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ENGROSSED SUBSTITUTE HOUSE BILL 2470

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State of Washington

57th Legislature

2002 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Campbell, Cairnes, Cooper, Hunt, Hurst, Quall, Armstrong, Delvin, Tokuda and Kenney)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to plumbing contractors; amending RCW 18.106.010,  
2 18.106.020, 18.106.180, 18.106.250, and 18.27.200; adding a new section  
3 to chapter 18.106 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 18.106.010 and 2001 c 281 s 1 are each amended to read  
6 as follows:

7 Unless a different meaning is plainly required by the context, the  
8 following words and phrases as hereinafter used in this chapter shall  
9 have the following meaning:

10 (1) "Advisory board" means the state advisory board of plumbers;

11 (2) "Contractor" means any person, corporate or otherwise, who  
12 engages in, or offers or advertises to engage in, any work covered by  
13 the provisions of this chapter by way of trade or business, or any  
14 person, corporate or otherwise, who employs anyone, or offers or  
15 advertises to employ anyone, to engage in any work covered by the  
16 provisions of this chapter;

17 (3) "Department" means the department of labor and industries;

18 ((+3)) (4) "Director" means the director of department of labor  
19 and industries;

1       ~~((+4))~~ (5) "Journeyman plumber" means any person who has been  
2 issued a certificate of competency by the department of labor and  
3 industries as provided in this chapter;

4       ~~((+5))~~ (6) "Medical gas piping" means oxygen, nitrous oxide, high  
5 pressure nitrogen, medical compressed air, and medical vacuum systems;

6       ~~((+6))~~ (7) "Medical gas piping installer" means a journeyman  
7 plumber who has been issued a medical gas piping installer endorsement;

8       ~~((+7))~~ (8) "Plumbing" means that craft involved in installing,  
9 altering, repairing and renovating potable water systems, liquid waste  
10 systems, and medical gas piping systems within a building.  
11 Installation in a water system of water softening or water treatment  
12 equipment is not within the meaning of plumbing as used in this  
13 chapter;

14       ~~((+8))~~ (9) "Specialty plumber" means anyone who has been issued a  
15 specialty certificate of competency limited to:

16       (a) Installation, maintenance, and repair of the plumbing of  
17 single-family dwellings, duplexes, and apartment buildings that do not  
18 exceed three stories; or

19       (b) Maintenance and repair of backflow prevention assemblies.

20       **Sec. 2.** RCW 18.106.020 and 1997 c 326 s 3 are each amended to read  
21 as follows:

22       (1) No person may engage in or offer to engage in the trade of  
23 plumbing without having a journeyman certificate, specialty  
24 certificate, temporary permit, or trainee certificate. A trainee must  
25 be supervised by a person who has a journeyman certificate, specialty  
26 certificate, or temporary permit, as specified in RCW 18.106.070. No  
27 contractor may employ a person to engage in or offer to engage in the  
28 trade of plumbing unless the person employed has a journeyman  
29 certificate, specialty certificate, temporary permit, or trainee  
30 certificate. ~~((For the purposes of this section, "contractor" means  
31 any person or body of persons, corporate or otherwise, engaged in any  
32 work covered by the provisions of this chapter, chapter 18.27 RCW, or  
33 chapter 19.28 RCW, by way of trade or business. However, in no case  
34 shall))~~ This section does not apply to a contractor who is contracting  
35 for work on his or her own residence.

36       (2) No person may engage in or offer to engage in medical gas  
37 piping installation without having a certificate of competency as a  
38 journeyman plumber and a medical gas piping installer endorsement. A

1 trainee may engage in medical gas piping installation if he or she has  
2 a training certificate and is supervised by a person with a medical gas  
3 piping installer endorsement. No contractor may employ a person to  
4 engage in or offer to engage in medical gas piping installation unless  
5 the person employed has a certificate of competency as a journeyman  
6 plumber and a medical gas piping installer endorsement.

7 (3) No contractor may advertise, offer to do work, submit a bid, or  
8 perform any work under this chapter without being registered as a  
9 contractor under chapter 18.27 RCW.

10 (4) Violation of (~~subsection (1) or (2) of~~) this section is an  
11 infraction. Each day in which a person engages in the trade of  
12 plumbing in violation of (~~subsection (1) or (2) of~~) this section or  
13 employs a person in violation of (~~subsection (1) or (2) of~~) this  
14 section is a separate infraction. Each worksite at which a person  
15 engages in the trade of plumbing in violation of (~~subsection (1) or~~  
16 ~~(2) of~~) this section or at which a person is employed in violation of  
17 (~~subsection (1) or (2) of~~) this section is a separate infraction.

18 (~~(4)~~) (5) Notices of infractions for violations of (~~subsection~~  
19 ~~(1) or (2) of~~) this section may be issued to:

20 (a) The person engaging in or offering to engage in the trade of  
21 plumbing in violation of (~~subsection (1) or (2) of~~) this section;

22 (b) The contractor in violation of (~~subsection (1) or (2) of~~)  
23 this section; and

24 (c) The contractor's employee who authorized the work assignment of  
25 the person employed in violation of (~~subsection (1) or (2) of~~) this  
26 section.

27 **Sec. 3.** RCW 18.106.180 and 2000 c 171 s 27 are each amended to  
28 read as follows:

29 (1) An authorized representative of the department may issue a  
30 notice of infraction as specified in RCW 18.106.020(~~(4)~~) if:

31 (a) A person who is doing plumbing work or who is offering to do  
32 plumbing work fails to produce evidence of:

33 (i) Having a certificate or permit issued by the department in  
34 accordance with this chapter, or (~~of~~) being supervised by a person  
35 who has such a certificate or permit; and

36 (ii) Being registered as a contractor as required under chapter  
37 18.27 RCW or this chapter, or being employed by a person who is  
38 registered as a contractor;

1        (b) A person who employs anyone, or offers or advertises to employ  
2 anyone, to do plumbing work fails to produce evidence of being  
3 registered as a contractor as required under chapter 18.27 RCW or this  
4 chapter; or

5        (c) A contractor violates section 5 of this act.

6        (2) A notice of infraction issued under this section shall be  
7 personally served on the person named in the notice by an authorized  
8 representative of the department or sent by certified mail to the last  
9 known address provided to the department of the person named in the  
10 notice.

11        **Sec. 4.** RCW 18.106.250 and 2000 c 171 s 28 are each amended to  
12 read as follows:

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

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

19        (a) The defendant who was issued a notice of infraction authorized  
20 by RCW 18.106.020(~~((+4))~~) (5)(a) had a certificate or permit issued by  
21 the department in accordance with this chapter, was supervised by a  
22 person who has such a certificate or permit, or was exempt from this  
23 chapter under RCW 18.106.150; or

24        (b) For the defendant who was issued a notice of infraction  
25 authorized by RCW 18.106.020(~~((+4))~~) (5) (b) or (c), the person employed  
26 or supervised by the defendant has a certificate or permit issued by  
27 the department in accordance with this chapter, was supervised by a  
28 person who had such a certificate or permit, (~~((or))~~) was exempt from  
29 this chapter under RCW 18.106.150, or was registered as a contractor  
30 under chapter 18.27 RCW.

31        (3) After consideration of the evidence and argument, the  
32 administrative law judge shall determine whether the infraction was  
33 committed. If it has not been established that the infraction was  
34 committed, an order dismissing the notice shall be entered in the  
35 record of the proceedings. If it has been established that the  
36 infraction was committed, the administrative law judge shall issue  
37 findings of fact and conclusions of law in its decision and order  
38 determining whether the infraction was committed.

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

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.106 RCW  
6 to read as follows:

7 (1) Contractors shall accurately verify and attest to the trainee  
8 hours worked by plumbing trainees on behalf of the contractor and that  
9 all training hours were under the supervision of a certified plumber  
10 and within the proper ratio, and shall provide the supervising  
11 plumbers' names and certificate numbers. However, contractors are not  
12 required to identify which hours a trainee works with a specific  
13 certified plumber.

14 (2) The department may audit the records of a contractor that has  
15 verified the hours of experience submitted by a plumbing trainee to the  
16 department under RCW 18.106.030 in the following circumstances:  
17 Excessive hours were reported; hours were reported outside the normal  
18 course of the contractor's business; or for other similar circumstances  
19 in which the department demonstrates a likelihood of excessive or  
20 improper hours being reported. The department shall limit the audit to  
21 records necessary to verify hours. The department shall adopt rules  
22 implementing audit procedures. Information obtained from a contractor  
23 under the provisions of this section is confidential and is not open to  
24 public inspection under chapter 42.17 RCW.

25 (3) Violation of this section by a contractor is an infraction.

26 **Sec. 6.** RCW 18.27.200 and 1997 c 314 s 14 are each amended to read  
27 as follows:

28 (1) It is a violation of this chapter and an infraction for any  
29 contractor to:

30 (a) Advertise, offer to do work, submit a bid, or perform any work  
31 as a contractor without being registered as required by this chapter;

32 (b) Advertise, offer to do work, submit a bid, or perform any work  
33 as a contractor when the contractor's registration is suspended or  
34 revoked; (~~or~~)

35 (c) Transfer a valid registration to an unregistered contractor or  
36 allow an unregistered contractor to work under a registration issued to  
37 another contractor; or

1        (d) If the contractor is a contractor as defined in RCW 18.106.010,  
2 violate section 5 of this act.

3        (2) Each day that a contractor works without being registered as  
4 required by this chapter, works while the contractor's registration is  
5 suspended or revoked, or works under a registration issued to another  
6 contractor is a separate infraction. Each worksite at which a  
7 contractor works without being registered as required by this chapter,  
8 works while the contractor's registration is suspended or revoked, or  
9 works under a registration issued to another contractor is a separate  
10 infraction.

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