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SENATE BILL 6364

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State of Washington 57th Legislature

2002 Regular Session

By Senators Winsley, Prentice, Hargrove, Fairley, Kastama and Rasmussen

Read first time 01/16/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to the recommendations of the joint legislative  
2 task force on mobile/manufactured home alteration and repair; amending  
3 RCW 43.22.434, 43.22.434, 43.22.340, 43.22.432, 64.06.005, and  
4 43.22.335; adding new sections to chapter 43.22 RCW; creating a new  
5 section; providing an effective date; providing an expiration date; and  
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The purpose of this act is to implement the  
9 recommendations of the joint legislative task force created by chapter  
10 335, Laws of 2001. The legislature recognizes the need to improve  
11 communications among mobile/manufactured homeowners, regulatory  
12 agencies, and other interested parties, to streamline the complex  
13 regulatory environment and inflexible enforcement system, and to  
14 promote problem-solving at an early stage. To assist in achieving  
15 these goals, the legislature:

16 (1) Encourages the relevant agencies to conduct a pilot project  
17 that tests an interagency coordinated system for processing permits for  
18 alterations or repairs of mobile and manufactured homes; and

1 (2) Recognizes the task force's work in reviewing agency rules  
2 related to alteration permit requirements and supports the task force's  
3 recommendations to the agency regarding those rules. The legislature  
4 finds that assisting consumers to understand when an alteration of a  
5 mobile or manufactured home is subject to a permit, and when it is not,  
6 will improve compliance with the agency rules and further the code's  
7 safety goals.

8 **Sec. 2.** RCW 43.22.434 and 2001 c 335 s 5 are each amended to read  
9 as follows:

10 (1) The director or the director's authorized representative may  
11 conduct such inspections, investigations, and audits as may be  
12 necessary to adopt or enforce manufactured and mobile home, commercial  
13 coach, conversion vending units, medical units, recreational vehicle,  
14 park trailer, factory built housing, and factory built commercial  
15 structure rules adopted under the authority of this chapter or to carry  
16 out the director's duties under this chapter.

17 (2) For purposes of enforcement of this chapter, persons duly  
18 designated by the director upon presenting appropriate credentials to  
19 the owner, operator, or agent in charge may:

20 (a) At reasonable times and without advance notice enter any  
21 factory, warehouse, or establishment in which manufactured and mobile  
22 homes, commercial coaches, conversion vending units, medical units,  
23 recreational vehicles, park trailers, factory built housing, and  
24 factory built commercial structures are manufactured, stored, or held  
25 for sale;

26 (b) At reasonable times, within reasonable limits, and in a  
27 reasonable manner inspect any factory, warehouse, or establishment as  
28 required to comply with the standards adopted by the secretary of  
29 housing and urban development under the national manufactured home  
30 construction and safety standards act of 1974. Each inspection shall  
31 be commenced and completed with reasonable promptness; and

32 (c) As requested by an owner of a conversion vending unit or  
33 medical unit, inspect an alteration.

34 (3) For purposes of determining compliance with this chapter's  
35 permitting requirements for alterations of mobile and manufactured  
36 homes, the department may audit the records of a contractor as defined  
37 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor  
38 as defined in RCW 19.28.006 when the department has reason to believe

1 that a violation of the permitting requirements has occurred. The  
2 department shall adopt rules implementing the auditing procedures.  
3 Information obtained from a contractor through an audit authorized by  
4 this subsection is confidential and not open to public inspection under  
5 chapter 42.17 RCW.

6 (4)(a) The department shall set a schedule of fees by rule which  
7 will cover the costs incurred by the department in the administration  
8 of RCW 43.22.335 through 43.22.490.

9 (b) Subject to (a) of this subsection, the department may adopt by  
10 rule a temporary statewide fee schedule as part of implementing a pilot  
11 project that tests an interagency coordinated system for processing  
12 permits for alterations or repairs of mobile and manufactured homes.  
13 The department may increase fees for the temporary schedule in excess  
14 of the fiscal growth factor under chapter 43.135 RCW, if the increases  
15 are necessary to fund the cost of administering RCW 43.22.335 through  
16 43.22.490. Under the temporary fee schedule, the department may waive  
17 fees for indigent permit applicants.

18 (5) This section expires April 1, 2004.

19 **Sec. 3.** RCW 43.22.434 and 2001 c 335 s 5 are each amended to read  
20 as follows:

21 (1) The director or the director's authorized representative may  
22 conduct such inspections, investigations, and audits as may be  
23 necessary to adopt or enforce manufactured and mobile home, commercial  
24 coach, conversion vending units, medical units, recreational vehicle,  
25 park trailer, factory built housing, and factory built commercial  
26 structure rules adopted under the authority of this chapter or to carry  
27 out the director's duties under this chapter.

28 (2) For purposes of enforcement of this chapter, persons duly  
29 designated by the director upon presenting appropriate credentials to  
30 the owner, operator, or agent in charge may:

31 (a) At reasonable times and without advance notice enter any  
32 factory, warehouse, or establishment in which manufactured and mobile  
33 homes, commercial coaches, conversion vending units, medical units,  
34 recreational vehicles, park trailers, factory built housing, and  
35 factory built commercial structures are manufactured, stored, or held  
36 for sale;

37 (b) At reasonable times, within reasonable limits, and in a  
38 reasonable manner inspect any factory, warehouse, or establishment as

1 required to comply with the standards adopted by the secretary of  
2 housing and urban development under the national manufactured home  
3 construction and safety standards act of 1974. Each inspection shall  
4 be commenced and completed with reasonable promptness; and

5 (c) As requested by an owner of a conversion vending unit or  
6 medical unit, inspect an alteration.

7 (3) For purposes of determining compliance with this chapter's  
8 permitting requirements for alterations of mobile and manufactured  
9 homes, the department may audit the records of a contractor as defined  
10 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor  
11 as defined in RCW 19.28.006 when the department has reason to believe  
12 that a violation of the permitting requirements has occurred. The  
13 department shall adopt rules implementing the auditing procedures.  
14 Information obtained from a contractor through an audit authorized by  
15 this subsection is confidential and not open to public inspection under  
16 chapter 42.17 RCW.

17 (4)(a) The department shall set a schedule of fees by rule which  
18 will cover the costs incurred by the department in the administration  
19 of RCW 43.22.335 through 43.22.490.

20 (b) Effective April 1, 2004, the department must adopt a new fee  
21 schedule that is the same as the fee schedule that was in effect  
22 immediately prior to the temporary fee schedule authorized in section  
23 2(4)(b), chapter . . ., Laws of 2002 (section 2 of this act). However,  
24 the new fee schedule must be adjusted by the fiscal growth factors not  
25 applied during the period that the temporary fee schedule was in  
26 effect.

27 NEW SECTION. Sec. 4. A new section is added to chapter 43.22 RCW  
28 to read as follows:

29 (1)(a) In addition to or in lieu of any other penalty applicable  
30 under this chapter, and except as provided in (b) of this subsection,  
31 the department may assess a civil penalty of not more than one thousand  
32 dollars against a person, firm, partnership, corporation, or other  
33 entity who fails to obtain a permit before altering a mobile or  
34 manufactured home as required under this chapter or rules adopted under  
35 this chapter. Each day on which a violation occurs constitutes a  
36 separate violation. However, the cumulative penalty for the same  
37 occurrence may not exceed five thousand dollars.

1 (b) The department must adopt a schedule of civil penalties giving  
2 due consideration to the appropriateness of the penalty with respect to  
3 the gravity of the violation and the history of previous violations.  
4 Penalties for subsequent violations, not constituting the same  
5 occurrence, committed within two years of a prior violation by the same  
6 party or entity, or by an individual who was a principal or officer of  
7 the same entity, must be double the amount of the penalty for the prior  
8 violation or one thousand dollars, whichever is greater.

9 (2)(a) The department may issue a notice of correction before  
10 issuing a civil penalty assessment. The notice must include:

11 (i) A description of the violation;

12 (ii) A statement of what is required to correct the violation;

13 (iii) The date by which the department requires correction to be  
14 achieved; and

15 (iv) Notice of the individual or department office that must be  
16 contacted to obtain a permit or other compliance information.

17 (b) A notice of correction is not a formal enforcement action, is  
18 not subject to appeal, and is a public record.

19 (c) If the department issues a notice of correction, it shall not  
20 issue a civil penalty for the violation identified in the notice of  
21 correction unless the responsible person fails to comply with the  
22 notice.

23 (3)(a) The department must issue written notices of civil penalties  
24 imposed under this section, with the reasons for the penalty, by  
25 certified mail to the last known address of the party named in the  
26 notice.

27 (b) If a party desires to contest a notice of civil penalty issued  
28 under this section, the party must file a notice of appeal with the  
29 department within twenty days of the department's mailing of the notice  
30 of civil penalty. An administrative law judge of the office of  
31 administrative hearings will hear and determine the appeal. Appeal  
32 proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal  
33 of the administrative law judge's determination or order shall be to  
34 the superior court. The superior court's decision is subject only to  
35 discretionary review under the rules of appellate procedure.

36 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.22 RCW  
37 to read as follows:

1 (1) With respect to mobile and manufactured homes that are  
2 installed in accordance with the standards adopted under RCW 43.22.440:

3 (a) The department shall adopt rules that:

4 (i) Specify exemptions from a requirement for a permit to alter a  
5 mobile or manufactured home;

6 (ii) Authorize the granting of variances from the rules adopted  
7 under this section for alterations that use materials, designs, or  
8 methods of construction different from those required under the rules  
9 adopted under this chapter; and

10 (iii) Require the seller of a mobile or manufactured home to  
11 deliver to the buyer prior to the sale: (A) A completed property  
12 transfer disclosure statement in accordance with chapter 64.06 RCW,  
13 unless the seller is exempt or the buyer waives his or her rights under  
14 chapter 64.06 RCW; and (B) the variance, if any, granted under the  
15 rules adopted under this section.

16 (b) The department may adopt a rule that allows parties to enter  
17 into a conditional sale of an altered mobile or manufactured home.  
18 However, a conditional sales agreement may be executed only if, prior  
19 to execution, the parties have complied with the department's  
20 requirements related to permit approval and a variance granted under  
21 the rules, if any, and with property transfer disclosure statement  
22 requirements.

23 (2) This chapter does not prohibit the sale of an altered mobile or  
24 manufactured home, installed in accordance with the standards adopted  
25 under RCW 43.22.440, unless the alteration makes the home unsafe so  
26 that its use may constitute a hazard to life, safety, or health.

27 **Sec. 6.** RCW 43.22.340 and 1999 c 22 s 2 are each amended to read  
28 as follows:

29 (1) The director shall adopt specific rules for conversion vending  
30 units and medical units. The rules for conversion vending units and  
31 medical units shall be established to protect the occupants from fire;  
32 to address other life safety issues; and to ensure that the design and  
33 construction are capable of supporting any concentrated load of five  
34 hundred pounds or more.

35 (2) The director of labor and industries shall adopt rules  
36 governing safety of body and frame design, and the installation of  
37 plumbing, heating, and electrical equipment in mobile homes, commercial  
38 coaches, recreational vehicles, and/or park trailers: PROVIDED, That

1 the director shall not prescribe or enforce rules governing the body  
2 and frame design of recreational vehicles and park trailers until after  
3 the American National Standards Institute shall have published  
4 standards and specifications upon this subject. The rules shall be  
5 reasonably consistent with recognized and accepted principles of safety  
6 for body and frame design and plumbing, heating, and electrical  
7 installations, in order to protect the health and safety of the people  
8 of this state from dangers inherent in the use of substandard and  
9 unsafe body and frame design, construction, plumbing, heating,  
10 electrical, and other equipment and shall correlate with and, so far as  
11 practicable, conform to the then current standards and specifications  
12 of the American National Standards Institute standards A119.1 for  
13 mobile homes and commercial coaches, A119.2 for recreational vehicles,  
14 and A119.5 for park trailers.

15 (3) Except as provided in section 5 of this act, it shall be  
16 unlawful for any person to lease, sell or offer for sale, within this  
17 state, any mobile homes, commercial coaches, conversion vending units,  
18 medical units, recreational vehicles, and/or park trailers manufactured  
19 after January 1, 1968, containing plumbing, heating, electrical, or  
20 other equipment, and after July 1, 1970, body and frame design or  
21 construction, unless such equipment, design, or construction meets the  
22 requirements of the rules provided for in this section.

23 **Sec. 7.** RCW 43.22.432 and 2001 c 335 s 4 are each amended to read  
24 as follows:

25 (1) The department may adopt all standards and regulations adopted  
26 by the secretary under the national manufactured home construction and  
27 safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426)  
28 for manufactured home construction and safety standards. If any  
29 deletions or amendments to the federal standards or regulations are  
30 thereafter made and notice thereof is given to the department, the  
31 standards or regulations shall be considered automatically adopted by  
32 the state under this chapter after the expiration of thirty days from  
33 publication in the federal register of a final order describing the  
34 deletions or amendments unless within that thirty day period the  
35 department objects to the deletion or amendment. In case of objection,  
36 the department shall proceed under the rule making procedure of chapter  
37 34.05 RCW.

1 (2) The department shall adopt rules with respect to manufactured  
2 homes (~~installed in accordance with the standards adopted under RCW~~  
3 ~~43.22.440 that:~~

4 (a) ~~Specify exemptions from a requirement for a permit to alter a~~  
5 ~~manufactured home;~~

6 (b) ~~Authorize the granting of variances from the rules adopted~~  
7 ~~under this section for alterations that use materials, designs, or~~  
8 ~~methods of construction different from those required under the rules~~  
9 ~~adopted under this section; and~~

10 (c) ~~Require the seller of a manufactured home to deliver to the~~  
11 ~~buyer prior to the sale a completed property transfer disclosure~~  
12 ~~statement that includes all the criteria specified in RCW 64.06.020 and~~  
13 ~~a copy of a variance, if any, granted under the rules adopted under~~  
14 ~~this section. Nothing in this chapter shall be construed to prohibit~~  
15 ~~the sale of a manufactured home that was altered unless the alteration~~  
16 ~~makes the home unsafe so that its use may constitute a hazard to life,~~  
17 ~~safety, or health)) that require the prior written approval of the~~  
18 ~~department before changes or alterations may be made to a manufactured~~  
19 ~~home that differ from the construction standards provided for in this~~  
20 ~~section.~~

21 (3) Except as provided in section 5 of this act, it is unlawful for  
22 any person to lease, sell, or offer for sale, within this state, a  
23 manufactured home unless the home meets the requirements of the rules  
24 provided for in this section.

25 **Sec. 8.** RCW 64.06.005 and 1994 c 200 s 1 are each amended to read  
26 as follows:

27 This chapter applies only to residential real property. For  
28 purposes of this chapter, residential real property means:

29 (1) Real property consisting of, or improved by, one to four  
30 dwelling units;

31 (2) A residential condominium as defined in RCW 64.34.020(9),  
32 unless the sale is subject to the public offering statement requirement  
33 in the Washington condominium act, chapter 64.34 RCW; (~~or~~)

34 (3) A residential timeshare, as defined in RCW 64.36.010(11),  
35 unless subject to written disclosure under the Washington timeshare  
36 act, chapter 64.36 RCW; or

37 (4) A mobile or manufactured home, as defined in RCW 43.22.335 or  
38 46.04.302, that is personal property.



1       **Sec. 9.** RCW 43.22.335 and 2001 c 335 s 1 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout RCW 43.22.340 through ~~((43.22.420))~~  
5 43.22.434, 43.22.442, and 43.22.495.

6       (1) "Conversion vendor units" means a motor vehicle or recreational  
7 vehicle that has been converted or built for the purpose of being used  
8 for commercial sales at temporary locations. The units must be less  
9 than eight feet six inches wide in the set-up position and the inside  
10 working area must be less than forty feet in length.

11       (2) "Indigent" means a person receiving an annual income, after  
12 taxes, of one hundred twenty-five percent or less of the current  
13 federally established poverty level.

14       (3) "Manufactured home" means a single-family dwelling required to  
15 be built in accordance with regulations adopted under the national  
16 manufactured housing construction and safety standards act of 1974 (42  
17 U.S.C. 5401 et seq.).

18       ~~((+3))~~ (4) "Medical unit" means a self-propelled unit used to  
19 provide medical examinations, treatments, and medical and dental  
20 services or procedures, not including emergency response vehicles.

21       ~~((+4))~~ (5) "Mobile home" means a factory-built dwelling built  
22 before June 15, 1976, to standards other than the national manufactured  
23 housing construction and safety standards act of 1974 (42 U.S.C. 5401  
24 et seq.), and acceptable under applicable state codes in effect at the  
25 time of construction or introduction of the home into this state.

26       ~~((+5))~~ (6) "Park trailer" means a park trailer as defined in the  
27 American national standards institute A119.5 standard for park  
28 trailers.

29       ~~((+6))~~ (7) "Recreational vehicle" means a vehicular-type unit  
30 primarily designed for recreational camping or travel use that has its  
31 own motive power or is mounted on or towed by another vehicle. The  
32 units include travel trailers, fifth-wheel trailers, folding camping  
33 trailers, truck campers, and motor homes.

34       NEW SECTION. **Sec. 10.** (1) Sections 1, 2, and 4 through 9 of this  
35 act are necessary for the immediate preservation of the public peace,  
36 health, or safety, or support of the state government and its existing  
37 public institutions, and take effect immediately.

1 (2) Section 3 of this act takes effect April 1, 2004.

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