
HOUSE BILL 2729

State of Washington 58th Legislature 2004 Regular Session

By Representatives Linville, Haigh, Hunt and Chase

Read first time 01/20/2004. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to water well construction; amending RCW
2 18.104.100, 18.104.120, 18.104.180, and 18.104.190; adding a new
3 section to chapter 18.104 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.104 RCW
6 to read as follows:

7 (1) Every licensed operator shall complete, during their compliance
8 period, the continuing education unit requirement as determined by the
9 department. Continuing education units will be on the subjects of (a)
10 well construction, testing, operation, and maintenance; (b) well
11 construction equipment, tools, safety, and methods; (c) well
12 construction, operation, and maintenance codes and rules; (d) operator
13 licensing codes and rules and local ordinances concerning the
14 construction, operation, and maintenance of wells; and (e) other
15 subjects that apply to the ground water and well construction industry
16 as established by rule. Every licensed operator shall obtain the
17 required continuing education units during the compliance period and
18 submit to the department verification of completion statements from
19 approved providers.

1 (2) Any organization or individual may apply to the department to
2 become an approved continuing education provider. The department will
3 be a continuing education provider of last resort by only providing
4 continuing education courses for licensees in the event that no other
5 approved providers are available. Continuing education providers may
6 only be organizations or individuals with a history of providing
7 continuing education courses that comply with the requirements for
8 course approval under this section and the rules adopted under this
9 section. In the case where an applicant cannot demonstrate a history
10 of providing continuing education courses, the applicant must submit a
11 continuing education provider comprehensive plan to the department.
12 The department, with the assistance of the technical advisory group,
13 will establish by rule the necessary elements for the comprehensive
14 plan. The purpose of the comprehensive plan is to determine the
15 applicant's resources and ability to comply with all of the
16 requirements of an approved course provider. An approved continuing
17 education provider must, at a minimum, develop and implement methods to
18 evaluate its course offerings to determine their effectiveness and the
19 extent to which they meet the needs of licensed operators. The
20 continuing education provider must be able to provide, upon request
21 from the department, course evaluations from attendees. The continuing
22 education provider will obtain course approval and credit value prior
23 to offering the course to licensees. The continuing education provider
24 must present courses consistent with this section and rules adopted by
25 the department and make the course available to all licensed operators
26 and trainees at locations logistically chosen to facilitate the
27 attendance of licensees throughout the state.

28 (3) The department, with the help of the technical advisory group,
29 must adopt by rule methods to approve courses and establish course
30 credit for continuing education units and the amount of continuing
31 education units required by licensees. To be approved for credit, a
32 continuing education course must be of intellectual or practical
33 content, contribute directly to the ground water and well construction
34 industry, and promote professional competence, skills, and
35 understanding of professional or ethical obligations. If a course does
36 not bear entirely on the general requirements for continuing education
37 of the ground water or well construction industry, or if the method of
38 presenting the course is below minimum standards, the department may

1 assign partial credit. Courses must be presented in a suitable setting
2 devoted to the educational activity of the program. A continuing
3 education may not consist solely of television viewing in the home
4 correspondence work, or self-study, except as the department may
5 approve to accommodate the needs of the handicapped, incapacitated, or
6 any licensee who may be out of state for the majority of his or her
7 compliance period. Video, motion picture, or audiotape presentations
8 may be used, but only if a presenter is in attendance at all
9 presentations to comment and answer questions. The course must be
10 opened to all licensed operators and trainees. The department must
11 make available to all interested parties, upon request, a list of all
12 approved continuing education providers and courses. The department
13 must, with the assistance of the technical advisory group, adopt rules
14 that will allow providers to obtain prior approval of continuing
15 education courses or which may allow providers to obtain
16 postpresentation approval of continuing education courses. The
17 department may, with the assistance of the technical advisory group,
18 establish by rule other requirements for course approval.

19 **Sec. 2.** RCW 18.104.100 and 1993 c 387 s 17 are each amended to
20 read as follows:

21 (1) Licenses issued pursuant to this chapter shall be renewed every
22 two years. A license shall be renewed upon payment of a renewal fee
23 and completion of continuing education required by this chapter and
24 rules adopted by the department. If a licensee fails to submit an
25 application for renewal, the renewal fee, and proof of completion of
26 the required continuing education, the license shall (~~expire~~) be
27 suspended at the end of its effective term. The licensee is not
28 allowed to perform work authorized by the license during the time that
29 it is suspended. The licensee has ninety days to submit an application
30 for renewal, the renewal fee, and proof of completion of the required
31 continuing education for the renewal period. Continuing education
32 obtained during the ninety-day suspension period may be applied only to
33 the next renewal period. If a licensee fails to submit an application
34 for renewal, the renewal fee, and proof of completion of the required
35 continuing education by the end of the ninety-day suspension period,
36 the license expires.

1 (2) The department shall send a notice of suspension to all
2 licensees within ten days of their license being suspended. A person
3 whose license has expired must apply for a new license as provided in
4 this chapter. The department may, upon demonstration of good cause,
5 waive the requirement for a written examination and on-site testing for
6 a person whose license has expired.

7 (3) The department (~~may~~) shall refuse to renew a license if the
8 licensee has not complied with an order issued by the department or has
9 not paid a penalty imposed in accordance with this chapter, unless the
10 order or penalty is under appeal.

11 (4) The department may issue a conditional license to enable a
12 former licensee to comply with an order to correct problems with a
13 well.

14 **Sec. 3.** RCW 18.104.120 and 1993 c 387 s 19 are each amended to
15 read as follows:

16 Any person (~~with an economic or noneconomic interest~~) who can
17 demonstrate being materially harmed by the actions or inactions of a
18 well contractor or operator may make a complaint against (~~any~~) the
19 well contractor or operator for violating this chapter or any
20 (~~regulations~~) rules adopted under it to the department (~~of~~
21 ~~ecology~~). The complaint shall be in writing, signed by the complain
22 ant, and specify the grievances against the licensee. The department
23 (~~shall~~) may investigate and establish the validity of the complaint.
24 In the event evidence is gathered to establish a violation of this
25 chapter or the rules adopted under it has occurred, the department
26 shall respond to the complaint by issuance of an order (~~it deems~~)
27 appropriate to the violation. Review of the order shall be subject to
28 the hearings procedures set forth in RCW 18.104.130.

29 **Sec. 4.** RCW 18.104.180 and 1993 c 387 s 24 are each amended to
30 read as follows:

31 No license under this chapter shall be required of:

32 (1) Any individual who personally constructs a well on land which
33 is owned or leased by the individual or in which the individual has a
34 beneficial interest as a contract purchaser and is used by the
35 individual for farm or single-family residential use only. An
36 individual who constructs a well without a license pursuant to this

1 subsection shall comply with all other requirements of this chapter and
2 rules adopted by the department, including but not limited to, well
3 construction standards, payment of well construction fees, and
4 notification of well construction required by RCW 18.104.048. An
5 individual without a license may construct not more than one well every
6 two years pursuant to the provisions of this subsection.

7 (2) An individual who performs labor or services for a well
8 contractor in connection with the construction of a well at the
9 direction and under the supervision and control of a licensed operator
10 who is present at the construction site.

11 (3) A person licensed under the provisions of chapter 18.08,
12 18.235, or 18.43 RCW if in the performance of duties covered by those
13 licenses.

14 **Sec. 5.** RCW 18.104.190 and 1993 c 387 s 25 are each amended to
15 read as follows:

16 (1) For the purpose of carrying out the provisions of this chapter,
17 the director shall appoint a technical advisory group, chaired by the
18 department. The technical advisory group shall have twelve members:
19 Two members shall represent the department of ecology((~~τ~~));
20 six members shall represent resource protection well contractors or water well
21 contractors((~~τ~~));
22 one member, who regularly works on issues related to
drinking water wells, shall represent the department of health((~~τ~~));
23 one member, who regularly works on issues related to drinking water
wells, shall represent local health departments((~~τ~~));
24 one member, knowledgeable in the design and construction of wells, shall represent
25 licensed professional engineers((~~τ~~)); and one member ((~~shall be a~~
26 ~~scientist~~)), who is a licensed hydrogeologist, knowledgeable in the
27 design and construction of wells.
28

29 (2) The technical advisory group shall assist the department in the
30 development and revision of rules; the preparation and revision of
31 licensing requirements and examinations; the development of training
32 criteria for ((~~inspectors, well contractors, and well operators;~~)
33 qualified field investigators; and the review of proposed changes to
34 the minimum standards for construction and maintenance of wells by
35 local governments for the purpose of achieving continuity with
36 technology and state rules.

1 (3) The group shall meet at least twice each year to review rules
2 and suggest any necessary changes.

3 (4) Each member of the group shall be compensated in accordance
4 with RCW 43.03.240 and reimbursed for travel expenses while engaged in
5 the business of the group as prescribed in RCW 43.03.050 and 43.03.060.

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