statute through:
 - Inspectors visiting approximately 30,000 jobsites annually, responding to Internet and telephone referrals.
 - Taking necessary steps to protect consumers and eliminate the underground economy through increased and targeted compliance activities, including follow-up on various leads to ensure compliance with the law.

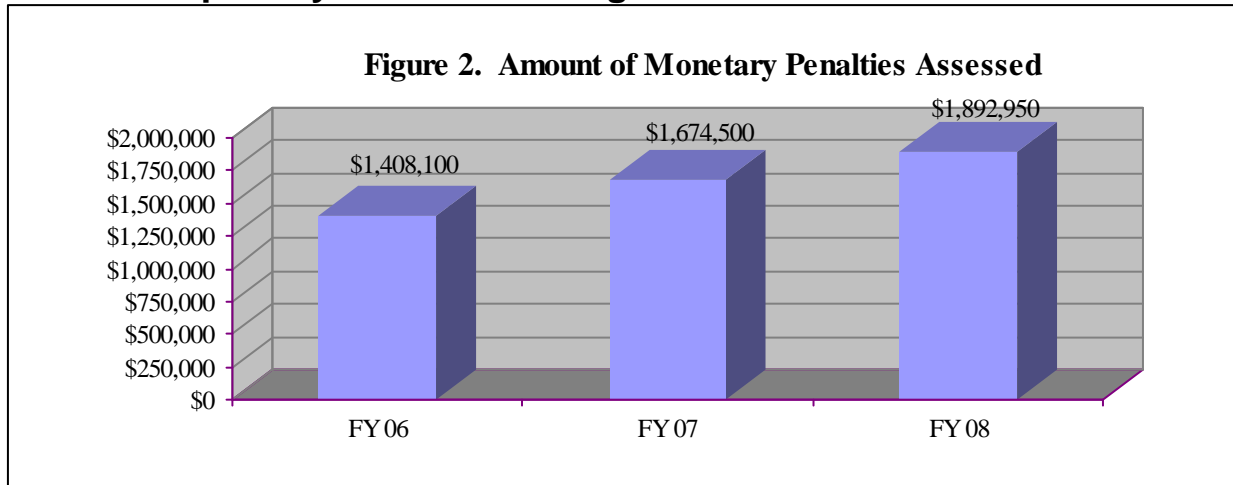
Answers to Legislative Questions

Question No. 1 & 2 (partial): The number of contractors found to have committed an infraction & assessed a penalty for failure to register is the same number

In FY 08, 1, 538 contractors were issued an infraction and a penalty for failure to register.



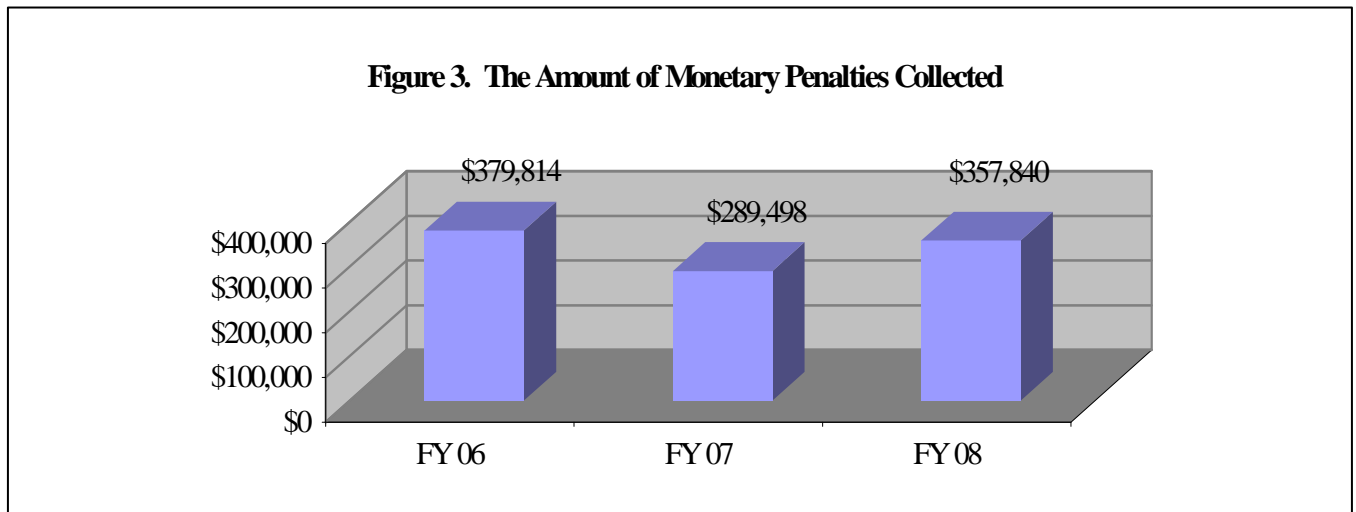
Question No. 2: The assessed monetary penalty for contractors issued an infraction & penalty for failure to register:



In FY 08, L&I assessed \$1,892,950 in penalties.

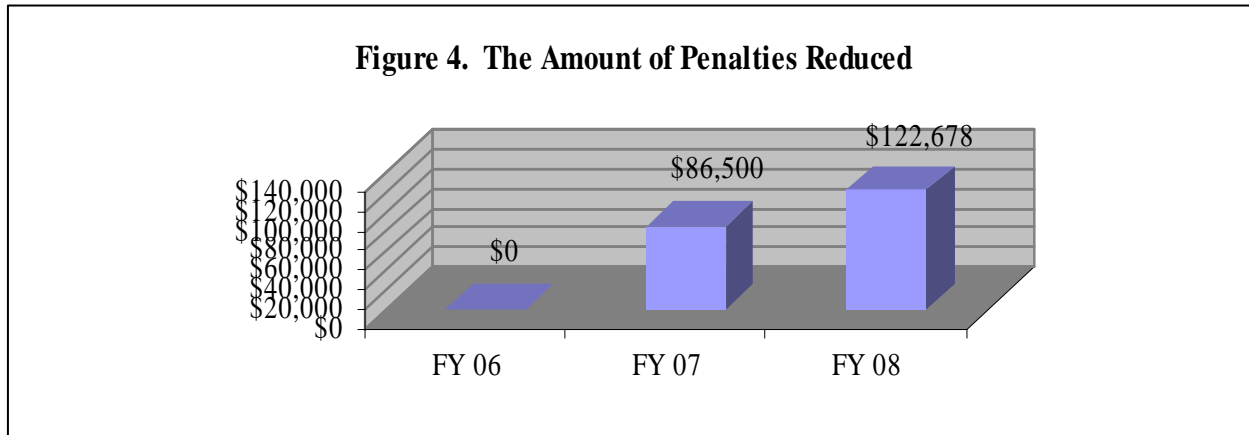
Question No. 3: The amount of penalties that were collected:

In FY 08, L&I collected \$358,933 in penalties for infractions issued. Historically, L&I referred all uncollected penalties to private collection agencies. Based on the statutory authority enacted in Chapter 159, Laws of 2001 (Substitute Senate Bill 5101), L&I is utilizing its collection authority to ensure payment of outstanding penalties.



Question No. 4: The amount of the penalties reported in Figure 2 that were waived:

Although waiving penalties no longer occurs, contractors that comply with the provisions of RCW 18.27.340(3) within 10 days may have their penalty reduced. \$122,678 in penalties have been reduced as a result of unregistered contractors coming into compliance and registering with the department within the 10 day time frame. FY06 reduction data was not available.



RCW 18.27.340(3) states: “A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. The director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person becomes registered within ten days of receiving a notice of infraction and the notice of infraction is for a first offense.”

Recommendations for Additional Statutory Change

L&I has no current recommendations for statutory change. L&I continues to participate with the Joint Legislative Taskforce looking at the Underground Economy in the Construction Industry, this taskforce may propose future legislation.