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**SUBSTITUTE HOUSE BILL 2764**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on Housing (originally sponsored by Representatives Cooper, Winsley, Mitchell, Kremen, Ogden, Leonard, Nelson, Chandler, Ferguson and Paris)

Read first time 02/07/92.

1 AN ACT Relating to manufactured housing installation; adding a new  
2 section to chapter 18.27 RCW; adding a new chapter to Title 18 RCW;  
3 recodifying RCW 18.27.117; prescribing penalties; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The purpose of this chapter is to ensure  
7 that purchasers of manufactured homes have their homes installed in  
8 accordance with the state installation code, chapter 296-150B WAC.  
9 This chapter requires that all manufactured homes are installed by a  
10 certified manufactured home installer.

11 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
12 otherwise, the definitions in this section apply throughout this  
13 chapter.

1 (1) "Authorized representative" means an employee of a state  
2 agency, city, or county acting on behalf of such a unit of government.

3 (2) "Certified manufactured home installer" means a person who has  
4 been issued a certificate by the department of community development as  
5 provided in this chapter.

6 (3) "Department" means the department of community development.

7 (4) "Director" means the director of the department of community  
8 development.

9 (5) "Manufactured home" includes mobile homes.

10 (6) "Manufactured home installation" includes all work necessary  
11 for the installation of a manufactured home, including: The  
12 construction of the support piers and foundation system; required  
13 connections to the support piers and foundation system; the  
14 installation of on-site water, gas, electrical, and sewer systems; and  
15 required connections to the on-site water, gas, electrical, and sewer  
16 systems that are necessary for the normal operation of the manufactured  
17 home. This definition does not include specialty trades that are  
18 responsible for: Constructing accessory structures such as garages,  
19 carports, and deck and storage buildings; pouring concrete into forms;  
20 painting and drywall finishing; carpet installation; or specialty work  
21 performed by licensed plumbers or electricians. This definition does  
22 not waive or lessen any state regulations related to licensing or  
23 permits required for electricians or plumbers.

24 (7) "Manufactured home standards" means the manufactured home  
25 construction and safety standards as promulgated by the United States  
26 department of housing and urban development.

27 (8) "Training course" means the education program administered by  
28 the department as a prerequisite to taking the examination for  
29 certification.

1        NEW SECTION.    **Sec. 3.**        After July 1, 1993, a manufactured home  
2 may not be installed without a certified manufactured home installer  
3 providing on-site supervision whenever installation work is being  
4 performed. The certified manufactured home installer is responsible  
5 for the performance of noncertified workers engaged in the installation  
6 of the manufactured home. There shall be at least one certified  
7 manufactured home installer for each two noncertified workers on the  
8 installation site whenever installation work is being performed.  
9 Violation of this section is an infraction.

10       NEW SECTION.    **Sec. 4.**        A person desiring to be issued a  
11 certificate of mobile home installation as provided in this chapter  
12 shall make application to the department, in such a form as required by  
13 the department. The applicant must demonstrate that he or she has had  
14 sufficient experience in, as well as demonstrated general knowledge of  
15 manufactured housing installation so as to qualify the applicant to  
16 make an application for a certificate of manufactured home  
17 installation.

18       NEW SECTION.    **Sec. 5.**        Upon receipt of the application and  
19 evidence required in this chapter, the director shall review the  
20 information and make a determination as to whether the applicant is  
21 eligible to take the training course and examination for the  
22 certificate of manufactured home installation. An applicant must  
23 furnish written evidence of twelve months of experience under the  
24 direct supervision of a certified manufactured home installer in order  
25 to be eligible to take the training course and examination. The  
26 director shall establish reasonable rules for the training course and  
27 examinations to be given to applicants for certificates of manufactured  
28 home installation. Upon determining that the applicant is eligible to

1 take the training course and examination, the director shall notify the  
2 applicant, indicating the time and place for taking the training course  
3 and examination.

4 The requirement that an applicant must be under the direct  
5 supervision of a certified manufactured home installer for one year  
6 only applies to applications made on or after July 1, 1995. For  
7 applications made before July 1, 1995, the department shall require  
8 evidence of experience to satisfy this requirement.

9 The director may allow local building code officials and utility  
10 representatives to take the training course and examination on  
11 manufactured home installation.

12 NEW SECTION. **Sec. 6.** The department shall prepare a written  
13 training course and examination to be administered to applicants for  
14 certificates to be certified manufactured home installers. The  
15 examination shall be constructed to determine:

16 (1) Whether the applicant possesses general knowledge of the  
17 technical information and practical procedures that are necessary for  
18 manufactured home installations.

19 (2) Whether the applicant is familiar with the applicable federal  
20 and state codes and administrative rules pertaining to manufactured  
21 homes.

22 (3) Whether the applicant is familiar with local government  
23 regulations as related to manufactured home installations.

24 The department shall administer the training course and examination  
25 to eligible persons and shall charge reasonable fees to cover the costs  
26 to administer the certification program.

27 The department shall certify the results of the examination and  
28 shall notify the applicant in writing whether the applicant has passed  
29 or failed the examination. An applicant who failed the examination may

1 retake the training course and examination. The director may not limit  
2 the number of times that a person may take the training course and  
3 examination.

4 NEW SECTION. **Sec. 7.** (1) The department shall issue a  
5 certificate of manufactured home installation to all applicants who  
6 have taken the training course, passed the examination, paid the fee  
7 for the certificate, and in all other respects meets the  
8 qualifications. The certificate shall bear the date of issuance and is  
9 renewable every three years upon application and completion of a  
10 continuing education program as determined by the department. A  
11 renewal fee shall be assessed for each certificate. If a person fails  
12 to renew a certificate by the renewal date, the person must retake the  
13 examination and pay the examination fee.

14 (2) The certificate of manufactured home installation provided for  
15 in this chapter grants the holder the right to engage in manufactured  
16 home installation throughout the state and within any city or county,  
17 without any other license, permit, or fee. This provision does not  
18 waive or modify requirements for local building or installation permits  
19 or fees.

20 NEW SECTION. **Sec. 8.** (1) The department may revoke a  
21 certificate of manufactured home installation upon the following  
22 grounds:

23 (a) The certificate was obtained through error or fraud.

24 (b) The holder of the certificate is judged to be incompetent as a  
25 result of multiple violations of the state installation code, WAC 296-  
26 150B-200 through 296-150B-255.

27 (c) The holder's bond has expired, exhausted, or terminated.

1 (d) The holder has violated a provision of this chapter or a rule  
2 adopted to implement this chapter.

3 (2) Before a certificate of manufactured home installation is  
4 revoked, the holder must be given written notice of the department's  
5 intention to revoke the certificate, sent by registered mail, return  
6 receipt requested, to the holder's last known address. The notice  
7 shall enumerate the allegations against the holder, and shall give the  
8 holder the opportunity to request a hearing. At the hearing, the  
9 department and the holder may produce witnesses and give testimony.  
10 The hearing shall be conducted in accordance with the provisions of  
11 chapter 34.05 RCW.

12 NEW SECTION. **Sec. 9.** The department shall charge fees for the  
13 issuance, renewal, and reinstatement of all certificates, and for  
14 training courses and examinations required under this chapter. The  
15 amount of each fee shall be established by the department in rule. All  
16 fees collected under this chapter shall be used only for the purposes  
17 specified in this chapter.

18 The fees shall be limited to covering the full cost of issuing the  
19 certificates, devising and administering the examinations, and  
20 administering and enforcing this chapter. The costs shall include  
21 necessary travel, per diem, and administrative support costs.

22 NEW SECTION. **Sec. 10.** An authorized representative may  
23 investigate alleged or apparent violations of this chapter. An  
24 authorized representative, including a local government building  
25 official upon presentation of credentials, may inspect sites at which  
26 manufactured home installation work is undertaken to determine whether  
27 such work is in compliance with this chapter. Upon request of the  
28 authorized representative, a person performing manufactured home

1 installation work shall identify the persons holding the certificate  
2 issued by the department in accordance with this chapter.

3 NEW SECTION. **Sec. 11.** An authorized representative of the  
4 department may issue a notice of infraction if: (1) The person  
5 responsible for the manufactured home installation work fails to  
6 produce evidence of having a certificate issued by the department in  
7 accordance with this chapter; or (2) the installation is not in  
8 compliance with this chapter. A notice of infraction issued under this  
9 chapter shall be personally served on or sent by certified mail to the  
10 person named in the notice by the authorized representative.

11 NEW SECTION. **Sec. 12.** (1) The department shall prescribe the  
12 form of the notice of infraction issued under this chapter.

13 (2) The notice of infraction shall include the following:

14 (a) A statement that the notice represents a determination that the  
15 infraction has been committed by the person named in the notice and  
16 that the determination is final unless contested as provided in this  
17 chapter.

18 (b) A statement that the infraction is a noncriminal offense for  
19 which imprisonment may not be imposed as a sanction.

20 (c) A statement of the specific infraction for which the notice was  
21 issued.

22 (d) A statement of a monetary penalty that has been established for  
23 the infraction.

24 (e) A statement of the options provided in this chapter for  
25 responding to the notice and the procedures necessary to exercise these  
26 options.

27 (f) A statement that, at a hearing to contest the determination,  
28 the state has the burden of proving, by a preponderance of the

1 evidence, that the infraction was committed, and that the person may  
2 subpoena witnesses including the authorized representative who issued  
3 and served the notice of the infraction.

4 (g) A statement, that the person shall sign, that the person  
5 promises to respond to the notice of infraction in one of the ways  
6 provided in this chapter.

7 (h) A statement that refusal to sign the infraction as directed in  
8 (g) of this subsection is a misdemeanor.

9 (i) A statement that failure to respond to a notice of infraction  
10 as promised is a misdemeanor and may be punished by a fine or  
11 imprisonment in jail.

12 NEW SECTION. **Sec. 13.** Each day in which a person engages in  
13 the installation of manufactured homes in violation of this chapter is  
14 a separate infraction. Each worksite at which a person engages in the  
15 trade of manufactured home installation in violation of this chapter is  
16 a separate infraction.

17 NEW SECTION. **Sec. 14.** It is a violation of this chapter for  
18 any manufactured home dealer, manufacturer, or home dealer's or  
19 manufacturer's agent to engage any person to install a manufactured  
20 home who is not certified in accordance with this chapter.

21 NEW SECTION. **Sec. 15.** A district court shall hear and  
22 determine a violation designated as an infraction under this chapter.  
23 A notice of infraction shall be filed in the district court in which  
24 the infraction is alleged to have occurred. If a notice of infraction  
25 is filed in a court that is not the proper venue, the notice shall be  
26 dismissed without prejudice on motion of either party.

1        NEW SECTION.    **Sec. 16.**        Unless contested in accordance with this  
2 chapter, the notice of infraction represents a determination that the  
3 person to whom the notice was issued committed the infraction.

4        NEW SECTION.    **Sec. 17.**        (1) A person who receives a notice of  
5 infraction shall respond to the notice as provided in this section  
6 within fourteen days of the date the notice was served.

7        (2) If the person named in the notice of infraction does not wish  
8 to contest the determination, the person shall respond by completing  
9 the appropriate portion of the notice of infraction and submitting it,  
10 either by mail or in person, to the court specified on the notice. A  
11 check or money order in the amount of the penalty prescribed for the  
12 infraction must be submitted with the response. When a response that  
13 does not contest the determination is received, an appropriate order  
14 shall be entered in the court's records, and a record of the response  
15 and order shall be furnished to the department.

16        (3) If the person named in the notice of infraction wishes to  
17 contest the determination, the person shall respond by completing the  
18 portion of the notice of infraction requesting a hearing and submitting  
19 it, either by mail or in person, to the court specified on the notice.  
20 The court shall notify the person in writing of the time, place, and  
21 date of the hearing, and that date shall not be sooner than fourteen  
22 days from the date of the notice, except by agreement of the parties.

23        (4) If a person issued a notice of infraction:

24        (a) Fails to respond to the notice of infraction as provided in  
25 subsection (2) of this section; or

26        (b) Fails to appear at a hearing requested under subsection (3) of  
27 this section; the court shall enter an appropriate order assessing the  
28 monetary penalty prescribed for the infraction and shall notify the

1 department of the failure to respond to the notice of infraction or to  
2 appear at a requested hearing.

3 (5) An order entered by a court under subsection (4) of this  
4 section may, for good cause shown and upon such terms as the court  
5 deems just, be set aside for the same grounds a default judgment may be  
6 set aside in civil actions in courts of limited jurisdiction.

7 NEW SECTION. **Sec. 18.** It is a misdemeanor for a person who has  
8 been served with a notice of infraction:

9 (1) To refuse to sign a written promise to respond to a notice; or

10 (2) To willfully violate the written promise to respond to a notice  
11 of infraction as provided in this chapter, regardless of the ultimate  
12 disposition of the infraction.

13 NEW SECTION. **Sec. 19.** A person subject to proceedings under  
14 this chapter may appear or be represented by counsel. The attorney  
15 general shall represent the department in a proceeding under this  
16 chapter.

17 NEW SECTION. **Sec. 20.** (1) A hearing held for the purpose of  
18 contesting the determination that an infraction has been committed  
19 shall be without a jury.

20 (2) The court may consider the notice of infraction and any other  
21 written report made under oath, submitted by the department's  
22 authorized representative who issued and served the notice, and has the  
23 right to present evidence and examine witnesses present in court.

24 (3) The burden of proof is on the department to establish the  
25 commission of the infraction by a preponderance of the evidence. The  
26 notice of infraction shall be dismissed if the defendant establishes  
27 that, at the time the notice was issued, the defendant held a

1 certificate issued by the department or was exempt from holding a  
2 certificate.

3 (4) After consideration of the evidence and argument, the court  
4 shall determine whether the infraction was committed. If it has not  
5 been established that the infraction was committed, an order dismissing  
6 the notice shall be entered in the court's records and the defendant  
7 shall be reimbursed all reasonable expenses. If it has been  
8 established that the infraction was committed, an appropriate order  
9 shall be entered in the court's records. A record of the court's  
10 determination and order shall be furnished to the department.

11 (5) An appeal from the court's determination or order shall be to  
12 the superior court. The decision of the superior court is subject only  
13 to discretionary review under Rule 2.3 of the rules of appellate  
14 procedure.

15 NEW SECTION. **Sec. 21.** The court shall, within thirty days  
16 after entry of an order under this chapter, forward a record of the  
17 court's order to the department on a form prescribed by the department.

18 NEW SECTION. **Sec. 22.** (1) A person found to have committed an  
19 infraction under this chapter shall be assessed a monetary penalty of  
20 one thousand dollars.

21 (2) Three violations within a twelve-month period shall cause a  
22 review and may subject the installer to a suspension of certification  
23 in addition to the monetary penalty.

24 (3) The court may waive, reduce, or suspend the monetary penalty  
25 imposed for the infraction.

26 (4) Monetary penalties collected under this chapter shall be  
27 remitted as provided in chapter 3.62 RCW.

1        NEW SECTION.    **Sec. 23.**        The director may adopt rules in  
2 accordance with chapter 34.05 RCW, make specific decisions, orders, and  
3 rulings, include demands and findings within the decisions, orders, and  
4 rulings, and take other necessary action for the implementation and  
5 enforcement of duties under this chapter.

6        NEW SECTION.    **Sec. 24.**        A new section is added to chapter 18.27 RCW  
7 to read as follows:

8            No person may be registered as a contractor for the installation of  
9 manufactured homes without being certified in accordance with chapter  
10 18.-- RCW (sections 1 through 23 of this act).

11        NEW SECTION.    **Sec. 25.**        RCW 18.27.117 is recodified as a section  
12 in chapter 18.-- RCW (sections 1 through 23 of this act).

13        NEW SECTION.    **Sec. 26.**        Sections 1 through 23 of this act shall  
14 constitute a new chapter in Title 18 RCW.

15        NEW SECTION.    **Sec. 27.**        If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

19        NEW SECTION.    **Sec. 28.**        This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and shall take  
22 effect immediately.