
HOUSE BILL 3193

State of Washington 58th Legislature 2004 Regular Session

By Representatives Schoesler, Condotta and Roach

Read first time 02/09/2004. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to establishing commercial and domestic pump
2 installer licenses; adding a new section to chapter 42.17 RCW; adding
3 a new chapter to Title 19 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Approved course" is any classroom or field study or activity
8 that meets the intent of this chapter and has been evaluated and
9 approved by the department and assigned a credit value.

10 (2) "Board" means the advisory board established in section 6 of
11 this act.

12 (3) "Compliance period" means the time between the issuance of a
13 license and the renewal of the license or the time between renewals of
14 the license.

15 (4) "Continuing education provider" is an organization or an
16 individual that is approved by the department to provide continuing
17 education classes and/or opportunities to licensed pump installers and
18 trainees.

19 (5) "Department" means the department of labor and industries.

1 (6) "Director" means the director of the department of labor and
2 industries.

3 (7) "License" means a domestic pump installer or commercial pump
4 installer license.

5 (8) "Verification of completion statement" is any written document
6 or certificate signed by the provider and identifying the licensee as
7 the one who has completed the approved course.

8 NEW SECTION. **Sec. 2.** (1) All conductors and equipment, and
9 installations thereof, that convey electric current, installations of
10 equipment to be operated by electric current, and pumps, pipes, and
11 pipe fittings that convey water or wastewater, as applied to the scope
12 of work covered within this chapter shall be in strict conformity with
13 this chapter, and the rules issued by the department, and shall be in
14 conformity with approved methods of construction for safety to life and
15 property. Compliance with the regulations and articles in the national
16 electrical code, the national electrical safety code, uniform plumbing
17 code, and plumbing code standards published by the international
18 association of plumbing and mechanical officials, and other
19 installation and safety regulations approved by the national fire
20 protection association, as modified or supplemented by rules issued by
21 the department in furtherance of safety to life and property
22 demonstrates prima facie evidence of the approved methods of
23 construction. All materials, devices, appliances, and equipment used
24 in such installations shall be of a type that conforms to applicable
25 standards or be indicated as acceptable by the established standards of
26 any product testing laboratory that is accredited by the department.
27 Industrial control panels, utilization equipment, and their components
28 do not need to be listed, labeled, or otherwise indicated as acceptable
29 by an accredited electrical product testing laboratory unless
30 specifically required by the national electrical code.

31 (2) Nothing in this chapter may be construed as permitting the
32 connection of any conductor of any electric circuit with a pipe that is
33 connected with or designed to be connected with a waterworks piping
34 system, without the consent of the person or persons legally
35 responsible for the operation and maintenance of the waterworks piping
36 system.

1 NEW SECTION. **Sec. 3.** (1) Before January 1st of each year, the
2 director shall obtain an authentic copy of the national electrical code
3 and the uniform plumbing code, latest editions. The department, after
4 consulting with the board and receiving the board's recommendations,
5 shall adopt reasonable rules in furtherance of safety to life and
6 property. All rules shall be kept on file by the department.
7 Compliance with the rules shall be prima facie evidence of compliance
8 with this chapter. The department upon request shall deliver a copy of
9 the rules to all persons, firms, partnerships, corporations, or other
10 entities licensed under this chapter.

11 (2) The department shall also obtain and keep on file an authentic
12 copy of any applicable regulations and standards of any electrical
13 product testing laboratory that is accredited by the department
14 prescribing rules, regulations, and standards for electrical materials,
15 devices, appliances, and equipment, including any modifications and
16 changes that have been made during the previous year.

17 NEW SECTION. **Sec. 4.** (1) It is unlawful for any person, firm,
18 partnership, corporation, or other entity to engage in, offer to engage
19 in, conduct, or carry on the business of installing, repairing, or
20 replacing pumps, pitless adapters, pressure and storage tanks,
21 filtration equipment, electric controls, conductors, service
22 disconnect, telemetry, auxiliary components, and plumbing or pipe
23 fitting of water or wastewater systems without having an unrevoked,
24 unsuspending, and unexpired domestic pump installer or commercial pump
25 installer license, issued by the department in accordance with this
26 chapter. No contractor may employ a person to engage in, or offer to
27 engage in, the trade of pump installation unless the person employed
28 has a domestic or commercial pump installer license or trainee license.
29 This section does not apply to a contractor who is contracting for work
30 on his or her own residence. This license is required regardless of
31 whether the work is performed on a temporary or permanent system, but
32 does not apply to pumps used solely for well testing and powered by a
33 portable generating plant.

34 (2) No contractor may advertise, offer to do work, submit a bid, or
35 perform any work under this chapter without being registered as a
36 contractor under chapter 18.27 RCW.

1 (3) A license will be issued for one of the two following
2 categories:

3 (a) Domestic pump installer.

4 (i) A domestic pump installer license is limited to the
5 installation, repair, or replacement of pumps, pitless adapters, water
6 filtration or treatment equipment, electrical controls, conductors and
7 telemetry, auxiliary components, and plumbing or pipefitting of water
8 and wastewater systems. A domestic pump installation is limited to the
9 installation that serves one domestic residence, a group domestic
10 system that serves fourteen residences or less, or a business that has
11 twenty-five or fewer full-time employees. The scope of work includes
12 all work required for complete and operational installation or repair
13 of pumps or pump stations, effluent or lift pumps, conveyance systems,
14 ground source heat pump loops, and irrigation pumps. The electrical
15 work is limited to the extension of a branch circuit that is supplied
16 and installed by others and is not to exceed ten horsepower.

17 (ii) Except as provided in section 5 of this act, a domestic pump
18 installer license will be issued to an applicant who has worked as a
19 trainee, under the direction and supervision of a licensed domestic or
20 commercial pump installer, for two thousand hours and has passed a
21 competency examination. After working seven hundred twenty hours, and
22 passing the competency examination, the trainee may be issued a trainee
23 card that will allow him or her to work fifty percent of his or her
24 hours without the direct supervision of a licensed domestic or
25 commercial pump installer. After the trainee has worked two thousand
26 hours he or she will be issued a license. Proof of hours may be, but
27 is not limited to, time cards, paystubs, or a signed affidavit from a
28 current or past employer or employers.

29 (b) Commercial pump installer.

30 (i) A commercial pump installer license is limited to the
31 installation, repair, or replacement of pumps, pitless adapters, water
32 filtration or treatment equipment, electrical controls, conductors and
33 telemetry, auxiliary components, and plumbing or pipefitting of water
34 and wastewater systems. A commercial pump installation is not limited
35 as to the size or type of the installation or the size of the
36 equipment, components, voltage, or horsepower, but is defined by the
37 scope of the work being performed. The scope of work includes all work

1 required for the complete and operational installation or repair of
2 pumps or pump stations, effluent or lift pumps, conveyance systems,
3 ground source heat pump loops, and irrigation pumps.

4 (ii) Except as provided in section 5 of this act, a commercial pump
5 installation license will be issued to an applicant who has worked as
6 a trainee, under the direction and supervision of a licensed commercial
7 pump installer, for four thousand hours and has passed a competency
8 examination. After working two thousand hours, the trainee will be
9 issued a trainee card that will allow him or her to work fifty percent
10 of his or her hours without the direct supervision of a licensed
11 commercial pump installer. After the trainee has worked four thousand
12 hours, he or she will be issued a license. Proof of hours may be, but
13 is not limited to, time cards, paystubs, or a signed affidavit from a
14 current or past employer or employers.

15 (4) Licenses expire on the second anniversary of the licensee's
16 birthdate following the issuance of the license. A licensee may renew
17 his or her license on or before the expiration date by submitting a
18 complete application, paying the fee, and submitting proof of obtaining
19 the required continuing education.

20 NEW SECTION. **Sec. 5.** (1) On the effective date of this act,
21 licenses will be issued to all applicants who can provide convincing
22 evidence that they have at least two years' experience as a pump
23 installer. Evidence will include, but is not limited to, invoicing for
24 jobs performed, completed contracts for work performed, and employee
25 records.

26 (2) Applicants have twelve months after the effective date of this
27 act to apply for a license under this section.

28 NEW SECTION. **Sec. 6.** (1) An advisory board is established. The
29 board consists of the following and their alternates: The director or
30 the director's designee, who will serve as chair of the board; one
31 licensed domestic pump installer; one licensed commercial pump
32 installer; two licensed pump contractors; and one licensed water well
33 operator. The director will appoint the pump installer members and
34 their alternates. The Washington state ground water association will
35 appoint the pump contractors and water well operator members and their
36 alternates. Terms for the appointees are for four years unless the

1 appointee voluntarily gives up his or her position or the director
2 removes the appointee for due cause. Due cause includes, but is not
3 limited to, absence from three consecutive regular scheduled meetings,
4 disregard for the orderly proceedings of the board, or dishonest
5 activities within the attendance of the board. At the first meeting of
6 the board lots will be drawn to determine the terms of the first
7 members and alternates. Two members and alternates will have four-year
8 terms; two members and alternates will have three-year terms; and one
9 member and alternate will have a two-year term.

10 (2) The board must meet quarterly, but may meet more often to
11 accomplish board business. Alternates do not have a vote unless they
12 are filling in for a board member. The chair is a nonvoting member,
13 however, the chair may vote to break a tie in the board.

14 (3) The board must carry out all the functions and duties specified
15 in this chapter. The board must also assist the department in the
16 development and revision of rules, the preparation and revision of
17 competency examinations, and the administration of the continuing
18 education program.

19 NEW SECTION. **Sec. 7.** (1) The department may revoke or suspend a
20 license for any of the following:

21 (a) The license was obtained through error or fraud;

22 (b) The licensee is judged to be incompetent to carry on the trade
23 of pump installation; or

24 (c) The licensee has violated any provision of this chapter or any
25 rule adopted under this chapter.

26 (2) The department may deny an application for a license for up to
27 two years if the applicant's previous license has been revoked.

28 (3) Before a license is revoked or suspended, the department shall
29 send written notice of infraction by registered mail with return
30 receipt requested to the licensee's last known address. The notice
31 must list the allegations against the licensee and give him or her the
32 opportunity to refute the allegations and request a hearing before the
33 board. At the hearing, the department and the licensee may produce
34 witnesses and give testimony. The hearing must be conducted in
35 accordance with chapter 34.05 RCW. The board shall render its decision
36 based upon the testimony and evidence presented and will notify the
37 parties within ten days of the hearing. At least five board members or

1 their alternates and the chair must be in attendance for the board to
2 hear testimony on license actions. Decisions will be based on a vote
3 of the board.

4 (4) The department may deny renewal of a license issued under this
5 chapter if the applicant owes outstanding penalties for a final
6 judgment under this chapter. The department shall notify the applicant
7 of the denial by registered mail, return receipt requested, to the
8 address on the application. The applicant may appeal the denial within
9 twenty days by filing a notice of appeal with the department
10 accompanied by two hundred dollars, which shall be returned to the
11 applicant if the decision of the department is not upheld by the
12 hearings officer. The office of administrative hearings shall conduct
13 the hearing under chapter 34.05 RCW. If the hearings officer sustains
14 the decision of the department, the fee must be applied to the cost of
15 the hearing.

16 NEW SECTION. **Sec. 8.** The department, in consultation with the
17 board, may adopt rules to carry out this chapter.

18 NEW SECTION. **Sec. 9.** (1) The department, in consultation with the
19 board, shall prepare a written competency examination to be
20 administered to applicants for domestic pump installer licenses,
21 commercial pump installer licenses, and trainee licenses. The
22 examination shall be constructed to determine:

23 (a) Whether the applicant possesses varied general knowledge of the
24 technical information and practical procedures that are identified with
25 the trade of domestic pump installer and commercial pump installer; and

26 (b) Whether the applicant is familiar with the applicable plumbing,
27 electrical, and well construction codes and the administrative rules of
28 the department and the department of ecology pertaining to pump
29 installation.

30 (2) The department shall administer the examination to eligible
31 persons. All applicants shall, before taking the examination, pay a
32 fee to the department.

33 (3) The department shall certify the results of the examination,
34 and shall notify the applicant in writing whether he or she has passed
35 or failed. Any applicant who has failed the examination may retake the

1 examination, upon the terms and after a period of time that the
2 director sets in rule. The director may not limit the number of times
3 that a person may take the examination.

4 NEW SECTION. **Sec. 10.** (1) Licensees shall complete, during their
5 compliance period, the continuing education requirement as determined
6 by the department, in consultation with the board. Continuing
7 education units will be on the subjects of pump installation, testing,
8 theory, operation, maintenance, pump equipment, tools, safety,
9 installation methods, administrative rules, and electrical and plumbing
10 codes as applied to pump installation. Continuing education units may
11 include other subjects that apply to the pump installation industry as
12 established in rule. Every licensed pump installer shall obtain the
13 required continuing education units during his or her compliance period
14 and submit to the department verification of completion statements from
15 approved providers.

16 (2) Any organization or individual may apply to the department to
17 become an approved continuing education provider. Continuing education
18 providers will be organizations or individuals with a history of
19 providing continuing education courses that have complied with the
20 requirements for course approval under this section and the rules
21 adopted by the department. Any individual or organization that desires
22 to become an approved provider but does not have a history of providing
23 continuing education courses, must submit a comprehensive plan to the
24 department for approval. The department will, in consultation with the
25 board, develop rules identifying elements of the comprehensive plan and
26 approval criteria. An approved continuing education provider must, at
27 a minimum, develop and implement methods to evaluate its course
28 offerings to determine their effectiveness and the extent to which they
29 meet the needs of licensed pump installers. The continuing education
30 provider must provide, upon request from the department, course
31 evaluations from attendees. The continuing education provider will
32 obtain course approval and credit value before offering the course to
33 licensees for approval. The continuing education provider will present
34 courses consistent with the standards set forth in this section and
35 rules adopted by the department and make the course available to all
36 licensed pump installers and trainees at locations logistically chosen
37 to facilitate the attendance of licensees throughout the state. The

1 department, in consultation with the board, will establish in rule the
2 procedure for approval of providers and for sanctions including
3 revocation of approval.

4 (3) The department, in consultation with the board, will adopt in
5 rule methods to approve courses and establish course credit for
6 continuing education units and the amount of continuing education units
7 required by licensees. To be approved for credit, a continuing
8 education course must be of intellectual or practical content,
9 contribute directly to the pump installation industry, promote
10 professional competence or skills, or contribute to licensees'
11 education with respect to their professional or ethical obligations.
12 If a course does not bear entirely on the general requirements for
13 continuing education or the ground water or well construction industry,
14 or if the method of presenting the course is below minimum standards,
15 the department may assign partial credit. Courses must be presented in
16 a suitable setting devoted to the educational activity of the program.
17 The department may approve alternate course curriculum to accommodate
18 the needs of the handicapped, incapacitated, or a licensee who may be
19 out of state for the majority of his or her compliance period. Video,
20 motion picture, or audiotape presentations may be used if a presenter
21 is in attendance at all presentations to comment and answer questions.
22 The course must be opened to all licensed operators and trainees. The
23 department will make available to all interested parties, upon request,
24 a list of all approved continuing education providers and courses. The
25 department will, in consultation with the board, adopt in rule
26 procedures that will allow providers to obtain prior approval of
27 continuing education courses or which may allow providers to obtain
28 postpresentation approval of continuing education courses. The
29 department may, in consultation with the board, establish in rule other
30 requirements for course approval.

31 NEW SECTION. **Sec. 11.** (1) Nothing in this chapter requires that
32 a person obtain a license or be a licensed pump installer in order to
33 do pump installation work at his or her residence, farm, place of
34 business, or on other property owned by him or her.

35 (2) A current pump installer license or trainee license is not
36 required for:

1 (a) Electrical work by certified journeyman electricians, or
2 electrical trainees working for an electrical contractor and performing
3 work covered within the scope of their license; or

4 (b) Plumbing work by certified journeyman plumbers, or plumbing
5 trainees performing work covered within the scope of their license.

6 (3) Nothing in this chapter eliminates the requirements of a valid
7 pump installing code, plumbing code, or electrical code enacted by a
8 political subdivision of the state. However, no code may require the
9 licensee to demonstrate additional proof of competency or obtain any
10 other license or pay a fee to engage in the trade of pump installing.

11 NEW SECTION. **Sec. 12.** (1) The department must charge fees for
12 issuance, renewal, and reinstatement of all licenses, permits, and
13 examinations required by this chapter. The department must set the
14 fees in rule.

15 (2) The fees must cover the full cost of issuing the certificates
16 and permits, devising and administering the examinations, and
17 administering and enforcing this chapter. The costs shall include
18 travel, per diem, and administrative support costs.

19 NEW SECTION. **Sec. 13.** An authorized representative of the
20 department may investigate alleged or apparent violations of this
21 chapter. An authorized representative of the department upon
22 presentation of credentials may inspect sites at which a person is
23 doing pump installation work to determine if that person has a license
24 issued by the department in accordance with this chapter or is
25 supervised by a person who has such a license. Upon request of the
26 authorized representative of the department, a person doing pump
27 installation work must produce evidence that the person has a license
28 issued by the department in accordance with this chapter or is
29 supervised by a person who has such a license.

30 NEW SECTION. **Sec. 14.** (1) An authorized representative of the
31 department may issue a notice of infraction as specified in section 7
32 of this act if:

33 (a) A person who is doing pump installation work or who is offering
34 to do pump installation work fails to produce evidence of:

1 (i) Having a license issued by the department in accordance with
2 this chapter, or being supervised by a person who has such a license;
3 and

4 (ii) Being registered as a contractor as required under chapter
5 18.27 RCW or this chapter, or being employed by a person who is
6 registered as a contractor; or

7 (b) A person who employs anyone, or offers or advertises to employ
8 anyone, to do pump installation work fails to produce evidence of being
9 registered as a contractor as required under chapter 18.27 RCW or this
10 chapter.

11 (2) A notice of infraction issued under this section must be
12 personally served on the person named in the notice by an authorized
13 representative of the department or sent by certified mail to the last
14 known address provided to the department of the person named in the
15 notice.

16 NEW SECTION. **Sec. 15.** The form of the notice of infraction issued
17 under this chapter must include the following statements:

18 (1) The notice represents a determination that the infraction has
19 been committed by the person named in the notice and the determination
20 is final unless contested as provided in this chapter;

21 (2) The infraction is a noncriminal offense for which imprisonment
22 will not be imposed as a sanction;

23 (3) The specific infraction for which the notice was issued;

24 (4) The monetary penalty that has been established for the
25 infraction;

26 (5) The options provided in this chapter for responding to the
27 notice and the procedures necessary to exercise these options;

28 (6) At any hearing to contest the determination the state has the
29 burden of proving, by a preponderance of the evidence, that the
30 infraction was committed. The person may subpoena witnesses, including
31 the authorized representative of the department who issued and served
32 the notice of infraction;

33 (7) An acknowledgment form, to be signed by the person, in which
34 the person promises to respond to the notice of infraction in one of
35 the ways provided in this chapter; and

36 (8) Refusal to sign the infraction as directed in subsection (7) of
37 this section is punishable as a misdemeanor under RCW 9.92.030.

1 NEW SECTION. **Sec. 16.** A violation designated as an infraction
2 under this chapter shall be heard and determined by an administrative
3 law judge of the office of administrative hearings. If a party desires
4 to contest the notice of infraction, the party shall file a notice of
5 appeal with the department within twenty days of issuance of the
6 infraction. The administrative law judge shall conduct hearings in
7 these cases at locations in the county where the infraction is alleged
8 to have occurred.

9 NEW SECTION. **Sec. 17.** Unless contested in accordance with this
10 chapter, the notice of infraction represents a determination that the
11 person to whom the notice was issued committed the infraction.

12 NEW SECTION. **Sec. 18.** (1) A person who receives a notice of
13 infraction shall respond to the notice as provided in this section
14 within fourteen days of the date the notice was served.

15 (2) If the person named in the notice of infraction does not wish
16 to contest the notice of infraction, the person shall pay to the
17 department, by check or money order, the amount of the penalty
18 prescribed for the infraction. When a response that does not contest
19 the determination is received by the department with the appropriate
20 payment, the department shall make the appropriate entry in its
21 records.

22 (3) If the person named in the notice of infraction wishes to
23 appeal the notice of infraction, the person shall respond by filing an
24 answer of protest, requesting a hearing, with the department specifying
25 the grounds of protest.

26 (4) The administrative law judge shall enter an appropriate order
27 assessing the monetary penalty prescribed for the infraction and shall
28 notify the department of the failure to respond to the notice of
29 infraction or to appear at a requested hearing, if any person issued a
30 notice of infraction:

31 (a) Fails to respond to the notice of infraction as provided in
32 subsection (2) of this section; or

33 (b) Fails to appear at a hearing requested pursuant to subsection
34 (3) of this section.

1 NEW SECTION. **Sec. 19.** It is a misdemeanor for any person who has
2 been personally served with a notice of infraction:

3 (1) To refuse to sign a written promise to respond to the notice;
4 or

5 (2) To willfully violate the written promise to respond to a notice
6 of infraction as provided in this chapter, regardless of the ultimate
7 disposition of the infraction.

8 NEW SECTION. **Sec. 20.** A person subject to proceedings under this
9 chapter may appear or be represented by counsel. The department shall
10 be represented by the attorney general in any proceeding under this
11 chapter.

12 NEW SECTION. **Sec. 21.** (1) The administrative law judge shall
13 conduct notice of infraction cases under this chapter pursuant to
14 chapter 34.05 RCW.

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

19 (a) The appellant had a certificate or permit issued by the
20 department in accordance with this chapter, was supervised by a person
21 who has such a certificate or permit, or was exempt from this chapter
22 under section 11 of this act; or

23 (b) The person employed or supervised by the appellant has a
24 certificate or permit issued by the department in accordance with this
25 chapter, was supervised by a person who had such a certificate or
26 permit, was exempt from this chapter under section 11 of this act, or
27 was registered as a contractor under chapter 18.27 RCW.

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

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

5 NEW SECTION. **Sec. 22.** (1) A person found to have committed an
6 infraction under this chapter shall be assessed a monetary penalty.
7 The department shall set by rule a schedule of penalties for
8 infractions imposed under this chapter.

9 (2) The administrative law judge may waive, reduce, or suspend the
10 monetary penalty imposed for the infraction for good cause shown.

11 NEW SECTION. **Sec. 23.** (1) Contractors shall accurately verify and
12 attest to the trainee hours worked by pump installer trainees on behalf
13 of the contractor and that all training hours were under the
14 supervision of a licensed pump installer and within the proper ratio,
15 and shall provide the supervising pump installers' names and license
16 numbers. However, contractors are not required to identify which hours
17 a trainee works with a specific licensed pump installer.

18 (2) The department may audit the records of a contractor that has
19 verified the hours of experience submitted by a pump installer trainee
20 to the department under this chapter in the following circumstances:
21 Excessive hours were reported; hours were reported outside the normal
22 course of the contractor's business; or for other similar circumstances
23 in which the department demonstrates a likelihood of excessive or
24 improper hours being reported. The department shall limit the audit to
25 records necessary to verify hours for the trainee in question. The
26 department shall adopt rules implementing audit procedures.
27 Information obtained from a contractor under this section is
28 confidential pursuant to section 24 of this act.

29 (3) Violation of this section by a contractor is an infraction
30 under this chapter.

31 NEW SECTION. **Sec. 24.** A new section is added to chapter 42.17 RCW
32 to read as follows:

33 Information obtained from a contractor under section 23 of this act
34 is exempt from disclosure under this chapter.

1 NEW SECTION. **Sec. 25.** Sections 1 through 23 of this act
2 constitute a new chapter in Title 19 RCW.

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