

2 **2SSB 6107** - CONF REPT
3 By Conference Committee

4 ADOPTED 3/10, 1994

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330
8 RCW to read as follows:

9 The department is authorized to charge reasonable fees to cover
10 costs for conferences, workshops, and training purposes and to expend
11 those fees for the purposes for which they were collected.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW
13 to read as follows:

14 In order to extend its services and programs, the department may
15 charge reasonable fees for services and products provided in the areas
16 of financial assistance, housing, international trade, community
17 assistance, economic development, and other service delivery areas,
18 except as otherwise provided. These fees are not intended to exceed
19 the costs of providing the service or preparing and distributing the
20 product.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330 RCW
22 to read as follows:

23 Before the fees authorized in sections 2, 12, and 22 of this act
24 become effective the department shall:

25 (1) Submit the proposed schedule of fees to the office of financial
26 management for approval on or before November 1, 1994; and

27 (2) Submit the fees approved by the office of financial management
28 to the appropriate committees of the senate and house of
29 representatives before December 1, 1994.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330 RCW
31 to read as follows:

32 The community and economic development fee account is created in
33 the state treasury. The department may create subaccounts as

1 necessary. The account consists of all receipts from fees charged by
2 the department under sections 1 and 2 of this act and RCW 43.210.110.
3 Expenditures from the account may be used only for the purposes of this
4 chapter. Only the director or the director's designee may authorize
5 expenditures from the account. Expenditures from the account may be
6 spent only after appropriation.

7 **Sec. 5.** RCW 70.95H.040 and 1991 c 319 s 206 are each amended to
8 read as follows:

9 In order to carry out its responsibilities under this chapter, the
10 center may:

11 (1) Receive such gifts, grants, funds, fees, and endowments, in
12 trust or otherwise, for the use and benefit of the purposes of the
13 center. The center may expend the same or any income therefrom
14 according to the terms of the gifts, grants, or endowments;

15 (2) Initiate, conduct, or contract for studies and searches
16 relating to market development for recyclable materials, including but
17 not limited to applied research, technology transfer, and pilot
18 demonstration projects;

19 (3) Obtain and disseminate information relating to market
20 development for recyclable materials from other state and local
21 agencies;

22 (4) Enter into, amend, and terminate contracts with individuals,
23 corporations, trade associations, and research institutions for the
24 purposes of this chapter;

25 (5) Provide grants to local governments or other public
26 institutions to further the development of recycling markets;

27 (6) Provide business and marketing assistance to public and private
28 sector entities within the state; (~~and~~)

29 (7) Evaluate, analyze, and make recommendations on state policies
30 that may affect markets for recyclable materials; and

31 (8) Charge reasonable fees for services, products, conferences,
32 workshops, or any other activity of the center upon any person not
33 required to pay assessments imposed under chapter 82.18 or 82.19 RCW.
34 The fees collected under this subsection shall be expended solely for
35 the purposes of the center.

36 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95H RCW
37 to read as follows:

1 The clean Washington center fee account is created in the state
2 treasury. Proceeds from fees collected by the center for services and
3 products shall be deposited into this account. Expenditures from this
4 account may be used only for the purposes under this chapter. Only the
5 director or the director's designee may authorize expenditures from the
6 account. Expenditures from the account may be spent only after
7 appropriation.

8 **Sec. 7.** RCW 43.210.110 and 1993 sp.s. c 24 s 922, 1993 c 366 s 1,
9 and 1993 c 280 s 57 are each reenacted and amended to read as follows:

10 (1) The small business export finance assistance center has the
11 following powers and duties when exercising its authority under RCW
12 43.210.100(3):

13 (a) Solicit and accept grants, contributions, and any other
14 financial assistance from the federal government, federal agencies, and
15 any other public or private sources to carry out its purposes;

16 (b) Offer comprehensive export assistance and counseling to
17 manufacturers relatively new to exporting with gross annual revenues
18 less than twenty-five million dollars. As close to seventy-five
19 percent as possible of each year's new cadre of clients must have gross
20 annual revenues of less than five million dollars at the time of their
21 initial contract. At least fifty percent of each year's new cadre of
22 clients shall be from timber impact areas as defined in RCW 43.31.601.
23 Counseling may include, but not be limited to, helping clients obtain
24 debt or equity financing, in constructing competent proposals, and
25 assessing federal guarantee and/or insurance programs that underwrite
26 exporting risk; assisting clients in evaluating their international
27 marketplace by developing marketing materials, assessing and selecting
28 targeted markets; assisting firms in finding foreign customers by
29 conducting foreign market research, evaluating distribution systems,
30 selecting and assisting in identification of and/or negotiations with
31 foreign agents, distributors, retailers, and by promoting products
32 through attending trade shows abroad; advising companies on their
33 products, guarantees, and after sales service requirements necessary to
34 compete effectively in a foreign market; designing a competitive
35 strategy for a firm's products in targeted markets and methods of
36 minimizing their commercial and political risks; securing for clients
37 specific assistance as needed, outside the center's field of expertise,
38 by referrals to other public or private organizations. The Pacific

1 Northwest export assistance project shall focus its efforts on
2 facilitating export transactions for its clients, and in doing so,
3 provide such technical services as are appropriate to accomplish its
4 mission either with staff or outside consultants;

5 (c) Sign three-year counseling agreements with its clients that
6 provide for termination if adequate funding for the Pacific Northwest
7 export assistance project is not provided in future appropriations.
8 Counseling agreements shall not be renewed unless there are compelling
9 reasons to do so, and under no circumstances shall they be renewed for
10 more than two additional years. A counseling agreement may not be
11 renewed more than once. The counseling agreements shall have mutual
12 performance clauses, that if not met, will be grounds for releasing
13 each party, without penalty, from the provisions of the agreement.
14 Clients shall be immediately released from a counseling agreement with
15 the Pacific Northwest export assistance project, without penalty, if a
16 client wishes to switch to a private export management service and
17 produces a valid contract signed with a private export management
18 service, or if the president of the small business export finance
19 assistance center determines there are compelling reasons to release a
20 client from the provisions of the counseling agreement;

21 (d) May contract with private or public international trade
22 education services to provide Pacific Northwest export assistance
23 project clients with training in international business. The president
24 and board of directors shall decide the amount of funding allocated for
25 educational services based on the availability of resources in the
26 operating budget of the Pacific Northwest export assistance project;

27 (e) May contract with the Washington state international trade fair
28 to provide services for Pacific Northwest export assistance project
29 clients to participate in one trade show annually. The president and
30 board of directors shall decide the amount of funding allocated for
31 trade fair assistance based on the availability of resources in the
32 operating budget of the Pacific Northwest export assistance project;

33 (f) Provide biennial assessments of its performance. Project
34 personnel shall work with the department of revenue and employment
35 security department to confidentially track the performance of the
36 project's clients in increasing tax revenues to the state, increasing
37 gross sales revenues and volume of products destined to foreign
38 clients, and in creating new jobs for Washington citizens. A biennial
39 report shall be prepared for the governor and legislature to assess the

1 costs and benefits to the state from creating the project. The
2 president of the small business export finance assistance center shall
3 design an appropriate methodology for biennial assessments in
4 consultation with the director of community, trade, and economic
5 development and the director of the Washington state department of
6 agriculture. The department of revenue and the employment security
7 department shall provide data necessary to complete this biennial
8 evaluation, if the data being requested is available from existing data
9 bases. Client-specific information generated from the files of the
10 department of revenue and the employment security department for the
11 purposes of this evaluation shall be kept strictly confidential by each
12 department and the small business export finance assistance center;

13 (g) Take whatever action may be necessary to accomplish the
14 purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120;
15 and

16 (h) Limit its assistance to promoting the exportation of value-
17 added manufactured goods. The project shall not provide counseling or
18 assistance, under any circumstances, for the importation of foreign
19 made goods into the United States.

20 (2) The Pacific Northwest export assistance project shall not,
21 under any circumstances, assume ownership or take title to the goods of
22 its clients.

23 (3) The Pacific Northwest export assistance project may not use any
24 Washington state funds which come from the public treasury of the state
25 of Washington to make loans or to make any payment under a loan
26 guarantee agreement. Under no circumstances may the center use any
27 funds received under RCW 43.210.050 to make or assist in making any
28 loan or to pay or assist in paying any amount under a loan guarantee
29 agreement. Debts of the center shall be center debts only and may be
30 satisfied only from the resources of the center. The state of
31 Washington shall not in any way be liable for such debts.

32 (4) The Pacific Northwest export assistance project shall make
33 every effort to seek nonstate funds to supplement its operations. The
34 small business export finance assistance center and the project are
35 authorized to charge reasonable fees for services and products provided
36 and to expend the proceeds for the particular purposes for which they
37 were collected.

38 (5) The small business export finance assistance center and its
39 Pacific Northwest export assistance project shall take whatever steps

1 are necessary to provide its services, if requested, to the states of
2 Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British
3 Columbia and Alberta. Interstate services shall not be provided by the
4 Pacific Northwest export assistance project during its first biennium
5 of operation. The provision of services may be temporary and subject
6 to the payment of fees, or each state may request permanent services
7 contingent upon a level of permanent funding adequate for services
8 provided. Temporary services and fees may be negotiated by the small
9 business export finance assistance center's president subject to
10 approval of the board of directors. The president of the small
11 business export finance assistance center may enter into negotiations
12 with neighboring states to contract for delivery of the project's
13 services. Final contracts for providing the project's counseling and
14 services outside of the state of Washington on a permanent basis shall
15 be subject to approval of the governor, appropriate legislative
16 oversight committees, and the small business export finance assistance
17 center's board of directors.

18 (6) The small business export finance assistance center may receive
19 such gifts, grants, and endowments from public or private sources as
20 may be made from time to time, in trust or otherwise, for the use and
21 benefit of the purposes of the Pacific Northwest export assistance
22 project and expend the same or any income therefrom according to the
23 terms of the gifts, grants, or endowments.

24 (7) The president of the small business export finance assistance
25 center, in consultation with the board of directors, may use the
26 following formula in determining the number of clients that can be
27 reasonably served by the Pacific Northwest export assistance project
28 relative to its appropriation. Divide the amount appropriated for
29 administration of the Pacific Northwest export assistance project by
30 the marginal cost of adding each additional Pacific Northwest export
31 assistance project client. For the purposes of this calculation, and
32 only for the first biennium of operation, the biennial marginal cost of
33 adding each additional Pacific Northwest export assistance project
34 client shall be fifty-seven thousand ninety-five dollars. The biennial
35 marginal cost of adding each additional client after the first biennium
36 of operation shall be established from the actual operating experience
37 of the Pacific Northwest export assistance project.

38 ~~((8) All receipts from the Pacific Northwest export assistance~~
39 ~~project shall be deposited into the general fund. However, during the~~

1 ~~1993-95 fiscal biennium, the receipts of the project shall be deposited~~
2 ~~into the small business export finance assistance center fund under RCW~~
3 ~~43.210.070.)~~)

4 NEW SECTION. **Sec. 8.** The fees authorized under sections 1 and 2
5 of this act and RCW 70.95H.040 and 43.210.110 shall be adopted by rule
6 pursuant to chapter 34.05 RCW.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 46.70 RCW
8 to read as follows:

9 (1) In addition to the requirements contained in RCW 46.70.135,
10 each sale of a new manufactured home in this state is made with an
11 implied warranty that the manufactured home conforms in all material
12 aspects to applicable federal and state laws and regulations
13 establishing standards of safety or quality, and with implied
14 warranties of merchantability and fitness for a particular purpose as
15 permanent housing in the climate of the state.

16 (2) The implied warranties contained in this section may not be
17 waived, limited, or modified. Any provision that attempts to waive,
18 limit, or modify the implied warranties contained in this section is
19 void and unenforceable.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.70 RCW
21 to read as follows:

22 Any dealer, manufacturer, or contractor who installs a manufactured
23 home warrants that the manufactured home is installed in accordance
24 with the state installation code, chapter 296-150B WAC. The warranty
25 contained in this section may not be waived, limited, or modified. Any
26 provision attempting to waive, limit, or modify the warranty contained
27 in this section is void and unenforceable. This section does not apply
28 when the manufactured home is installed by the purchaser of the home.

29 **Sec. 11.** RCW 46.70.135 and 1989 c 343 s 22 are each amended to
30 read as follows:

31 Mobile home manufacturers and mobile home dealers who sell mobile
32 homes to be assembled on site and used as residences in this state
33 shall conform to the following requirements:

34 (1) No new manufactured home may be sold unless the purchaser is
35 provided with a manufacturer's written warranty for construction of the

1 home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183;
2 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

3 (2) No new manufactured home may be sold unless the purchaser is
4 provided with a dealer's written warranty for all installation services
5 performed by the dealer.

6 (3) The warranties required by subsections (1) and (2) of this
7 section shall be valid for a minimum of one year measured from the date
8 of (~~sale~~) delivery and shall not be invalidated by resale by the
9 original purchaser to a subsequent purchaser or by the certificate of
10 ownership being eliminated or not issued as described in chapter 65.20
11 RCW. Copies of the warranties shall be given to the purchaser upon
12 signing a purchase agreement and shall include an explanation of
13 remedies available to the purchaser under state and federal law for
14 breach of warranty, the name and address of the federal department of
15 housing and urban development and the state departments of licensing
16 and labor and industries, and a brief description of the duties of
17 these agencies concerning mobile homes.

18 (4) Warranty service shall be completed within forty-five days
19 after the owner gives written notice of the defect unless there is a
20 bona fide dispute between the parties. Warranty service for a defect
21 affecting health or safety shall be completed within seventy-two hours
22 of receipt of written notice. Warranty service shall be performed on
23 site and a written work order describing labor performed and parts used
24 shall be completed and signed by the service agent and the owner. If
25 the owner's signature cannot be obtained, the reasons shall be
26 described on the work order. Work orders shall be retained by the
27 dealer or manufacturer for a period of three years.

28 (5) Before delivery of possession of the home to the purchaser, an
29 inspection shall be performed by the dealer or his or her agent and by
30 the purchaser or his or her agent which shall include a test of all
31 systems of the home to insure proper operation, unless such systems
32 test is delayed pursuant to this subsection. At the time of the
33 inspection, the purchaser shall be given copies of all documents
34 required by state or federal agencies to be supplied by the
35 manufacturer with the home which have not previously been provided as
36 required under subsection (3) of this section, and the dealer shall
37 complete any required purchaser information card and forward the card
38 to the manufacturer. A purchaser is deemed to have taken delivery of
39 the manufactured home when all three of the following events have

1 occurred: (a) The contractual obligations between the purchaser and
2 the seller have been met; (b) the inspection of the home is completed;
3 and (c) the systems test of the home has been completed subsequent to
4 the installation of the home, or fifteen days has elapsed since the
5 transport of the home to the site where it will be installed, whichever
6 is earlier. Occupancy of the manufactured home shall only occur after
7 the systems test has occurred and all required utility connections have
8 been approved after inspection.

9 (6) Manufacturer and dealer advertising which states the dimensions
10 of a home shall not include the length of the draw bar assembly in a
11 listed dimension, and shall state the square footage of the actual
12 floor area.

13 NEW SECTION. Sec. 12. A new section is added to chapter 43.330
14 RCW to read as follows:

15 The department may mediate disputes that arise regarding any
16 warranty required in chapter 46.70 RCW pertaining to the purchase or
17 installation of a manufactured home. The department may charge
18 reasonable fees for this service and shall deposit the moneys collected
19 in accordance with section 23 of this act.

20 **Sec. 13.** RCW 46.70.180 and 1993 c 175 s 3 are each amended to read
21 as follows:

22 Each of the following acts or practices is unlawful:

23 (1) To cause or permit to be advertised, printed, displayed,
24 published, distributed, broadcasted, televised, or disseminated in any
25 manner whatsoever, any statement or representation with regard to the
26 sale or financing of a vehicle which is false, deceptive, or
27 misleading, including but not limited to the following:

28 (a) That no down payment is required in connection with the sale of
29 a vehicle when a down payment is in fact required, or that a vehicle
30 may be purchased for a smaller down payment than is actually required;

31 (b) That a certain percentage of the sale price of a vehicle may be
32 financed when such financing is not offered in a single document
33 evidencing the entire security transaction;

34 (c) That a certain percentage is the amount of the service charge
35 to be charged for financing, without stating whether this percentage
36 charge is a monthly amount or an amount to be charged per year;

1 (d) That a new vehicle will be sold for a certain amount above or
2 below cost without computing cost as the exact amount of the factory
3 invoice on the specific vehicle to be sold;

4 (e) That a vehicle will be sold upon a monthly payment of a certain
5 amount, without including in the statement the number of payments of
6 that same amount which are required to liquidate the unpaid purchase
7 price.

8 (2) To incorporate within the terms of any purchase and sale
9 agreement any statement or representation with regard to the sale or
10 financing of a vehicle which is false, deceptive, or misleading,
11 including but not limited to terms that include as an added cost to the
12 selling price of a vehicle an amount for licensing or transfer of title
13 of that vehicle which is not actually due to the state, unless such
14 amount has in fact been paid by the dealer prior to such sale.

15 (3) To set up, promote, or aid in the promotion of a plan by which
16 vehicles are to be sold to a person for a consideration and upon
17 further consideration that the purchaser agrees to secure one or more
18 persons to participate in the plan by respectively making a similar
19 purchase and in turn agreeing to secure one or more persons likewise to
20 join in said plan, each purchaser being given the right to secure
21 money, credits, goods, or something of value, depending upon the number
22 of persons joining the plan.

23 (4) To commit, allow, or ratify any act of "bushing" which is
24 defined as follows: Taking from a prospective buyer of a vehicle a
25 written order or offer to purchase, or a contract document signed by
26 the buyer, which:

27 (a) Is subject to the dealer's, or his or her authorized
28 representative's future acceptance, and the dealer fails or refuses
29 within forty-eight hours, exclusive of Saturday, Sunday, or legal
30 holiday, and prior to any further negotiations with said buyer, to
31 deliver to the buyer either the dealer's signed acceptance or all
32 copies of the order, offer, or contract document together with any
33 initial payment or security made or given by the buyer, including but
34 not limited to money, check, promissory note, vehicle keys, a trade-in,
35 or certificate of title to a trade-in; or

36 (b) Permits the dealer to renegotiate a dollar amount specified as
37 trade-in allowance on a vehicle delivered or to be delivered by the
38 buyer as part of the purchase price, for any reason except substantial
39 physical damage or latent mechanical defect occurring before the dealer

1 took possession of the vehicle and which could not have been reasonably
2 discoverable at the time of the taking of the order, offer, or
3 contract; or

4 (c) Fails to comply with the obligation of any written warranty or
5 guarantee given by the dealer requiring the furnishing of services or
6 repairs within a reasonable time.

7 (5) To commit any offense relating to odometers, as such offenses
8 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
9 violation of this subsection is a class C felony punishable under
10 chapter 9A.20 RCW.

11 (6) For any vehicle dealer or vehicle salesman to refuse to
12 furnish, upon request of a prospective purchaser, the name and address
13 of the previous registered owner of any used vehicle offered for sale.

14 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
15 46.37.425.

16 (8) To commit any offense relating to a dealer's temporary license
17 permit, including but not limited to failure to properly complete each
18 such permit, or the issuance of more than one such permit on any one
19 vehicle.

20 (9) For a dealer, salesman, or mobile home manufacturer, having
21 taken an instrument or cash "on deposit" from a purchaser prior to the
22 delivery of the bargained-for vehicle, to commingle (~~said~~) the "on
23 deposit" funds with assets of the dealer, salesman, or mobile home
24 manufacturer instead of holding (~~said~~) the "on deposit" funds as
25 trustee in a separate trust account until the purchaser has taken
26 delivery of the bargained-for vehicle. Delivery of a manufactured home
27 shall be deemed to occur in accordance with RCW 46.70.135(5). Failure,
28 immediately upon receipt, to endorse "on deposit" instruments to such
29 a trust account, or to set aside "on deposit" cash for deposit in such
30 trust account, and failure to deposit such instruments or cash in such
31 trust account by the close of banking hours on the day following
32 receipt thereof, shall be evidence of intent to commit this unlawful
33 practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a
34 separate trust account which equals his or her customary total customer
35 deposits for vehicles for future delivery. For purposes of this
36 section, "on deposit" funds received from a purchaser of a manufactured
37 home means those funds that a seller requires a purchaser to advance
38 before ordering the manufactured home, but does not include any loan

1 proceeds or moneys that might have been paid on an installment
2 contract.

3 (10) For a dealer or manufacturer to fail to comply with the
4 obligations of any written warranty or guarantee given by the dealer or
5 manufacturer requiring the furnishing of goods and services or repairs
6 within a reasonable period of time, or to fail to furnish to a
7 purchaser, all parts which attach to the manufactured unit including
8 but not limited to the undercarriage, and all items specified in the
9 terms of a sales agreement signed by the seller and buyer.

10 (11) For a vehicle dealer to pay to or receive from any person,
11 firm, partnership, association, or corporation acting, either directly
12 or through a subsidiary, as a buyer's agent for consumers, any
13 compensation, fee, gratuity, or reward in connection with the purchase
14 or sale of a new motor vehicle.

15 (12) For a buyer's agent acting directly or through a subsidiary to
16 pay to or to receive from any motor vehicle dealer any compensation,
17 fee, gratuity, or reward in connection with the purchase or sale of a
18 new motor vehicle.

19 (13) For a buyer's agent to arrange for or to negotiate the
20 purchase, or both, of a new motor vehicle through an out-of-state
21 dealer without disclosing in writing to the customer that the new
22 vehicle would not be subject to chapter 19.118 RCW.

23 (14) Being a manufacturer, other than a motorcycle manufacturer
24 governed by chapter 46.94 RCW, to:

25 (a) Coerce or attempt to coerce any vehicle dealer to order or
26 accept delivery of any vehicle or vehicles, parts or accessories, or
27 any other commodities which have not been voluntarily ordered by the
28 vehicle dealer: PROVIDED, That recommendation, endorsement,
29 exposition, persuasion, urging, or argument are not deemed to
30 constitute coercion;

31 (b) Cancel or fail to renew the franchise or selling agreement of
32 any vehicle dealer doing business in this state without fairly
33 compensating the dealer at a fair going business value for his or her
34 capital investment which shall include but not be limited to tools,
35 equipment, and parts inventory possessed by the dealer on the day he or
36 she is notified of such cancellation or termination and which are still
37 within the dealer's possession on the day the cancellation or
38 termination is effective, if: (i) The capital investment has been
39 entered into with reasonable and prudent business judgment for the

1 purpose of fulfilling the franchise; and (ii) ~~((said))~~ the cancellation
2 or nonrenewal was not done in good faith. Good faith is defined as the
3 duty of each party to any franchise to act in a fair and equitable
4 manner towards each other, so as to guarantee one party freedom from
5 coercion, intimidation, or threats of coercion or intimidation from the
6 other party: PROVIDED, That recommendation, endorsement, exposition,
7 persuasion, urging, or argument are not deemed to constitute a lack of
8 good faith.

9 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
10 vehicles through any false, deceptive, or misleading sales or financing
11 practices including but not limited to those practices declared
12 unlawful in this section;

13 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
14 practice forbidden in this section by either threats of actual
15 cancellation or failure to renew the dealer's franchise agreement;

16 (e) Refuse to deliver any vehicle publicly advertised for immediate
17 delivery to any duly licensed vehicle dealer having a franchise or
18 contractual agreement for the retail sale of new and unused vehicles
19 sold or distributed by such manufacturer within sixty days after such
20 dealer's order has been received in writing unless caused by inability
21 to deliver because of shortage or curtailment of material, labor,
22 transportation, or utility services, or by any labor or production
23 difficulty, or by any cause beyond the reasonable control of the
24 manufacturer;

25 (f) To provide under the terms of any warranty that a purchaser of
26 any new or unused vehicle that has been sold, distributed for sale, or
27 transferred into this state for resale by the vehicle manufacturer may
28 only make any warranty claim on any item included as an integral part
29 of the vehicle against the manufacturer of that item.

30 Nothing in this section may be construed to impair the obligations
31 of a contract or to prevent a manufacturer, distributor,
32 representative, or any other person, whether or not licensed under this
33 chapter, from requiring performance of a written contract entered into
34 with any licensee hereunder, nor does the requirement of such
35 performance constitute a violation of any of the provisions of this
36 section if any such contract or the terms thereof requiring
37 performance, have been freely entered into and executed between the
38 contracting parties. This paragraph and subsection ~~((+11)(b))~~ (14)(b)

1 of this section do not apply to new motor vehicle manufacturers
2 governed by chapter 46.96 RCW.

3 (15) Unlawful transfer of an ownership interest in a motor vehicle
4 as defined in RCW 19.116.050.

5 NEW SECTION. **Sec. 14.** The purpose of this chapter is to ensure
6 that all mobile and manufactured homes are installed by a certified
7 manufactured home installer in accordance with the state installation
8 code, chapter 296-150B WAC, in order to provide greater protections to
9 consumers and make the warranty requirement of section 2 of this act
10 easier to achieve.

11 NEW SECTION. **Sec. 15.** Unless the context clearly requires
12 otherwise, the definitions in this section apply throughout this
13 chapter.

14 (1) "Authorized representative" means an employee of a state
15 agency, city, or county acting on behalf of the department.

16 (2) "Certified manufactured home installer" means a person who is
17 in the business of installing mobile or manufactured homes and who has
18 been issued a certificate by the department as provided in this
19 chapter.

20 (3) "Department" means the department of community, trade, and
21 economic development.

22 (4) "Director" means the director of community, trade, and economic
23 development.

24 (5) "Manufactured home" means a single-family dwelling built in
25 accordance with the department of housing and urban development
26 manufactured home construction and safety standards act, which is a
27 national, preemptive building code.

28 (6) "Mobile or manufactured home installation" means all on-site
29 work necessary for the installation of a manufactured home, including:

30 (a) Construction of the foundation system;

31 (b) Installation of the support piers;

32 (c) Required connection to foundation system and support piers;

33 (d) Skirting;

34 (e) Connections to the on-site water and sewer systems that are
35 necessary for the normal operation of the home; and

36 (f) Extension of the pressure relief valve for the water heater.

1 (7) "Manufactured home standards" means the manufactured home
2 construction and safety standards as promulgated by the United States
3 department of housing and urban development (HUD).

4 (8) "Mobile home" means a factory-built dwelling built prior to
5 June 15, 1976, to standards other than the HUD code, and acceptable
6 under applicable state codes in effect at the time of construction or
7 introduction of the home into the state. Mobile homes have not been
8 built since introduction of the HUD manufactured home construction and
9 safety standards act.

10 (9) "Training course" means the education program administered by
11 the department as a prerequisite to taking the examination for
12 certification.

13 NEW SECTION. **Sec. 16.** After July 1, 1995, a mobile or
14 manufactured home may not be installed without a certified manufactured
15 home installer providing on-site supervision whenever installation work
16 is being performed. The certified manufactured home installer is
17 responsible for the reading, understanding, and following the
18 manufacturer's installation instructions and performance of
19 noncertified workers engaged in the installation of the home. There
20 shall be at least one certified manufactured home installer on the
21 installation site whenever installation work is being performed.

22 A manufactured home installer certification shall not be required
23 for:

24 (1) Site preparation;

25 (2) Sewer and water connections outside of the building site;

26 (3) Specialty trades that are responsible for constructing
27 accessory structures such as garages, carports, and decks;

28 (4) Pouring concrete into forms;

29 (5) Painting and dry wall finishing;

30 (6) Carpet installation;

31 (7) Specialty work performed within the scope of their license by
32 licensed plumbers or electricians. This provision does not waive or
33 lessen any state regulations related to licensing or permits required
34 for electricians or plumbers;

35 (8) A mobile or manufactured home owner performing installation
36 work on their own home; and

1 (9) A manufacturer's mobile home installation crew installing a
2 mobile or manufactured home sold by the manufacturer except for the on-
3 site supervisor.
4 Violation of this section is an infraction.

5 NEW SECTION. **Sec. 17.** A person desiring to be issued a
6 certificate of manufactured home installation as provided in this
7 chapter shall make application to the department, in such a form as
8 required by the department.

9 Upon receipt of the application and evidence required in this
10 chapter, the director shall review the information and make a
11 determination as to whether the applicant is eligible to take the
12 training course and examination for the certificate of manufactured
13 home installation. An applicant must furnish written evidence of six
14 months of experience under the direct supervision of a certified
15 manufactured home installer, or other equivalent experience, in order
16 to be eligible to take the training course and examination. The
17 director shall establish reasonable rules for the training course and
18 examinations to be given to applicants for certificates of manufactured
19 home installation. Upon determining that the applicant is eligible to
20 take the training course and examination, the director shall notify the
21 applicant, indicating the time and place for taking the training course
22 and examination.

23 The requirement that an applicant must be under the direct
24 supervision of a certified manufactured home installer for six months
25 only applies to applications made on or after July 1, 1996. For
26 applications made before July 1, 1996, the department shall require
27 evidence of experience to satisfy this requirement.

28 The director may allow other persons to take the training course
29 and examination on manufactured home installation, without
30 certification.

31 NEW SECTION. **Sec. 18.** The department shall prepare a written
32 training course and examination to be administered to applicants for
33 manufactured home installer certification. The examination shall be
34 constructed to determine whether the applicant:

35 (1) Possesses general knowledge of the technical information and
36 practical procedures that are necessary for manufactured home
37 installation;

1 (2) Is familiar with the federal and state codes and administrative
2 rules pertaining to manufactured homes; and

3 (3) Is familiar with the local government regulations as related to
4 manufactured home installations.

5 The department shall certify the results of the examination and
6 shall notify the applicant in writing whether the applicant has passed
7 or failed the examination. An applicant who failed the examination may
8 retake the training course and examination. The director may not limit
9 the number of times that a person may take the training course and
10 examination.

11 NEW SECTION. **Sec. 19.** (1) The department shall issue a
12 certificate of manufactured home installation to an applicant who has
13 taken the training course, passed the examination, paid the fees, and
14 in all other respects meet the qualifications. The certificate shall
15 bear the date of issuance, a certification identification number, and
16 is renewable every three years upon application and completion of a
17 continuing education program as determined by the department. A
18 renewal fee shall be assessed for each certificate. If a person fails
19 to renew a certificate by the renewal date, the person must retake the
20 examination and pay the examination fee.

21 (2) The certificate of manufactured home installation provided for
22 in this chapter grants the holder the right to engage in manufactured
23 home installation throughout the state, without any other installer
24 certification.

25 NEW SECTION. **Sec. 20.** Any local government mobile or manufactured
26 home installation application and permit shall state the name and
27 certification identification number of the certified manufactured home
28 installer supervising such installation. A local government may not
29 issue a permit to install a manufactured home unless: (1) The
30 installer submits a copy of the certificate of manufactured home
31 installation to the local government; or (2) work is being performed
32 that does not require a certified installer. When work must be
33 performed by a certified manufactured home installer, no work may
34 commence until the installer or the installer's agent has posted or
35 otherwise made available, with the inspection record card at the set-up
36 site, a copy of the certified manufactured home installer's certificate
37 of manufactured home installation.

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

3 (a) The certificate was obtained through error or fraud;

4 (b) The holder of the certificate is judged to be incompetent as a
5 result of multiple infractions of the state installation code, WAC 296-
6 150B-200 through 296-150B-255; or

7 (c) The holder has violated a provision of this chapter or a rule
8 adopted to implement this chapter.

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

18 NEW SECTION. **Sec. 22.** The department shall charge reasonable fees
19 to cover the costs to administer the certification program which shall
20 include but not be limited to the issuance, renewal, and reinstatement
21 of all certificates, training courses, and examinations required under
22 this chapter. All fees collected under this chapter shall be deposited
23 in the manufactured home installation training account created in
24 section 23 of this act and used only for the purposes specified in this
25 chapter.

26 The fees shall be limited to covering the direct cost of issuing
27 the certificates, administering the examinations, and administering and
28 enforcing this chapter. The costs shall include only essential travel,
29 per diem, and administrative support costs.

30 NEW SECTION. **Sec. 23.** The manufactured home installation training
31 account is created in the state treasury. All receipts collected under
32 this chapter and any legislative appropriations for manufactured home
33 installation training shall be deposited into the account. Moneys in
34 the account may only be spent after appropriation. Expenditures from
35 the account may only be used for the purposes of this chapter.
36 Unexpended and unencumbered moneys that remain in the account at the
37 end of the fiscal year do not revert to the state general fund but

1 remain in the account, separately accounted for, as a contingency
2 reserve.

3 NEW SECTION. **Sec. 24.** An authorized representative may
4 investigate alleged or apparent violations of this chapter. Upon
5 presentation of credentials, an authorized representative, including a
6 local government building official, may inspect sites at which
7 manufactured home installation work is undertaken to determine whether
8 such work is being done under the supervision of a certified
9 manufactured home installer. Upon request of the authorized
10 representative, a person performing manufactured home installation work
11 shall identify the person holding the certificate issued by the
12 department in accordance with this chapter.

13 NEW SECTION. **Sec. 25.** An authorized representative of the
14 department may issue a notice of infraction if the person supervising
15 the manufactured home installation work fails to produce evidence of
16 having a certificate issued by the department in accordance with this
17 chapter. A notice of infraction issued under this chapter shall be
18 personally served on or sent by certified mail to the person named in
19 the notice by the authorized representative.

20 NEW SECTION. **Sec. 26.** (1) The department shall prescribe the form
21 of the notice of infraction issued under this chapter.

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

23 (a) A statement that the notice represents a determination that the
24 infraction has been committed by the person named in the notice and
25 that the determination is final unless contested as provided in this
26 chapter;

27 (b) A statement that the infraction is a noncriminal offense for
28 which imprisonment may not be imposed as a sanction;

29 (c) A statement of the specific infraction for which the notice was
30 issued;

31 (d) A statement of a monetary penalty that has been established for
32 the infraction;

33 (e) A statement of the options provided in this chapter for
34 responding to the notice and the procedures necessary to exercise these
35 options;

1 (f) A statement that, at a hearing to contest the determination,
2 the state has the burden of proving, by a preponderance of the
3 evidence, that the infraction was committed, and that the person may
4 subpoena witnesses including the authorized representative who issued
5 and served the notice of the infraction;

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

9 (h) A statement that refusal to sign the infraction as directed in
10 (g) of this subsection is a misdemeanor; and

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

14 NEW SECTION. **Sec. 27.** Each day in which a person engages in the
15 installation of manufactured homes in violation of this chapter is a
16 separate infraction. Each worksite at which a person engages in the
17 trade of manufactured home installation in violation of this chapter is
18 a separate infraction.

19 NEW SECTION. **Sec. 28.** It is a violation of this chapter for any
20 contractor, manufactured home dealer, manufacturer, or home dealer's or
21 manufacturer's agent to engage any person to install a manufactured
22 home who is not certified in accordance with this chapter.

23 NEW SECTION. **Sec. 29.** All violations designated as an infraction
24 shall be adjudicated in accordance with the administrative procedure
25 act, chapter 34.05 RCW.

26 NEW SECTION. **Sec. 30.** Unless contested in accordance with this
27 chapter, the notice of infraction represents a determination that the
28 person to whom the notice was issued committed the infraction.

29 NEW SECTION. **Sec. 31.** (1) A person found to have committed an
30 infraction under this chapter shall be assessed a monetary penalty of
31 one thousand dollars.

32 (2) The administrative law judge may waive, reduce, or suspend the
33 monetary penalty imposed for the infraction.

1 (3) Monetary penalties collected under this chapter shall be
2 remitted as provided in chapter 3.62 RCW.

3 NEW SECTION. **Sec. 32.** The director may adopt rules in accordance
4 with chapter 34.05 RCW, make specific decisions, orders, and rulings,
5 include demands and findings within the decisions, orders, and rulings,
6 and take other necessary action for the implementation and enforcement
7 of duties under this chapter.

8 NEW SECTION. **Sec. 33.** Sections 14 through 32 of this act shall
9 constitute a new chapter in Title 43 RCW.

10 NEW SECTION. **Sec. 34.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

14 NEW SECTION. **Sec. 35.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect immediately."

18 **2SSB 6107** - CONF REPT
19 By Conference Committee

20 ADOPTED 3/10/94

21 On page 1, line 2 of the title, after "development;" strike the
22 remainder of the title and insert "amending RCW 70.95H.040, 46.70.135,
23 and 46.70.180; reenacting and amending RCW 43.210.110; adding new
24 sections to chapter 43.330 RCW; adding a new section to chapter 70.95H
25 RCW; adding new sections to chapter 46.70 RCW; adding a new chapter to
26 Title 43 RCW; creating a new section; prescribing penalties; and
27 declaring an emergency."

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