

HOUSE BILL REPORT

SSB 6364

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to the recommendations of the joint legislative task force on mobile/manufactured home alteration and repair.

Brief Description: Implementing recommendations of the joint legislative task force on mobile/manufactured home alteration and repair.

Sponsors: Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Winsley, Prentice, Hargrove, Fairley, Kastama and Rasmussen).

Brief History:

Committee Activity:

Commerce & Labor: 2/25/02, 2/28/02 [DPA].

Brief Summary of Substitute Bill (As Amended by House Committee)

- Implements the recommendations of the Joint Legislative Task Force on Mobile/Manufactured Home Alteration and Repair, including encouraging an interagency pilot project for issuing alteration permits, modifying provisions related to sales of altered homes, and establishing a civil penalty for failure to obtain a required permit.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Clements, Ranking Minority Member; Kenney and Lysen.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler and McMorris.

Staff: Chris Cordes (786-7103).

Background:

The 2001 Legislature established the Joint Legislative Task Force on

Mobile/Manufactured Home Alteration and Repair to review issues involving the alteration of mobile and manufactured homes. This task force made several recommendations to the Legislature in January 2002.

Alteration Permit Requirements

The Department of Labor and Industries issues alteration permits and inspects alterations of mobile and manufactured homes under rules that specify the types of alterations that require permits and inspections. The task force reviewed the department's rules and the process for obtaining a permit. The task force noted in its report that the process was complex and confusing, particularly if a project required a permit from both the department and a local jurisdiction. The task force recommended that the department and the local building officials develop a pilot project for a coordinated system that could process mobile/manufactured home alteration permit applications in either jurisdiction. The recommendation requested a pilot project in at least two locations, one in eastern Washington and one in western Washington.

Penalties for Alteration Permit Violations

The task force reviewed the penalty structure for violations of the requirements relating to alterations of mobile and manufactured homes. It noted that the only penalties available to the department to enforce compliance are criminal penalties and the prohibition against selling a home that does not comply with department rules. The task force recommended that civil penalties should be adopted that would create incentives for voluntary compliance with the alteration permit requirements.

Sales of Mobile/Manufactured Homes

It is unlawful to lease, sell, or offer for sale a mobile home that does not comply with department rules. Under federal law, a manufacturer or dealer may not sell a manufactured home that does not comply with the National Manufactured Home Construction and Safety Standards Act. In 2001, legislation was enacted that required the department to adopt rules relating to the following requirements for installed manufactured homes: (1) exemptions from permit requirements, (2) the process for granting variances, and (3) requirements for real property transfer disclosure made to the buyer by the seller of the manufactured home. These provisions are not, however, to be construed to prohibit the sale of an altered home unless the alteration makes the home so unsafe that its use constitutes a hazard to life, safety, or health.

The task force recommended that these provisions should be clarified with regard to altered mobile and manufactured homes. It also recommended that conditional sales of altered mobile or manufactured homes should be permitted under certain circumstances.

In addition, the task force recommended that all sales of mobile/manufactured homes,

whether sold as personal property or as part of a real property transaction, should be subject to the residential real property transfer disclosure law.

Summary of Amended Bill:

Legislative Intent

The Legislature's stated purpose is to implement the recommendations of the Joint Legislative Task Force on Mobile/Manufactured Home Alteration and Repair. The Legislature recognizes the need to improve communications among the regulatory agencies, homeowners, and other interested parties, and to streamline the complex regulatory environment. The Legislature supports the task force's review and its comments on agency rules regarding alteration permit requirements.

The Consumer Assistance/Permit Application Pilot Project

The Legislature encourages the relevant agencies to conduct a pilot project that tests an interagency coordinated system for processing mobile/manufactured home alteration permits.

As part of implementing the pilot project, the Department of Labor and Industries may adopt a temporary state-wide fee schedule. This schedule may decrease fees for mobile/manufactured home alteration permits and increase fees for plan review and inspection services for factory-built housing and commercial structures. These fee increases may exceed the fiscal growth factor if necessary to fund the cost of administering the factory assembled structures program, but fees may not be increased more than 40 percent. Mobile/manufactured home alteration permit fees may be waived for alteration permit applicants who are indigent.

The authority to adopt a temporary fee schedule expires April 1, 2004. After expiration, the department must adopt the fee schedule that was in place prior to the temporary schedule, as adjusted by the fiscal growth factors.

Rules Addressing Permitting Requirements

It is clarified that the department rules relating to the following requirements for installed manufactured homes also apply to installed mobile homes: (1) exemptions from permit requirements, (2) the process for granting variances, and (3) requirements for real property transfer disclosure made to the buyer by the seller.

The department must adopt a rule for manufactured homes that makes explicit the requirement for prior written approval before alterations may be made that differ from the applicable federal construction standards.

Civil Penalty for Alteration Permit Violations

In addition to or in lieu of other applicable penalties, contractors or other business entities that fail to obtain a required mobile/manufactured home alteration permit before altering a mobile/manufactured home are subject to a civil penalty of up to \$1,000. Each day of violation is a separate violation, but the cumulative penalty for the same occurrence may not exceed \$5,000. The department must adopt a schedule of penalties, considering the gravity of the violation and the history of violations. The penalties must be doubled or \$1,000, whichever is greater, for repeat violations within a two year period.

Notices of civil penalties must be issued in writing, with the reasons for the penalty. If a party wishes to contest the notice, he or she must file an appeal with the department in 20 days. Appeals are heard by an administrative law judge whose decision may be appealed to superior court.

The department may issue a notice of correction before issuing a penalty. If a notice of correction is issued, a penalty will not be issued unless the responsible person fails to comply with the notice of correction.

The department may audit contractor records to determine compliance with the mobile/manufactured home alteration permitting requirements if the department has reason to believe that a violation has occurred. Information obtained from the audit is confidential and not open to public inspection. The department must adopt rules to implement the auditing procedure.

Sales of Mobile/Manufactured Homes

A manufactured home that does not comply with federal construction standards may not be sold, leased, or offered for sale. However, these provisions do not prohibit the sale of installed mobile or manufactured homes. The department may adopt a rule that allows parties selling an altered installed home to enter into a conditional sale agreement that may be executed only if the parties comply with department requirements related to permits and with property transfer disclosure requirements. If the parties to a sale request the department to inspect an altered home, the department must notify the parties in writing within 30 days if it determines that an alteration constitutes a hazard to life, safety, or health. The department may also notify local fire officials and local health officers of the hazard.

The residential real property transfer disclosure law, which extends to sales of real property improved by a mobile/manufactured home, is amended to apply to the sale of a mobile/ manufactured home that is sold as personal property.

Other

Technical corrections are made for consistent terminology and definition references.

Amended Bill Compared to Substitute Bill:

The amendment deletes existing authority for the Department of Labor and Industries to prohibit the sale of an altered home because of a life, safety, or health hazard. Instead, when requested to inspect an altered home by a party to a sale, the department must notify the parties in writing within 30 days if it determines that an alteration constitutes a hazard to life, safety, or health. The department may also notify local fire officials and local health officers of the hazard.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately, except section 3, requiring an adjusted fee schedule, which takes effect April 1, 2004.

Testimony For: The task force looking at mobile/manufactured home alteration issues consisted of participants from a wide variety of interests. The members were able to reach consensus on many issues. The task force report addressed a number of concerns, but especially focused on the concern that getting an alteration permit at a Department of Labor and Industries office is not convenient for many who do not live near a department office. This bill encourages a pilot project that will make alteration permits available through the local building officials. It will be operated as a pilot to test the concept before expanding it state-wide. The department needs flexibility in setting fees to equalize the burden on the various regulated industries. The bill would also establish needed rules about conditional sales and disclosure requirements. This will allow streamlined rules and enforcement that makes sense. The department's authority over sales is intended to ensure public safety, but not impose undue regulation. The department only gets involved in sales if an inspection is requested. The concern about whether a permit is needed to paint a room has been resolved. This bill will allow continued improvement in the way these homes are regulated. It will probably be necessary to work next year on the disclosure form to make sure it fits the needs of mobile/manufactured home sellers and buyers.

(Concerns) Mobile and manufactured homes should be treated the same as site-built homes. There is no state agency that can tell the homeowner of a site-built home that the owner cannot sell the home. The authority of the Department of Labor and Industries to prohibit sales should be revoked. If there is a major safety and health issue regarding the home, it should be left to the local jurisdiction that regulates safety and health issues.

Testimony Against: None.

Testified: (In support) Senator Winsley, prime sponsor; Patrick Woods, Department of Labor and Industries; Ray Munson, Mobile Home Owners of America; and Bob Mitchell, Washington Association of Realtors.

(Concerns) Representative Kessler.