
HOUSE BILL 2809

State of Washington

58th Legislature

2004 Regular Session

By Representatives Conway, Wood, Crouse and Sullivan; by request of Department of Licensing

Read first time 01/21/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the department of licensing; amending RCW
2 43.135.055, 18.96.050, 19.105.380, and 64.36.225; reenacting and
3 amending RCW 43.84.092; adding a new section to chapter 43.24 RCW; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.24 RCW
7 to read as follows:

8 (1) The business and professions account is created in the state
9 treasury. All receipts from business or professional licenses,
10 registrations, certifications, renewals, examinations, or civil
11 penalties assessed and collected by the department from the following
12 chapters must be deposited into the account:

- 13 (a) Chapter 18.11 RCW, auctioneers;
14 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
15 (c) Chapter 18.96 RCW, landscape architects;
16 (d) Chapter 18.145 RCW, court reporters;
17 (e) Chapter 18.165 RCW, private investigators;
18 (f) Chapter 18.170 RCW, security guards;
19 (g) Chapter 18.185 RCW, bail bond agents;

- 1 (h) Chapter 19.16 RCW, collection agencies;
- 2 (i) Chapter 19.31 RCW, employment agencies;
- 3 (j) Chapter 19.105 RCW, camping resorts;
- 4 (k) Chapter 19.138 RCW, sellers of travel;
- 5 (l) Chapter 42.44 RCW, notaries public; and
- 6 (m) Chapter 64.36 RCW, timeshares.

7 Moneys in the account may be spent only after appropriation.
8 Expenditures from the account may be used only for expenses incurred in
9 carrying out these business and professions licensing activities of the
10 department. Any residue in the account shall be accumulated and shall
11 not revert to the general fund at the end of the biennium.

12 (2) The director shall biennially prepare a budget request based on
13 the anticipated costs of administering the business and professions
14 licensing activities listed in subsection (1) of this section, which
15 shall include the estimated income from these business and professions
16 fees.

17 **Sec. 2.** RCW 43.135.055 and 2001 c 314 s 19 are each amended to
18 read as follows:

19 (1) No fee may increase in any fiscal year by a percentage in
20 excess of the fiscal growth factor for that fiscal year without prior
21 legislative approval.

22 (2) This section does not apply to:

23 (a) An assessment made by an agricultural commodity commission or
24 board created by state statute or created under a marketing agreement
25 or order under chapter 15.65 or 15.66 RCW, or to the forest products
26 commission, if the assessment is approved by referendum in accordance
27 with the provisions of the statutes creating the commission or board or
28 chapter 15.65 or 15.66 RCW for approving such assessments; or

29 (b) Fees paid to the business and professions account created in
30 section 1 of this act and subject to the provisions of RCW 43.24.086.

31 **Sec. 3.** RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003
32 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as
33 follows:

34 (1) All earnings of investments of surplus balances in the state
35 treasury shall be deposited to the treasury income account, which
36 account is hereby established in the state treasury.

1 (2) The treasury income account shall be utilized to pay or receive
2 funds associated with federal programs as required by the federal cash
3 management improvement act of 1990. The treasury income account is
4 subject in all respects to chapter 43.88 RCW, but no appropriation is
5 required for refunds or allocations of interest earnings required by
6 the cash management improvement act. Refunds of interest to the
7 federal treasury required under the cash management improvement act
8 fall under RCW 43.88.180 and shall not require appropriation. The
9 office of financial management shall determine the amounts due to or
10 from the federal government pursuant to the cash management improvement
11 act. The office of financial management may direct transfers of funds
12 between accounts as deemed necessary to implement the provisions of the
13 cash management improvement act, and this subsection. Refunds or
14 allocations shall occur prior to the distributions of earnings set
15 forth in subsection (4) of this section.

16 (3) Except for the provisions of RCW 43.84.160, the treasury income
17 account may be utilized for the payment of purchased banking services
18 on behalf of treasury funds including, but not limited to, depository,
19 safekeeping, and disbursement functions for the state treasury and
20 affected state agencies. The treasury income account is subject in all
21 respects to chapter 43.88 RCW, but no appropriation is required for
22 payments to financial institutions. Payments shall occur prior to
23 distribution of earnings set forth in subsection (4) of this section.

24 (4) Monthly, the state treasurer shall distribute the earnings
25 credited to the treasury income account. The state treasurer shall
26 credit the general fund with all the earnings credited to the treasury
27 income account except:

28 (a) The following accounts and funds shall receive their
29 proportionate share of earnings based upon each account's and fund's
30 average daily balance for the period: The business and professions
31 account, the capitol building construction account, the Cedar River
32 channel construction and operation account, the Central Washington
33 University capital projects account, the charitable, educational, penal
34 and reformatory institutions account, the common school construction
35 fund, the county criminal justice assistance account, the county sales
36 and use tax equalization account, the data processing building
37 construction account, the deferred compensation administrative account,
38 the deferred compensation principal account, the department of

1 retirement systems expense account, the drinking water assistance
2 account, the drinking water assistance administrative account, the
3 drinking water assistance repayment account, the Eastern Washington
4 University capital projects account, the education construction fund,
5 the election account, the emergency reserve fund, The Evergreen State
6 College capital projects account, the federal forest revolving account,
7 the health services account, the public health services account, the
8 health system capacity account, the personal health services account,
9 the state higher education construction account, the higher education
10 construction account, the highway infrastructure account, the
11 industrial insurance premium refund account, the judges' retirement
12 account, the judicial retirement administrative account, the judicial
13 retirement principal account, the local leasehold excise tax account,
14 the local real estate excise tax account, the local sales and use tax
15 account, the medical aid account, the mobile home park relocation fund,
16 the multimodal transportation account, the municipal criminal justice
17 assistance account, the municipal sales and use tax equalization
18 account, the natural resources deposit account, the oyster reserve land
19 account, the perpetual surveillance and maintenance account, the public
20 employees' retirement system plan 1 account, the public employees'
21 retirement system combined plan 2 and plan 3 account, the public
22 facilities construction loan revolving account beginning July 1, 2004,
23 the public health supplemental account, the public works assistance
24 account, the Puyallup tribal settlement account, the regional
25 transportation investment district account, the resource management
26 cost account, the site closure account, the special wildlife account,
27 the state employees' insurance account, the state employees' insurance
28 reserve account, the state investment board expense account, the state
29 investment board commingled trust fund accounts, the supplemental
30 pension account, the Tacoma Narrows toll bridge account, the teachers'
31 retirement system plan 1 account, the teachers' retirement system
32 combined plan 2 and plan 3 account, the tobacco prevention and control
33 account, the tobacco settlement account, the transportation
34 infrastructure account, the tuition recovery trust fund, the University
35 of Washington bond retirement fund, the University of Washington
36 building account, the volunteer fire fighters' and reserve officers'
37 relief and pension principal fund, the volunteer fire fighters' and
38 reserve officers' administrative fund, the Washington fruit express

1 account, the Washington judicial retirement system account, the
2 Washington law enforcement officers' and fire fighters' system plan 1
3 retirement account, the Washington law enforcement officers' and fire
4 fighters' system plan 2 retirement account, the Washington school
5 employees' retirement system combined plan 2 and 3 account, the
6 Washington state health insurance pool account, the Washington state
7 patrol retirement account, the Washington State University building
8 account, the Washington State University bond retirement fund, the
9 water pollution control revolving fund, and the Western Washington
10 University capital projects account. Earnings derived from investing
11 balances of the agricultural permanent fund, the normal school
12 permanent fund, the permanent common school fund, the scientific
13 permanent fund, and the state university permanent fund shall be
14 allocated to their respective beneficiary accounts. All earnings to be
15 distributed under this subsection (4)(a) shall first be reduced by the
16 allocation to the state treasurer's service fund pursuant to RCW
17 43.08.190.

18 (b) The following accounts and funds shall receive eighty percent
19 of their proportionate share of earnings based upon each account's or
20 fund's average daily balance for the period: The aeronautics account,
21 the aircraft search and rescue account, the county arterial
22 preservation account, the department of licensing services account, the
23 essential rail assistance account, the ferry bond retirement fund, the
24 grade crossing protective fund, the high capacity transportation
25 account, the highway bond retirement fund, the highway safety account,
26 the motor vehicle fund, the motorcycle safety education account, the
27 pilotage account, the public transportation systems account, the Puget
28 Sound capital construction account, the Puget Sound ferry operations
29 account, the recreational vehicle account, the rural arterial trust
30 account, the safety and education account, the special category C
31 account, the state patrol highway account, the transportation 2003
32 account (nickel account), the transportation equipment fund, the
33 transportation fund, the transportation improvement account, the
34 transportation improvement board bond retirement account, and the urban
35 arterial trust account.

36 (5) In conformance with Article II, section 37 of the state
37 Constitution, no treasury accounts or funds shall be allocated earnings
38 without the specific affirmative directive of this section.

1 **Sec. 4.** RCW 18.96.050 and 1984 c 287 s 52 are each amended to read
2 as follows:

3 The members of the first board shall serve for the following terms:

4 One member for one year, one member for two years, one member for
5 three years, one member for four years, and one member for five years
6 from the date of appointment or until successors are duly appointed and
7 qualified. Every member of the board shall receive a certificate of
8 his or her appointment from the governor, and before beginning his or
9 her term of office shall file with the secretary of state his or her
10 written oath or affirmation for the faithful discharge of his or her
11 official duties. On the expiration of the term of each member, the
12 governor shall appoint a successor to serve for a term of five years,
13 or until his or her successor has been appointed and qualified:
14 PROVIDED, That no member shall serve more than ten consecutive years.

15 The governor may remove any member of the board for cause.
16 Vacancies in the board for any reason shall be filled by appointment
17 for the unexpired term. In carrying out the provisions of this
18 chapter, the members of the board shall be compensated in accordance
19 with RCW 43.03.240 and shall be reimbursed for travel expenses
20 according to the provisions of RCW 43.03.050 and 43.03.060, such funds
21 to be provided from the (~~landscape architects' account in the state~~
22 ~~general fund~~) business and professions account created in section 1 of
23 this act.

24 **Sec. 5.** RCW 19.105.380 and 2002 c 86 s 273 are each amended to
25 read as follows:

26 (1) In addition to the unprofessional conduct in RCW 18.235.130,
27 the director may take disciplinary action for the following conduct,
28 acts, or conditions:

29 (a) The applicant, registrant, or affiliate has failed to file
30 copies of the camping resort contract form under RCW 19.105.360;

31 (b) The applicant, registrant, or affiliate has failed to comply
32 with any provision of this chapter;

33 (c) The applicant's, registrant's, or affiliate's offering of
34 camping resort contracts has worked or would work a fraud upon
35 purchasers or owners of camping resort contracts;

36 (d) The camping resort operator or any officer, director, or
37 affiliate of the camping resort operator has been enjoined from or had

1 any civil penalty assessed for a finding of dishonest dealing or fraud
2 in a civil suit, or been found to have engaged in any violation of any
3 act designed to protect consumers, or has been engaged in dishonest
4 practices in any industry involving sales to consumers;

5 (e) The applicant or registrant has represented or is representing
6 to purchasers in connection with the offer or sale of a camping resort
7 contract that a camping resort property, facility, amenity camp site,
8 or other development is planned, promised, or required, and the
9 applicant or registrant has not provided the director with a security
10 or assurance of performance as required by this chapter;

11 (f) The applicant or registrant has not provided or is no longer
12 providing the director with the necessary security arrangements to
13 ensure future availability of titles or properties as required by this
14 chapter or agreed to in the permit to market;

15 (g) The applicant or registrant is or has been employing
16 unregistered salespersons or offering or proposing a membership
17 referral program not in compliance with this chapter;

18 (h) The applicant or registrant has breached any escrow, impound,
19 reserve account, or trust arrangement or the conditions of an order or
20 permit to market required by this chapter;

21 (i) The applicant or registrant has filed or caused to be filed
22 with the director any document or affidavit, or made any statement
23 during the course of a registration or exemption procedure with the
24 director, that is materially untrue or misleading;

25 (j) The applicant or registrant has engaged in a practice of
26 failing to provide the written disclosures to purchasers or prospective
27 purchasers as required under this chapter;

28 (k) The applicant, registrant, or any of its officers, directors,
29 or employees, if the operator is other than a natural person, have
30 willfully done, or permitted any of their salespersons or agents to do,
31 any of the following:

32 (i) Engage in a pattern or practice of making untrue or misleading
33 statements of a material fact, or omitting to state a material fact;

34 (ii) Employ any device, scheme, or artifice to defraud purchasers
35 or members;

36 (iii) Engage in a pattern or practice of failing to provide the
37 written disclosures to purchasers or prospective purchasers as required
38 under this chapter;

1 (l) The applicant or registrant has failed to provide a bond,
2 letter of credit, or other arrangement to ensure delivery of promised
3 gifts, prizes, awards, or other items of consideration, as required
4 under this chapter, breached such a security arrangement, or failed to
5 maintain such a security arrangement in effect because of a resignation
6 or loss of a trustee, impound, or escrow agent;

7 (m) The applicant or registrant has engaged in a practice of
8 selling contracts using material amendments or codicils that have not
9 been filed or are the consequences of breaches or alterations in
10 previously filed contracts;

11 (n) The applicant or registrant has engaged in a practice of
12 selling or proposing to sell contracts in a ratio of contracts to sites
13 available in excess of that filed in the affidavit required by this
14 chapter;

15 (o) The camping resort operator has withdrawn, has the right to
16 withdraw, or is proposing to withdraw from use all or any portion of
17 any camping resort property devoted to the camping resort program,
18 unless:

19 (i) Adequate provision has been made to provide within a reasonable
20 time thereafter a substitute property in the same general area that is
21 at least as desirable for the purpose of camping and outdoor
22 recreation;

23 (ii) The property is withdrawn because, despite good faith efforts
24 by the camping resort operator, a nonaffiliate of the camping resort
25 has exercised a right of withdrawal from use by the camping resort
26 (such as withdrawal following expiration of a lease of the property to
27 the camping resort) and the terms of the withdrawal right have been
28 disclosed in writing to all purchasers at or prior to the time of any
29 sales of camping resort contracts after the camping resort has
30 represented to purchasers that the property is or will be available for
31 camping or recreation purposes;

32 (iii) The specific date upon which the withdrawal becomes effective
33 has been disclosed in writing to all purchasers and members prior to
34 the time of any sales of camping resort contracts after the camping
35 resort has represented to purchasers that the property is or will be
36 available for camping or recreation purposes;

37 (iv) The rights of members and owners of the camping resort
38 contracts under the express terms of the camping resort contract have

1 expired, or have been specifically limited, upon the lapse of a stated
2 or determinable period of time, and the director by order has found
3 that the withdrawal is not otherwise inconsistent with the protection
4 of purchasers or the desire of the majority of the owners of camping
5 resort contracts, as expressed in their previously obtained vote of
6 approval;

7 (p) The format, form, or content of the written disclosures
8 provided therein is not complete, full, or materially accurate, or
9 statements made therein are materially false, misleading, or deceptive;

10 (q) The applicant or registrant has failed to file an amendment for
11 a material change in the manner or at the time required under this
12 chapter or its implementing rules;

13 (r) The applicant or registrant has filed voluntarily or been
14 placed involuntarily into a federal bankruptcy or is proposing to do
15 so; or

16 (s) A camping resort operator's rights or interest in a campground
17 has been terminated by foreclosure or the operations in a camping
18 resort have been terminated in a manner contrary to contract
19 provisions.

20 (2) An operator, registrant, or applicant against whom
21 administrative or legal proceedings have been filed shall be
22 responsible for and shall reimburse the state, by payment into the
23 (~~general fund~~) business and professions account created in section 1
24 of this act, for all administrative and legal costs actually incurred
25 by the department in issuing, processing, and conducting any such
26 administrative or legal proceeding authorized under this chapter that
27 results in a final legal or administrative determination of any type or
28 degree in favor of the department.

29 (3) The director may enter into assurances of discontinuance in
30 lieu of issuing a statement of charges or a cease and desist order or
31 conducting a hearing under this chapter. The assurances shall consist
32 of a statement of the law in question and an agreement not to violate
33 the stated provision. The applicant or registrant shall not be
34 required to admit to any violation of the law, nor shall the assurance
35 be construed as such an admission. Violating or breaching an assurance
36 under this subsection is grounds for suspension or revocation of
37 registration or imposition of a fine.

1 (4) The director shall immediately suspend the license or
2 certificate of a person who has been certified pursuant to RCW
3 74.20A.320 by the department of social and health services as a person
4 who is not in compliance with a support order. If the person has
5 continued to meet all other requirements for reinstatement during the
6 suspension, reissuance of the license or certificate shall be automatic
7 upon the director's receipt of a release issued by the department of
8 social and health services stating that the licensee is in compliance
9 with the order.

10 **Sec. 6.** RCW 64.36.225 and 1987 c 370 s 8 are each amended to read
11 as follows:

12 A registrant or applicant against whom an administrative or legal
13 proceeding authorized under this chapter has been filed, shall be
14 liable for and reimburse to the state of Washington by payment into the
15 (~~general fund~~) business and professions account created in section 1
16 of this act, all administrative and legal costs, including attorneys'
17 fees, incurred by the department in issuing and conducting
18 administrative or legal proceedings that result in a final legal or
19 administrative determination of any type or degree, in favor of the
20 department or the state of Washington.

21 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2005.

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