
HOUSE BILL 1806

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Bray, Horn and Rust

Read first time 02/10/93. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to wells; amending RCW 18.104.010, 18.104.020,
2 18.104.030, 18.104.040, 18.104.043, 18.104.048, 18.104.050, 18.104.060,
3 18.104.070, 18.104.080, 18.104.100, 18.104.110, 18.104.120, 18.104.150,
4 18.104.155, 18.104.180, 18.104.900, and 89.16.055; adding new sections
5 to chapter 18.104 RCW; prescribing penalties; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 18.104.010 and 1971 ex.s. c 212 s 1 are each amended
9 to read as follows:

10 The legislature declares that the drilling, making or constructing
11 of ((water)) wells ((using the ground water resources)) within the
12 state is a business and activity of vital interest to the public. In
13 order to protect the public health, welfare, and safety of the people
14 it is necessary that provision be made for the regulation and licensing
15 of ((water)) well contractors and operators and for the regulation of
16 ((water)) well design and construction.

17 **Sec. 2.** RCW 18.104.020 and 1983 1st ex.s. c 27 s 14 are each
18 amended to read as follows:

1 The definitions set forth in this section apply throughout this
2 chapter, unless a different meaning is plainly required by the context.

3 (1) "Abandoned well" means a well that is unused, unmaintained, and
4 is in such disrepair as to be unusable.

5 (2) "Constructing a well" or "construct a well" means ((and
6 includes)):

7 (a) Boring, digging, drilling, or excavating ((and)) a well;

8 (b) Installing casing, sheeting, lining, instrumentation, or well
9 screens, ((whether in the installation of a new well or)) in a well; or

10 (c) Drilling a geotechnical soil boring.

11 "Constructing a well" or "construct a well" includes the alteration
12 of an existing well.

13 ((+2)) (3) "Decommission" means to fill or plug a well so that it
14 will not produce water, serve as a channel for movement of water or
15 pollution, or allow the entry of pollutants into the well or aquifers.

16 (4) "Department" means the department of ecology.

17 ((+3)) (5) "Dewatering well" means a cased or lined excavation or
18 boring that is intended to withdraw or divert ground water for the
19 purpose of facilitating construction, stabilizing a landslide, or
20 protecting an aquifer.

21 (6) "Director" means the director of the department of ecology.

22 ((+4)) (7) "Geotechnical soil boring" or "boring" means an uncased
23 well drilled for purpose of obtaining soil samples to ascertain
24 structural properties of the subsurface. Geotechnical soil boring
25 includes auger borings, rotary borings, cone penetrometer probes and
26 vane shear probes, or any other uncased ground penetration for
27 geotechnical information.

28 (8) "Ground water" means and includes ground waters as defined in
29 RCW 90.44.035(~~, as now or hereafter amended~~)).

30 ((+5)) (9) "Instrumentation well" means a well in which pneumatic
31 or electric geotechnical or hydrological instrumentation is permanently
32 or periodically installed to measure or monitor subsurface strength and
33 movement. Instrumentation well includes borehole extensometers, slope
34 indicators, pneumatic or electric pore pressure transducers, and load
35 cells.

36 (10) "Monitoring well" means a well designed to obtain a
37 representative ground water sample or designed to measure the water
38 level elevation in either clean or contaminated water or soil.

1 (11) "Observation well" means a well designed to measure the depth
2 to the water level elevation in either clean or contaminated water or
3 soil.

4 (12) "Operator" means ~~((any))~~ a person~~((, other than a person~~
5 ~~exempted by RCW 18.104.180,))~~ who (a) is employed by a water well
6 contractor ~~((for the control and supervision of the));~~ (b) is licensed
7 under this chapter; and (c) who controls, supervises, or oversees the
8 construction of a ~~((water))~~ well ~~((or for the operation of water))~~ or
9 who operates well construction equipment.

10 ~~((6))~~ (13) "Owner" or "well owner" means the person, firm,
11 partnership, copartnership, corporation association, or other entity
12 who owns the property on which the well is or will be constructed.

13 (14) "Pollution" and "contamination" have the meanings provided in
14 RCW 90.48.020.

15 (15) "Resource protection well" means a cased boring used to
16 determine the existence or migration of pollutants within an
17 underground formation. Resource protection wells include monitoring
18 wells, observation wells, piezometers, spill response wells, vapor
19 extraction wells, and instrumentation wells.

20 (16) "Resource protection well contractor" means any person, firm,
21 partnership, copartnership, corporation, association, or other entity,
22 licensed and bonded under chapter 18.27 RCW, engaged in the business of
23 constructing resource protection wells or geotechnical soil borings.

24 (17) "Water well" means ~~((and includes))~~ any excavation that is
25 ~~((drilled, cored, bored, washed, driven, dug, jetted, or otherwise))~~
26 constructed when the intended use of the well is for the location,
27 diversion, artificial recharge, observation, monitoring, dewatering, or
28 withdrawal of ground water. ~~(("Water well" does not mean an excavation~~
29 ~~made for the purpose of obtaining or prospecting for oil, natural gas,~~
30 ~~minerals, or products of mining, or quarrying, or for inserting media~~
31 ~~to repressure oil or natural gas bearing formations, or for storing~~
32 ~~petroleum, natural gas, or other products.~~

33 ~~(7))~~ (18) "Water well contractor" means any person, firm,
34 partnership, copartnership, corporation, association, or other entity,
35 licensed and bonded under chapter 18.27 RCW, engaged in the business of
36 constructing water wells.

37 (19) "Well" means water wells, resource protection wells,
38 instrumentation wells, dewatering wells, and geotechnical soil borings.
39 Well does not mean an excavation made for the purpose of obtaining or

1 prospecting for oil, natural gas, geothermal resources, minerals, or
2 products of mining, or quarrying, or for inserting media to repressure
3 oil or natural gas bearing formations, or for storing petroleum,
4 natural gas, or other products.

5 (20) "Well contractor" means a resource protection well contractor
6 and a water well contractor.

7 **Sec. 3.** RCW 18.104.030 and 1971 ex.s. c 212 s 3 are each amended
8 to read as follows:

9 It is unlawful:

10 (1) For any ~~((water well contractor))~~ person to supervise,
11 construct, alter, or decommission a ((water)) well ((for compensation))
12 without complying with the ((licensing)) provisions of this chapter((;

13 ~~(2) For any water well contractor to construct a water well for~~
14 ~~compensation without complying with)) and the rules ((and regulations))~~
15 for ((water)) well construction adopted pursuant to this chapter;

16 ~~((3) For any water well construction operator to supervise the~~
17 ~~construction of a water well without having an operators license as~~
18 ~~provided in this chapter))~~ (2) For any person to cause a well to be

19 constructed in violation of the standards for well construction
20 established by this chapter and rules adopted by the department
21 pursuant to this chapter;

22 (3) For a prospective water well owner to have a water well
23 constructed without first obtaining a water right permit, if a permit
24 is required;

25 (4) For any person to construct, alter, or decommission a well
26 without paying the fees required by section 9 of this act;

27 (5) For a person to tamper with or remove a well identification tag
28 except during well alteration; and

29 (6) Except as provided in RCW 18.104.180, for any person to
30 contract to engage in the construction of a well or to act as a well
31 operator without first obtaining a license pursuant to this chapter.

32 **Sec. 4.** RCW 18.104.040 and 1991 c 3 s 249 are each amended to read
33 as follows:

34 The department shall have the power:

35 (1) To issue, deny, suspend or revoke licenses pursuant to the
36 provisions of this chapter;

1 (2) At all times, to enter upon lands for the purpose of
2 inspecting, taking measurements from, or tagging any ((water)) well,
3 ((drilled or being drilled, at all reasonable times)) constructed or
4 being constructed;

5 (3) To call upon or receive professional or technical advice from
6 ((any)) the department of health, the technical advisory group created
7 in section 23 of this act, or any other public agency or ((any))
8 person;

9 (4) To ((make such)) adopt rules, in consultation with the
10 department of health and the technical advisory group created in
11 section 23 of this act, governing licensing ((hereunder)) and ((water))
12 well construction as may be appropriate to carry out the purposes of
13 this chapter. ((Without limiting the generality of the foregoing,))
14 The rules adopted by the department may ((in cooperation with the
15 department of health make rules regarding)) include, but are not
16 limited to:

17 (a) Standards for the construction and maintenance of ((water))
18 wells and their casings;

19 (b) Methods of capping, sealing ((artesian)), and decommissioning
20 wells ((and water wells to be abandoned or which may contaminate
21 other)) to prevent contamination of ground water resources and to
22 protect public health and safety;

23 (c) Methods of artificial recharge of ground water bodies and of
24 construction of wells which insure separation of individual water
25 bearing formations;

26 (d) The manner of conducting and the content of examinations
27 required to be taken by applicants for license hereunder;

28 (e) Requirements for the filing of notices of intent, well reports,
29 and the payment of fees;

30 (f) Reporting requirements of ((water)) well contractors;

31 ((f)) (g) Limitations on ((water)) well construction in areas
32 identified by the department as requiring intensive control of
33 withdrawals in the interests of sound management of the ground water
34 resource;

35 (5) To require the operator in the construction of a well and the
36 property owner in the maintenance of a well to guard against waste and
37 contamination of the ground water resources;

38 (6) To require the operator to place a well identification tag on
39 a new well and on an existing well on which work is performed after the

1 effective date of rules requiring well identification tags and to place
2 or require the owner to place a well identification tag on an existing
3 well;

4 (7) To require the well owner to repair or decommission any well:

5 (a) That is abandoned, unusable, or not intended for future use;

6 (b) That is in such disrepair that its continued use is
7 impractical;

8 (c) That is an environmental, safety, or public health hazard; or

9 (d) For which no valid water right is in existence or the water
10 right has been relinquished as provided in chapter 90.14 RCW.

11 **Sec. 5.** RCW 18.104.043 and 1992 c 67 s 2 are each amended to read
12 as follows:

13 (1) If requested in writing by the governing body of a local health
14 district or county, the department by memorandum of agreement may
15 delegate to the governing body the authority to administer and enforce
16 the well tagging, sealing, and decommissioning portions of the water
17 well construction program.

18 (2) The department shall determine whether a local health district
19 or county that seeks delegation under this section has the resources,
20 capability, and expertise, including qualified field inspectors, to
21 administer the delegated program. If the department determines the
22 local government has these resources, it shall notify (~~(drilling)~~) well
23 contractors, consultants, and operators of the proposal. The
24 department shall accept written comments on the proposal for sixty days
25 after the notice is mailed.

26 (3) If the department determines that a delegation of authority to
27 a local health district or county to administer and enforce the well
28 sealing and decommissioning portions of the water well construction
29 program will enhance the public health and safety and the environment,
30 the department and the local governing body may enter into a memorandum
31 of agreement setting forth the specific authorities delegated by the
32 department to the local governing body. The memorandum of agreement
33 shall provide for an initial review of the delegation within one year
34 and for periodic review thereafter.

35 (4) The local governing body shall exercise any authority delegated
36 under this section in accordance with this chapter, other applicable
37 laws, the memorandum of agreement, and applicable ordinances. If,
38 after a public hearing, the department determines that a local

1 governing body is not administering the program in accordance with this
2 chapter, it shall notify the local governing body of the deficiencies.
3 If corrective action is not taken within a reasonable time, not to
4 exceed sixty days, the department by order shall withdraw the
5 delegation of authority.

6 (5) The department shall promptly furnish the local governing body
7 with a copy of each water well report and notification of start cards
8 received in the area covered by a delegated program.

9 (6) The department and the local governing body shall coordinate to
10 reduce duplication of effort and shall share all appropriate
11 information including technical reports, violations, and well reports.

12 (7) Any person aggrieved by a decision of a local health district
13 or county under a delegated program may appeal the decision to the
14 department. The department's decision is subject to review by the
15 pollution control hearings board as provided in RCW 18.104.130.

16 (8) The department shall not delegate the authority to license
17 (~~water~~) well contractors, renew licenses, receive notices of intent
18 to commence (~~drilling~~) constructing a well, receive well reports, or
19 collect state fees provided for in this chapter.

20 **Sec. 6.** RCW 18.104.048 and 1987 c 394 s 3 are each amended to read
21 as follows:

22 (~~To enable the department to monitor the construction,~~
23 ~~reconstruction, and abandonment of water wells more efficiently and~~
24 ~~effectively, water well contractors~~) A property owner or the owner's
25 agent shall (~~provide notification to~~) notify the department of
26 (~~their~~) his or her intent to begin construction, reconstruction, or
27 (~~abandonment~~) decommissioning procedures at least seventy-two hours
28 in advance of commencing work. The (~~notification~~) notice shall be
29 submitted on forms provided by the department and shall be accompanied
30 by the fees required by section 9 of this act. The notice shall
31 contain the name of the owner of the well, location of the well,
32 proposed use, approximate start date, (~~driller's~~) well contractor's
33 or operator's name and license number, (~~drilling~~) company's name, and
34 other pertinent information as prescribed by rule of the department.
35 Rules of the department shall also provide for prior telephonic
36 notification by well (~~drillers~~) contractors or operators in
37 exceptional situations. Within five days after the notice has been
38 submitted to the department, it shall issue a receipt indicating that

1 the notice has been filed with the department and the fees have been
2 paid.

3 NEW SECTION. Sec. 7. A new section is added to chapter 18.104 RCW
4 to read as follows:

5 The department by rule shall adopt procedures to permit a well
6 operator to modify construction standards to meet unforeseen
7 circumstances encountered during the construction of a well. The
8 procedures shall be developed in consultation with the technical
9 advisory group established in section 23 of this act.

10 Sec. 8. RCW 18.104.050 and 1971 ex.s. c 212 s 5 are each amended
11 to read as follows:

12 ~~((In order to enable the state to protect the welfare, health and~~
13 ~~safety of its citizens, any water)) A well contractor shall furnish a
14 ~~((water))~~ well report to the director within thirty days after the
15 completion of the construction or alteration of a well by ~~((him of any~~
16 ~~water well))~~ the contractor. The director, by ~~((regulation))~~ rule,
17 shall prescribe the form of the report and the information to be
18 contained therein.~~

19 NEW SECTION. Sec. 9. A new section is added to chapter 18.104 RCW
20 to read as follows:

21 (1) A fee is hereby imposed on each well constructed in this state
22 on or after July 1, 1993.

23 (2)(a) The fee for one new water well with a minimum top casing
24 diameter of less than twelve inches is one hundred dollars. The fee
25 for each additional monitoring or observation well at the same site is
26 twenty-five dollars.

27 (b) The fee for one new water well with a minimum top casing
28 diameter of twelve inches or greater is two hundred dollars. The fee
29 for each additional monitoring or observation well at the same site is
30 twenty-five dollars.

31 (c) The fee for a new resource protection, observation, and
32 monitoring well or a geotechnical soil boring is one hundred dollars
33 for the first well or boring. The fee for each additional monitoring
34 or observation well or boring at the same site is twenty-five dollars.

1 (d) The fee for construction and decommissioning of a dewatering
2 well is one hundred dollars for the first well and twenty-five dollars
3 for each additional well at the same site.

4 (3) The fees imposed by this section shall be paid at the time the
5 notice of well construction is submitted to the department as provided
6 by RCW 18.104.048. The department by rule may adopt procedures to
7 permit the fees required for resource protection wells to be paid after
8 the number of wells actually constructed has been determined. The
9 department shall refund the amount of any fees collected for any wells
10 on which construction is not started.

11 **Sec. 10.** RCW 18.104.060 and 1971 ex.s. c 212 s 6 are each amended
12 to read as follows:

13 Notwithstanding and in addition to any other powers granted to the
14 department, whenever it appears to the director, or to an assistant
15 authorized by the director to issue regulatory orders under this
16 section, that a person is violating or is about to violate any of the
17 provisions of this chapter, the director, or ~~((his))~~ the director's
18 authorized assistant, may cause a written regulatory order to be served
19 upon said person either personally, or by registered or certified mail
20 delivered to the addressee only with return receipt requested and
21 acknowledged by him or her. The order shall specify the provision of
22 this chapter, and if applicable, the rule ~~((or regulation))~~ adopted
23 pursuant to this chapter alleged to be or about to be violated, and the
24 facts upon which the conclusion of violating or potential violation is
25 based, and shall order the act constituting the violation or the
26 potential violation to cease and desist or, in appropriate cases, shall
27 order necessary corrective action to be taken with regard to such acts
28 within a specific and reasonable time. ~~((A regulatory))~~ An order
29 issued ~~((hereunder))~~ under this chapter shall become effective
30 immediately upon receipt by the person to whom the order is directed,
31 and shall become final unless review thereof is requested as provided
32 in this chapter.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.104
34 RCW to read as follows:

35 (1) The department may order a well contractor or well operator to
36 repair, alter, or decommission a well if the department demonstrates
37 that the construction of the well did not meet the standards for well

1 construction in effect at the time construction of the well was
2 completed.

3 (2) The department may not issue an order pursuant to this section
4 more than six years after construction has been substantially
5 completed, as defined in RCW 4.16.310. This subsection shall only
6 apply to a well for which the notice required by RCW 18.104.048 and the
7 report required by RCW 18.104.050 have been filed with the department.

8 **Sec. 12.** RCW 18.104.070 and 1987 c 394 s 2 are each amended to
9 read as follows:

10 ~~((Except as provided in RCW 18.104.180, no person may contract to
11 engage in the construction of a water well and no person may act as an
12 operator without first obtaining a license by applying to the
13 department.))~~

14 A person shall be qualified to receive a water well
15 ~~((construction))~~ operator's license if ~~((he))~~ the person:

16 (1) Has ~~((made))~~ submitted a completed application ~~((therefor))~~ to
17 the department on forms provided by the department and has paid to the
18 department ~~((an))~~ the application fee ~~((of twenty five dollars))~~
19 determined by rule adopted pursuant to this chapter; and

20 (2) Has ~~((at least two years of field experience with a licensed
21 well driller or one year of field experience and an equivalent of at
22 least one school year of qualifying educational training that satisfies
23 the criteria established by department rule))~~ the field experience and
24 educational training required by rule adopted by the department
25 pursuant to this chapter; and

26 (3) Has passed a written examination as provided for in RCW
27 18.104.080~~((:— PROVIDED, That should any applicant establish his
28 illiteracy to the satisfaction of the department, such applicant shall
29 be entitled to an oral examination in lieu of the written examination
30 authorized herein))~~; and

31 (4) Has passed an on-site examination by the department if the
32 person's qualifying field experience under subsection (2) of this
33 section is from another state. The department may waive the on-site
34 examination.

35 NEW SECTION. **Sec. 13.** A new section is added to chapter 18.104
36 RCW to read as follows:

1 The department may issue a water well construction operator's
2 training license if the person:

3 (1) Has submitted a completed application to the department on
4 forms provided by the department and has paid to the department the
5 application fee required by rules adopted pursuant to this chapter;

6 (2) Has acquired field experience and educational training required
7 by rules adopted pursuant to this chapter;

8 (3) Has passed a written examination as provided for in RCW
9 18.104.080;

10 (4) Has passed an on-site examination by the department; and

11 (5) Presents a statement by a person licensed under this chapter,
12 other than a trainee, signed under penalty of perjury as provided in
13 RCW 9A.72.085, verifying that the applicant has the field experience
14 required by rules adopted pursuant to this chapter and assuming
15 liability for any and all well construction activities of the person
16 seeking the training license.

17 A person with a water well construction operator's training license
18 may operate a drilling rig without the direct supervision of a licensed
19 operator if a licensed operator is available by radio, telephone, or
20 other means of communication.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 18.104
22 RCW to read as follows:

23 A person shall be qualified to receive a resource protection well
24 operator's license if the person:

25 (1) Has submitted a completed application to the department on
26 forms provided by the department and has paid to the department the
27 application fee required by rules adopted pursuant to this chapter;

28 (2) Has acquired field experience and educational training required
29 by rules adopted pursuant to this chapter;

30 (3) Has passed a written examination as provided for in RCW
31 18.104.080. This requirement shall not apply to a person who passed
32 the written examination to obtain a resource protection well
33 construction operator's training license; and

34 (4) Has passed an on-site examination by the department if the
35 person's qualifying field experience is from another state. The
36 department may waive the on-site examination.

37 A person with a license issued pursuant to this chapter before the
38 effective date of this section may obtain a resource protection well

1 construction operator's license by paying the application fee
2 determined by rule adopted by the department pursuant to this chapter
3 and submitting evidence required by the department to demonstrate that
4 the person has the required experience to construct resource protection
5 wells.

6 NEW SECTION. **Sec. 15.** A new section is added to chapter 18.104
7 RCW to read as follows:

8 The department may issue a resource protection well operator's
9 training license if the person:

10 (1) Has submitted a completed application to the department on
11 forms provided by the department and has paid to the department the
12 application fee required by rules adopted pursuant to this chapter;

13 (2) Has acquired field experience and educational training required
14 by rules adopted pursuant to this chapter;

15 (3) Has passed a written examination as provided for in RCW
16 18.104.080;

17 (4) Has passed an on-site examination by the department; and

18 (5) Presents a statement by a person licensed under this chapter,
19 other than a trainee, signed under penalty of perjury as provided in
20 RCW 9A.72.085, verifying that the applicant has the field experience
21 required by rules adopted pursuant to this chapter and assuming
22 liability for any and all well construction activities of the person
23 seeking the training license.

24 A person with a resource protection well construction operator's
25 training license may operate a drilling rig without direct supervision
26 of a licensed operator if a licensed operator is accessible by radio,
27 telephone, or other means of communication.

28 **Sec. 16.** RCW 18.104.080 and 1991 c 3 s 250 are each amended to
29 read as follows:

30 The examination(~~(, which is made a prerequisite for obtaining a~~
31 ~~license hereunder,)) for a license issued pursuant to this chapter
32 shall be prepared to test knowledge and understanding of at least the
33 following subjects:~~

34 (1) Washington ground water laws as they relate to well
35 construction;

36 (2) Sanitary standards for ~~((water))~~ well drilling and construction
37 of ~~((water))~~ wells;

- 1 (3) Types of ~~((water))~~ well construction;
2 (4) Drilling tools and equipment;
3 (5) Underground geology as it relates to ~~((water))~~ well
4 construction; and
5 (6) Rules of the department and the department of health relating
6 to ~~((water))~~ well construction.

7 Examinations shall be held at such times and places as may be
8 determined by the department but not later than thirty days after an
9 applicant has filed a completed application with the department. The
10 department shall make a determination of the applicant's qualifications
11 for a license within ten days after the examination.

12 **Sec. 17.** RCW 18.104.100 and 1971 ex.s. c 212 s 10 are each amended
13 to read as follows:

14 ~~((The term for the effectiveness of any license))~~ (1) Licenses
15 issued pursuant to this chapter shall be ~~((one))~~ renewed every two
16 years~~((, commencing on the date the license is issued))~~. ~~((Every))~~ A
17 license shall be renewed ~~((annually))~~ upon payment of a renewal fee
18 ~~((of ten dollars))~~ and completion of continuing education required by
19 rule adopted by the department. If a licensee fails to submit an
20 application for renewal, ~~((together with))~~ the renewal fee, ~~((before~~
21 ~~the end of the effective term of his license, his license shall be~~
22 ~~suspended for thirty days on notice by the director.~~ If his renewal
23 ~~fee is paid prior to the end of said suspension period, the suspension~~
24 ~~shall automatically terminate.~~ If during the period of suspension
25 ~~renewal is not completed, his license shall be revoked: PROVIDED, That~~
26 ~~the director shall give the licensee ten days notice prior to the~~
27 ~~revocation of any license for failure to renew))~~ and proof of
28 completion of the required continuing education, the license shall
29 expire at the end of its effective term.

30 (2) A person whose license ~~((is revoked under this section and who~~
31 ~~thereafter desires to engage in the supervision of construction of~~
32 ~~water wells))~~ has expired must ~~((make application))~~ apply for a new
33 license ~~((and pay twenty five dollars))~~ as provided in ~~((RCW~~
34 ~~18.104.070))~~ this chapter. The department may waive the requirement
35 for a written examination and on-site testing for a person whose
36 license has expired.

37 (3) The department may refuse to renew a license if the licensee
38 has not complied with an order issued by the department or has not paid

1 a penalty imposed in accordance with this chapter, unless the order or
2 penalty is under appeal.

3 (4) The department may issue a conditional license to enable a
4 former licensee to comply with an order to correct problems with a
5 well.

6 **Sec. 18.** RCW 18.104.110 and 1991 c 3 s 251 are each amended to
7 read as follows:

8 In cases other than those relating to the failure of a licensee to
9 renew a license, ~~((any license issued hereunder may be suspended or~~
10 ~~revoked by)) the director may suspend or revoke a license issued
11 pursuant to this chapter for any of the following reasons:~~

- 12 (1) For fraud or deception in obtaining the license;
13 (2) For fraud or deception in reporting under RCW 18.104.050;
14 (3) For violating the provisions of this chapter, or of any lawful
15 rule or regulation of the department or the department of health.

16 No license shall be suspended for more than six months. No person
17 whose license is revoked shall be eligible to apply for a license for
18 one year from the effective date of the final order of revocation.

19 **Sec. 19.** RCW 18.104.120 and 1983 c 93 s 1 are each amended to read
20 as follows:

21 Any person with an economic or noneconomic interest may make a
22 complaint against any ~~((water))~~ well contractor or operator for
23 violating this chapter or any regulations under it to the department of
24 ecology. The complaint shall be in writing, signed by the complainant,
25 and specify the grievances against the licensee. The department shall
26 respond to the complaint by issuance of an order it deems appropriate.
27 Review of the order shall be subject to the hearings procedures set
28 forth in RCW 18.104.130.

29 **Sec. 20.** RCW 18.104.150 and 1971 ex.s. c 212 s 15 are each amended
30 to read as follows:

31 ~~((All receipts realized in the administration of this chapter shall~~
32 ~~be paid into the general fund.)) (1) All fees paid under this chapter
33 shall be credited by the state treasurer to the reclamation account
34 established by chapter 89.16 RCW. Subject to legislative
35 appropriation, the fees collected under this chapter shall be allocated~~

1 and expended by the director for the administration of the well
2 construction, well operators' licensing, and education programs.

3 (2) The department shall provide grants to local governing entities
4 that have been delegated portions of the well construction program
5 pursuant to RCW 18.104.043 to assist in supporting well inspectors
6 hired by the local governing body. Grants provided to a local
7 governing body shall not exceed the revenues generated from fees for
8 the portion of the program delegated and from the area in which
9 authority is delegated to the local governing body.

10 **Sec. 21.** RCW 18.104.155 and 1987 c 394 s 1 are each amended to
11 read as follows:

12 (1) The department of ecology may (~~levy~~) assess a civil penalty
13 (~~of up to one hundred dollars per day~~) for a violation of this
14 chapter or rules or orders of the department adopted or issued pursuant
15 to it. (~~Procedures of RCW 90.48.144 shall be applicable to all phases~~
16 of levying of such a penalty as well as review and appeal of them)

17 (2) There shall be three categories of violations: Minor, serious,
18 and major.

19 (a) A minor violation is a violation that does not seriously
20 threaten public health, safety, and the environment. Minor violations
21 include, but are not limited to:

22 (i) Failure to submit completed start cards and well reports within
23 the required time;

24 (ii) Failure to submit variance requests before construction;

25 (iii) Failure to submit well construction fees;

26 (iv) Failure to place a well identification tag on a new well; and

27 (v) Minor or reparable construction problems.

28 (b) A serious violation is a violation that poses a critical or
29 serious threat to public health, safety, and the environment. Serious
30 violations include, but are not limited to:

31 (i) Improper well construction;

32 (ii) Improper location or siting of a well;

33 (iii) Construction of a well without a required permit;

34 (iv) Violation of decommissioning requirements; or

35 (v) Repeated minor violations.

36 (c) A major violation is the construction of a well by a person
37 without a license or after that person's license has been revoked or
38 suspended.

1 (3)(a) The penalty for a minor violation shall be not less than one
2 hundred dollars and not more than five hundred dollars. Before the
3 imposition of a penalty for a minor violation, the department may issue
4 an order of noncompliance to provide an opportunity for mitigation or
5 compliance.

6 (b) The penalty for a serious violation or a major violation shall
7 be not less than five hundred dollars and not more than ten thousand
8 dollars.

9 (4) In determining the appropriate penalty under subsection (3) of
10 this section the department shall consider whether the person:

11 (a) Has demonstrated a general disregard for public health and
12 safety through the number and magnitude of the violations;

13 (b) Has demonstrated a disregard for the well construction laws or
14 rules in repeated or continuous violations; or

15 (c) Knew or reasonably should have known of circumstances that
16 resulted in the violation.

17 (5) Penalties provided for in this section shall be imposed
18 pursuant to RCW 43.21B.300.

19 (6) For ~~((each notice regarding))~~ informational purposes, a copy of
20 the notice of violation, resulting from the improper construction of a
21 well, that is sent to a water well contractor or water well
22 construction operator, ~~((the department shall send a copy of the notice~~
23 for information purposes only to the owner of the land on which the
24 improperly constructed well is located)) shall also be sent by the
25 department to the well owner.

26 (7) Penalties collected by the department pursuant to this section
27 shall be deposited in the reclamation account established by chapter
28 89.16 RCW. Subject to legislative appropriation, the penalties may be
29 spent only for purposes related to the restoration and enhancement of
30 ground water resources in the state.

31 **Sec. 22.** RCW 18.104.180 and 1971 ex.s. c 212 s 18 are each amended
32 to read as follows:

33 No license ~~((hereunder))~~ under this chapter shall be required of:

34 (1) Any individual who personally ~~((drills))~~ constructs a well on
35 land which is owned or leased by ~~((him))~~ the individual or in which
36 ~~((he))~~ the individual has a beneficial interest as a contract purchaser
37 and is used by the individual for farm or ~~((nonecommercial domestic))~~
38 single-family residential use only. An individual who constructs a

1 well without a license pursuant to this subsection shall comply with
2 all other requirements of this chapter and rules adopted by the
3 department, including but not limited to, well construction standards,
4 payment of well construction fees, and notification of well
5 construction required by RCW 18.104.048. An individual without a
6 license may construct not more than one well every two years pursuant
7 to the provisions of this subsection.

8 (2) (~~Any~~) An individual who performs labor or services for a
9 (~~water~~) well contractor in connection with the (~~drilling~~)
10 construction of a well at the direction and under the supervision and
11 control of a licensed operator who is present at the construction site.

12 (3) A person licensed under the provisions of chapter 18.08 or
13 18.43 RCW if in the performance of duties covered by those licenses.

14 NEW SECTION. Sec. 23. A new section is added to chapter 18.104
15 RCW to read as follows:

16 (1) For the purpose of carrying out the provisions of this chapter,
17 the director shall appoint a technical advisory group, chaired by the
18 department, with membership consisting of individuals knowledgeable in
19 the science, design, and installation of water wells and resource
20 protection wells, including but not limited to, resource protection
21 well operators, water well operators, local health officials, licensed
22 professional engineers, and representatives of the department of
23 health.

24 (2) The technical advisory group shall assist the department in the
25 development and revision of rules; the preparation and revision of
26 licensing examinations; the development of training criteria for
27 inspectors, well contractors, and well operators; and the review of
28 proposed changes to the minimum standards for construction and
29 maintenance of wells by local governments for the purpose of achieving
30 continuity with technology and state rules.

31 (3) The group shall meet at least once every two years to review
32 rules and suggest any necessary changes.

33 (4) Each member of the group shall be compensated in accordance
34 with RCW 43.03.240 and reimbursed for travel expenses while engaged in
35 the business of the group as prescribed in RCW 43.03.050 and 43.03.060.

36 **Sec. 24.** RCW 18.104.900 and 1971 ex.s. c 212 s 19 are each amended
37 to read as follows:

1 This chapter shall be known and may be cited as the "Washington
2 (~~Water~~) well construction act(~~(W)~~)."

3 **Sec. 25.** RCW 89.16.055 and 1981 c 216 s 1 are each amended to read
4 as follows:

5 In addition to the powers provided in RCW 89.16.050, the department
6 of ecology is authorized and empowered to:

7 (1) Conduct surveys, studies, investigations, and water right
8 examinations for proposed reclamation projects or the rehabilitation of
9 existing reclamation projects that may be funded fully or partially
10 from the receipts of the sale of bonds issued by the state of
11 Washington.

12 (2) Support the preparation for and administration of proceedings,
13 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river
14 systems or other water bodies that are associated with existing or
15 proposed reclamation projects.

16 (3) Conduct a regulatory program for well construction as provided
17 in chapter 18.104 RCW.

18 Funds of the account established by RCW 89.16.020 may, as
19 appropriated by the legislature, be used in relation to the powers
20 provided in this section, notwithstanding any other provisions of
21 chapter 89.16 RCW that may be to the contrary.

22 NEW SECTION. **Sec. 26.** Section 5 of this act expires on June 30,
23 1996.

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