

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2400

56th Legislature
2000 Regular Session

Passed by the House March 8, 2000
Yeas 97 Nays 1

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate March 2, 2000
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2400** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2400

AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By Representatives Constantine, Esser, Lantz, Barlean, Cairnes and Pflug; by request of Office of the Code Reviser

Read first time 01/12/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to technical corrections to various business and
2 professions laws; amending RCW 18.04.295, 18.04.105, 18.20.010,
3 18.22.040, 18.25.0151, 18.25.0196, 18.25.0197, 18.25.190, 18.27.270,
4 18.39.010, 18.39.510, 18.44.241, 18.44.261, 18.44.271, 18.44.281,
5 18.44.291, 18.44.450, 18.48.060, 18.53.040, 18.57.174, 18.57A.060,
6 18.64.430, 18.71.017, 18.74.012, 18.88A.140, 18.104.020, 18.106.180,
7 18.106.250, 18.130.172, 18.135.060, 18.145.010, 18.155.010, 18.155.020,
8 18.155.030, 18.160.030, 18.160.040, 18.165.020, 18.165.130, 18.170.110,
9 18.185.010, 18.205.030, 18.205.100, 19.02.110, 19.02.800, 19.27A.050,
10 19.28.015, 19.28.370, 19.30.200, 19.32.150, 19.34.020, 19.34.250,
11 19.34.901, 19.36.100, 19.40.071, 19.56.010, 19.60.085, 19.68.040,
12 19.72.040, 19.80.065, 19.85.030, 19.94.258, 19.94.2584, 19.94.310,
13 19.94.390, 19.94.505, 19.98.020, 19.98.110, 19.105.330, 19.105.470,
14 19.116.030, 19.116.050, 19.120.080, 19.138.021, 19.146.260, 19.166.090,
15 and 19.174.020; and repealing RCW 18.08.150, 18.08.190, 18.08.220,
16 18.25.050, 18.32.326, 18.45.010, 18.45.020, 18.45.440, 18.45.450,
17 18.45.470, and 18.90.010.

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

1 **Sec. 1.** RCW 18.04.295 and 1992 c 103 s 11 are each amended to read
2 as follows:

3 The board of accountancy shall have the power to revoke, suspend,
4 (~~for~~) or refuse to renew a certificate or license, and may impose a
5 fine in an amount not to exceed one thousand dollars plus the board's
6 investigative and legal costs in bringing charges against a certified
7 public accountant, or impose conditions precedent to renewal of the
8 certificate or license of any certified public accountant for any of
9 the following causes:

10 (1) Fraud or deceit in obtaining a certificate as a certified
11 public accountant, or in obtaining a license;

12 (2) Dishonesty, fraud, or negligence while representing oneself as
13 a CPA;

14 (3) A violation of any provision of this chapter;

15 (4) A violation of a rule of professional conduct promulgated by
16 the board under the authority granted by this chapter;

17 (5) Conviction of a crime or an act constituting a crime under:

18 (a) The laws of this state;

19 (b) The laws of another state, and which, if committed within this
20 state, would have constituted a crime under the laws of this state; or

21 (c) Federal law;

22 (6) Cancellation, revocation, suspension, or refusal to renew the
23 authority to practice as a certified public accountant by any other
24 state for any cause other than failure to pay a fee or to meet the
25 requirements of continuing education in the other state;

26 (7) Suspension or revocation of the right to practice matters
27 relating to public accounting before any state or federal agency;

28 For purposes of subsections (6) and (7) of this section, a
29 certified copy of such revocation, suspension, or refusal to renew
30 shall be prima facie evidence;

31 (8) Failure to maintain compliance with the requirements for
32 issuance, renewal, or reinstatement of the certificate or license, or
33 to report changes to the board;

34 (9) Failure to cooperate with the board by:

35 (a) Failure to furnish any papers or documents requested or ordered
36 by the board;

37 (b) Failure to furnish in writing a full and complete explanation
38 covering the matter contained in the complaint filed with the board or
39 the inquiry of the board;

1 (c) Failure to respond to subpoenas issued by the board, whether or
2 not the recipient of the subpoena is the accused in the proceeding.

3 EXPLANATORY NOTE

4 Corrects a manifest grammatical error.

5 **Sec. 2.** RCW 18.04.105 and 1999 c 378 s 2 are each amended to read
6 as follows:

7 (1) The certificate of "certified public accountant" shall be
8 granted by the board to any person:

9 (a) Who is of good character. Good character, for purposes of this
10 section, means lack of a history of dishonest or felonious acts. The
11 board may refuse to grant a certificate on the ground of failure to
12 satisfy this requirement only if there is a substantial connection
13 between the lack of good character of the applicant and the
14 professional responsibilities of a certified public accountant and if
15 the finding by the board of lack of good character is supported by a
16 preponderance of evidence. When an applicant is found to be
17 unqualified for a certificate because of a lack of good character, the
18 board shall furnish the applicant a statement containing the findings
19 of the board and a notice of the applicant's right of appeal;

20 (b) Who has met the educational standards established by rule as
21 the board determines to be appropriate;

22 The board may, in its discretion, waive the educational
23 requirements for any person if it is satisfied through review of
24 documentation of successful completion of an equivalency examination
25 that the person's educational qualifications are an acceptable
26 substitute for the requirements of (b) of this subsection; and

27 (c) Who has passed a written examination.

28 (2) The examination described in subsection (1)(c) of this section
29 shall be in writing, shall be held twice a year, and shall test the
30 applicant's knowledge of the subjects of accounting and auditing, and
31 other related fields the board may specify by rule. The time for
32 holding the examination is fixed by the board and may be changed from
33 time to time. The board shall prescribe by rule the methods of
34 applying for and taking the examination, including methods for grading
35 papers and determining a passing grade required of an applicant for a
36 certificate. The board shall to the extent possible see to it that the
37 grading of the examination, and the passing grades, are uniform with
38 those applicable to all other states. The board may make use of all or

1 a part of the uniform certified public accountant examination and
2 advisory grading service of the American Institute of Certified Public
3 Accountants and may contract with third parties to perform
4 administrative services with respect to the examination as the board
5 deems appropriate to assist it in performing its duties under this
6 chapter.

7 (3) An applicant is required to pass all sections of the
8 examination provided for in subsection (2) of this section in order to
9 qualify for a certificate. If at a given sitting of the examination an
10 applicant passes two or more but not all sections, then the applicant
11 shall be given credit for those sections that he or she passed, and
12 need not take those sections again: PROVIDED, That:

13 (a) The applicant took all sections of the examination at that
14 sitting;

15 (b) The applicant attained a minimum grade of fifty on each section
16 not passed at that sitting;

17 (c) The applicant passes the remaining sections of the examination
18 within six consecutive examinations given after the one at which the
19 first sections were passed;

20 (d) At each subsequent sitting at which the applicant seeks to pass
21 additional sections, the applicant takes all sections not yet passed;
22 and

23 (e) In order to receive credit for passing additional sections in
24 a subsequent sitting, the applicant attains a minimum grade of fifty on
25 sections written but not passed on the sitting.

26 (4) The board may waive or defer any of the requirements of
27 subsection (3) of this section for candidates transferring conditional
28 CPA exam credits from other states or for qualifying reciprocity
29 certification applicants who met the conditioning requirements of the
30 state or foreign jurisdiction issuing their original certificate.

31 (5) The board shall charge each applicant an examination fee for
32 the initial examination under subsection (1) of this section, or for
33 reexamination under subsection (3) of this section for each subject in
34 which the applicant is reexamined. The applicable fee shall be paid by
35 the person at the time he or she applies for examination,
36 reexamination, or evaluation of educational qualifications. Fees for
37 examination, reexamination, or evaluation of educational qualifications
38 shall be determined by the board under chapter 18.04 RCW. There is
39 established in the state treasury an account to be known as the

1 certified public accountants' account. All fees received from
2 candidates to take any or all sections of the certified public
3 accountant examination shall be used only for costs related to the
4 examination.

5 (6) Persons who on June 30, 1986, held certified public accountant
6 certificates previously issued under the laws of this state shall not
7 be required to obtain additional certificates under this chapter, but
8 shall otherwise be subject to this chapter. Certificates previously
9 issued shall, for all purposes, be considered certificates issued under
10 this chapter and subject to its provisions.

11 (7) A certificate of a "certified public accountant" under this
12 chapter is issued every three years with renewal subject to
13 requirements of continuing professional education and payment of fees,
14 prescribed by the board.

15 (8) The board shall adopt rules providing for continuing
16 professional education for certified public accountants. The rules
17 shall:

18 (a) Provide that a certified public accountant shall verify to the
19 board that he or she has completed at least an accumulation of one
20 hundred twenty hours of continuing professional education during the
21 last three-year period to maintain the certificate;

22 (b) Establish continuing professional education requirements;

23 (c) Establish when newly certificated public accountants shall
24 verify that they have completed the required continuing professional
25 education;

26 (d) Provide that failure to furnish verification of the completion
27 of the continuing professional education requirement shall make the
28 certificate invalid and subject to reinstatement, unless the board
29 determines that the failure was due to retirement, reasonable cause, or
30 excusable neglect; and

31 (e) Provide for transition from existing to new continuing
32 professional education requirements.

33 (9) The board may adopt by rule new CPE standards that differ from
34 those in subsection (8) of this section or RCW 18.04.215 if: (a) The
35 new standards are consistent with the continuing professional education
36 standards of other states so as to provide to the greatest extent
37 possible, consistent national standards; and (b) the new standards are
38 at least as strict as the standards set forth in subsection (8) of this
39 section or RCW 18.04.215.

1 The Washington state chiropractic quality assurance commission is
2 established, consisting of fourteen members appointed by the governor
3 to four-year terms, and including eleven practicing chiropractors and
4 three public members. No member may serve more than two consecutive
5 full terms. In appointing the initial members of the commission, it is
6 the intent of the legislature that, to the extent possible, the
7 governor appoint members of the previous boards and committees
8 regulating this profession to the commission. Members of the
9 commission hold office until their successors are appointed. The
10 governor may appoint the members of the initial ((commissions
11 {~~commission~~}) commission to staggered terms of from one to four years.
12 Thereafter, all members shall be appointed to full four-year terms.
13 The governor may consider persons who are recommended for appointment
14 by chiropractic associations of this state.

15 EXPLANATORY NOTE

16 Corrects a manifest grammatical error.

17 **Sec. 6.** RCW 18.25.0196 and 1974 ex.s. c 97 s 5 are each amended to
18 read as follows:

19 Notwithstanding any other provision of law, for the purpose of RCW
20 ((~~18.25.120 through 18.25.150 and 18.25.170~~)) 18.25.0192 through
21 18.25.0195 and 18.25.0197 it is immaterial whether the cost of any
22 policy, plan, agreement, or contract be deemed additional compensation
23 for services, or otherwise.

24 EXPLANATORY NOTE

25 RCW 18.25.120 through 18.25.150 and 18.25.170 were recodified
26 as RCW 18.25.0192 through 18.25.0195 and 18.25.0197 by 1994
27 sp.s. c 9 s 120, effective July 1, 1994.

28 **Sec. 7.** RCW 18.25.0197 and 1974 ex.s. c 97 s 6 are each amended to
29 read as follows:

30 RCW ((~~18.25.120 through 18.25.160~~)) 18.25.0192 through 18.25.0196
31 shall apply to all agreements, renewals, or contracts issued on or
32 after July 24, 1974.

33 EXPLANATORY NOTE

34 RCW 18.25.120 through 18.25.160 were recodified as RCW
35 18.25.0192 through 18.25.0196 by 1994 sp.s. c 9 s 120,
36 effective July 1, 1994.

1 **Sec. 8.** RCW 18.25.190 and 1994 sp.s. c 9 s 118 are each amended to
2 read as follows:

3 Nothing in this chapter shall be construed to prohibit:

4 (1) The temporary practice in this state of chiropractic by any
5 chiropractor licensed by another state, territory, or country in which
6 he or she resides. However, the chiropractor shall not establish a
7 practice open to the general public and shall not engage in temporary
8 practice under this section for a period longer than thirty days. The
9 chiropractor shall register his or her intention to engage in the
10 temporary practice of chiropractic in this state with the commission
11 before engaging in the practice of chiropractic, and shall agree to be
12 bound by such conditions as may be prescribed by rule by the
13 commission.

14 (2) The practice of chiropractic, except the administration of a
15 chiropractic adjustment, by a person who is a regular senior student in
16 an accredited school of chiropractic approved by the commission if the
17 practice is part of a regular course of instruction offered by the
18 school and the student is under the direct supervision and control of
19 a chiropractor duly licensed pursuant to this chapter and approved by
20 the commission.

21 (3) The practice of chiropractic by a person serving a period of
22 postgraduate chiropractic training in a program of clinical
23 chiropractic training sponsored by a school of chiropractic accredited
24 in this state if the practice is part of his or her duties as a
25 clinical postgraduate trainee and the trainee is under the direct
26 supervision and control of a chiropractor duly licensed pursuant to
27 this chapter and approved by the commission.

28 (4) The practice of chiropractic by a person who is eligible and
29 has applied to take the next available examination for licensing
30 offered by the commission, except that the unlicensed chiropractor must
31 provide all services under the direct control and supervision of a
32 licensed chiropractor approved by the commission. The unlicensed
33 chiropractor may continue to practice as provided by this subsection
34 until the results of the next available examination are published, but
35 in no case for a period longer than six months. The commission shall
36 adopt rules necessary to effectuate the intent of this subsection.

37 Any provision of chiropractic services by any individual under
38 subsection (1), (2), (3), or (4) of this section shall be subject to

1 the jurisdiction of the commission as provided in chapter(~~s~~ 18.26
2 and)) 18.130 RCW.

3 EXPLANATORY NOTE

4 Chapter 18.26 RCW was repealed by 1994 sp.s. c 9 s 121,
5 effective July 1, 1994.

6 **Sec. 9.** RCW 18.27.270 and 1997 c 314 s 16 are each amended to read
7 as follows:

8 (1) A contractor who is issued a notice of infraction shall respond
9 within twenty days of the date of issuance of the notice of infraction.

10 (2) If the contractor named in the notice of infraction does not
11 elect to contest the notice of infraction, then the contractor shall
12 pay to the department, by check or money order, the amount of the
13 penalty prescribed for the infraction. When a response which does not
14 contest the notice of infraction is received by the department with the
15 appropriate penalty, the department shall make the appropriate entry in
16 its records.

17 (3) If the contractor named in the notice of infraction elects to
18 contest the notice of infraction, the contractor shall respond by
19 filing an answer of protest with the department specifying the grounds
20 of protest.

21 (4) If any contractor issued a notice of infraction fails to
22 respond within the prescribed response period, the contractor shall be
23 guilty of a misdemeanor and prosecuted in the county where the
24 infraction occurred.

25 (5) After final determination by an administrative law judge that
26 an infraction has been committed, a contractor who fails to pay a
27 monetary penalty within thirty days, that is not waived(~~(, reduced, or~~
28 ~~suspended))~~) pursuant to RCW 18.27.340(2), and who fails to file an
29 appeal pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor
30 and be prosecuted in the county where the infraction occurred.

31 (6) A contractor who fails to pay a monetary penalty within thirty
32 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),
33 shall be guilty of a misdemeanor and be prosecuted in the county where
34 the infraction occurred.

35 (7) If a contractor who is issued a notice of infraction is a
36 contractor who has failed to register as a contractor under this
37 chapter, the contractor is subject to a monetary penalty per infraction
38 as provided in the schedule of penalties established by the department,

1 and each day the person works without becoming registered is a separate
2 infraction.

3 EXPLANATORY NOTE

4 RCW 18.27.340(2) was amended by 1997 c 314 s 17, removing the
5 reference to a reduced or suspended monetary penalty.

6 **Sec. 10.** RCW 18.39.010 and 1989 c 390 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Funeral director" means a person engaged in the profession or
11 business of conducting funerals and supervising or directing the burial
12 and disposal of dead human bodies.

13 (2) "Embalmer" means a person engaged in the profession or business
14 of disinfecting, preserving or preparing for disposal or transportation
15 of dead human bodies.

16 (3) "Two-year college course" means the completion of sixty
17 semester hours or ninety quarter hours of college credit, including the
18 satisfactory completion of certain college courses, as set forth in
19 this chapter.

20 (4) "Funeral establishment" means a place of business licensed in
21 accordance with RCW 18.39.145, conducted at a specific street address
22 or location, and devoted to the care and preparation for burial or
23 disposal of dead human bodies and includes all areas of such business
24 premises and all tools, instruments, and supplies used in preparation
25 and embalming of dead human bodies for burial or disposal.

26 (5) "Director" means the director of licensing.

27 (6) "Board" means the state board of funeral directors and
28 embalmers created pursuant to RCW 18.39.173.

29 (7) "Prearrangement funeral service contract" means any contract
30 under which, for a specified consideration, a funeral establishment
31 promises, upon the death of the person named or implied in the
32 contract, to furnish funeral merchandise or services.

33 (8) "Funeral merchandise or services" means those services normally
34 performed and merchandise normally provided by funeral establishments,
35 including the sale of burial supplies and equipment, but excluding the
36 sale by a cemetery of lands or interests therein, services incidental
37 thereto, markers, memorials, monuments, equipment, crypts, niches, or
38 vaults.

1 (9) "Qualified public depository" means a public depository defined
2 by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a
3 mutual savings bank as governed by Title 32 RCW, a savings and loan
4 association as governed by Title 33 RCW, or a federal credit union or
5 a federal savings and loan association organized, operated, and
6 governed by any act of congress, in which prearrangement funeral
7 service contract funds are deposited by any funeral establishment.

8 Words used in this chapter importing the singular may be applied to
9 the plural of the person or thing, words importing the plural may be
10 applied to the singular, and words importing the masculine gender may
11 be applied to the female.

12 EXPLANATORY NOTE

13 The term "depository" was redefined as "public depository" by
14 1996 c 256 s 1.

15 **Sec. 11.** RCW 18.39.510 and 1994 c 17 s 13 are each amended to read
16 as follows:

17 (1) Prior to serving a statement of charges, the board may furnish
18 a statement of allegations to the licensee, registrant, endorsement or
19 permit holder, or applicant along with a detailed summary of the
20 evidence relied upon to establish the allegations and a proposed
21 stipulation for informal resolution of the allegations. These
22 documents shall be exempt from public disclosure until such time as the
23 allegations are resolved either by stipulation or otherwise.

24 (2) The board and the licensee, registrant, endorsement or permit
25 holder, or applicant may stipulate that the allegations may be disposed
26 of informally in accordance with this subsection. The stipulation
27 shall contain a statement of the facts leading to the filing of the
28 complaint; the act or acts of unprofessional conduct alleged to have
29 been committed or the alleged basis for determining that the licensee,
30 registrant, endorsement or permit holder, or applicant is unable to
31 practice with reasonable skill and safety; a statement that the
32 stipulation is not to be construed as a finding of either
33 unprofessional conduct or inability to practice; an acknowledgement
34 that a finding of unprofessional conduct or inability to practice, if
35 proven, constitutes grounds for discipline under this chapter; an
36 agreement on the part of the licensee, registrant, endorsement or
37 permit holder, or applicant that the sanctions set forth in this
38 chapter, except for revocation, suspension, censure, or reprimand of a
39 licensee, registrant, endorsement (~~of~~~~{or}~~) or permit holder, or

1 applicant may be imposed as part of the stipulation, except that no
2 fine may be imposed but the licensee, registrant, endorsement or permit
3 holder, or applicant may agree to reimburse the board the costs of
4 investigation and processing the complaint up to an amount not
5 exceeding one thousand dollars per allegation; and an agreement on the
6 part of the board to forego further disciplinary proceedings concerning
7 the allegations. A stipulation entered into pursuant to this
8 subsection shall not be considered formal disciplinary action.

9 (3) If the licensee, registrant, endorsement or permit holder, or
10 applicant declines to agree to disposition of the charges by means of
11 a stipulation pursuant to subsection (2) of this section, the board may
12 proceed to formal disciplinary action pursuant to this chapter.

13 (4) Upon execution of a stipulation under subsection (2) of this
14 section by both the licensee, registrant, endorsement or permit holder,
15 or applicant and the board, the complaint is deemed disposed of and
16 shall become subject to public disclosure on the same basis and to the
17 same extent as other records of the board. Should the licensee,
18 registrant, endorsement or permit (~~holder~~—[holder]) holder, or
19 applicant fail to pay any agreed reimbursement within thirty days of
20 the date specified in the stipulation for payment, the board may seek
21 collection of the amount agreed to be paid in the same manner as
22 enforcement of a fine under this chapter.

23 EXPLANATORY NOTE

24 Corrects manifest drafting errors.

25 **Sec. 12.** RCW 18.44.241 and 1987 c 471 s 5 are each amended to read
26 as follows:

27 The following criteria will be considered by the director when
28 deciding whether to grant a licensed escrow agent a waiver from the
29 errors and omissions policy requirement under RCW (~~18.44.050~~)
30 18.44.201:

31 (1) Whether the director has determined pursuant to RCW
32 (~~18.44.360~~) 18.44.221 that an errors and omissions policy is not
33 reasonably available to a substantial number of licensed escrow agents;

34 (2) Whether purchasing an errors and omissions policy would be
35 cost-prohibitive for the licensed escrow agent requesting the
36 exemption;

37 (3) Whether a licensed escrow agent has wilfully violated the
38 provisions of chapter 18.44 RCW, which violation thereby resulted in

1 the termination of the agent's certificate, or engaged in any other
2 conduct resulting in the termination of the escrow certificate;

3 (4) Whether a licensed escrow agent has paid claims directly or
4 through an errors and omissions carrier, exclusive of costs and
5 attorney fees, in excess of ten thousand dollars in the calendar year
6 preceding the year for which the waiver is requested;

7 (5) Whether a licensed escrow agent has paid claims directly or
8 through an errors or omissions insurance carrier, exclusive of costs
9 and attorney fees, totaling in excess of twenty thousand dollars in the
10 three calendar years preceding the calendar year for which the
11 exemption is requested; and

12 (6) Whether the licensed escrow agent has been convicted of a crime
13 involving honesty or moral turpitude.

14 These criteria are not intended to be a wholly inclusive list of
15 factors to be applied by the director when considering the merits of a
16 licensed escrow agent's request for a waiver of the required errors and
17 omissions policy.

18 EXPLANATORY NOTE

19 RCW 18.44.050 and 18.44.360 were recodified as RCW 18.44.201
20 and 18.44.221 pursuant to 1999 c 30 s 37.

21 **Sec. 13.** RCW 18.44.261 and 1987 c 471 s 6 are each amended to read
22 as follows:

23 The director shall, within thirty days following submission of a
24 written petition for waiver of the insurance requirements found in RCW
25 (~~18.44.050~~) 18.44.201, issue a written determination granting or
26 rejecting an applicant's request for waiver.

27 EXPLANATORY NOTE

28 RCW 18.44.050 was recodified as RCW 18.44.201 pursuant to 1999
29 c 30 s 37.

30 **Sec. 14.** RCW 18.44.271 and 1987 c 471 s 7 are each amended to read
31 as follows:

32 Upon granting a waiver of insurance requirements found in RCW
33 (~~18.44.050~~) 18.44.201, the director shall issue a certificate of
34 waiver, which certificate shall be mailed to the escrow agent who
35 requested the waiver.

36 EXPLANATORY NOTE

37 RCW 18.44.050 was recodified as RCW 18.44.201 pursuant to 1999
38 c 30 s 37.

1 (3) The legislature finds that the practices governed by this
2 subsection are matters vitally affecting the public interest for the
3 purpose of applying the consumer protection act, chapter 19.86 RCW.
4 Any violation of this section is not reasonable in relation to the
5 development and preservation of business and is an unfair and deceptive
6 act or practice and (~~(an)~~) an unfair method of competition in the
7 conduct of trade or commerce in violation of RCW 19.86.020. Remedies
8 provided by chapter 19.86 RCW are cumulative and not exclusive.

9 EXPLANATORY NOTE

10 Corrects a manifest grammatical error.

11 **Sec. 18.** RCW 18.48.060 and 1998 c 272 s 8 are each amended to read
12 as follows:

13 (1) The secretary, in consultation with the secretary of social and
14 health services, shall appoint an advisory committee on matters
15 relating to the regulation, administrative rules, enforcement process,
16 staffing, and training requirements of adult family homes. The
17 advisory committee shall be composed of six members, of which two
18 members shall be resident advocates, three members shall represent
19 adult family home providers, and one member shall represent the public
20 and serve as chair. The members shall generally represent the
21 interests of aging residents, residents with dementia, residents with
22 mental illness, and residents with developmental disabilities(~~(f, t)~~)
23 respectively. Members representing adult family home providers must
24 have at least two years' experience as licensees. The membership must
25 generally reflect urban and rural areas and western and eastern parts
26 of the state. A member may not serve more than two consecutive terms.

27 (2) The secretary may remove a member of the advisory committee for
28 cause as specified by rule adopted by the department. If there is a
29 vacancy, the secretary shall appoint a member to serve for the
30 remainder of the unexpired term.

31 (3) The advisory committee shall meet at the times and places
32 designated by the secretary and shall hold meetings during the year as
33 necessary to provide advice to the secretary on matters relating to the
34 regulation of adult family homes. A majority of the members may
35 request a meeting of the committee for any express purpose directly
36 related to the regulation of adult family homes. A majority of members
37 currently serving shall constitute a quorum.

1 (4) Establishment of the advisory committee shall not prohibit the
2 department of health from utilizing other advisory activities that the
3 department of health deems necessary for program development.

4 (5) Each member of the advisory committee shall serve without
5 compensation but may be reimbursed for travel expenses as authorized in
6 RCW 43.03.060.

7 (6) The secretary, members of the advisory committee, or
8 individuals acting on their behalf are immune from civil liability for
9 official acts performed in the course of their duties.

10 EXPLANATORY NOTE

11 Corrects a manifest error in punctuation.

12 **Sec. 19.** RCW 18.53.040 and 1975 1st ex.s. c 69 s 15 are each
13 amended to read as follows:

14 Nothing in this chapter shall be construed to pertain in any manner
15 to the practice of any regularly qualified oculist or physician, who is
16 regularly licensed to practice medicine in the state of Washington, or
17 to any person who is regularly licensed to practice as a dispensing
18 optician in the state of Washington, nor to any person who in the
19 regular course of trade, sells or offers for sale, spectacles or
20 eyeglasses as regular merchandise without pretense of adapting them to
21 the eyes of the purchaser, and not in evasion of this chapter:
22 PROVIDED, That any such regularly qualified oculist or physician or
23 other person shall be subject to the provisions of (~~subdivisions (10)~~
24 ~~through (15) of~~) RCW 18.53.140 (9) through (14), in connection with
25 the performance of any function coming within the definition of the
26 practice of optometry as defined in this chapter: PROVIDED FURTHER,
27 HOWEVER, That in no way shall this section be construed to permit a
28 dispensing optician to practice optometry as defined in this 1975
29 amendatory act.

30 EXPLANATORY NOTE

31 RCW 18.53.140 was amended by 1986 c 259 s 82, changing
32 subsections (10) through (15) to subsections (9) through (14),
33 respectively.

34 **Sec. 20.** RCW 18.57.174 and 1986 c 300 s 9 are each amended to read
35 as follows:

36 ((~~{(1)}~~)) (1) A health care professional licensed under chapter
37 18.57 RCW shall report to the board when he or she has personal
38 knowledge that a practicing osteopathic physician has either committed

1 an act or acts which may constitute statutorily defined unprofessional
2 conduct or that a practicing osteopathic physician may be unable to
3 practice osteopathic medicine with reasonable skill and safety to
4 patients by reason of illness, drunkenness, excessive use of drugs,
5 narcotics, chemicals, or any other type of material, or as a result of
6 any impairing mental or physical conditions.

7 (2) Reporting under this section is not required by:

8 (a) An appropriately appointed peer review committee member of a
9 licensed hospital or by an appropriately designated professional review
10 committee member of an osteopathic medical society during the
11 investigative phase of their respective operations if these
12 investigations are completed in a timely manner; or

13 (b) A treating licensed health care professional of an osteopathic
14 physician currently involved in a treatment program as long as the
15 physician patient actively participates in the treatment program and
16 the physician patient's impairment does not constitute a clear and
17 present danger to the public health, safety, or welfare.

18 (3) The board may impose disciplinary sanctions, including license
19 suspension or revocation, on any health care professional subject to
20 the jurisdiction of the board who has failed to comply with this
21 section.

22 EXPLANATORY NOTE

23 Corrects a manifest clerical error.

24 **Sec. 21.** RCW 18.57A.060 and 1973 c 77 s 20 are each amended to
25 read as follows:

26 No health care services may be performed under this chapter in any
27 of the following areas:

28 (1) The measurement of the powers or range of human vision, or the
29 determination of the accommodation and refractive state of the human
30 eye or the scope of its functions in general, or the fitting or
31 adaptation of lenses or frames for the aid thereof.

32 (2) The prescribing or directing the use of, or using, any optical
33 device in connection with ocular exercises, visual training, vision
34 training or orthoptics.

35 (3) The prescribing of contact lenses for, or the fitting or
36 adaptation of contact lenses to, the human eye.

37 (4) Nothing in this section shall preclude the performance of
38 routine visual screening.

1 (5) The practice of dentistry or dental hygiene as defined in
2 chapter 18.32 and 18.29 RCW respectively. The exemptions set forth in
3 RCW 18.32.030, paragraphs (1) and (8), shall not apply to a physician's
4 assistant.

5 (6) The practice of chiropractic as defined in chapter 18.25 RCW
6 including the adjustment or manipulation of the articulations of the
7 spine.

8 (7) The practice of (~~podiatry~~) podiatric medicine and surgery as
9 defined in chapter 18.22 RCW.

10 EXPLANATORY NOTE

11 The term "podiatry" was changed to "podiatric medicine and
12 surgery" by 1990 c 147.

13 **Sec. 22.** RCW 18.64.430 and 1993 c 492 s 267 are each amended to
14 read as follows:

15 The registered or licensed pharmacist (~~(of [under])~~) under this
16 chapter shall establish and maintain a procedure for disclosing to
17 physicians and other health care providers with prescriptive authority
18 information detailed by prescriber, of the cost and dispensation of all
19 prescriptive medications prescribed by him or her for his or her
20 patients on request. These charges should be made available on at
21 least a quarterly basis for all requested patients and should include
22 medication, dosage, number dispensed, and the cost of the prescription.
23 Pharmacies may provide this information in a summary form for each
24 prescribing physician for all patients rather than as individually
25 itemized reports. All efforts should be made to utilize the existing
26 computerized records and software to provide this information in the
27 least costly format.

28 EXPLANATORY NOTE

29 Corrects a grammatical deficiency.

30 **Sec. 23.** RCW 18.71.017 and 1994 sp.s. c 9 s 304 are each amended
31 to read as follows:

32 The (~~(board [commission])~~) commission may adopt such rules as are
33 not inconsistent with the laws of this state as may be determined
34 necessary or proper to carry out the purposes of this chapter. The
35 commission is the successor in interest of the board of medical
36 examiners and the medical disciplinary board. All contracts,
37 undertakings, agreements, rules, regulations, and policies continue in

1 full force and effect on July 1, 1994, unless otherwise repealed or
2 rejected by this chapter or by the commission.

3 EXPLANATORY NOTE

4 Corrects the reference to the Washington state medical quality
5 assurance commission.

6 **Sec. 24.** RCW 18.74.012 and 1991 c 12 s 2 are each amended to read
7 as follows:

8 Notwithstanding the provisions of RCW 18.74.010(~~(4)~~) (3), a
9 consultation and periodic review by an authorized health care
10 practitioner is not required for treatment of neuromuscular or
11 musculoskeletal conditions: PROVIDED, That a physical therapist may
12 only provide treatment utilizing orthoses that support, align, prevent,
13 or correct any structural problems intrinsic to the foot or ankle by
14 referral or consultation from an authorized health care practitioner.

15 EXPLANATORY NOTE

16 RCW 18.74.010 was amended by 1991 c 12 s 1 and subsection (4)
17 was renumbered as subsection (3).

18 **Sec. 25.** RCW 18.88A.140 and 1991 c 16 s 5 are each amended to read
19 as follows:

20 Nothing in this chapter may be construed to prohibit or restrict:

21 (1) The practice by an individual licensed, certified, or
22 registered under the laws of this state and performing services within
23 their authorized scope of practice;

24 (2) The practice by an individual employed by the government of the
25 United States while engaged in the performance of duties prescribed by
26 the laws of the United States;

27 (3) The practice by a person who is a regular student in an
28 educational program approved by the secretary, and whose performance of
29 services (~~(is)~~) is pursuant to a regular course of instruction or
30 assignments from an instructor and under the general supervision of the
31 instructor.

32 EXPLANATORY NOTE

33 Corrects a manifest grammatical error.

34 **Sec. 26.** RCW 18.104.020 and 1993 c 387 s 2 are each amended to
35 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:

6 (a) Boring, digging, drilling, or excavating a well;

7 (b) Installing casing, sheeting, lining, or well screens, in a
8 well; or

9 (c) Drilling a geotechnical soil boring.

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

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

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

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

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

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

27 (8) "Ground water" means and includes ground waters as defined in
28 RCW 90.44.035.

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

35 (10) "Monitoring well" means a well designed to obtain a
36 representative ground water sample or designed to measure the water
37 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 a person who (a) is employed by a well
5 contractor; (b) is licensed under this chapter; or (c) who controls,
6 supervises, or oversees the construction of a well or who operates well
7 construction equipment.

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

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

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

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

22 (17) "Water well" means any excavation that is constructed when the
23 intended use of the well is for the location, diversion, artificial
24 recharge, observation, monitoring, dewatering, or withdrawal of ground
25 water.

26 (18) "Water well contractor" means any person, firm, partnership,
27 copartnership, corporation, association, or other entity, licensed and
28 bonded under chapter 18.27 RCW, engaged in the business of constructing
29 water wells.

30 (19) "Well" means water wells, resource protection wells,
31 instrumentation wells, dewatering wells, and geotechnical soil borings.
32 Well does not mean an excavation made for the purpose of obtaining or
33 prospecting for oil, natural gas, geothermal resources, minerals, or
34 products of mining, or quarrying, or for inserting media to repressure
35 oil or natural gas bearing formations, or for storing petroleum,
36 natural gas, or other products.

37 (20) "Well contractor" means a resource protection well contractor
38 and a water well contractor.

1 Corrects a manifest error in punctuation.

2 **Sec. 27.** RCW 18.106.180 and 1996 c 147 s 4 are each amended to
3 read as follows:

4 An authorized representative of the department may issue a notice
5 of infraction as specified in RCW 18.106.020(~~((3))~~) (4) if a person who
6 is doing plumbing work or who is offering to do plumbing work fails to
7 produce evidence of having a certificate or permit issued by the
8 department in accordance with this chapter or of being supervised by a
9 person who has such a certificate or permit. A notice of infraction
10 issued under this section shall be personally served on the person
11 named in the notice by an authorized representative of the department
12 or sent by certified mail to the last known address provided to the
13 department of the person named in the notice.

14 EXPLANATORY NOTE
15 RCW 18.106.020 was amended by 1997 c 326 s 3, changing
16 subsection (3) to subsection (4).

17 **Sec. 28.** RCW 18.106.250 and 1994 c 174 s 7 are each amended to
18 read as follows:

19 (1) The administrative law judge shall conduct notice of infraction
20 cases under this chapter pursuant to chapter 34.05 RCW.

21 (2) The burden of proof is on the department to establish the
22 commission of the infraction by a preponderance of the evidence. The
23 notice of infraction shall be dismissed if the defendant establishes
24 that, at the time the notice was issued:

25 (a) The defendant who was issued a notice of infraction authorized
26 by RCW 18.106.020(~~((3)(a))~~) (4)(a) had a certificate or permit issued
27 by the department in accordance with this chapter, was supervised by a
28 person who has such a certificate or permit, or was exempt from this
29 chapter under RCW 18.106.150; or

30 (b) For the defendant who was issued a notice of infraction
31 authorized by RCW 18.106.020(~~((3))~~) (4) (b) or (c), the person employed
32 or supervised by the defendant has a certificate or permit issued by
33 the department in accordance with this chapter, was supervised by a
34 person who had such a certificate or permit, or was exempt from this
35 chapter under RCW 18.106.150.

36 (3) After consideration of the evidence and argument, the
37 administrative law judge shall determine whether the infraction was

1 committed. If it has not been established that the infraction was
2 committed, an order dismissing the notice shall be entered in the
3 record of the proceedings. If it has been established that the
4 infraction was committed, the administrative law judge shall issue
5 findings of fact and conclusions of law in its decision and order
6 determining whether the infraction was committed.

7 (4) An appeal from the administrative law judge's determination or
8 order shall be to the superior court. The decision of the superior
9 court is subject only to discretionary review pursuant to Rule 2.3 of
10 the Rules of Appellate Procedure.

11 EXPLANATORY NOTE

12 RCW 18.106.020 was amended by 1997 c 326 s 3, changing
13 subsection (3) to subsection (4).

14 **Sec. 29.** RCW 18.130.172 and 1993 c 367 s 7 are each amended to
15 read as follows:

16 (1) Prior to serving a statement of charges under RCW 18.130.090 or
17 18.130.170, the disciplinary authority may furnish a statement of
18 allegations to the licensee or applicant along with a detailed summary
19 of the evidence relied upon to establish the allegations and a proposed
20 stipulation for informal resolution of the allegations. These
21 documents shall be exempt from public disclosure until such time as the
22 allegations are resolved either by stipulation or otherwise.

23 (2) The disciplinary authority and the applicant or licensee may
24 stipulate that the allegations may be disposed of informally in
25 accordance with this subsection. The stipulation shall contain a
26 statement of the facts leading to the filing of the complaint; the act
27 or acts of unprofessional (~~conducted~~ {conduct}) conduct alleged to
28 have been committed or the alleged basis for determining that the
29 applicant or licensee is unable to practice with reasonable skill and
30 safety; a statement that the stipulation is not to be construed as a
31 finding of either unprofessional conduct or inability to practice; an
32 acknowledgement that a finding of unprofessional conduct or inability
33 to practice, if proven, constitutes grounds for discipline under this
34 chapter; and an agreement on the part of the licensee or applicant that
35 the sanctions set forth in RCW 18.130.160, except RCW 18.130.160 (1),
36 (2), (6), and (8), may be imposed as part of the stipulation, except
37 that no fine may be imposed but the licensee or applicant may agree to
38 reimburse the disciplinary authority the costs of investigation and

1 processing the complaint up to an amount not exceeding one thousand
2 dollars per allegation; and an agreement on the part of the
3 disciplinary authority to forego further disciplinary proceedings
4 concerning the allegations. A stipulation entered into pursuant to
5 this subsection shall not be considered formal disciplinary action.

6 (3) If the licensee or applicant declines to agree to disposition
7 of the charges by means of a stipulation pursuant to subsection (2) of
8 this section, the disciplinary authority may proceed to formal
9 disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

10 (4) Upon execution of a stipulation under subsection (2) of this
11 section by both the licensee or applicant and the disciplinary
12 authority, the complaint is deemed disposed of and shall become subject
13 to public disclosure on the same basis and to the same extent as other
14 records of the disciplinary authority. Should the licensee or
15 applicant fail to pay any agreed reimbursement within thirty days of
16 the date specified in the stipulation for payment, the disciplinary
17 authority may seek collection of the amount agreed to be paid in the
18 same manner as enforcement of a fine under RCW 18.130.165.

19 EXPLANATORY NOTE

20 Corrects a manifest grammatical error.

21 **Sec. 30.** RCW 18.135.060 and 1993 c 13 s 1 are each amended to read
22 as follows:

23 (1) Except as provided in subsection (2) of this section:

24 (a) Any health care assistant certified pursuant to this chapter
25 shall perform the functions authorized in this chapter only by
26 delegation of authority from the health care practitioner and under the
27 supervision of a health care practitioner acting within the scope of
28 his or her license. In the case of subcutaneous, intradermal and
29 intramuscular and intravenous injections, a health care assistant may
30 perform such functions only under the supervision of a health care
31 practitioner having authority, within the scope of his or her license,
32 to order such procedures.

33 (b) The health care practitioner who ordered the procedure or a
34 health care practitioner who could order the procedure under his or her
35 license shall be physically present in the immediate area of a hospital
36 or nursing home where the injection is administered. Sensitivity
37 agents being administered intradermally or by the scratch method are
38 excluded from this requirement.

1 (2) A health care assistant trained by a federally approved end-
2 stage renal disease facility may perform venipuncture for blood
3 withdrawal, administration of oxygen as necessary by cannula or mask,
4 venipuncture for placement of fistula needles, intravenous
5 administration of heparin and sodium chloride solutions as an integral
6 part of dialysis treatment, and intradermal, subcutaneous, or topical
7 administration of local anesthetics in conjunction with placement of
8 fistula needles, and intraperitoneal administration of sterile
9 electrolyte solutions and heparin for peritoneal dialysis: (a) In the
10 center or health care facility if a registered nurse licensed under
11 chapter ~~((18-88))~~ 18.79 RCW is physically present and immediately
12 available in such center or health care facility; or (b) in the
13 patient's home if a physician and a registered nurse are available for
14 consultation during the dialysis.

15 EXPLANATORY NOTE

16 Chapter 18.88 RCW was repealed by 1994 sp.s. c 9 s 433,
17 effective July 1, 1994, and replaced by chapter 18.79 RCW.

18 **Sec. 31.** RCW 18.145.010 and 1989 c 382 s 2 are each amended to
19 read as follows:

20 (1) No person may represent himself or herself as a ~~((shorthand~~
21 ~~reporter or a))~~ court reporter without first obtaining a certificate as
22 required by this chapter.

23 (2) A person represents himself or herself to be a ~~((shorthand~~
24 ~~reporter or))~~ court reporter when the person adopts or uses any title
25 or description of services that incorporates one or more of the
26 following terms: "Shorthand reporter," "court reporter," "certified
27 shorthand reporter," or "certified court reporter."

28 EXPLANATORY NOTE

29 "Shorthand reporter" or "court reporter" now just "court
30 reporter" pursuant to 1995 c 27.

31 **Sec. 32.** RCW 18.155.010 and 1990 c 3 s 801 are each amended to
32 read as follows:

33 The legislature finds that sex offender therapists who examine and
34 treat sex offenders pursuant to the special sexual offender sentencing
35 alternative under RCW 9.94A.120~~((+7)(a))~~ (8)(a) and who may treat
36 juvenile sex offenders pursuant to RCW 13.40.160, play a vital role in
37 protecting the public from sex offenders who remain in the community
38 following conviction. The legislature finds that the qualifications,

1 practices, techniques, and effectiveness of sex offender treatment
2 providers vary widely and that the court's ability to effectively
3 determine the appropriateness of granting the sentencing alternative
4 and monitoring the offender to ensure continued protection of the
5 community is undermined by a lack of regulated practices. The
6 legislature recognizes the right of sex offender therapists to
7 practice, consistent with the paramount requirements of public safety.
8 Public safety is best served by regulating sex offender therapists
9 whose clients are being evaluated and being treated pursuant to RCW
10 9.94A.120(~~((7))(a))~~) (8)(a) and 13.40.160. This chapter shall be
11 construed to require only those sex offender therapists who examine and
12 treat sex offenders pursuant to RCW 9.94A.120(~~((7))(a))~~) (8)(a) and
13 13.40.160 to obtain a sexual offender treatment certification as
14 provided in this chapter.

15 EXPLANATORY NOTE
16 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing
17 subsection (7) to subsection (8).

18 **Sec. 33.** RCW 18.155.020 and 1990 c 3 s 802 are each amended to
19 read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter:

22 (1) "Certified sex offender treatment provider" means a licensed,
23 certified, or registered health professional who is certified to
24 examine and treat sex offenders pursuant to RCW 9.94A.120(~~((7))(a))~~)
25 (8)(a) and 13.40.160.

26 (2) "Department" means the department of health.

27 (3) "Secretary" means the secretary of health.

28 (4) "Sex offender treatment provider" means a person who counsels
29 or treats sex offenders accused of or convicted of a sex offense as
30 defined by RCW 9.94A.030.

31 EXPLANATORY NOTE
32 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing
33 subsection (7) to subsection (8).

34 **Sec. 34.** RCW 18.155.030 and 1990 c 3 s 803 are each amended to
35 read as follows:

36 (1) No person shall represent himself or herself as a certified sex
37 offender treatment provider without first applying for and receiving a
38 certificate pursuant to this chapter.

1 (2) Only a certified sex offender treatment provider may perform or
2 provide the following services:

3 (a) Evaluations conducted for the purposes of and pursuant to RCW
4 9.94A.120(~~((7)(a))~~) (8)(a) and 13.40.160;

5 (b) Treatment of convicted sex offenders who are sentenced and
6 ordered into treatment pursuant to RCW 9.94A.120(~~((7)(a))~~) (8)(a) and
7 adjudicated juvenile sex offenders who are ordered into treatment
8 pursuant to RCW 13.40.160.

9 EXPLANATORY NOTE

10 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing
11 subsection (7) to subsection (8).

12 **Sec. 35.** RCW 18.160.030 and 1992 c 116 s 2 are each amended to
13 read as follows:

14 (1) This chapter shall be administered by the state director of
15 fire protection.

16 (2) The state director of fire protection shall have the authority,
17 and it shall be his or her duty to:

18 (a) Issue such administrative regulations as necessary for the
19 administration of this chapter;

20 (b)(i) Set reasonable fees for licenses, certificates, testing, and
21 other aspects of the administration of this chapter. However, the
22 license fee for fire protection sprinkler system contractors engaged
23 solely in the installation, inspection, maintenance, or servicing of
24 NFPA 13-D fire protection sprinkler systems shall not exceed one
25 hundred dollars, and the license fee for fire protection sprinkler
26 system contractors engaged solely in the installation, inspection,
27 maintenance, or servicing of NFPA 13-R fire protection sprinkler
28 systems shall not exceed three hundred dollars;

29 (ii) Adopt rules establishing a special category restricted to
30 contractors registered under chapter 18.27 RCW who install underground
31 systems that service fire protection sprinkler systems. The rules
32 shall be adopted within ninety days of March 31, 1992;

33 (c) Enforce the provisions of this chapter;

34 (d) Conduct investigations of complaints to determine if any
35 infractions of this chapter or the regulations developed under this
36 chapter have occurred;

1 (e) (~~Work with the fire sprinkler advisory committee consisting of~~
2 ~~fire protection sprinkler system contractors and other related~~
3 ~~officials;~~

4 (~~f~~)) Assign a certificate number to each certificate of competency
5 holder; and

6 (~~g~~)) (f) Adopt rules necessary to implement and administer a
7 program which requires the affixation of a seal any time a fire
8 protection sprinkler system is installed, which seal shall include the
9 certificate number of any certificate of competency holder who
10 installs, in whole or in part, the fire protection sprinkler system.

11 EXPLANATORY NOTE
12 The section creating the fire sprinkler advisory committee,
13 1990 c 177 s 9, was vetoed by the governor.

14 **Sec. 36.** RCW 18.160.040 and 1990 c 177 s 5 are each amended to
15 read as follows:

16 (1) To become a certificate of competency holder under this
17 chapter, an applicant must have satisfactorily passed an examination
18 administered by the state director of fire protection. A certificate
19 of competency holder can satisfy this examination requirement by
20 presenting a copy of a current certificate of competency from the
21 national institute for certification in engineering technologies
22 showing that the applicant has achieved the classification of
23 engineering technician level 3 or senior engineering technician level
24 4 in the field of fire protection, automatic sprinkler system layout.
25 The state director of fire protection may accept equivalent proof of
26 qualification in lieu of examination(~~(, as recommended by the fire~~
27 ~~sprinkler advisory committee)~~). This examination requirement is
28 mandatory except as otherwise provided in this chapter.

29 (2) Every applicant for a certificate of competency shall fulfill
30 the requirements established by the state director of fire protection
31 (~~and the fire protection sprinkler system technical advisory~~
32 ~~committee)~~ under chapter 34.05 RCW.

33 (3) Every applicant for a certificate of competency shall make
34 application to the state director of fire protection and pay the fees
35 required.

36 (4) Provided the application for the certificate of competency is
37 made prior to ninety days after May 1, 1991, the state director of fire
38 protection, in lieu of the examination requirements of the applicant

1 for a certificate of competency, may accept as satisfactory evidence of
2 competency and qualification, affidavits attesting that the applicant
3 has had a minimum of three years' experience.

4 (5) The state director of fire protection may(~~(, after consultation~~
5 ~~with the fire sprinkler advisory committee,)~~) issue a temporary
6 certificate of competency to an applicant who, in his or her judgment,
7 will satisfactorily perform as a certificate of competency holder under
8 the provisions of this chapter. The temporary certificate of
9 competency shall remain in effect for a period of up to three years.
10 The temporary certificate of competency holder shall, within the three-
11 year period, complete the examination requirements specified in
12 subsection (1) of this section. There shall be no examination
13 exemption for an individual issued a temporary certificate of
14 competency. Prior to the expiration of the three-year period, the
15 temporary certificate of competency holder shall make application for
16 a regular certificate of competency. The procedures and qualifications
17 for issuance of a regular certificate of competency shall be applicable
18 to the temporary certificate of competency holder. When a temporary
19 certificate of competency expires, the holder shall cease all
20 activities associated with the holding of a temporary certificate of
21 competency, subject to the penalties contained in this chapter.

22 (6) To become a licensed fire protection sprinkler system
23 contractor under this chapter, a person or firm must comply with the
24 following:

25 (a) Must be or have in his or her full-time employ a holder of a
26 valid certificate of competency;

27 (b) Comply with the minimum insurance requirements of this chapter;
28 and

29 (c) Make application to the state director of fire protection for
30 a license and pay the fees required.

31 (7) Each license and certificate of competency issued under this
32 chapter must be posted in a conspicuous place in the fire protection
33 sprinkler system contractor's place of business.

34 (8) All bids, advertisements, proposals, offers, and installation
35 drawings for fire protection sprinkler systems must prominently display
36 the fire protection sprinkler system contractor's license number.

37 (9) A certificate of competency or license issued under this
38 chapter is not transferable.

1 (10) In no case shall a certificate of competency holder be
2 employed full time by more than one fire protection sprinkler system
3 contractor at the same time. If the certificate of competency holder
4 should leave the employment of the fire protection sprinkler system
5 contractor, he or she must notify the state director of fire protection
6 within thirty days. If the certificate of competency holder should
7 leave the employment of the fire protection sprinkler system
8 contractor, the contractor shall have six months or until the
9 expiration of the current license, whichever occurs last, to submit a
10 new application identifying another certificate of competency holder
11 who is at the time of application an owner of the fire protection
12 sprinkler system business or a full-time employee of the fire
13 protection sprinkler system contractor, in order to be issued a new
14 license. If such application is not received and a new license issued
15 within the allotted time, the state director of fire protection shall
16 revoke the license of the fire protection sprinkler system contractor.

17 EXPLANATORY NOTE

18 The section creating the fire sprinkler advisory committee,
19 1990 c 177 s 9, was vetoed by the governor.

20 **Sec. 37.** RCW 18.165.020 and 1995 c 277 s 18 are each amended to
21 read as follows:

22 The requirements of this chapter do not apply to:

23 (1) A person who is employed exclusively or regularly by one
24 employer and performs investigations solely in connection with the
25 affairs of that employer, if the employer is not a private investigator
26 agency;

27 (2) An officer or employee of the United States or of this state or
28 a political subdivision thereof, while engaged in the performance of
29 the officer's official duties;

30 (3) A person engaged exclusively in the business of obtaining and
31 furnishing information about the financial rating of persons;

32 (4) An attorney at law while performing the attorney's duties as an
33 attorney;

34 (5) A licensed collection agency or its employee, while acting
35 within the scope of that person's employment and making an
36 investigation incidental to the business of the agency;

1 (6) Insurers, agents, and insurance brokers licensed by the state,
2 while performing duties in connection with insurance transacted by
3 them;

4 (7) A bank subject to the jurisdiction of the (~~Washington state~~
5 ~~banking commission~~) department of financial institutions or the
6 comptroller of currency of the United States, or a savings and loan
7 association subject to the jurisdiction of this state or the federal
8 home loan bank board;

9 (8) A licensed insurance adjuster performing the adjuster's duties
10 within the scope of the adjuster's license;

11 (9) A secured creditor engaged in the repossession of the
12 creditor's collateral, or a lessor engaged in the repossession of
13 leased property in which it claims an interest;

14 (10) A person who is a forensic scientist, accident
15 reconstructionist, or other person who performs similar functions and
16 does not hold himself or herself out to be an investigator in any other
17 capacity; or

18 (11) A person solely engaged in the business of securing
19 information about persons or property from public records.

20 EXPLANATORY NOTE

21 Powers, duties, and functions of the department of general
22 administration relating to financial institutions were
23 transferred to the department of financial institutions by 1993
24 c 472, effective October 1, 1993. See chapter 43.320 RCW.

25 **Sec. 38.** RCW 18.165.130 and 1995 c 277 s 31 are each amended to
26 read as follows:

27 (1) A private investigator agency shall notify the director within
28 thirty days after the death or termination of employment of any
29 employee who is a licensed private investigator or armed private
30 investigator by returning the license to the department with the word
31 (~~terminated~~) terminated written across the face of the
32 license, the date of termination, and the signature of the principal of
33 the private investigator company.

34 (2) A private investigator agency shall notify the director within
35 seventy-two hours and the chief law enforcement officer of the county,
36 city, or town in which the agency is located immediately upon receipt
37 of information affecting a licensed private investigator's or armed
38 private investigator's continuing eligibility to hold a license under
39 the provisions of this chapter.

1 (3) A private investigator company shall notify the local law
2 enforcement agency whenever an employee who is an armed private
3 investigator discharges his or her firearm while on duty other than on
4 a supervised firearm range. The notification shall be made within ten
5 business days of the date the firearm is discharged.

6 EXPLANATORY NOTE

7 Corrects a manifest grammatical error.

8 **Sec. 39.** RCW 18.170.110 and 1995 c 277 s 8 are each amended to
9 read as follows:

10 (1) A private security company shall notify the director within
11 thirty days after the death or termination of employment of any
12 employee who is a licensed private security guard or armed private
13 security guard by returning the license to the department with the word
14 (~~terminated~~) "terminated" written across the face of the
15 license, the date of termination, and the signature of the principal or
16 the principal's designee of the private security guard company.

17 (2) A private security company shall notify the department within
18 seventy-two hours and the chief law enforcement officer of the county,
19 city, or town in which the private security guard or armed private
20 security guard was last employed immediately upon receipt of
21 information affecting his or her continuing eligibility to hold a
22 license under the provisions of this chapter.

23 (3) A private security guard company shall notify the local law
24 enforcement agency whenever an employee who is an armed private
25 security guard discharges his or her firearm while on duty other than
26 on a supervised firearm range. The notification shall be made within
27 ten business days of the date the firearm is discharged.

28 EXPLANATORY NOTE

29 Corrects a manifest grammatical error.

30 **Sec. 40.** RCW 18.185.010 and 1996 c 242 s 1 are each amended to
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

34 (1) "Department" means the department of licensing.

35 (2) "Director" means the director of licensing.

36 (3) "Collateral or security" means property of any kind given as
37 security to obtain a bail bond.

1 (4) "Bail bond agency" means a business that sells and issues
2 corporate surety bail bonds or that provides security in the form of
3 personal or real property to insure the appearance of a criminal
4 defendant before the courts of this state or the United States.

5 (5) "Qualified agent" means an owner, sole proprietor, partner,
6 manager, officer, or chief operating officer of a corporation who meets
7 the requirements set forth in this chapter for obtaining a bail bond
8 agency license.

9 (6) "Bail bond agent" means a person who is employed by a bail bond
10 agency and engages in the sale or issuance of bail bonds, but does not
11 mean a clerical, secretarial, or other support person who does not
12 participate in the sale or issuance of bail bonds.

13 (7) "Licensee" means a bail bond agency or a bail bond agent or
14 both.

15 (8) "Branch office" means any office physically separated from the
16 principal place of business of the licensee from which the licensee or
17 an employee or agents conduct any activity meeting the criteria of
18 (~~{a}~~) a bail bond agency.

19 EXPLANATORY NOTE

20 Corrects a manifest grammatical error.

21 **Sec. 41.** RCW 18.205.030 and 1998 c 243 s 3 are each amended to
22 read as follows:

23 No person may represent oneself as a certified chemical dependency
24 professional or use any title or description of services of (~~{a}~~) a
25 certified chemical dependency professional without applying for
26 certification, meeting the required qualifications, and being certified
27 by the department of health, unless otherwise exempted by this chapter.

28 EXPLANATORY NOTE

29 Corrects a manifest grammatical error.

30 **Sec. 42.** RCW 18.205.100 and 1998 c 243 s 10 are each amended to
31 read as follows:

32 The secretary may establish by rule the standards and procedures
33 for approval of educational programs and alternative training. The
34 secretary may utilize or contract with individuals or organizations
35 having expertise in the profession or in education to assist in the
36 evaluations. The secretary shall establish by rule the standards and
37 procedures for revocation of approval of (~~education~~[~~educational~~])

1 educational programs. The standards and procedures set shall apply
2 equally to educational programs and training in the United States and
3 in foreign jurisdictions. The secretary may establish a fee for
4 educational program evaluations.

5 EXPLANATORY NOTE

6 Corrects a manifest grammatical error.

7 **Sec. 43.** RCW 19.02.110 and 1988 c 5 s 3 are each amended to read
8 as follows:

9 In addition to the licenses processed under the master license
10 system prior to April 1, 1982, on July 1, 1982, use of the master
11 license system shall be expanded as provided by this section.

12 Applications for the following shall be filed with the business
13 license center and shall be processed, and renewals shall be issued,
14 under the master license system:

- 15 (1) Nursery dealer's licenses required by chapter 15.13 RCW;
- 16 (2) Seed dealer's licenses required by chapter 15.49 RCW;
- 17 (3) Pesticide dealer's licenses required by chapter 15.58 RCW;
- 18 (4) Shopkeeper's licenses required by chapter 18.64 RCW;
- 19 (5) Refrigerated locker licenses required by chapter 19.32 RCW;
- 20 (6) (~~Wholesalers licenses and retailers licenses required by~~
21 ~~chapter 19.91 RCW;~~
22 (+7)) Egg dealer's licenses required by chapter 69.25 RCW.

23 EXPLANATORY NOTE

24 Chapter 19.91 RCW was repealed by 1986 c 321 s 14, effective
25 July 1, 1991.

26 **Sec. 44.** RCW 19.02.800 and 1982 c 182 s 17 are each amended to
27 read as follows:

28 Except as provided in RCW 43.07.200, the provisions of this chapter
29 regarding the processing of license applications and renewals under a
30 master license system shall not apply to those business or professional
31 activities that are licensed or regulated under chapter 31.04,
32 (~~31.08~~) 31.12, 31.12A, or 31.13 RCW or under Title 30, 32, 33, or 48
33 RCW.

34 EXPLANATORY NOTE

35 Chapter 31.08 RCW was repealed by 1991 c 208 s 24, effective
36 January 1, 1993.

1 (3) "Asymmetric cryptosystem" means an algorithm or series of
2 algorithms that provide a secure key pair.

3 (4) "Certificate" means a computer-based record that:
4 (a) Identifies the certification authority issuing it;
5 (b) Names or identifies its subscriber;
6 (c) Contains the subscriber's public key; and
7 (d) Is digitally signed by the certification authority issuing it.

8 (5) "Certification authority" means a person who issues a
9 certificate.

10 (6) "Certification authority disclosure record" means an on-line,
11 publicly accessible record that concerns a licensed certification
12 authority and is kept by the secretary.

13 (7) "Certification practice statement" means a declaration of the
14 practices that a certification authority employs in issuing
15 certificates.

16 (8) "Certify" means to declare with reference to a certificate,
17 with ample opportunity to reflect, and with a duty to apprise oneself
18 of all material facts.

19 (9) "Confirm" means to ascertain through appropriate inquiry and
20 investigation.

21 (10) "Correspond," with reference to keys, means to belong to the
22 same key pair.

23 (11) "Digital signature" means an electronic signature that is a
24 transformation of a message using an asymmetric cryptosystem such that
25 a person having the initial message and the signer's public key can
26 accurately determine:
27 (a) Whether the transformation was created using the private key
28 that corresponds to the signer's public key; and
29 (b) Whether the initial message has been altered since the
30 transformation was made.

31 (12) "Electronic" means electrical, digital, magnetic, optical,
32 electromagnetic, or any other form of technology that entails
33 capabilities similar to these technologies.

34 (13) "Electronic record" means a record generated, communicated,
35 received, or stored by electronic means for use in an information
36 system or for transmission from one information system to another.

37 (14) "Electronic signature" means a signature in electronic form
38 attached to or logically associated with an electronic record,
39 including but not limited to a digital signature.

1 (15) "Financial institution" means a national or state-chartered
2 commercial bank or trust company, savings bank, savings association, or
3 credit union authorized to do business in the state of Washington and
4 the deposits of which are federally insured.

5 (16) "Forge a digital signature" means either:

6 (a) To create a digital signature without the authorization of the
7 rightful holder of the private key; or

8 (b) To create a digital signature verifiable by a certificate
9 listing as subscriber a person who either:

10 (i) Does not exist; or

11 (ii) Does not hold the private key corresponding to the public key
12 listed in the certificate.

13 (17) "Hold a private key" means to be authorized to utilize a
14 private key.

15 (18) "Incorporate by reference" means to make one message a part of
16 another message by identifying the message to be incorporated and
17 expressing the intention that it be incorporated.

18 (19) "Issue a certificate" means the acts of a certification
19 authority in creating a certificate and notifying the subscriber listed
20 in the certificate of the contents of the certificate.

21 (20) "Key pair" means a private key and its corresponding public
22 key in an asymmetric cryptosystem, keys which have the property that
23 the public key can verify a digital signature that the private key
24 creates.

25 (21) "Licensed certification authority" means a certification
26 authority to whom a license has been issued by the secretary and whose
27 license is in effect.

28 (22) "Message" means a digital representation of information.

29 (23) "Notify" means to communicate a fact to another person in a
30 manner reasonably likely under the circumstances to impart knowledge of
31 the information to the other person.

32 (24) "Official public business" means any legally authorized
33 transaction or communication among state agencies, tribes, and local
34 governments, or between a state agency, tribe, or local government and
35 a private person or entity.

36 (25) "Operative personnel" means one or more natural persons acting
37 as a certification authority or its agent, or in the employment of, or
38 under contract with, a certification authority, and who have:

1 (a) Duties directly involving the issuance of certificates,
2 (~~(for)~~) or creation of private keys;

3 (b) Responsibility for the secure operation of the trustworthy
4 system used by the certification authority or any recognized
5 repository;

6 (c) Direct responsibility, beyond general supervisory authority,
7 for establishing or adopting policies regarding the operation and
8 security of the certification authority; or

9 (d) Such other responsibilities or duties as the secretary may
10 establish by rule.

11 (26) "Person" means a human being or an organization capable of
12 signing a document, either legally or as a matter of fact.

13 (27) "Private key" means the key of a key pair used to create a
14 digital signature.

15 (28) "Public key" means the key of a key pair used to verify a
16 digital signature.

17 (29) "Publish" means to make information publicly available.

18 (30) "Qualified right to payment" means an award of damages against
19 a licensed certification authority by a court having jurisdiction over
20 the certification authority in a civil action for violation of this
21 chapter.

22 (31) "Recipient" means a person who has received a certificate and
23 a digital signature verifiable with reference to a public key listed in
24 the certificate and is in a position to rely on it.

25 (32) "Recognized repository" means a repository recognized by the
26 secretary under RCW 19.34.400.

27 (33) "Recommended reliance limit" means the monetary amount
28 recommended for reliance on a certificate under RCW 19.34.280(1).

29 (34) "Repository" means a system for storing and retrieving
30 certificates and other information relevant to digital signatures.

31 (35) "Revoke a certificate" means to make a certificate ineffective
32 permanently from a specified time forward. Revocation is effected by
33 notation or inclusion in a set of revoked certificates, and does not
34 imply that a revoked certificate is destroyed or made illegible.

35 (36) "Rightfully hold a private key" means the authority to utilize
36 a private key:

37 (a) That the holder or the holder's agents have not disclosed to a
38 person in violation of RCW 19.34.240(1); and

1 (b) That the holder has not obtained through theft, deceit,
2 eavesdropping, or other unlawful means.

3 (37) "Secretary" means the secretary of state.

4 (38) "Subscriber" means a person who:

5 (a) Is the subject listed in a certificate;

6 (b) Applies for or accepts the certificate; and

7 (c) Holds a private key that corresponds to a public key listed in
8 that certificate.

9 (39) "Suitable guaranty" means either a surety bond executed by a
10 surety authorized by the insurance commissioner to do business in this
11 state, or an irrevocable letter of credit issued by a financial
12 institution authorized to do business in this state, which, in either
13 event, satisfies all of the following requirements:

14 (a) It is issued payable to the secretary for the benefit of
15 persons holding qualified rights of payment against the licensed
16 certification authority named as the principal of the bond or customer
17 of the letter of credit;

18 (b) It is in an amount specified by rule by the secretary under RCW
19 19.34.030;

20 (c) It states that it is issued for filing under this chapter;

21 (d) It specifies a term of effectiveness extending at least as long
22 as the term of the license to be issued to the certification authority;
23 and

24 (e) It is in a form prescribed or approved by rule by the
25 secretary.

26 A suitable guaranty may also provide that the total annual
27 liability on the guaranty to all persons making claims based on it may
28 not exceed the face amount of the guaranty.

29 (40) "Suspend a certificate" means to make a certificate
30 ineffective temporarily for a specified time forward.

31 (41) "Time stamp" means either:

32 (a) To append or attach a digitally signed notation indicating at
33 least the date, time, and identity of the person appending or attaching
34 the notation to a message, digital signature, or certificate; or

35 (b) The notation thus appended or attached.

36 (42) "Transactional certificate" means a valid certificate
37 incorporating by reference one or more digital signatures.

38 (43) "Trustworthy system" means computer hardware and software
39 that:

- 1 (a) Are reasonably secure from intrusion and misuse; and
2 (b) Conform with the requirements established by the secretary by
3 rule.

4 (44) "Valid certificate" means a certificate that:

- 5 (a) A licensed certification authority has issued;
6 (b) The subscriber listed in it has accepted;
7 (c) Has not been revoked or suspended; and
8 (d) Has not expired.

9 However, a transactional certificate is a valid certificate only in
10 relation to the digital signature incorporated in it by reference.

11 (45) "Verify a digital signature" means, in relation to a given
12 digital signature, message, and public key, to determine accurately
13 that:

- 14 (a) The digital signature was created by the private key
15 corresponding to the public key; and
16 (b) The message has not been altered since its digital signature
17 was created.

18 EXPLANATORY NOTE

19 Corrects a manifest grammatical error.

20 **Sec. 51.** RCW 19.34.250 and 1999 c 287 s 13 are each amended to
21 read as follows:

22 (1) Unless the certification authority provides otherwise in the
23 certificate or its certification practice statement, the licensed
24 certification authority that issued a certificate that is not a
25 transactional certificate must suspend the certificate for a period not
26 to exceed five business days:

27 (a) Upon request by a person whom the certification authority
28 reasonably believes to be: (i) The subscriber named in the
29 certificate; (ii) a person duly authorized to act for that subscriber;
30 or (iii) a person acting on behalf of the unavailable subscriber; or

31 (b) By order of the secretary under RCW 19.34.210(~~(+5)~~) (7).

32 The certification authority need not confirm the identity or agency
33 of the person requesting suspension. The certification authority may
34 require the person requesting suspension to provide evidence, including
35 a statement under oath or affirmation, regarding the requestor's
36 identity, authorization, or the unavailability of the subscriber. Law
37 enforcement agencies may investigate suspensions for possible
38 wrongdoing by persons requesting suspension.

1 (2) Unless the certification authority provides otherwise in the
2 certificate or its certification practice statement, the secretary may
3 suspend a certificate issued by a licensed certification authority for
4 a period not to exceed five business days, if:

5 (a) A person identifying himself or herself as the subscriber named
6 in the certificate, a person authorized to act for that subscriber, or
7 a person acting on behalf of that unavailable subscriber (~~{requests~~
8 ~~suspension}~~) requests suspension; and

9 (b) The requester represents that the certification authority that
10 issued the certificate is unavailable.

11 The secretary may require the person requesting suspension to
12 provide evidence, including a statement under oath or affirmation,
13 regarding his or her identity, authorization, or the unavailability of
14 the issuing certification authority, and may decline to suspend the
15 certificate in its discretion. Law enforcement agencies may
16 investigate suspensions by the secretary for possible wrongdoing by
17 persons requesting suspension.

18 (3) Immediately upon suspension of a certificate by a licensed
19 certification authority, the licensed certification authority must give
20 notice of the suspension according to the specification in the
21 certificate. If one or more repositories are specified, then the
22 licensed certification authority must publish a signed notice of the
23 suspension in all the repositories. If a repository no longer exists
24 or refuses to accept publication, or if no repository is recognized
25 under RCW 19.34.400, the licensed certification authority must also
26 publish the notice in a recognized repository. If a certificate is
27 suspended by the secretary, the secretary must give notice as required
28 in this subsection for a licensed certification authority, provided
29 that the person requesting suspension pays in advance any fee required
30 by a repository for publication of the notice of suspension.

31 (4) A certification authority must terminate a suspension initiated
32 by request only:

33 (a) If the subscriber named in the suspended certificate requests
34 termination of the suspension, the certification authority has
35 confirmed that the person requesting suspension is the subscriber or an
36 agent of the subscriber authorized to terminate the suspension; or

37 (b) When the certification authority discovers and confirms that
38 the request for the suspension was made without authorization by the

1 subscriber. However, this subsection (4)(b) does not require the
2 certification authority to confirm a request for suspension.

3 (5) The contract between a subscriber and a licensed certification
4 authority may limit or preclude requested suspension by the
5 certification authority, or may provide otherwise for termination of a
6 requested suspension. However, if the contract limits or precludes
7 suspension by the secretary when the issuing certification authority is
8 unavailable, the limitation or preclusion is effective only if notice
9 of it is published in the certificate.

10 (6) No person may knowingly or intentionally misrepresent to a
11 certification authority his or her identity or authorization in
12 requesting suspension of a certificate. Violation of this subsection
13 is a gross misdemeanor.

14 (7) The secretary may authorize other state or local governmental
15 agencies to perform any of the functions of the secretary under this
16 section upon a regional basis. The authorization must be formalized by
17 an agreement under chapter 39.34 RCW. The secretary may provide by
18 rule the terms and conditions of the regional services.

19 (8) A suspension under this section must be completed within
20 twenty-four hours of receipt of all information required in this
21 section.

22 EXPLANATORY NOTE

23 RCW 19.34.210 was amended by 1999 c 287 s 11, changing
24 subsection (5) to subsection (7). Also corrects an apparent
25 drafting error.

26 **Sec. 52.** RCW 19.34.901 and 1997 c 27 s 28 are each amended to read
27 as follows:

28 (1) Sections (~~(1-101)~~) 101 through 601, 604, and 605, chapter
29 250, Laws of 1996 take effect January 1, 1998.

30 (2) Sections 602 and 603, chapter 250, Laws of 1996 take effect
31 July 27, 1997.

32 EXPLANATORY NOTE

33 Corrects a manifest drafting error.

34 **Sec. 53.** RCW 19.36.100 and 1990 c 211 s 1 are each amended to read
35 as follows:

36 "Credit agreement" means an agreement, promise, or commitment to
37 lend money, to otherwise extend credit, to forbear with respect to the
38 repayment of any debt or the exercise of any remedy, to modify or amend

1 the terms under which the creditor has lent money or otherwise extended
2 credit, to release any guarantor or (~~(co)signer~~) cosigner,
3 or to make any other financial accommodation pertaining to a debt or
4 other extension of credit.

5 EXPLANATORY NOTE

6 Corrects an apparent typographical error.

7 **Sec. 54.** RCW 19.40.071 and 1987 c 444 s 7 are each amended to read
8 as follows:

9 (a) In an action for relief against a transfer or obligation under
10 this chapter, a creditor, subject to the limitations in RCW 19.40.081,
11 may obtain:

12 (1) Avoidance of the transfer or obligation to the extent necessary
13 to satisfy the creditor's claim;

14 (2) An attachment or other provisional remedy against the asset
15 transferred or other property of the transferee in accordance with the
16 procedure prescribed by chapter (~~(7.12)~~) 6.25 RCW;

17 (3) Subject to applicable principles of equity and in accordance
18 with applicable rules of civil procedure:

19 (i) An injunction against further disposition by the debtor or a
20 transferee, or both, of the asset transferred or of other property;

21 (ii) Appointment of a receiver to take charge of the asset
22 transferred or of other property of the transferee; or

23 (iii) Any other relief the circumstances may require.

24 (b) If a creditor has obtained a judgment on a claim against the
25 debtor, the creditor, if the court so orders, may levy execution on the
26 asset transferred or its proceeds.

27 EXPLANATORY NOTE

28 Chapter 7.12 RCW was recodified by 1987 c 442 s 1121. Of the
29 thirty-two sections that previously comprised chapter 7.12 RCW,
30 twenty-four sections were recodified in chapter 6.25 RCW, seven
31 sections were repealed, and one section was recodified in
32 chapter 6.17 RCW.

33 **Sec. 55.** RCW 19.56.010 and 1890 p 460 s 1 are each amended to read
34 as follows:

35 Whenever any person, company or corporation owning or controlling
36 any newspaper or periodical of any kind, or whenever any editor or
37 proprietor of any such newspaper or periodical shall mail or send any
38 such newspaper or periodical to any person or persons in this state

1 without first receiving an order for said newspaper or periodical from
2 such person or persons to whom said newspaper or periodical is mailed
3 or sent, (~~{it}~~) it shall be deemed to be a gift, and no debt or
4 obligation shall accrue against such person or persons, whether said
5 newspaper or periodical is received by the person or persons to whom it
6 is sent or not.

7 EXPLANATORY NOTE

8 Corrects a manifest grammatical error.

9 **Sec. 56.** RCW 19.60.085 and 1985 c 70 s 2 are each amended to read
10 as follows:

11 The provisions of this chapter do not apply to transactions
12 conducted by the following:

- 13 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;
- 14 (2) (~~Motor~~) Vehicle wreckers or hulk haulers licensed under
15 chapter 46.79 or 46.80 RCW;
- 16 (3) Persons giving an allowance for the trade-in or exchange of
17 second-hand property on the purchase of other merchandise of the same
18 kind of greater value; and
- 19 (4) Persons in the business of buying or selling empty food and
20 beverage containers or metal or nonmetal junk.

21 EXPLANATORY NOTE

22 "Motor vehicle wrecker" redesignated "vehicle wrecker" by 1995
23 c 256.

24 **Sec. 57.** RCW 19.68.040 and 1949 c 204 s 4 are each amended to read
25 as follows:

26 It is the intent of this (~~{article [chapter]}~~) chapter, and this
27 (~~{article [chapter]}~~) chapter shall be so construed, that persons so
28 licensed shall only be authorized by law to charge or receive
29 compensation for professional services rendered if such services are
30 actually rendered by the licensee and not otherwise: PROVIDED,
31 HOWEVER, That it is not intended to prohibit two or more licensees who
32 practice their profession as copartners to charge or collect
33 compensation for any professional services by any member of the firm,
34 or to prohibit a licensee who employs another licensee to charge or
35 collect compensation for professional services rendered by the employee
36 licensee.

37 EXPLANATORY NOTE

1 Corrects an inaccurate reference.

2 **Sec. 58.** RCW 19.72.040 and 1987 c 202 s 186 are each amended to
3 read as follows:

4 In case such bond or recognizance is given in any action or
5 proceeding commenced or pending in any court, the judge or clerk of any
6 court of record or district court, or any party to the action or
7 proceeding for the security or protection of which such bond or
8 recognizance is made may, upon notice, require any of such sureties to
9 attend before the judge at a time and place specified and to be
10 examined under oath touching the surety's qualifications both as to
11 residence and property as such surety, in such manner as the judge, in
12 the judge's discretion, may think proper. If the party demanding the
13 examination require it, the examination shall be reduced to writing and
14 subscribed by the surety. If the judge (~~(find{s})~~) finds the surety
15 possesses the requisite qualifications and property, the judge shall
16 endorse the allowance thereof on the bond or recognizance, and cause it
17 to be filed as provided by law, otherwise it shall be of no effect.

18 EXPLANATORY NOTE

19 Corrects a manifest grammatical error.

20 **Sec. 59.** RCW 19.80.065 and 1984 c 130 s 8 are each amended to read
21 as follows:

22 RCW 42.17.260(~~(+5)~~) (9) does not apply to registrations made under
23 this chapter.

24 EXPLANATORY NOTE

25 RCW 42.17.260 was amended by 1989 c 175 s 36, changing
26 subsection (5) to subsection (6). RCW 42.17.260 was
27 subsequently amended by 1992 c 139 s 3, changing subsection (6)
28 to subsection (7). RCW 42.17.260 was subsequently amended by
29 1995 c 341 s 1, changing subsection (7) to subsection (9).

30 **Sec. 60.** RCW 19.85.030 and 1995 c 403 s 402 are each amended to
31 read as follows:

32 (1) In the adoption of a rule under chapter 34.05 RCW, an agency
33 shall prepare a small business economic impact statement: (a) If the
34 proposed rule will impose more than minor costs on businesses in an
35 industry; or (b) if requested to do so by a majority vote of the joint
36 administrative rules review committee within forty-five days of
37 receiving the notice of proposed rule making under RCW 34.05.320.

1 However, if the agency has completed the pilot rule process as defined
2 by RCW 34.05.313 before filing the notice of a proposed rule, the
3 agency is not required to prepare a small business economic impact
4 statement.

5 An agency shall prepare the small business economic impact
6 statement in accordance with RCW 19.85.040, and file it with the code
7 reviser along with the notice required under RCW 34.05.320. An agency
8 shall file a statement prepared at the request of the joint
9 administrative rules review committee with the code reviser upon its
10 completion before the adoption of the rule. An agency shall provide a
11 copy of the small business economic impact statement to any person
12 requesting it.

13 ~~((An agency may request assistance from the business assistance
14 center in the preparation of the small business economic impact
15 statement.))~~

16 ~~(2) ((The business assistance center shall develop guidelines to
17 assist agencies in determining whether a proposed rule will impose more
18 than minor costs on businesses in an industry and therefore require
19 preparation of a small business economic impact statement. The
20 business assistance center may review an agency determination that a
21 proposed rule will not impose such costs, and shall advise the joint
22 administrative rules review committee on disputes involving agency
23 determinations under this section.~~

24 ~~(3))~~ Based upon the extent of disproportionate impact on small
25 business identified in the statement prepared under RCW 19.85.040, the
26 agency shall, where legal and feasible in meeting the stated objectives
27 of the statutes upon which the rule is based, reduce the costs imposed
28 by the rule on small businesses. Methods to reduce the costs on small
29 businesses may include:

30 (a) Reducing, modifying, or eliminating substantive regulatory
31 requirements;

32 (b) Simplifying, reducing, or eliminating recordkeeping and
33 reporting requirements;

34 (c) Reducing the frequency of inspections;

35 (d) Delaying compliance timetables;

36 (e) Reducing or modifying fine schedules for noncompliance; or

37 (f) Any other mitigation techniques.

38 EXPLANATORY NOTE

1 The business assistance center and its powers and duties were
2 terminated June 30, 1995. See 1993 c 280 ss 80 and 81.

3 **Sec. 61.** RCW 19.94.258 and 1995 c 355 s 15 are each amended to
4 read as follows:

5 (1) Except as authorized by the department, a service agent who
6 intends to provide the examination that permits a weighing or measuring
7 instrument or device to be placed back into commercial service under
8 RCW 19.94.255(3) shall receive an official registration certificate
9 from the director prior to performing such a service. This
10 registration requirement does not apply to the department or a city
11 sealer.

12 (2) Except as provided in RCW (~~19.94.035~~) 19.94.2584, a
13 registration certificate is valid for one year. It may be renewed by
14 submitting a request for renewal to the department.

15 EXPLANATORY NOTE

16 RCW 19.94.035 was recodified as RCW 19.94.2584 pursuant to RCW
17 1.08.015(2)(k), September 1996.

18 **Sec. 62.** RCW 19.94.2584 and 1995 c 355 s 17 are each amended to
19 read as follows:

20 (1) The department shall have the power to revoke, suspend, or
21 refuse to renew the official registration certificate of any service
22 agent for any of the following reasons:

23 (a) Fraud or deceit in obtaining an official registration
24 certificate under this chapter;

25 (b) A finding by the department of a pattern of intentional
26 fraudulent or negligent activities in the installation, inspection,
27 testing, checking, adjusting, or systematically standardizing and
28 approving the graduations of any weighing or measuring instrument or
29 device;

30 (c) Knowingly placing back into commercial service any weighing or
31 measuring instrument or device that is incorrect;

32 (d) A violation of any provision of this chapter; or

33 (e) Conviction of a crime or an act constituting a crime under the
34 laws of this state, the laws of another state, or federal law.

35 (2) Upon the department's revocation of, suspension of, or refusal
36 to (~~renewal~~ ~~{renew}~~) renew an official registration certificate, an
37 individual shall have the right to appeal this decision in accordance
38 with the administrative procedure act, chapter 34.05 RCW.

EXPLANATORY NOTE

Corrects a manifest grammatical error.

Sec. 63. RCW 19.94.310 and 1992 c 237 s 21 are each amended to read as follows:

(1) The governing body of each city for which a city sealer has been appointed as provided for by RCW 19.94.280 shall:

(a) Procure at the expense of the city the official weights and measures standards and any field weights and measures standards necessary for the administration and enforcement of the provisions of this chapter or any rule that may be prescribed by the director;

(b) Provide a suitable office for the city sealer and any deputies that have been duly appointed; and

(c) Make provision for the necessary clerical services, supplies, transportation and for defraying contingent expenses incidental to the official activities of the city sealer and his or her deputies in carrying out the provisions of this chapter.

(2) When the acquisition of the official weights and measures standards required under subsection (1)(a) of this section has been made and such weights and measures standards have been examined and approved by the director, they shall be the certified weights and measures standards for such city.

(3) In order to maintain field weights and ~~((measure[s]))~~ measures standards in accurate condition, the city sealer shall, at least once every two years, compare the field weights and measures standards used within his or her city to the certified weights and measures standards of such city or to the official weights and measures standards of this state.

EXPLANATORY NOTE

Corrects a manifest typographical error.

Sec. 64. RCW 19.94.390 and 1995 c 355 s 20 are each amended to read as follows:

(1) Whenever any commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, ~~((poster-[posted]))~~ posted or labeled price per unit of weight, measure, or count includes

1 a fraction of a cent, all elements of the fraction shall be prominently
2 displayed and the numeral or numerals expressing the fraction shall be
3 immediately adjacent to, of the same general design and style as, and
4 at least one-half the height and one-half the width of the numerals
5 representing the whole cents.

6 (2) The examination procedure recommended for price verification by
7 the price verification working group of the laws and regulations
8 committee of the national conference on weights and measures (as
9 reflected in the fourth draft, dated November 1, 1994) for devices such
10 as electronic scanners shall govern such examinations conducted under
11 this chapter. The procedure shall be deemed to be adopted under this
12 chapter. However, the department may revise the procedure as follows:
13 The department shall provide notice of and conduct a public hearing
14 pursuant to chapter 34.05 RCW to determine whether any revisions to
15 this procedure made by the national institute of standards and
16 technology or its successor organization for incorporating the
17 examination procedure into an official handbook of the institute or its
18 successor, or any subsequent revisions of the handbook regarding such
19 procedures shall also be adopted under this chapter. If the department
20 determines that the procedure should be so revised, it may adopt the
21 revisions. Violations of this section regarding the use of devices
22 such as electronic scanners may be found only as provided by the
23 examination procedures adopted by or under this subsection.

24 (3) Electronic scanner screens installed after January 1, 1996, and
25 used in retail establishments must be visible to the consumer at the
26 checkout line.

27 EXPLANATORY NOTE

28 Corrects a manifest typographical error.

29 **Sec. 65.** RCW 19.94.505 and 1992 c 237 s 34 are each amended to
30 read as follows:

31 (1) It is unlawful for any dealer (~~(or service station)~~), as (~~both~~
32 ~~are~~) defined in RCW 82.36.010, to sell ethanol and/or methanol at one
33 percent, by volume, or greater in gasoline for use as motor vehicle
34 fuel unless the dispensing device has a label stating the type and
35 maximum percentage of alcohol contained in the motor vehicle fuel.

36 (2) In any county, city, or other political subdivision designated
37 as a carbon monoxide nonattainment area pursuant to the provisions of
38 subchapter I of the clean air act amendments of 1990, P.L. 101-549, and

1 in which the sale of oxygenated petroleum products is required by
2 section 211(m) of the clean air act amendments of 1990, 42 U.S.C.
3 7545(m), any dealer (~~(or service station)~~), as (~~(both are)~~) defined in
4 RCW 82.36.010, who sells or dispenses a petroleum product that contains
5 at least one percent, by volume, ethanol, methanol, or other oxygenate,
6 shall post only such label or notice as may be required pursuant to 42
7 U.S.C. 7545(m)(4) or any amendments thereto or any successor provision
8 thereof. This provision shall be applicable only during such portion
9 of the year as oxygenated petroleum product sales are required pursuant
10 to 42 U.S.C. 7545(m).

11 (3) Any person who violates this section is subject to a civil
12 penalty of no more than five hundred dollars.

13 EXPLANATORY NOTE

14 RCW 82.36.010 was amended by 1998 c 176 s 6, deleting the
15 definition of "service station."

16 **Sec. 66.** RCW 19.98.020 and 1975 1st ex.s. c 277 s 2 are each
17 amended to read as follows:

18 All repurchase payments to retailers and sellers made pursuant to
19 RCW 19.98.010 shall be less amounts owed on any lien or claim then
20 outstanding upon such items covered by this section. Any wholesaler,
21 manufacturer, or distributor making repurchase payments covered by this
22 chapter to any retailer or seller shall satisfy such secured liens or
23 claims pursuant to (~~(chapter [article])~~) Article 62A.9 RCW less any
24 interest owed to the lienholder arising from the financing of such
25 items which shall be paid to any such secured lienholder by the
26 retailer or seller. In no case shall the wholesaler, manufacturer, or
27 distributor, in making payments covered by RCW 19.98.010, pay in excess
28 of those amounts prescribed therein.

29 EXPLANATORY NOTE

30 Corrects an inaccurate reference.

31 **Sec. 67.** RCW 19.98.110 and 1990 c 124 s 2 are each amended to read
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout RCW 19.98.100 through 19.98.150 and
35 19.98.911:

36 (1) "Equipment" means machinery consisting of a framework, various
37 fixed and moving parts, driven by an internal combustion engine, and

1 all other implements associated with this machinery that are designed
2 for or adapted and used for agriculture, horticulture, livestock, or
3 grazing use.

4 (2) "Equipment dealer" or "equipment dealership" means any person,
5 partnership, corporation, association, or other form of business
6 enterprise, primarily engaged in retail sale or service of equipment in
7 this state, pursuant to any oral or written agreement for a definite or
8 indefinite period of time in which there is a continuing commercial
9 relationship in the marketing of the equipment or related services, but
10 does not include dealers covered by chapter 46.70 or 46.94 RCW.

11 (3) "Supplier" means the manufacturer, wholesaler, or distributor
12 of the equipment to be sold by the equipment dealer.

13 (4) "Dealer agreement" means a contract or agreement, either
14 expressed or implied, whether oral or written, between a supplier and
15 an equipment dealer, by which the equipment dealer is granted the right
16 to sell, distribute, or service the supplier's equipment where there is
17 a continuing commercial relationship between the supplier and the
18 equipment dealer.

19 (5) "Continuing commercial relationship" means any relationship in
20 which the equipment dealer has been granted the right to sell or
21 service equipment manufactured by (~~{the}~~) the supplier.

22 (6) "Good cause" means failure by an equipment dealer to
23 substantially comply with essential and reasonable requirements imposed
24 upon the equipment dealer by the dealer agreement, provided such
25 requirements are not different from those requirements imposed on other
26 similarly situated equipment dealers in the state either by their terms
27 or in the manner of their enforcement.

28 EXPLANATORY NOTE

29 Corrects a manifest grammatical error.

30 **Sec. 68.** RCW 19.105.330 and 1988 c 159 s 5 are each amended to
31 read as follows:

32 (~~{(1)}~~) (1) Unless an order denying effectiveness under RCW
33 19.105.380 is in effect, or unless declared effective by order of the
34 director prior thereto, the application for registration shall
35 automatically become effective upon the expiration of the twentieth
36 full business day following a filing with the director in complete and
37 proper form, but an applicant may consent to the delay of effectiveness

1 until such time as the director may by order declare registration
2 effective or issue a permit to market.

3 (2) An application for registration, renewal of registration, or
4 amendment is not in completed form and shall not be deemed a statutory
5 filing until such time as all required fees, completed application
6 forms, and the information and documents required pursuant to RCW
7 19.105.320(1) and departmental rules have been filed.

8 It is the operator's responsibility to see that required filing
9 materials and fees arrive at the appropriate mailing address of the
10 department. Within seven business days, excluding the date of receipt,
11 of receiving an application or initial request for registration and the
12 filing fees, the department shall notify the applicant of receipt of
13 the application and whether or not the application is complete and in
14 proper form. If the application is incomplete, the department shall at
15 the same time inform the applicant what additional documents or
16 information is required.

17 If the application is not in a completed form, the department shall
18 give immediate notice to the applicant. On the date the application is
19 complete and properly filed, the statutory period for an in-depth
20 examination of the filing, prescribed in subsection (1) of this
21 section, shall begin to run, unless the applicant and the department
22 have agreed to a stay of effectiveness or the department has issued a
23 denial of the application or a permit to market.

24 EXPLANATORY NOTE
25 Corrects a manifest clerical error.

26 **Sec. 69.** RCW 19.105.470 and 1988 c 159 s 23 are each amended to
27 read as follows:

28 (1) Whenever it appears to the director that any person has engaged
29 or is about to engage in any act or practice constituting a violation
30 of any provision of this chapter, any withdrawal of a camping resort
31 property in violation of RCW 19.105.380(~~((+1)-(j))~~) (1)(q), or any rule,
32 order, or permit issued under this chapter, the director may in his or
33 her discretion issue an order directing the person to cease and desist
34 from continuing the act or practice. Reasonable notice of and
35 opportunity for a hearing shall be given. However, the director may
36 issue a temporary order pending the hearing which shall be effective
37 immediately upon delivery to the person affected and which shall remain
38 in effect until ten days after the hearing is held and which shall

1 become final if the person to whom notice is addressed does not request
2 a hearing within fifteen days after receipt of notice.

3 (2) If it appears necessary in order to protect the interests of
4 members and purchasers, whether or not the director has issued a cease
5 and desist order, the attorney general in the name of the state, the
6 director, the proper prosecuting attorney, an affiliated members'
7 common-interest association, or a group of members as a class, may
8 bring an action in any court of competent jurisdiction to enjoin any
9 such acts or practices and to enforce compliance with this chapter or
10 any rule, order, or permit under this chapter. Upon a proper showing,
11 a permanent or temporary injunction, restraining order, or writ of
12 mandamus shall be granted and a receiver or conservator may be
13 appointed for the defendant, for the defendant's assets, or to protect
14 the interests or assets of a members' common-interest association or
15 the members of a camping resort as a class. The state, the director,
16 a members' common-interest association, or members as a class shall not
17 be required to post a bond in such proceedings.

18 EXPLANATORY NOTE

19 The reference to RCW 19.105.380(1)(j) appears to be erroneous.
20 Before March 20, 1988, the reference was to RCW 19.105.380(9).
21 Chapter 159, Laws of 1988 placed the text of RCW 19.105.380(9)
22 in RCW 19.105.380(1)(q), effective March 20, 1988.

23 **Sec. 70.** RCW 19.116.030 and 1990 c 44 s 4 are each amended to read
24 as follows:

25 Unlawful subleasing or unlawful transfer of an ownership interest
26 in motor vehicles (~~(are [is])~~) is not reasonable in relation to the
27 development and preservation of business. A violation of this chapter
28 is an unfair or deceptive act in trade or commerce for the purpose of
29 applying the consumer protection act, chapter 19.86 RCW.

30 EXPLANATORY NOTE

31 Corrects a manifest grammatical error.

32 **Sec. 71.** RCW 19.116.050 and 1990 c 44 s 6 are each amended to read
33 as follows:

34 A dealer engages in an act of unlawful transfer of ownership
35 interest in motor vehicles when all of the following circumstances are
36 met:

1 (1) The dealer does not pay off any balance due to the secured
2 party on a vehicle acquired by the dealer, no later than the close of
3 the second business day after the acquisition date of the vehicle; and

4 (2) The dealer does not obtain a certificate of ownership under RCW
5 ((46.12.140)) 46.70.124 for each used vehicle kept in his or her
6 possession unless that certificate is in the possession of the person
7 holding a security interest in the dealer's inventory; and

8 (3) The dealer does not transfer the certificate of ownership after
9 the transferee has taken possession of the motor vehicle.

10 EXPLANATORY NOTE

11 RCW 46.12.140 was recodified as RCW 46.70.124 pursuant to 1993
12 c 307 s 18.

13 **Sec. 72.** RCW 19.120.080 and 1986 c 320 s 9 are each amended to
14 read as follows:

15 Without limiting the other provisions of this chapter, the
16 following specific rights and prohibitions shall govern the relation
17 between the motor fuel refiner-supplier and the motor fuel retailers:

18 (1) The parties shall deal with each other in good faith.

19 (2) For the purposes of this chapter and without limiting its
20 general application, it shall be an unfair or deceptive act or practice
21 or an unfair method of competition and therefore unlawful and a
22 violation of this chapter for any person to:

23 (a) Require a motor fuel retailer to purchase or lease goods or
24 services of the motor fuel refiner-supplier or from approved sources of
25 supply unless and to the extent that the motor fuel refiner-supplier
26 satisfies the burden of proving that such restrictive purchasing
27 agreements are reasonably necessary for a lawful purpose justified on
28 business grounds, and do not substantially affect competition:
29 PROVIDED, That this provision shall not apply to the initial inventory
30 of the motor fuel franchise. In determining whether a requirement to
31 purchase or lease goods or services constitutes an unfair or deceptive
32 act or practice or an unfair method of competition the courts shall be
33 guided by the decisions of the courts of the United States interpreting
34 and applying the anti-trust laws of the United States.

35 (b) Discriminate between motor fuel retailers in the charges
36 offered or made for royalties, goods, services, equipment, rentals,
37 advertising services, or in any other business dealing, unless and to
38 the extent that the motor fuel refiner-supplier satisfies the burden of

1 proving that any classification of or discrimination between motor fuel
2 retailers is reasonable, is based on motor fuel franchises granted at
3 materially different times and such discrimination is reasonably
4 related to such difference in time or on other proper and justifiable
5 distinctions considering the purposes of this chapter, and is not
6 arbitrary.

7 (c) Sell, rent, or offer to sell to a motor fuel retailer any
8 product or service for more than a fair and reasonable price.

9 (d) Require (({a})) a motor fuel retailer to assent to a release,
10 assignment, novation, or waiver which would relieve any person from
11 liability imposed by this chapter.

12 EXPLANATORY NOTE

13 Corrects a manifest grammatical error.

14 **Sec. 73.** RCW 19.138.021 and 1996 c 180 s 1 are each amended to
15 read as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Department" means the department of licensing.

19 (2) "Director" means the director of licensing or the director's
20 designee.

21 (3) "Seller of travel" means a person, firm, or corporation both
22 inside and outside the state of Washington, who transacts business with
23 Washington consumers for travel services.

24 (a) "Seller of travel" includes a travel agent and any person who
25 is an independent contractor or outside agent for a travel agency or
26 other seller of travel whose principal duties include consulting with
27 and advising persons concerning travel arrangements or accommodations
28 in the conduct or administration of its business. If a seller of
29 travel is employed by a seller of travel who is registered under this
30 chapter, the employee need not also be registered.

31 (b) "Seller of travel" does not include:

32 (i) An air carrier;

33 (ii) An owner or operator of a vessel, including an ocean common
34 carrier as defined in 46 U.S.C. App. 1702(18), an owner or charterer of
35 a vessel that is required to establish its financial responsibility in
36 accordance with the requirements of the federal maritime commission, 46
37 U.S.C. App. 817 (e), and a steamboat company (~~as defined in RCW~~

1 84.12.200)) whether or not operating over and upon the waters of this
2 state;

3 (iii) A motor carrier;

4 (iv) A rail carrier;

5 (v) A charter party carrier of passengers as defined in RCW
6 81.70.020;

7 (vi) An auto transportation company as defined in RCW 81.68.010;

8 (vii) A hotel or other lodging accommodation;

9 (viii) An affiliate of any person or entity described in (i)
10 through (vii) of this subsection (3)(b) that is primarily engaged in
11 the sale of travel services provided by the person or entity. For
12 purposes of this subsection (3)(b)(viii), an "affiliate" means a person
13 or entity owning, owned by, or under common ownership, with "owning,"
14 "owned," and "ownership" referring to equity holdings of at least
15 eighty percent;

16 (ix) Direct providers of transportation by air, sea, or ground, or
17 hotel or other lodging accommodations who do not book or arrange any
18 other travel services.

19 (4) "Travel services" includes transportation by air, sea, or
20 ground, hotel or any lodging accommodations, package tours, or vouchers
21 or coupons to be redeemed for future travel or accommodations for a
22 fee, commission, or other valuable consideration.

23 (5) "Advertisement" includes, but is not limited to, a written or
24 graphic representation in a card, brochure, newspaper, magazine,
25 directory listing, or display, and oral, written, or graphic
26 representations made by radio, television, or cable transmission that
27 relates to travel services.

28 (6) "Transacts business with Washington consumers" means to
29 directly offer or sell travel services to Washington consumers,
30 including the placement of advertising in media based in the state of
31 Washington or that is primarily directed to Washington residents.
32 Advertising placed in national print or electronic media alone does not
33 constitute "transacting business with Washington consumers." Those
34 entities who only wholesale travel services are not "transacting
35 business with Washington consumers" for the purposes of this chapter.

36 EXPLANATORY NOTE

37 RCW 84.12.200 was amended by 1998 c 335 s 1, removing the
38 definition of steamboat company.

1 (1) "Access area" means a paved walkway or sidewalk that is within
2 fifty feet of an automated teller machine or night deposit facility.
3 "Access area" does not include publicly maintained sidewalks or roads.

4 (2) "Access device" means:

5 (a) "Access device" as defined in federal reserve board Regulation
6 E, 12 C.F.R. Part 205, promulgated under the Electronic Fund Transfer
7 Act, 15 U.S.C. Sec. 1601, et seq.; or

8 (b) A key or other mechanism issued by a banking institution to its
9 customer to give the customer access to the banking institution's night
10 deposit facility.

11 (3) "Automated teller machine" means an electronic information
12 processing device located in this state that accepts or dispenses cash
13 in connection with a credit, deposit, or convenience account.
14 (~~("Automatic {automated})~~) "Automated teller machine" does not include
15 a device used primarily to facilitate check guarantees or check
16 authorizations, used in connection with the acceptance or dispensing of
17 cash on a person-to-person basis such as by a store cashier, or used
18 for payment of goods and services.

19 (4) "Banking institution" means a state or federally chartered
20 bank, trust company, savings bank, savings and loan association, and
21 credit union.

22 (5) "Candle-foot power" means a light intensity of candles on a
23 horizontal plane at thirty-six inches above ground level and five feet
24 in front of the area to be measured.

25 (6) "Control of an access area or defined parking area" means to
26 have the present authority to determine how, when, and by whom it is to
27 be used, and how it is to be maintained, lighted, and landscaped.

28 (7) "Defined parking area" means that portion of a parking area
29 open for customer parking that is:

30 (a) Contiguous to an access area with respect to an automated
31 teller machine or night deposit facility;

32 (b) Regularly, principally, and lawfully used for parking by users
33 of the automated teller machine or night deposit facility while
34 conducting transactions during hours of darkness; and

35 (c) Owned or leased by the operator of the automated teller machine
36 or night deposit facility or owned or controlled by the party leasing
37 the automated teller machine or night deposit facility site to the
38 operator. "Defined parking area" does not include a parking area that
39 is not open or regularly used for parking by users of the automated

1 teller machine or night deposit facility who are conducting
2 transactions during hours of darkness. A parking area is not open if
3 it is physically closed to access or if conspicuous signs indicate that
4 it is closed. If a multiple level parking area satisfies the
5 conditions of this subsection (7)(c) and would therefore otherwise be
6 a defined parking area, only the single parking level deemed by the
7 operator of the automated teller machine and night deposit facility to
8 be the most directly accessible to the users of the automated teller
9 machine and night deposit facility is a defined parking area.

10 (8) "Hours of darkness" means the period that commences thirty
11 minutes after sunset and ends thirty minutes before sunrise.

12 (9) "Night deposit facility" means a receptacle that is provided by
13 a banking institution for the use of its customers in delivering cash,
14 checks, and other items to the banking institution.

15 (10) "Operator" means a banking institution or other business
16 entity or a person who operates an automated teller machine or night
17 deposit facility.

18 EXPLANATORY NOTE

19 Corrects a manifest drafting error.

20 NEW SECTION. **Sec. 77.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 18.08.150 (Application for examination--Fee) and 1985 c 7
23 s 5;

24 (2) RCW 18.08.190 (Expiration of certificate--Renewal--Fee--
25 Withdrawal of registrant) and 1985 c 7 s 6;

26 (3) RCW 18.08.220 (Reinstatement of certificate--Replacement of
27 lost or destroyed certificate, charge) and 1985 c 7 s 7;

28 (4) RCW 18.25.050 (Revocation or refusal of licenses--Hearing--
29 Restoration) and 1985 c 7 s 16;

30 (5) RCW 18.32.326 (Identification of dental prostheses--Technical
31 assistance);

32 (6) RCW 18.45.010 (Definitions) and 1979 c 141 s 27;

33 (7) RCW 18.45.020 (Administration of chapter) and 1979 c 141 s 28;

34 (8) RCW 18.45.440 (Inspection of premises, records, materials--
35 Powers of secretary) and 1979 c 141 s 29;

36 (9) RCW 18.45.450 (Condemnation of articles, materials--Grounds--
37 Disposition) and 1979 c 141 s 30;

1 (10) RCW 18.45.470 (Condemned articles--Failure to relinquish--
2 Penalty) and 1979 c 141 s 31; and
3 (11) RCW 18.90.010 (Definitions) and 1979 c 158 s 70.

4 EXPLANATORY NOTE

5 RCW 18.08.150 was amended by 1985 c 7 s 5 without reference to
6 its repeal by 1985 c 37 s 18. Repealing this section removes
7 the decodified section from the code.

8 RCW 18.08.190 was amended by 1985 c 7 s 6 without reference to
9 its repeal by 1985 c 37 s 18. Repealing this section removes
10 the decodified section from the code.

11 RCW 18.08.220 was amended by 1985 c 7 s 7 without reference to
12 its repeal by 1985 c 37 s 18. Repealing this section removes
13 the decodified section from the code.

14 RCW 18.25.050 was amended by 1985 c 7 s 16 without reference to
15 its repeal by 1986 c 259 s 27. Repealing this section removes
16 the decodified section from the code.

17 RCW 18.32.326 was both recodified and repealed during the 1989
18 legislative sessions, each without reference to the other.
19 Repealing this section removes the decodified section from the
20 code.

21 RCW 18.45.010 was amended by 1979 c 141 s 27 without reference
22 to its repeal by 1979 c 99 s 1, effective June 30, 1982.
23 Repealing this section removes the decodified section from the
24 code.

25 RCW 18.45.020 was amended by 1979 c 141 s 28 without reference
26 to its repeal by 1979 c 99 s 51, effective June 30, 1982.
27 Repealing this section removes the decodified section from the
28 code.

29 RCW 18.45.440 was amended by 1979 c 141 s 29 without reference
30 to its repeal by 1979 c 99 s 51, effective June 30, 1982.
31 Repealing this section removes the decodified section from the
32 code.

33 RCW 18.45.450 was amended by 1979 c 141 s 30 without reference
34 to its repeal by 1979 c 99 s 51, effective June 30, 1982.
35 Repealing this section removes the decodified section from the
36 code.

37 RCW 18.45.470 was amended by 1979 c 141 s 31 without reference
38 to its repeal by 1979 c 99 s 51, effective June 30, 1982.
39 Repealing this section removes the decodified section from the
40 code.

41 RCW 18.90.010 was amended by 1979 c 158 s 70 without reference
42 to its repeal by 1979 c 99 s 60, effective June 30, 1982.
43 Repealing this section removes the decodified section from the
44 code.

--- END ---