

CERTIFICATION OF ENROLLMENT

SENATE BILL 5831

59th Legislature
2005 Regular Session

Passed by the Senate March 15, 2005
YEAS 37 NAYS 8

President of the Senate

Passed by the House April 7, 2005
YEAS 57 NAYS 39

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5831** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5831

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By Senators Morton and Poulsen

Read first time 02/09/2005. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to the minimum standards for construction and
2 maintenance of wells; amending RCW 18.104.020, 18.104.043, 18.104.050,
3 18.104.055, 18.104.100, 18.104.120, and 18.104.190; and adding a new
4 section to chapter 18.104 RCW.

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

6 **Sec. 1.** RCW 18.104.020 and 2002 c 48 s 1 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Abandoned well" means a well that is ~~((unused,))~~
11 unmaintained~~((, and))~~ or is in such disrepair ~~((as to be))~~ that it is
12 unusable or is a risk to public health and welfare.

13 (2) "Constructing a well" or "construct a well" means:

14 (a) Boring, digging, drilling, or excavating a well;

15 (b) Installing casing, sheeting, lining, or well screens, in a
16 well;

17 (c) Drilling a geotechnical soil boring; or

18 (d) Installing an environmental investigation well.

1 "Constructing a well" or "construct a well" includes the alteration
2 of an existing well.

3 (3) "Decommission" means to fill or plug a well so that it will not
4 produce water, serve as a channel for movement of water or pollution,
5 or allow the entry of pollutants into the well or aquifers.

6 (4) "Department" means the department of ecology.

7 (5) "Dewatering well" means a cased or lined excavation or boring
8 that is intended to withdraw or divert ground water for the purpose of
9 facilitating construction, stabilizing a landslide, or protecting an
10 aquifer.

11 (6) "Director" means the director of the department of ecology.

12 (7) "Environmental investigation well" means a cased hole intended
13 or used to extract a sample or samples of ground water, vapor, or soil
14 from an underground formation and which is decommissioned immediately
15 after the sample or samples are obtained. An environmental
16 investigation well is typically installed using direct push technology
17 or auger boring and uses the probe, stem, auger, or rod as casing. An
18 environmental investigation well is not a geotechnical soil boring.

19 (8) "Geotechnical soil boring" or "boring" means a well drilled for
20 the purpose of obtaining soil samples or information to ascertain
21 structural properties of the subsurface.

22 (9) "Ground source heat pump boring" means a vertical boring
23 constructed for the purpose of installing a closed loop heat exchange
24 system for a ground source heat pump.

25 (10) "Ground water" means and includes ground waters as defined in
26 RCW 90.44.035.

27 ~~((+10))~~ (11) "Grounding well" means a grounding electrode
28 installed in the earth by the use of drilling equipment to prevent
29 buildup of voltages that may result in undue hazards to persons or
30 equipment. Examples are anode and cathode protection wells.

31 (12) "Instrumentation well" means a well in which pneumatic or
32 electric geotechnical or hydrological instrumentation is permanently or
33 periodically installed to measure or monitor subsurface strength and
34 movement. Instrumentation well includes borehole extensometers, slope
35 indicators, pneumatic or electric pore pressure transducers, and load
36 cells.

37 ~~((+11))~~ (13) "Monitoring well" means a well designed to obtain a

1 representative ground water sample or designed to measure the water
2 level elevation in either clean or contaminated water or soil.

3 ~~((12))~~ (14) "Observation well" means a well designed to measure
4 the depth to the water level elevation in either clean or contaminated
5 water or soil.

6 ~~((13))~~ (15) "Operator" means a person who (a) is employed by a
7 well contractor; (b) is licensed under this chapter; or (c) who
8 controls, supervises, or oversees the construction of a well or who
9 operates well construction equipment.

10 ~~((14))~~ (16) "Owner" or "well owner" means the person, firm,
11 partnership, copartnership, corporation, association, ~~((or))~~ other
12 entity, or any combination of these, who owns the property on which the
13 well is or will be constructed or has the right to the well by means of
14 an easement, covenant, or other enforceable legal instrument for the
15 purpose of benefiting from the well.

16 ~~((15))~~ (17) "Pollution" and "contamination" have the meanings
17 provided in RCW 90.48.020.

18 ~~((16))~~ (18) "Remediation well" means a well intended or used to
19 withdraw ground water or inject water, air (for air sparging), or other
20 solutions into the subsurface for the purpose of remediating, cleaning
21 up, or controlling potential or actual ground water contamination.

22 ~~((17))~~ (19) "Resource protection well" means a cased boring
23 intended or used to collect subsurface information or to determine the
24 existence or migration of pollutants within an underground formation.
25 Resource protection wells include monitoring wells, observation wells,
26 piezometers, spill response wells, remediation wells, environmental
27 investigation wells, vapor extraction wells, ground source heat pump
28 boring, grounding wells, and instrumentation wells.

29 ~~((18))~~ (20) "Resource protection well contractor" means any
30 person, firm, partnership, copartnership, corporation, association, or
31 other entity, licensed and bonded under chapter 18.27 RCW, engaged in
32 the business of constructing resource protection wells or geotechnical
33 soil borings.

34 ~~((19))~~ (21) "Water well" means any excavation that is constructed
35 when the intended use of the well is for the location, diversion,
36 artificial recharge, observation, monitoring, dewatering, or withdrawal
37 of ground water. "Water wells" include ground source heat pump borings
38 and grounding wells.

1 ((+20+)) (22) "Water well contractor" means any person, firm,
2 partnership, copartnership, corporation, association, or other entity,
3 licensed and bonded under chapter 18.27 RCW, engaged in the business of
4 constructing water wells.

5 ((+21+)) (23) "Well" means water wells, resource protection wells,
6 dewatering wells, and geotechnical soil borings. Well does not mean an
7 excavation made for the purpose of obtaining or prospecting for oil,
8 natural gas, geothermal resources, minerals, or products of mining, or
9 quarrying, or for inserting media to repressure oil or natural gas
10 bearing formations, or for storing petroleum, natural gas, or other
11 products.

12 ((+22+)) (24) "Well contractor" means a resource protection well
13 contractor and a water well contractor licensed and bonded under
14 chapter 18.27 RCW.

15 **Sec. 2.** RCW 18.104.043 and 2000 c 32 s 1 are each amended to read
16 as follows:

17 (1) If requested in writing by the governing body of a local health
18 district or county, the department by memorandum of agreement may
19 delegate to the governing body the authority to administer and enforce
20 the well tagging, sealing, and decommissioning portions of the water
21 well construction program.

22 (2) The department shall determine whether a local health district
23 or county that seeks delegation under this section has the resources,
24 capability, and expertise, including qualified field inspectors, to
25 administer the delegated program. If the department determines the
26 local government has these resources, it shall notify well
27 contractors(~~(, consultants,)~~) and operators of the proposal. The
28 department shall accept written comments on the proposal for sixty days
29 after the notice is mailed.

30 (3) If the department determines that a delegation of authority to
31 a local health district or county to administer and enforce the well
32 sealing and decommissioning portions of the water well construction
33 program will enhance the public health and safety and the environment,
34 the department and the local governing body may enter into a memorandum
35 of agreement setting forth the specific authorities delegated by the
36 department to the local governing body. The memorandum of agreement
37 (~~shall provide for an initial review of the delegation within one year~~)

1 ~~and for periodic review thereafter))~~ must be, at a minimum, reviewed
2 annually. The department, in consultation with the technical advisory
3 group, created under RCW 18.104.190, shall adopt rules outlining the
4 annual review and reporting process. A detailed summary of the review
5 must be made available to well contractors and operators upon request
6 and be published on the department's web site.

7 (4) With regard to the portions of the water well construction
8 program delegated under this section, the local governing agency shall
9 exercise only the authority delegated to it under this section. If,
10 after a public hearing, the department determines that a local
11 governing body is not administering the program in accordance with this
12 chapter, it shall notify the local governing body of the deficiencies.
13 If corrective action is not taken within a reasonable time, not to
14 exceed sixty days, the department by order shall withdraw the
15 delegation of authority.

16 (5) The department shall promptly furnish the local governing body
17 with a copy of each water well report and notification of start cards
18 received in the area covered by a delegated program.

19 (6) The department and the local governing body shall coordinate to
20 reduce duplication of effort and shall share all appropriate
21 information including technical reports, violations, and well reports.

22 (7) Any person aggrieved by a decision of a local health district
23 or county under a delegated program may appeal the decision to the
24 department. The department's decision is subject to review by the
25 pollution control hearings board as provided in RCW 43.21B.110.

26 (8) The department shall not delegate the authority to license well
27 contractors, renew licenses, receive notices of intent to commence
28 constructing a well, receive well reports, or collect state fees
29 provided for in this chapter.

30 **Sec. 3.** RCW 18.104.050 and 1993 c 387 s 8 are each amended to read
31 as follows:

32 (1) ~~((A well contractor))~~ Any person authorized by this chapter to
33 construct or decommission a well shall furnish a well report to the
34 director within thirty days after the completion of the construction or
35 ~~((alteration))~~ decommissioning of a well ~~((by the contractor))~~. The
36 director, by rule, shall prescribe the form of the report and the
37 information to be contained therein.

1 (2) In the case of a dewatering well project:

2 (a) A single well construction report may be submitted for all
3 similar dewatering wells constructed with no significant change in
4 geologic formation; and

5 (b) A single well decommissioning report may be submitted for all
6 similar dewatering wells decommissioned that have no significant change
7 in geologic formation.

8 **Sec. 4.** RCW 18.104.055 and 2002 c 48 s 2 are each amended to read
9 as follows:

10 (1) A fee is hereby imposed on each well constructed in this state
11 on or after July 1, (~~(1993)~~) 2005.

12 (2)(a) The fee for one (~~(new)~~) water well, other than a dewatering
13 well, with a minimum top casing diameter of less than twelve inches is
14 (~~(one)~~) two hundred dollars. This fee does not apply to a ground
15 source heat pump boring or a grounding well.

16 (b) The fee for one (~~(new)~~) water well, other than a dewatering
17 well, with a minimum top casing diameter of twelve inches or greater is
18 (~~(two)~~) three hundred dollars.

19 (c) The fee for a (~~(new)~~) resource protection well, except for an
20 environmental investigation well, a ground source heat pump boring, or
21 a grounding well, is forty dollars for each well.

22 (d) The fee for an environmental investigation well in which ground
23 water is sampled or measured is forty dollars for construction of up to
24 four environmental investigation wells per project, ten dollars for
25 each additional environmental investigation well constructed on a
26 project with more than four wells. There is no fee for soil or vapor
27 sampling purposes.

28 (e) The fee for a ground source heat pump boring or a grounding
29 well is forty dollars for construction of up to four ground source heat
30 pump borings or grounding wells per project and ten dollars for each
31 additional ground source heat pump boring or grounding well constructed
32 on a project with more than four wells.

33 (f) The combined fee for construction and decommissioning of a
34 dewatering well system shall be forty dollars for each two hundred
35 horizontal lineal feet, or portion thereof, of the dewatering well
36 system.

37 (g) The fee to decommission a water well is fifty dollars.

1 (h) The fee to decommission a resource protection well, except for
2 an environmental investigation well, is twenty dollars. There is no
3 fee to decommission an environmental investigation well or a
4 geotechnical soil boring.

5 (i) The fee to decommission a ground source heat pump boring or a
6 grounding well is twenty dollars.

7 (3) The fees imposed by this section shall be paid at the time the
8 notice of well construction is submitted to the department as provided
9 by RCW 18.104.048. The department by rule may adopt procedures to
10 permit the fees required for resource protection wells to be paid after
11 the number of wells actually constructed has been determined. The
12 department shall refund the amount of any fee collected for wells,
13 borings, probes, or excavations as long as construction has not started
14 and the department has received a refund request within one hundred
15 eighty days from the time the department received the fee. The refund
16 request shall be made on a form provided by the department.

17 **Sec. 5.** RCW 18.104.100 and 1993 c 387 s 17 are each amended to
18 read as follows:

19 (1) Licenses issued pursuant to this chapter shall be renewed every
20 two years. A license shall be renewed upon payment of a renewal fee
21 and completion of continuing education (~~required by rule adopted by~~
22 ~~the department~~) requirements and receipt of a completed license
23 renewal application. If a licensee fails to submit an application for
24 renewal, the renewal fee, and proof of completion of the required
25 continuing education, the license shall (~~expire~~) be suspended at the
26 end of its effective term. The licensee is not allowed to perform work
27 authorized by their license during the time that it is suspended. The
28 licensee is allowed thirty days to submit an application for renewal,
29 the renewal fee, and proof of completion of the required continuing
30 education for the renewal period. Continuing education obtained during
31 the thirty-day suspension period may be applied only to the next
32 renewal period. If a licensee fails to submit an application for
33 renewal, the renewal fee, and proof of completion of the required
34 continuing education by the end of the thirty-day suspension period,
35 the license expires. The department shall adopt rules, in consultation
36 with the technical advisory group created under RCW 18.104.190, that

1 allow for an extension of the thirty-day suspension period for certain
2 situations that are beyond the control of the licensee. The rules must
3 also allow for a retirement or inactive license.

4 (2) A person whose license has expired must apply for a new license
5 as provided in this chapter. The department may waive the requirement
6 for a written examination and on-site testing for a person whose
7 license has expired.

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

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

15 NEW SECTION. Sec. 6. A new section is added to chapter 18.104 RCW
16 to read as follows:

17 (1) A person seeking a new license or to renew an existing license
18 under this chapter must demonstrate a willingness to maintain a high
19 level of professional competency by completing continuing education
20 programs as required by the department by rule. The department shall
21 not approve any continuing education program unless: (a) It is offered
22 by an approved provider; (b) it is open to all persons licensed or
23 pursuing a license under this chapter; and (c) the fees charged are
24 reasonable for all persons desiring to attend the program.

25 (2) The department, in consultation with the technical advisory
26 group created in RCW 18.104.190, shall adopt rules governing continuing
27 education programs. At a minimum, the rules must establish: A method
28 of approving providers of continuing education; a criteria to evaluate
29 the offerings, workshops, courses, classes, or programs; a criteria for
30 assigning credits; and a criteria for reporting and verifying
31 completion.

32 (3) The department shall support approved providers by providing,
33 upon request and at the department's discretion, technical assistance
34 and presenters for continuing education offerings.

35 (4) The department shall maintain a current list of all continuing
36 education offerings by approved providers and ensure that the list is

1 available to all licensees by request. The list must also be posted on
2 the department's web site.

3 **Sec. 7.** RCW 18.104.120 and 1993 c 387 s 19 are each amended to
4 read as follows:

5 Any person (~~((with an economic or noneconomic interest))~~) who can
6 demonstrate being materially harmed by the actions or inactions of a
7 well contractor, operator, or trainee, or has knowledge of illegal
8 activities engaged in by a well contractor, operator, or trainee may
9 (~~((make))~~) submit a complaint against (~~((any))~~) the well contractor (~~((or))~~),
10 operator (~~((for violating this chapter or any regulations under it))~~), or
11 trainee to the department of ecology. The complaint shall be in
12 writing, signed by the complainant, and specify the grievances against
13 the licensee. The department (~~((shall))~~) may investigate the complaint
14 to establish the validity of the complaint. In the event evidence
15 shows a violation of this chapter or rules adopted under this chapter,
16 the department may respond to the complaint by issuance of an order
17 (~~((it deems))~~) appropriate to the violation. Review of the order shall
18 be subject to the hearings procedures set forth in RCW 18.104.130.

19 **Sec. 8.** RCW 18.104.190 and 1993 c 387 s 25 are each amended to
20 read as follows:

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

34 (2) The technical advisory group shall assist the department in the
35 development and revision of rules; the preparation and revision of
36 licensing examinations; the development of training criteria for

1 inspectors, well contractors, and well operators; the establishment of
2 continuing education providers; the development of evaluation
3 procedures of all continuing education offerings; and the review of
4 proposed changes to the minimum standards for construction and
5 maintenance of wells by local governments for the purpose of achieving
6 continuity with technology and state rules.

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

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

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