
SUBSTITUTE SENATE BILL 6080

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senator Prentice)

READ FIRST TIME 02/28/2001.

1 AN ACT Relating to updating and harmonizing fireworks and
2 explosives laws; amending RCW 70.74.010, 70.74.191, 70.74.400,
3 70.77.126, 70.77.131, 70.77.136, 70.77.141, 70.77.160, 70.77.170,
4 70.77.180, 70.77.200, 70.77.205, 70.77.210, 70.77.215, 70.77.230,
5 70.77.236, 70.77.250, 70.77.255, 70.77.270, 70.77.305, 70.77.311,
6 70.77.315, 70.77.330, 70.77.335, 70.77.340, 70.77.343, 70.77.381,
7 70.77.395, 70.77.401, 70.77.405, 70.77.420, 70.77.425, 70.77.435,
8 70.77.440, 70.77.495, 70.77.510, 70.77.515, 70.77.517, 70.77.520,
9 70.77.535, 70.77.555, 70.77.575, and 70.77.580; adding new sections to
10 chapter 70.77 RCW; and prescribing penalties.

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

12 **Sec. 1.** RCW 70.74.010 and 1993 c 293 s 1 are each amended to read
13 as follows:

14 As used in this chapter, unless a different meaning is plainly
15 required by the context:

16 (1) The terms "authorized", "approved" or "approval" shall be held
17 to mean authorized, approved, or approval by the department of labor
18 and industries.

1 (2) The term "blasting agent" shall be held to mean and include any
2 material or mixture consisting of a fuel and oxidizer, (~~intended for~~
3 ~~blasting, not otherwise classified as an explosive, and in which none~~
4 ~~of the ingredients are classified as an explosive, provided that the~~
5 ~~finished product, as mixed and packaged for use or shipment, cannot be~~
6 ~~detonated when unconfined by means of a No. 8 test blasting cap~~) that
7 is intended for blasting and not otherwise defined as an explosive; if
8 the finished product, as mixed for use or shipment, cannot be detonated
9 by means of a number 8 test blasting cap when unconfined. A number 8
10 test blasting cap is one containing two grams of a mixture of eighty
11 percent mercury fulminate and twenty percent potassium chlorate, or a
12 blasting cap of equivalent strength. An equivalent strength cap
13 comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum
14 shell with bottom thickness not to exceed 0.03 of an inch, to a
15 specific gravity of not less than 1.4 g/cc., and primed with standard
16 weights of primer depending on the manufacturer.

17 (3) The term "explosive" or "explosives" whenever used in this
18 chapter, shall be held to mean and include any chemical compound or
19 mechanical mixture that is commonly used or intended for the purpose of
20 producing an explosion, that contains any oxidizing and combustible
21 units, or other ingredients, in such proportions, quantities or
22 packing, that an ignition by fire, by friction, by concussion, by
23 percussion, or by detonation of any part of the compound or mixture may
24 cause such a sudden generation of highly heated gases that the
25 resultant gaseous pressures are capable of producing destructive
26 effects on contiguous objects or of destroying life or limb. In
27 addition, the term "explosives" shall include all material which is
28 classified as (~~class A, class B, and class C~~) division 1.1, 1.2, 1.3,
29 1.4, 1.5, or 1.6 explosives by the (~~federal~~) Unites States department
30 of transportation. For the purposes of this chapter small arms
31 ammunition, small arms ammunition primers, smokeless powder not
32 exceeding fifty pounds, and black powder not exceeding five pounds
33 shall not be defined as explosives, unless possessed or used for a
34 purpose inconsistent with small arms use or other lawful purpose.

35 (4) Classification of explosives shall include but not be limited
36 to the following:

37 (a) (~~CLASS A~~) DIVISION 1.1 and 1.2 EXPLOSIVES: (~~Possessing~~)
38 Possess mass explosion or detonating hazard(+)) and include dynamite,
39 nitroglycerin, picric acid, lead azide, fulminate of mercury, black

1 powder exceeding five pounds, blasting caps in quantities of 1001 or
2 more, and detonating primers.

3 (b) (~~(CLASS—B)~~) DIVISION 1.3 EXPLOSIVES: (~~(+Possessing)~~) Possess
4 a minor blast hazard, a minor projection hazard, or a flammable
5 hazard(+) and include propellant explosives, including smokeless
6 (~~(propellants)~~) powder exceeding fifty pounds, and display fireworks as
7 defined in chapter 70.77 RCW.

8 (c) (~~(CLASS—C)~~) DIVISION 1.4, 1.5, and 1.6 EXPLOSIVES:
9 (~~(+Including)~~) Include certain types of manufactured articles which
10 contain (~~(class A or class B)~~) division 1.1, 1.2, or 1.3 explosives, or
11 (~~(both)~~) all, as components, but in restricted quantities(+), and
12 also include blasting caps in quantities of 1000 or less and consumer
13 fireworks as defined in chapter 70.77 RCW.

14 (5) The term "explosive-actuated power devices" shall be held to
15 mean any tool or special mechanized device which is actuated by
16 explosives, but not to include propellant-actuated power devices.

17 (6) The term "magazine", shall be held to mean and include any
18 building or other structure, other than (~~(a factory)~~) an explosives
19 manufacturing building, used for the storage of explosives.

20 (7) The term "improvised device" means a device which is fabricated
21 with explosives or destructive, lethal, noxious, pyrotechnic, or
22 incendiary chemicals and which is designed to disfigure, destroy,
23 distract, or harass.

24 (8) The term "inhabited building", shall be held to mean and
25 include only a building regularly occupied in whole or in part as a
26 habitation for human beings, or any church, schoolhouse, railroad
27 station, store, or other building where people are accustomed to
28 assemble, other than any building or structure occupied in connection
29 with the manufacture, transportation, storage, or use of explosives.

30 (9) The term "explosives manufacturing plant" shall be held to mean
31 and include all lands, with the buildings situated thereon, used in
32 connection with the manufacturing or processing of explosives or in
33 which any process involving explosives is carried on, or the storage of
34 explosives thereat, as well as any premises where explosives are used
35 as a component part or ingredient in the manufacture of any article or
36 device.

37 (10) The term "explosives manufacturing building", shall be held to
38 mean and include any building or other structure (excepting magazines)
39 containing explosives, in which the manufacture of explosives, or any

1 processing involving explosives, is carried on, and any building where
2 explosives are used as a component part or ingredient in the
3 manufacture of any article or device.

4 (11) The term "railroad" shall be held to mean and include any
5 steam, electric, or other railroad which carries passengers for hire.

6 (12) The term "highway" shall be held to mean and include any
7 public street, public alley, or public road, including a privately
8 financed, constructed, or maintained road that is regularly and openly
9 traveled by the general public.

10 (13) The term "efficient artificial barricade" shall be held to
11 mean an artificial mound or properly revetted wall of earth of a
12 minimum thickness of not less than three feet or such other artificial
13 barricade as approved by the department of labor and industries.

14 (14) The term "person" shall be held to mean and include any
15 individual, firm, (~~(copartnership)~~) partnership, corporation, company,
16 association, society, joint stock company, joint stock association, and
17 including any trustee, receiver, assignee, or personal representative
18 thereof.

19 (15) The term "dealer" shall be held to mean and include any person
20 who purchases explosives or blasting agents for the sole purpose of
21 resale, and not for use or consumption.

22 (16) The term "forbidden or not acceptable explosives" shall be
23 held to mean and include explosives which are forbidden or not
24 acceptable for transportation by common carriers by rail freight, rail
25 express, highway, or water in accordance with the regulations of the
26 federal department of transportation.

27 (17) The term "handloader" shall be held to mean and include any
28 person who engages in the noncommercial assembling of small arms
29 ammunition for his own use, specifically the operation of installing
30 new primers, powder, and projectiles into cartridge cases.

31 (18) The term "handloader components" means small arms ammunition,
32 small arms ammunition primers, smokeless powder not exceeding fifty
33 pounds, and black powder as used in muzzle loading firearms not
34 exceeding five pounds.

35 (19) The term "fuel" shall be held to mean and include a substance
36 which may react with the oxygen in the air or with the oxygen yielded
37 by an oxidizer to produce combustion.

1 (20) The term "motor vehicle" shall be held to mean and include any
2 self-propelled automobile, truck, tractor, semi-trailer or full
3 trailer, or other conveyance used for the transportation of freight.

4 (21) The term "natural barricade" shall be held to mean and include
5 any natural hill, mound, wall, or barrier composed of earth or rock or
6 other solid material of a minimum thickness of not less than three
7 feet.

8 (22) The term "oxidizer" shall be held to mean a substance that
9 yields oxygen readily to stimulate the combustion of organic matter or
10 other fuel.

11 (23) The term "propellant-actuated power device" shall be held to
12 mean and include any tool or special mechanized device or gas generator
13 system which is actuated by a propellant or which releases and directs
14 work through a propellant charge.

15 (24) The term "public conveyance" shall be held to mean and include
16 any railroad car, streetcar, ferry, cab, bus, airplane, or other
17 vehicle which is carrying passengers for hire.

18 (25) The term "public utility transmission system" shall mean power
19 transmission lines over 10 KV, telephone cables, or microwave
20 transmission systems, or buried or exposed pipelines carrying water,
21 natural gas, petroleum, or crude oil, or refined products and
22 chemicals, whose services are regulated by the utilities and
23 transportation commission, municipal, or other publicly owned systems.

24 (26) The term "purchaser" shall be held to mean any person who
25 buys, accepts, or receives any explosives or blasting agents.

26 (27) The term "pyrotechnic" shall be held to mean and include any
27 combustible or explosive compositions or manufactured articles designed
28 and prepared for the purpose of producing audible or visible effects
29 which are commonly referred to as fireworks.

30 (28) The term "small arms ammunition" shall be held to mean and
31 include any shotgun, rifle, pistol, or revolver cartridge, and
32 cartridges for propellant-actuated power devices and industrial guns.
33 Military-type ammunition containing explosive bursting charges,
34 incendiary, tracer, spotting, or pyrotechnic projectiles is excluded
35 from this definition.

36 (29) The term "small arms ammunition primers" shall be held to mean
37 small percussion-sensitive explosive charges encased in a cup, used to
38 ignite propellant powder and shall include percussion caps as used in
39 muzzle loaders.

1 (30) The term "smokeless (~~(propellants)~~) powder" shall be held to
2 mean and include solid chemicals or solid chemical mixtures in excess
3 of fifty pounds which function by rapid combustion.

4 (31) The term "user" shall be held to mean and include any natural
5 person, manufacturer, or blaster who acquires, purchases, or uses
6 explosives as an ultimate consumer or who supervises such use.

7 Words used in the singular number shall include the plural, and the
8 plural the singular.

9 **Sec. 2.** RCW 70.74.191 and 1998 c 40 s 1 are each amended to read
10 as follows:

11 The laws contained in this chapter and regulations prescribed by
12 the department of labor and industries pursuant to this chapter shall
13 not apply to:

14 (1) Explosives or blasting agents in the course of transportation
15 by way of railroad, water, highway, or air under the jurisdiction of,
16 and in conformity with, regulations adopted by the federal department
17 of transportation, the Washington state utilities and transportation
18 commission, and the Washington state patrol;

19 (2) The laboratories of schools, colleges, and similar institutions
20 if confined to the purpose of instruction or research and if not
21 exceeding the quantity of one pound;

22 (3) Explosives in the forms prescribed by the official United
23 States Pharmacopoeia;

24 (4) The transportation, storage, and use of explosives or blasting
25 agents in the normal and emergency operations of (~~(federal)~~) United
26 States agencies and departments including the regular United States
27 military departments on military reservations(~~(-)~~); arsenals, navy
28 yards, depots, or other establishments owned by, operated by, or on
29 behalf of, the United States; or the duly authorized militia of any
30 state (~~(or territory,)~~); or to emergency operations of any state
31 department or agency, any police, or any municipality or county;

32 (5) A hazardous devices technician when carrying out normal and
33 emergency operations, handling evidence, and operating and maintaining
34 a specially designed emergency response vehicle that carries no more
35 than ten pounds of explosive material or when conducting training and
36 whose employer possesses the minimum safety equipment prescribed by the
37 federal bureau of investigation for hazardous devices work. For
38 purposes of this section, a hazardous devices technician is a person

1 who is a graduate of the federal bureau of investigation hazardous
2 devices school and who is employed by a state, county, or municipality;

3 (6) The importation, sale, possession, and use of fireworks as
4 defined in chapter 70.77 RCW, signaling devices, flares, fuses, and
5 torpedoes;

6 (7) The transportation, storage, and use of explosives or blasting
7 agents in the normal and emergency avalanche control procedures as
8 conducted by trained and licensed ski area operator personnel.
9 However, the storage, transportation, and use of explosives and
10 blasting agents for such use shall meet the requirements of regulations
11 adopted by the director of labor and industries; ~~((and))~~

12 (8) The storage of consumer fireworks as defined in chapter 70.77
13 RCW pursuant to a seizure under chapter 70.77 RCW by the chief of the
14 Washington state patrol, through the director of fire protection, or
15 his or her deputy, or by state agencies or local governments having
16 general law enforcement authority; and

17 (9) Any violation under this chapter if any existing ordinance of
18 any city, municipality, or county is more stringent than this chapter.

19 **Sec. 3.** RCW 70.74.400 and 1993 c 293 s 8 are each amended to read
20 as follows:

21 (1) Explosives, improvised devices, and components of explosives
22 and improvised devices that are possessed, manufactured, delivered,
23 imported, exported, stored, sold, purchased, transported, abandoned,
24 detonated, or used, or intended to be used, in violation of a provision
25 of this chapter are subject to seizure and forfeiture by a law
26 enforcement agency and no property right exists in them.

27 (2) The law enforcement agency making the seizure shall notify the
28 Washington state department of labor and industries of the seizure as
29 soon as possible, but never later than the next regular day of
30 business.

31 (3) Seizure of explosives, improvised devices, and components of
32 explosives and improvised devices under subsection (1) of this section
33 may be made if:

34 (a) The seizure is incident to arrest or a search under a search
35 warrant;

36 (b) The explosives, improvised devices, or components have been the
37 subject of a prior judgment in favor of the state in an injunction or
38 forfeiture proceeding based upon this chapter;

1 (c) A law enforcement officer has probable cause to believe that
2 the explosives, improvised devices, or components are directly or
3 indirectly dangerous to health or safety; or

4 (d) The law enforcement officer has probable cause to believe that
5 the explosives, improvised devices, or components were used or were
6 intended to be used in violation of this chapter.

7 ~~((+3))~~ (4) A law enforcement agency shall destroy explosives
8 seized under this chapter when it is necessary to protect the public
9 safety and welfare. When destruction is not necessary to protect the
10 public safety and welfare, and the explosives are not being held for
11 evidence, a seizure pursuant to this section commences proceedings for
12 forfeiture.

13 ~~((+4))~~ (5) The law enforcement agency under whose authority the
14 seizure was made shall issue a written notice of the seizure and
15 commencement of the forfeiture proceedings to the person from whom the
16 explosives were seized, to any known owner of the explosives, and to
17 any person who has a known interest in the explosives. The notice
18 shall be issued within fifteen days of the seizure. The notice of
19 seizure and commencement of the forfeiture proceedings shall be served
20 in the same manner as provided in RCW 4.28.080 for service of a
21 summons. The law enforcement agency shall provide a form by which the
22 person or persons may request a hearing before the law enforcement
23 agency to contest the seizure.

24 ~~((+5))~~ (6) If no person notifies the seizing law enforcement
25 agency in writing of the person's claim of ownership or right to
26 possession of the explosives, improvised devices, or components within
27 thirty days of the date the notice was issued, the seized explosives,
28 devices, or components shall be deemed forfeited.

29 ~~((+6))~~ (7) If, within thirty days of the issuance of the notice,
30 any person notifies the seizing law enforcement agency in writing of
31 the person's claim of ownership or right to possession of items seized,
32 the person or persons shall be afforded a reasonable opportunity to be
33 heard as to the claim or right. The hearing shall be before the chief
34 law enforcement or the officer's designee of the seizing agency, except
35 that the person asserting the claim or right may remove the matter to
36 a court of competent jurisdiction if the aggregate value of the items
37 seized is more than five hundred dollars. The hearing and any appeal
38 shall be conducted according to chapter 34.05 RCW. The seizing law
39 enforcement agency shall bear the burden of proving that the person (a)

1 has no lawful right of ownership or possession and (b) that the items
2 seized were possessed, manufactured, stored, sold, purchased,
3 transported, abandoned, detonated, or used in violation of a provision
4 of this chapter with the person's knowledge or consent.

5 ~~((+7))~~ (8) The seizing law enforcement agency shall promptly
6 return the items seized to the claimant upon a determination that the
7 claimant is entitled to possession of the items seized.

8 ~~((+8))~~ (9) If the items seized are forfeited under this statute,
9 the seizing agency shall ~~((destroy))~~ dispose of the explosives by
10 summary destruction. However, when explosives are destroyed either to
11 protect public safety or because the explosives were forfeited, the
12 person from whom the explosives were seized loses all rights of action
13 against the law enforcement agency or its employees acting within the
14 scope of their employment, or other governmental entity or employee
15 involved with the seizure and destruction of explosives.

16 ~~((+9))~~ (10) This section is not intended to change the seizure and
17 forfeiture powers, enforcement, and penalties available to the
18 department of labor and industries pursuant to chapter 49.17 RCW as
19 provided in RCW 70.74.390.

20 **Sec. 4.** RCW 70.77.126 and 1995 c 61 s 3 are each amended to read
21 as follows:

22 "Fireworks" means any composition or device ~~((, in a finished state,~~
23 ~~containing any combustible or explosive substance for the purpose of~~
24 ~~producing))~~ designed to produce a visible or audible effect by
25 combustion ~~((, explosion,))~~ or deflagration ~~((, or detonation,))~~ and
26 classified as ~~((common))~~ consumer fireworks or ~~((special))~~ display
27 fireworks by the United States bureau of explosives or contained in the
28 regulations of the United States department of transportation and
29 designated as U.N. 0333 1.1G, U.N. 0334 1.2G, U.N. 0335 1.3G, or U.N.
30 0336 1.4G as of ~~((April 17, 1995))~~ July 31, 2001.

31 **Sec. 5.** RCW 70.77.131 and 1995 c 61 s 4 are each amended to read
32 as follows:

33 ~~((Special))~~ Display fireworks means any fireworks designed
34 primarily for exhibition display by producing visible or audible
35 effects and classified as such by the United States bureau of
36 explosives or in the regulations of the United States department of

1 transportation and designated as U.N. 0333 1.1G, U.N. 0334 1.2G, or
2 U.N. 0335 1.3G as of ((April 17, 1995)) July 31, 2001.

3 **Sec. 6.** RCW 70.77.136 and 1995 c 61 s 5 are each amended to read
4 as follows:

5 "~~((Common))~~ Consumer fireworks" means any fireworks which are
6 designed primarily for retail sale to the public during prescribed
7 dates and which produce visual or audible effects through combustion
8 and are classified as ~~((common))~~ consumer fireworks by the United
9 States bureau of explosives or in the regulations of the United States
10 department of transportation and designated as U.N. 0336 1.4G as of
11 ~~((April 17, 1995))~~ July 31, 2001.

12 **Sec. 7.** RCW 70.77.141 and 1982 c 230 s 4 are each amended to read
13 as follows:

14 "Agricultural and wildlife fireworks" includes fireworks devices
15 distributed to farmers, ranchers, and growers through a wildlife
16 management program administered by the United States department of the
17 interior or an equivalent state or local governmental agency.

18 **Sec. 8.** RCW 70.77.160 and 1997 c 182 s 1 are each amended to read
19 as follows:

20 "~~((Public))~~ Display of fireworks" means an entertainment feature
21 where the public is or could be admitted or allowed to view the
22 ~~((display or))~~ discharge of ~~((special))~~ display fireworks.

23 **Sec. 9.** RCW 70.77.170 and 1995 c 369 s 44 are each amended to read
24 as follows:

25 "License" means a nontransferable formal authorization which the
26 chief of the Washington state patrol ~~((and)),~~ through the director of
27 fire protection ~~((are permitted)),~~ is authorized to issue under this
28 chapter to engage in the act specifically designated therein.

29 **Sec. 10.** RCW 70.77.180 and 1995 c 61 s 9 are each amended to read
30 as follows:

31 "Permit" means the official ~~((permission))~~ authorization granted by
32 a ~~((local public agency))~~ city or county for the purpose of
33 establishing and maintaining a place within the jurisdiction of the
34 ~~((local agency))~~ city or county where fireworks are manufactured,

1 constructed, produced, packaged, stored, sold, or exchanged and the
2 official (~~(permission)~~) authorization granted by a (~~(local agency)~~)
3 city or county for a public display of fireworks.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.77 RCW
5 to read as follows:

6 "Permittee" means any person holding a fireworks permit in
7 conformance with this chapter.

8 **Sec. 12.** RCW 70.77.200 and 1995 c 61 s 10 are each amended to read
9 as follows:

10 "Importer" includes any person who for any purpose other than
11 personal use:

12 (1) Brings fireworks into this state or causes fireworks to be
13 brought into this state;

14 (2) Procures the delivery into, or receives shipments of, any
15 fireworks (~~(into)~~) in this state; or

16 (3) Buys or contracts to buy fireworks for shipment into this
17 state.

18 **Sec. 13.** RCW 70.77.205 and 1995 c 61 s 11 are each amended to read
19 as follows:

20 "Manufacturer" includes any person who manufactures, makes,
21 constructs, fabricates, or produces any fireworks article or device but
22 does not include persons who assemble or fabricate sets or mechanical
23 pieces in public displays of fireworks or persons who assemble
24 (~~(common)~~) consumer fireworks items or sets or packages containing
25 (~~(common)~~) consumer fireworks items.

26 **Sec. 14.** RCW 70.77.210 and 1982 c 230 s 9 are each amended to read
27 as follows:

28 "Wholesaler" includes any person who sells fireworks to a retailer
29 or any other person for resale and any person who sells (~~(special)~~)
30 display fireworks to public display licensees.

31 **Sec. 15.** RCW 70.77.215 and 1982 c 230 s 10 are each amended to
32 read as follows:

1 "Retailer" includes any person who, at a fixed location or place of
2 business, sells(~~(, transfers, or gives common)~~) fireworks to a consumer
3 or user.

4 **Sec. 16.** RCW 70.77.230 and 1982 c 230 s 11 are each amended to
5 read as follows:

6 "Pyrotechnic operator" includes any individual who by experience
7 and training has demonstrated the required skill and ability for safely
8 setting up and discharging (~~(public)~~) displays of (~~(special)~~) display
9 fireworks.

10 **Sec. 17.** RCW 70.77.236 and 1997 c 182 s 4 are each amended to read
11 as follows:

12 (1) "New fireworks item" means any fireworks initially classified
13 or reclassified as (~~(special)~~) display or (~~(common)~~) consumer fireworks
14 by the United States bureau of explosives or in the regulations of the
15 United States department of transportation after (~~(April 17, 1995)~~)
16 July 31, 2001.

17 (2) The chief of the Washington state patrol, through the director
18 of fire protection, shall classify any new fireworks item in the same
19 manner as the item is classified by the United States bureau of
20 explosives or in the regulations of the United States department of
21 transportation(~~(, unless)~~). The chief of the Washington state patrol,
22 through the director of fire protection, may determine(~~(s)~~), stating
23 reasonable grounds, that the item should not be so classified.

24 **Sec. 18.** RCW 70.77.250 and 1997 c 182 s 5 are each amended to read
25 as follows:

26 (1) The chief of the Washington state patrol, through the director
27 of fire protection, shall enforce and administer this chapter.

28 (2) The chief of the Washington state patrol, through the director
29 of fire protection, shall appoint such deputies and employees as may be
30 necessary and required to carry out the provisions of this chapter.

31 (3) The chief of the Washington state patrol, through the director
32 of fire protection, shall adopt those rules relating to fireworks as
33 are necessary for the implementation of this chapter.

34 (4) The chief of the Washington state patrol, through the director
35 of fire protection, shall adopt those rules as are necessary to ensure
36 statewide minimum standards for the enforcement of this chapter.

1 Counties(~~(7)~~) and cities(~~(7, and towns)~~) shall comply with these state
2 rules. Any local rules adopted by local authorities that are more
3 restrictive than state law shall have an effective date no sooner than
4 one year after their adoption.

5 (5) The chief of the Washington state patrol, through the director
6 of fire protection, may exercise the necessary police powers to enforce
7 the criminal provisions of this chapter. This grant of police powers
8 does not prevent any other state agency (~~(or local government)~~) and
9 city or county agency having general law enforcement powers from
10 enforcing this chapter within the jurisdiction of the agency (~~(or local~~
11 ~~government)~~) and city or county.

12 (6) The chief of the Washington state patrol, through the director
13 of fire protection, shall adopt rules necessary to enforce the civil
14 penalty provisions for the violations of this chapter.

15 (7) The chief of the Washington state patrol, through the director
16 of fire protection, shall investigate or cause to be investigated all
17 fires resulting, or suspected of resulting, from the use of fireworks.

18 **Sec. 19.** RCW 70.77.255 and 1997 c 182 s 6 are each amended to read
19 as follows:

20 (1) Except as otherwise provided in this chapter, no person,
21 without appropriate state licenses and city or county permits as
22 required by this chapter may:

23 (a) Manufacture, import, possess, or sell any fireworks at
24 wholesale or retail for any use;

25 (b) Make a public display of fireworks;

26 (c) Transport fireworks, except as a licensee or as a public
27 carrier delivering to a licensee; or

28 (d) Knowingly manufacture, import, transport, store, sell, or
29 possess with intent to sell, as fireworks, explosives, as defined under
30 RCW 70.74.010, that are not fireworks, as defined under this chapter.

31 (2) Except as authorized by a license and permit under subsection
32 (1)(b) of this section or as provided in RCW 70.77.311, no person may
33 discharge (~~(special)~~) display fireworks at any place.

34 (3) No person less than eighteen years of age may apply for or
35 receive a license or permit under this chapter.

36 (4) No license or permit is required for the possession or use of
37 (~~(common)~~) consumer fireworks lawfully purchased at retail.

1 **Sec. 20.** RCW 70.77.270 and 1997 c 182 s 8 are each amended to read
2 as follows:

3 (1) The governing body of a city or county, or a designee, shall
4 grant an application for a permit under RCW 70.77.260(1) if the
5 application meets the standards under this chapter, and the applicable
6 ordinances of the city or county. The permit shall be granted by June
7 10, or no less than thirty days after receipt of an application
8 whichever date occurs first, for sales commencing on June 28 and on
9 December 27; or by December 10, or no less than thirty days after
10 receipt of an application whichever date occurs first, for sales
11 commencing only on December 27.

12 (2) The chief of the Washington state patrol, through the director
13 of fire protection, shall prescribe uniform, statewide standards for
14 retail fireworks stands including, but not limited to, the location of
15 the stands, setback requirements and siting of the stands, types of
16 buildings and construction material that may be used for the stands,
17 use of the stands and areas around the stands, cleanup of the area
18 around the stands, transportation of fireworks to and from the stands,
19 and temporary storage of fireworks associated with the retail fireworks
20 stands. All cities and counties which allow retail fireworks sales
21 shall comply with these standards.

22 (3) No retail fireworks permit may be issued to any applicant
23 unless the retail fireworks stand is covered by a liability insurance
24 policy with coverage of not less than fifty thousand dollars and five
25 hundred thousand dollars for bodily injury liability for each person
26 and occurrence, respectively, and not less than fifty thousand dollars
27 for property damage liability for each occurrence, unless such
28 insurance is not readily available from at least three approved
29 insurance companies. If insurance in this amount is not offered, each
30 fireworks permit shall be covered by a liability insurance policy in
31 the maximum amount offered by at least three different approved
32 insurance companies.

33 No wholesaler may knowingly sell or supply fireworks to any retail
34 fireworks (~~(stand)~~) licensee unless the wholesaler determines that the
35 retail fireworks (~~(stand)~~) licensee is covered by liability insurance
36 in the same, or greater, amount as provided in this subsection.

37 **Sec. 21.** RCW 70.77.305 and 1995 c 369 s 46 are each amended to
38 read as follows:

1 The chief of the Washington state patrol, through the director of
2 fire protection, has the power to issue licenses for the manufacture,
3 importation, sale, and use of all fireworks in this state, except as
4 provided in RCW 70.77.311 and 70.77.395. A person may be licensed as
5 a manufacturer, importer, or wholesaler under this chapter only if the
6 person has a designated agent in this state who is registered with the
7 chief of the Washington state patrol, through the director of fire
8 protection.

9 **Sec. 22.** RCW 70.77.311 and 1995 c 61 s 17 are each amended to read
10 as follows:

11 (1) No license is required for the purchase of agricultural and
12 wildlife fireworks by government agencies if:

13 (a) The agricultural and wildlife fireworks are used for wildlife
14 control or are distributed to farmers, ranchers, or growers through a
15 wildlife management program administered by the United States
16 department of the interior or an equivalent state or local governmental
17 agency;

18 (b) The distribution is in response to a written application
19 describing the wildlife management problem that requires use of the
20 devices;

21 (c) It is of no greater quantity than necessary to control the
22 described problem; and

23 (d) It is limited to situations where other means of control are
24 unavailable or inadequate.

25 (2) No license is required for religious organizations or private
26 organizations or persons to purchase or use ((~~common~~)) consumer
27 fireworks and such audible ground devices as firecrackers, salutes, and
28 chasers if:

29 (a) Purchased from a licensed manufacturer, importer, or
30 wholesaler;

31 (b) For use on prescribed dates and locations;

32 (c) For religious or specific purposes; and

33 (d) A permit is obtained from the local fire official. No fee may
34 be charged for this permit.

35 **Sec. 23.** RCW 70.77.315 and 1997 c 182 s 10 are each amended to
36 read as follows:

1 Any person who desires to engage in the manufacture, importation,
2 sale, or use of fireworks, except use as provided in RCW 70.77.255(4)
3 (~~and~~), 70.77.311, and 70.77.395, shall make a written application to
4 the chief of the Washington state patrol, through the director of fire
5 protection, on forms provided by him or her. Such application shall be
6 accompanied by the annual license fee as prescribed in this chapter.

7 **Sec. 24.** RCW 70.77.330 and 1995 c 369 s 48 are each amended to
8 read as follows:

9 If the chief of the Washington state patrol, through the director
10 of fire protection, finds that the granting of such license (~~would~~)
11 is not (~~be~~) contrary to public safety or welfare, he or she shall
12 issue a license authorizing the applicant to engage in the particular
13 act or acts upon the payment of the license fee specified in this
14 chapter. Licensees may transport the class of fireworks for which they
15 hold a valid license.

16 **Sec. 25.** RCW 70.77.335 and 1982 c 230 s 23 are each amended to
17 read as follows:

18 The authorization to engage in the particular act or acts conferred
19 by a license to a person shall extend to (~~salesmen~~) sellers,
20 authorized representatives, and other employees of such person.

21 **Sec. 26.** RCW 70.77.340 and 1982 c 230 s 24 are each amended to
22 read as follows:

23 The original and annual license fee shall be as follows:

24	Manufacturer	\$	500.00
25	Importer		100.00
26	Wholesaler		1,000.00
27	Retailer (for each separate retail outlet)		10.00
28	Public display for (special) <u>display</u>		
29	fireworks		10.00
30	Pyrotechnic operator for (special) <u>display</u>		
31	fireworks		5.00

32 **Sec. 27.** RCW 70.77.343 and 1997 c 182 s 12 are each amended to
33 read as follows:

34 (1) License fees, in addition to the fees in RCW 70.77.340, shall
35 be charged as follows:

1	Manufacturer	\$	1,500.00
2	Importer		900.00
3	Wholesaler		1,000.00
4	Retailer (for each separate outlet)		30.00
5	Public display for (special) <u>display</u>		
6	fireworks		40.00
7	Pyrotechnic operator for (special) <u>display</u>		
8	fireworks		5.00

9 (2) All receipts from the license fees in this section shall be
10 placed in the fire services trust fund and at least seventy-five
11 percent of these receipts shall be used to fund a statewide public
12 education campaign developed by the chief of the Washington state
13 patrol and the licensed fireworks industry emphasizing the safe and
14 responsible use of legal fireworks and the remaining receipts shall be
15 used to fund statewide enforcement efforts against the sale and use of
16 fireworks that are illegal under this chapter.

17 **Sec. 28.** RCW 70.77.381 and 1995 c 61 s 27 are each amended to read
18 as follows:

19 (1) Every wholesaler shall carry liability insurance for each
20 wholesale and retail fireworks outlet it operates in the amount of not
21 less than fifty thousand dollars and five hundred thousand dollars for
22 bodily injury liability for each person and occurrence, respectively,
23 and not less than fifty thousand dollars for property damage liability
24 for each occurrence, unless such insurance is not available from at
25 least three approved insurance companies. If insurance in this amount
26 is not offered, each wholesale and retail outlet shall be covered by a
27 liability insurance policy in the maximum amount offered by at least
28 three different approved insurance companies.

29 (2) No wholesaler may knowingly sell or supply fireworks to any
30 retail (~~outlet~~) licensee unless the wholesaler determines that the
31 retail (~~outlet~~) licensee carries liability insurance in the same, or
32 greater, amount as provided in subsection (1) of this section.

33 **Sec. 29.** RCW 70.77.395 and 1995 c 61 s 22 are each amended to read
34 as follows:

35 (1) It is legal to sell(~~or~~) and purchase(~~or use, and discharge~~
36 ~~common~~) consumer fireworks within this state from (~~twelve~~) nine
37 o'clock (~~noon~~) a.m. on the twenty-eighth of June to twelve o'clock

1 noon on the sixth of July of each year, from nine o'clock a.m. on the
2 twenty-seventh of December to eleven o'clock p.m. on the thirty-first
3 of December of each year, and as provided in RCW 70.77.311. (~~However,~~
4 ~~no common~~))

5 (2) Consumer fireworks may be (~~sold~~) used or discharged each day
6 between the hours of nine o'clock a.m. and eleven o'clock p.m. (~~and~~
7 ~~nine o'clock a.m.~~) on the twenty-eighth of June to the sixth of July,
8 (~~except~~) and on July 4th (~~from~~) between the hours of nine o'clock
9 a.m. (~~through~~) and twelve o'clock midnight, and (~~except~~) from six
10 o'clock p.m. on December 31st until one o'clock a.m. on January 1st of
11 the subsequent year, and as provided in RCW 70.77.311: PROVIDED, That
12 a city or county may prohibit the sale or discharge of (~~common~~)
13 consumer fireworks on December (~~(31, 1995)~~) 31st by enacting an
14 ordinance prohibiting such sale or discharge (~~(within sixty days of~~
15 ~~April 17, 1995)~~)).

16 **Sec. 30.** RCW 70.77.401 and 1995 c 61 s 7 are each amended to read
17 as follows:

18 No fireworks may be sold or offered for sale to the public as
19 (~~common~~) consumer fireworks which are classified as sky rockets, or
20 missile-type rockets, firecrackers, salutes, or chasers as defined by
21 the United States department of transportation and the federal consumer
22 products safety commission except as provided in RCW 70.77.311.

23 **Sec. 31.** RCW 70.77.405 and 1982 c 230 s 32 are each amended to
24 read as follows:

25 Toy paper caps containing not more than twenty-five hundredths
26 grain of explosive compound for each cap and trick or novelty devices
27 not classified as (~~common~~) consumer fireworks may be sold at all
28 times unless prohibited by local ordinance.

29 NEW SECTION. **Sec. 32.** A new section is added to chapter 70.77 RCW
30 to read as follows:

31 (1) "Permanent storage" means storage of display fireworks at any
32 time and/or storage of consumer fireworks at any time other than the
33 periods allowed under RCW 70.77.420(2) and 70.77.425 and which shall be
34 in compliance with the requirements of chapter 70.74 RCW.

35 (2) "Temporary storage" means the storage of consumer fireworks
36 during the periods allowed under RCW 70.77.420(2) and 70.77.425.

1 **Sec. 33.** RCW 70.77.420 and 1997 c 182 s 18 are each amended to
2 read as follows:

3 (1) It is unlawful for any person to store permanently fireworks of
4 any class without a permit for such permanent storage from the city or
5 county in which the storage is to be made. A person proposing to store
6 permanently fireworks shall apply in writing to a city or county at
7 least ten days prior to the date of the proposed permanent storage.
8 The city or county receiving the application for a permanent storage
9 permit shall investigate whether the character and location of the
10 permanent storage as proposed (~~would~~) meets the requirements of the
11 zoning, building, and fire codes or constitutes a hazard to property or
12 be dangerous to any person. Based on the investigation, the city or
13 county may grant or deny the application. The city or county may place
14 reasonable conditions on any permit granted.

15 (2) For the purposes of this section the temporary storing or
16 keeping of (~~common~~) consumer fireworks when in conjunction with a
17 valid retail sales license and permit shall comply with RCW 70.77.425
18 and the standards adopted under RCW 70.77.270(2) and not this section.

19 **Sec. 34.** RCW 70.77.425 and 1984 c 249 s 27 are each amended to
20 read as follows:

21 It is unlawful for any person to store (~~unsold~~) permanently
22 stocks of fireworks remaining unsold after the lawful period of sale as
23 provided in the person's permit except in such places of permanent
24 storage as the (~~local fire official~~) city or county issuing the
25 permit approves. Unsold stocks of (~~common~~) consumer fireworks
26 remaining after the authorized retail sales period from (~~twelve~~) nine
27 o'clock (~~noon~~) a.m. on June 28th to twelve o'clock noon on July 6th
28 shall be returned on or before July 31st of the same year, or remaining
29 after the authorized retail sales period from nine o'clock a.m. on
30 December 27th to eleven o'clock p.m. on December 31st shall be returned
31 on or before January 10th of the subsequent year, to the approved
32 permanent storage facilities of a licensed fireworks wholesaler(~~7~~) or
33 to a magazine or permanent storage place approved by a local fire
34 official.

35 **Sec. 35.** RCW 70.77.435 and 1997 c 182 s 20 are each amended to
36 read as follows:

1 Any fireworks which are illegally sold, offered for sale, used,
2 discharged, possessed, or transported in violation of the provisions of
3 this chapter or the rules or regulations of the chief of the Washington
4 state patrol, through the director of fire protection, (~~shall be~~) are
5 subject to seizure by the chief of the Washington state patrol, through
6 the director of fire protection, or his or her deputy, or by state
7 agencies or local governments having general law enforcement authority.
8 (~~Any fireworks seized by legal process anywhere in the state may be~~
9 ~~disposed of by the chief of the Washington state patrol, through the~~
10 ~~director of fire protection, or the agency conducting the seizure, by~~
11 ~~summary destruction at any time subsequent to thirty days from such~~
12 ~~seizure or ten days from the final termination of proceedings under the~~
13 ~~provisions of RCW 70.77.440, whichever is later.~~)

14 **Sec. 36.** RCW 70.77.440 and 1997 c 182 s 21 are each amended to
15 read as follows:

16 (1) In the event of seizure under RCW 70.77.435, proceedings for
17 forfeiture shall be deemed commenced by the seizure. The chief of the
18 Washington state patrol or a designee, through the director of fire
19 protection or the agency conducting the seizure, under whose authority
20 the seizure was made shall cause notice to be served within fifteen
21 days following the seizure on the owner of the fireworks seized and the
22 person in charge thereof and any person having any known right or
23 interest therein, of the seizure and intended forfeiture of the seized
24 property. The notice may be served by any method authorized by law or
25 court rule including but not limited to service by certified mail with
26 return receipt requested. Service by mail shall be deemed complete
27 upon mailing within the fifteen-day period following the seizure.

28 (2) If no person notifies the chief of the Washington state patrol,
29 through the director of fire protection or the agency conducting the
30 seizure, in writing of the person's claim of lawful ownership or right
31 to lawful possession of seized fireworks within thirty days of the
32 seizure, the seized fireworks shall be deemed forfeited.

33 (3) If any person notifies the chief of the Washington state
34 patrol, through the director of fire protection or the agency
35 conducting the seizure, in writing of the person's claim of lawful
36 ownership or possession of the fireworks within thirty days of the
37 seizure, the person or persons shall be afforded a reasonable
38 opportunity to be heard as to the claim or right. The hearing shall be

1 before an administrative law judge appointed under chapter 34.12 RCW,
2 except that any person asserting a claim or right may remove the matter
3 to a court of competent jurisdiction if the aggregate value of the
4 seized fireworks is more than five hundred dollars. The hearing before
5 an administrative law judge and any appeal therefrom shall be under
6 Title 34 RCW. In a court hearing between two or more claimants to the
7 article or articles involved, the prevailing party shall be entitled to
8 a judgment for costs and reasonable attorneys' fees. The burden of
9 producing evidence shall be upon the person claiming to have the lawful
10 right to possession of the seized fireworks. The chief of the
11 Washington state patrol, through the director of fire protection or the
12 agency conducting the seizure, shall promptly return the fireworks to
13 the claimant upon a determination by the administrative law judge or
14 court that the claimant is lawfully entitled to possession of the
15 fireworks.

16 (4) When fireworks are forfeited under this chapter the chief of
17 the Washington state patrol, through the director of fire protection or
18 the agency conducting the seizure, may:

19 (a) Dispose of the fireworks by summary destruction at any time
20 subsequent to thirty days from such seizure or ten days from the final
21 termination of proceedings under this section, whichever is later; or

22 (b) Sell the forfeited fireworks and chemicals used to make
23 fireworks, that are legal for use and possession under this chapter, to
24 wholesalers or manufacturers, authorized to possess and use such
25 fireworks or chemicals under a license issued by the chief of the
26 Washington state patrol, through the director of fire protection. Sale
27 shall be by public auction after publishing a notice of the date,
28 place, and time of the auction in a newspaper of general circulation in
29 the county in which the auction is to be held, at least three days
30 before the date of the auction. The proceeds of the sale of the seized
31 fireworks under this section may be retained by the agency conducting
32 the seizure and used to offset the costs of seizure and/or storage
33 costs of the seized fireworks. The remaining proceeds, if any, shall
34 be deposited in the fire services trust fund and shall be used for the
35 same purposes and in the same percentages as specified in RCW
36 70.77.343.

37 **Sec. 37.** RCW 70.77.495 and 1988 c 128 s 11 are each amended to
38 read as follows:

1 Nothing in this chapter shall be construed as permitting any person
2 to set off fireworks of any kind in forest, fallows, grass or brush
3 covered land, either on his own land or the property of another,
4 between April 15th and December 1st of any year, unless it is done
5 under a written permit from the Washington state department of natural
6 resources or its duly authorized agent, and in strict accordance with
7 the terms of the permit and any other applicable law.

8 **Sec. 38.** RCW 70.77.510 and 1984 c 249 s 31 are each amended to
9 read as follows:

10 It is unlawful for any person knowingly to import, export, sell,
11 transfer, or agree to sell or transfer any (~~special~~) display
12 fireworks to any person who is not a fireworks licensee as provided for
13 by this chapter. A violation of this section is a gross misdemeanor.

14 **Sec. 39.** RCW 70.77.515 and 1984 c 249 s 32 are each amended to
15 read as follows:

16 It is unlawful for any person to sell (~~or transfer~~) any
17 (~~common~~) consumer fireworks to a consumer or user other than at a
18 fixed place of business of a retailer for which a license and permit
19 have been issued. A violation of this section is a gross misdemeanor.

20 **Sec. 40.** RCW 70.77.517 and 1984 c 249 s 34 are each amended to
21 read as follows:

22 It is unlawful for any person, except in the course of continuous
23 interstate transportation through any state, to transport fireworks
24 from this state into any other state, or deliver them for
25 transportation into any other state, or attempt so to do, knowing that
26 such fireworks are to be delivered, possessed, stored, transshipped,
27 distributed, sold, or otherwise dealt with in a manner or for a use
28 prohibited by the laws of such other state specifically prohibiting or
29 regulating the use of fireworks. A violation of this section is a
30 gross misdemeanor.

31 This section does not apply to a licensee or a common or contract
32 carrier or to international or domestic water carriers engaged in
33 interstate commerce or to the transportation of fireworks into a state
34 for the use of (~~federal~~) United States agencies in the carrying out
35 or the furtherance of their operations.

1 In the enforcement of this section, the definitions of fireworks
2 contained in the laws of the respective states shall be applied.

3 As used in this section, the term "state" includes the several
4 states, territories, and possessions of the United States, and the
5 District of Columbia.

6 **Sec. 41.** RCW 70.77.520 and 1984 c 249 s 33 are each amended to
7 read as follows:

8 It is unlawful for any person to allow any (~~rubbish~~) combustibles
9 to accumulate in any premises in which fireworks are stored or sold or
10 to permit a fire nuisance to exist in such a premises. A violation of
11 this section is a misdemeanor.

12 **Sec. 42.** RCW 70.77.535 and 1994 c 133 s 14 are each amended to
13 read as follows:

14 (~~This chapter does not prohibit~~) The assembling, compounding,
15 use, and display of special effects (~~by any person engaged~~) in the
16 production of motion pictures, radio or television productions, or live
17 entertainment (~~when such use and display is an integral part of the~~
18 ~~production and such person~~) shall be under the direction and control
19 of a state licensed pyrotechnician who possesses a valid permit from
20 the local fire official.

21 **Sec. 43.** RCW 70.77.555 and 1995 c 61 s 26 are each amended to read
22 as follows:

23 (1) A (~~local public agency~~) city or county may provide by
24 ordinance for a fee for retail sales in an amount sufficient to cover
25 all legitimate costs for all needed permits and local licenses from
26 application to and through processing, issuance, and inspection, but in
27 no case to exceed a total of one hundred dollars for any one (~~year~~)
28 selling season in a year, whether June 28th through July 6th or
29 December 27th through December 31st, or a total of two hundred dollars
30 for both selling seasons.

31 Even though business, environmental impact, inspection, and all
32 other required costs, fees, local licenses, and permits are not
33 directly related to fireworks permits, fees, costs, and local licenses
34 on their face, when these fees, costs, local licenses, and permits are
35 necessary to the use and operation of the fireworks permits and local
36 licenses such as, but not limited to, business, environmental impact,

1 and inspection, they are included as part and parcel of the annual
2 maximum fees, under this subsection (1), that cover costs for the
3 fireworks permits and local licenses.

4 (2) A city or county may provide by ordinance for a fee for public
5 display permits as required by RCW 70.77.255(1)(b) not to exceed three
6 hundred dollars for any one permit.

7 (3) Any special event fees required by a city or county in
8 connection with a fireworks display that requires traffic or crowd
9 control in a public place shall not be subject to the limitation
10 provided in subsection (2) of this section.

11 **Sec. 44.** RCW 70.77.575 and 1995 c 369 s 57 are each amended to
12 read as follows:

13 (1) The chief of the Washington state patrol, through the director
14 of fire protection, shall adopt by rule a list of the consumer
15 fireworks that may be sold to the public in this state pursuant to this
16 chapter. The chief of the Washington state patrol, through the
17 director of fire protection, shall file the list by October 1st of each
18 year with the code reviser for publication, unless the previously
19 published list has remained current.

20 (2) The chief of the Washington state patrol, through the director
21 of fire protection, shall provide the list adopted under subsection (1)
22 of this section by November 1st of each year to all manufacturers,
23 wholesalers, and importers licensed under this chapter, unless the
24 previously distributed list has remained current.

25 **Sec. 45.** RCW 70.77.580 and 1995 c 369 s 58 are each amended to
26 read as follows:

27 Retailers required to be licensed under this chapter shall post
28 prominently at each retail outlet a list of the consumer fireworks that
29 may be sold to the public in this state pursuant to this chapter. The
30 posted list shall be in a form approved by the chief of the Washington
31 state patrol, through the director of fire protection. The chief of
32 the Washington state patrol, through the director of fire protection,
33 shall make the list available (~~the list~~).

34 NEW SECTION. **Sec. 46.** A new section is added to chapter 70.77 RCW
35 to read as follows:

1 Civil proceedings to enforce this chapter may be brought in the
2 county in which the violation occurred by the attorney general or the
3 prosecuting attorney of the city or county in which the violation
4 occurred on his or her own motion or at the request of the chief of the
5 Washington state patrol, through the director of fire protection.

6 NEW SECTION. **Sec. 47.** A new section is added to chapter 70.77 RCW
7 to read as follows:

8 (1) In addition to any other penalty provided by law, every person
9 who violates standards set forth in this chapter or rules adopted under
10 RCW 70.77.250 is subject to a penalty of not more than five hundred
11 dollars per day for every violation. Every violation is a separate and
12 distinct offense. In case of a continuing violation, every day's
13 continuance is a separate and distinct violation. Every person who,
14 through an act of commission or omission, procures, aids, or abets in
15 the violation is in violation of this section and is subject to the
16 penalty provided in this section.

17 (2) The penalty provided for in this section shall be imposed by a
18 notice in writing to the person against whom the civil fine is assessed
19 and shall describe the violation with reasonable particularity. The
20 notice shall be personally served in the manner of service of a summons
21 in a civil action or in a manner which shows proof of receipt. Any
22 penalty imposed by this section shall become due and payable twenty-
23 eight days after receipt of notice unless application for remission or
24 mitigation is made as provided in subsection (3) of this section or
25 unless application for an adjudicative proceeding is filed as provided
26 in subsection (4) of this section.

27 (3) Within fourteen days after the notice is received, the person
28 incurring the penalty may apply in writing to the chief of the
29 Washington state patrol, through the director of fire protection, for
30 the remission or mitigation of the penalty. Upon receipt of the
31 application, the chief of the Washington state patrol, through the
32 director of fire protection, may remit or mitigate the penalty upon
33 whatever terms the chief of the Washington state patrol, through the
34 director of fire protection, deems proper, giving consideration to the
35 degree of hazard associated with the violation. The chief of the
36 Washington state patrol, through the director of fire protection, may
37 only grant a remission or mitigation that it deems to be in the best
38 interests of carrying out the purposes of this chapter. The chief of

1 the Washington state patrol, through the director of fire protection,
2 may ascertain the facts regarding all such applications in a manner it
3 deems proper. When an application for remission or mitigation is made,
4 any penalty incurred pursuant to this section becomes due and payable
5 twenty-eight days after receipt of the notice setting forth the
6 disposition of the application, unless an application for an
7 adjudicative proceeding to contest the disposition is filed as provided
8 in subsection (4) of this section.

9 (4) Within twenty-eight days after notice is received, the person
10 incurring the penalty may file an application for an adjudicative
11 proceeding and may pursue subsequent review as provided in chapter
12 34.05 RCW and applicable rules of the chief of the Washington state
13 patrol, through the director of fire protection.

14 (5) Any penalty imposed by final order following an adjudicative
15 proceeding becomes due and payable upon service of the final order.

16 (6) The attorney general may bring an action in the name of the
17 chief of the Washington state patrol, through the director of fire
18 protection, in the superior court of Thurston county or of any county
19 in which the violator may do business to collect any penalty imposed
20 under this chapter.

21 (7) All penalties imposed under this section shall be paid to the
22 state treasury and credited to the fire services trust fund and used
23 for the same purposes, and in the same percentages, as specified in RCW
24 70.77.343.

25 NEW SECTION. **Sec. 48.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

--- END ---