
HOUSE BILL 3198

State of Washington

60th Legislature

2008 Regular Session

By Representatives Hunt, Wood, and Conway

1 AN ACT Relating to soil and wetland scientists; amending RCW
2 18.235.020; adding a new section to chapter 18.220 RCW; adding a new
3 chapter to Title 18 RCW; creating a new section; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that in order to
7 protect life, property, and health, and to promote public welfare, it
8 is in the public interest to regulate the practice of soil science and
9 wetland science as a profession by establishing minimum standards of
10 ethical conduct and professional responsibility and by establishing
11 professional education and experience requirements for those persons
12 representing to the public that they are soil scientists or wetland
13 scientists.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.
16 (1) "Advisory committee" means the advisory committee appointed
17 under section 4 of this act.

1 (2) "Board" means the geologist licensing board created in RCW
2 18.220.030.

3 (3) "Department" means the department of licensing.

4 (4) "Director" means the director of the department of licensing.

5 (5) "Holder" means a person who has been issued a certificate under
6 this chapter.

7 (6) "Responsible charge" means the exercise of fully independent
8 control and direction of soil science or wetland science work, or both,
9 or the supervision of such work, and being fully responsible,
10 answerable, accountable, or liable for the results.

11 (7) "Soil science" means the science that:

12 (a) Involves the study of various aspects of the living soil
13 ecosystem and includes the following focused subject areas:

14 (i) Soil physics, which is the study of water and heat transfer
15 through soil;

16 (ii) Soil chemistry and mineralogy;

17 (iii) Soil biochemistry;

18 (iv) Soil fertility; and

19 (v) Soil genesis, morphology, and classification; and

20 (b) Can be used to provide information for projects including, but
21 not limited to, the following:

22 (i) Management of water quantity by utilizing infiltration and
23 percolation capabilities on a site or soil specific basis;

24 (ii) Treatment of polluted water using soil microbial populations
25 working in concert with natural soil chemistry and mineralogy;

26 (iii) Treatment of polluted soils using soil biochemical and
27 physical applications;

28 (iv) Interpretation of soil morphology and soil development in
29 order to avoid or mitigate negative impacts to either surface water
30 systems or groundwater systems, or both; and

31 (v) Preparation of detailed soil maps that can be used for site-
32 specific soil management, such as erosion control plans.

33 (8) "Soil scientist" means a person who, by reason of the person's
34 knowledge of soil science, mathematics, the environment, and the
35 supporting physical and life sciences, acquired by education and
36 practical experience, has met the qualifications established under this
37 chapter, and has been issued a certificate as a soil scientist by the
38 board.

1 (9) "Subordinate" means a person who assists in the practice of
2 soil science by a soil scientist without assuming the responsible
3 charge of the work.

4 (10) "Wetland science" means the science that:

5 (a) Involves the study of various aspects of wetland systems and
6 includes the following focused subject areas: (i) Wetland delineation,
7 which is the formal identification and marking of the legal wetland
8 boundary on the land surface;

9 (ii) Wetland mitigation, which is a plan that describes and
10 provides for compensation to offset wetland or wetland buffer losses as
11 is prescribed or required by federal or local regulations;

12 (iii) Wetland classification, which is a process that defines and
13 groups wetland types into discrete ecologically or geomorphically based
14 units which are used to create management plans or to rate a wetland;

15 (iv) Wetland rating, which is a formal system used to evaluate a
16 wetland's quality based on individual functions and values; and

17 (v) Wetland ecology, which is the study of interrelationship of
18 organisms and their wetland environments; and

19 (b) Can be used to provide information for projects including, but
20 not limited to, the following:

21 (i) Defining legally developable portions of a property, as might
22 be limited by wetland or stream presence;

23 (ii) Assessing wetland type for purposes of compensation or
24 mitigation;

25 (iii) Interpreting a landscape to indicate where wetland is most
26 likely to be found; and

27 (iv) Interpretation and preparation of aerial photo-based site
28 sketch maps that can be used for site-specific wetland management.

29 (11) "Wetland scientist" means a person who, by reason of the
30 person's knowledge of wetland science, mathematics, the environment,
31 and the supporting physical and life sciences, acquired by education
32 and practical experience, has met the qualifications established under
33 this chapter, and has been issued a certificate as a wetland scientist
34 by the board.

35 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (2) of
36 this section, it is unlawful for a person to use in connection with the
37 person's name or otherwise assume or advertise the title soil

1 scientist, certified soil scientist, wetland scientist, certified
2 wetland scientist, wetland delineator, or wetland ecologist, or
3 description tending to convey the impression that the person is a soil
4 scientist or wetland scientist unless the person has received the
5 appropriate certification under this chapter.

6 (2) Subsection (1) of this section does not apply to:

7 (a) Officers and employees of the United States practicing soil or
8 wetland science solely as such officers or employees;

9 (b) Persons conducting soil science or wetland science research
10 through academic institutions by agencies of the federal or state
11 governments, nonprofit research institutions, or for-profit
12 organizations, including submission of reports of research to public
13 agencies; and

14 (c) Persons teaching soil science or wetland science or related
15 physical or natural sciences.

16 NEW SECTION. **Sec. 4.** (1) An advisory committee is created to
17 provide recommendations to the board and the director concerning the
18 administration of this chapter. The advisory committee consists of six
19 members appointed by the director. Three members must be conversant
20 with and experienced in the soil science profession and three members
21 must be conversant with and experienced in the wetland science
22 profession. All members must be eligible for certification under this
23 chapter. Subsequent to the initial appointments, all members must be
24 certified under this chapter. Each member of the advisory committee
25 must be a resident of the state.

26 (2) The director shall appoint to the advisory committee
27 individuals from across the state, utilizing geographic and
28 experiential diversity as much as possible. The terms of the members
29 of the advisory committee are a maximum of three years, except that the
30 initial appointees to the advisory committee serve the following terms
31 to be specified by the director: One member for one year, two members
32 for two years, and three members for three years. No member of the
33 advisory committee is eligible for reappointment to a third consecutive
34 term, but any member is eligible for reappointment after an absence of
35 at least one year from the advisory committee. Any member who is
36 reappointed following an absence of at least one year from the advisory

1 committee is eligible for reappointment to a second consecutive term
2 and is again eligible for reappointment after an absence of at least
3 one year from the advisory committee.

4 (3) Members of the advisory committee serve until replaced by a
5 subsequent appointment even if their appointment exceeds the length of
6 their term, but may resign prior to completing the term of appointment.
7 The director may for just cause remove an advisory committee member.
8 The director shall appoint a new member to fill any vacancy on the
9 advisory committee for the remainder of the unexpired term. Members of
10 the advisory committee may not be compensated, but shall be reimbursed
11 for expenses incurred in accordance with RCW 43.03.050 and 43.03.060.
12 Three members constitute a quorum of the committee.

13 (4) At the request of the advisory committee, the director may
14 appoint additional temporary members to the advisory committee for
15 assistance with rule development, examination development, and
16 technical advice on complaints. Temporary members must meet the same
17 minimum qualifications as regular members of the advisory committee.
18 Temporary members have all the powers, duties, and immunities of
19 regular members of the advisory committee and shall be reimbursed for
20 expenses incurred in accordance with RCW 43.03.050 and 43.03.060. The
21 director shall limit the term of temporary members to one year, but may
22 extend the original appointment up to one additional year.

23 NEW SECTION. **Sec. 5.** The advisory committee shall make
24 recommendations to the board regarding:

25 (1) Developing and adopting rules to administer this chapter
26 including, but not limited to, evaluating the experience, scope, and
27 standards of practice of soil science or wetland science;

28 (2) Reviewing complaints and investigations pertaining to this
29 chapter; and

30 (3) Performing other duties deemed necessary by the director or the
31 board.

32 NEW SECTION. **Sec. 6.** The director has the following authority in
33 administering this chapter:

- 34 (1) To adopt fees as provided in RCW 43.24.086; and
- 35 (2) To administer examinations approved by the board.

1 NEW SECTION. **Sec. 7.** (1) To become a certified soil scientist or
2 wetland scientist, an applicant must meet the requirements of this
3 section.

4 (2) An applicant who applies for soil scientist or wetland
5 scientist certification before July 1, 2010, is considered qualified
6 for certification, without further written examination, if the
7 applicant meets the standards described in subsection (3)(a), (b), and
8 (c) of this section.

9 (3) In order to become a certified soil scientist or a certified
10 wetland scientist, an applicant must:

11 (a) Be of good moral and ethical character as attested to by
12 letters of reference submitted by the applicant or as otherwise
13 determined by the board;

14 (b) Have graduated from a course of study in soil science or
15 wetland science satisfactory to the board or satisfy educational
16 equivalents determined by the board;

17 (c) Have a documented record of a minimum of five years of
18 experience obtained after the completion of the academic requirements
19 specified in this section, in soil science or wetland science work of
20 a character satisfactory to the board, demonstrating that the applicant
21 is qualified to assume responsible charge of such work upon
22 certification as a soil scientist or wetland scientist. At least three
23 years of the experience must be gained under the supervision of a soil
24 scientist or wetland scientist credentialed in this or any other state,
25 or under the supervision of others who, in the opinion of the board,
26 are qualified to have responsible charge of soil science or wetland
27 science work;

28 (d) Pass an examination covering the fundamentals and practice of
29 soil science or wetland science prescribed or accepted by the board;
30 and

31 (e) Meet other general requirements established by the board under
32 its authority under this chapter.

33 NEW SECTION. **Sec. 8.** (1) Experience in professional practice as
34 required under section 7(3)(c) of this act, of a character acceptable
35 to the board and acquired prior to July 1, 2010, is acceptable if the
36 experience:

1 (a) Was acquired under the direct supervision of a soil scientist
2 or wetland scientist who meets the educational and experience
3 requirements for certification under this chapter, or who is
4 credentialed in another state that has requirements that are
5 substantially similar to this chapter; or

6 (b) Would constitute responsible charge of professional soil
7 science or wetland science work, as determined by the board;

8 (2) Each year of full-time graduate study in soil science qualifies
9 as one year of professional experience, up to a maximum of two years.
10 The board may accept soil science or wetland science research or
11 teaching of soil science or wetland science at the college or
12 university level as qualifying experience, provided that such research
13 or teaching, in the judgment of the board, is comparable to experience
14 obtained in the practice of soil science or wetland science.

15 NEW SECTION. **Sec. 9.** An application for certification shall be
16 filed with the director on a form provided by the director and must
17 contain statements made under oath demonstrating the applicant's
18 education and practical experience. The director may require any
19 information and documentation that reasonably relates to the need to
20 determine whether the applicant meets the criteria for certification.
21 The application fee for initial certification must be determined by the
22 director as provided in RCW 43.24.086. The application, together with
23 the fee, must be submitted to the department prior to the application
24 deadline established by the director. Fees for initial certification
25 must include the examination and issuance of a certificate. If the
26 director finds an applicant ineligible for certification, the fee is
27 retained as an application fee.

28 NEW SECTION. **Sec. 10.** Examinations of applicants for
29 certification, when required, shall be held at such times and places as
30 determined by the board with the director's approval. The scope of the
31 examination must be directed to an applicant's ability to practice soil
32 science or wetland science. An applicant failing an examination may
33 apply for reexamination. Subsequent examinations will be granted upon
34 payment of a fee to be determined by the director as provided in RCW
35 43.24.086.

1 NEW SECTION. **Sec. 11.** (1) The director shall issue a certificate
2 to any applicant who has satisfactorily met all of the requirements of
3 this chapter for certification as a soil scientist or wetland
4 scientist. The certificate must show the full name of the holder, have
5 a unique certification number, and be signed by the director. The
6 issuance by the director of a certificate to an individual is prima
7 facie evidence that the person is entitled to all the rights and
8 privileges of a certified soil scientist or wetland scientist while the
9 certificate remains unrevoked or unexpired.

10 (2) Each holder must obtain a seal of the design authorized by the
11 director, bearing the holder's name, certification number, and the
12 legend "certified soil scientist" or "certified wetland scientist."
13 Soil science or wetland science reports, plans, and other technical
14 documents prepared by or under the responsible charge of the holder
15 must be signed, dated, and stamped with the seal or facsimile of the
16 seal. Each signature and stamping constitutes a certification by the
17 holder that the document was prepared by or under the holder's
18 responsible charge and that to the holder's knowledge and belief the
19 document was prepared in accordance with the requirements of this
20 chapter.

21 NEW SECTION. **Sec. 12.** The director may, upon application and
22 payment of a fee determined by the director as provided in RCW
23 43.24.086, issue a certificate without further examination to any
24 person who holds valid credentials issued by the proper authority of
25 any state, territory, or possession of the United States, District of
26 Columbia, or any foreign country, if the applicant's qualifications, as
27 evaluated by the board, meet the requirements of this chapter and the
28 rules adopted by the director.

29 NEW SECTION. **Sec. 13.** The board shall require persons certified
30 under this chapter to obtain continuing professional development or
31 continuing education. The board may also require these certificate
32 holders to demonstrate maintenance of knowledge and skills as a
33 condition of certificate renewal, including peer review of work
34 products and periodic reexamination.

1 NEW SECTION. **Sec. 14.** Certificates issued under this chapter
2 shall be renewed periodically on a date to be set by the director in
3 conformance with RCW 43.24.140. A holder who fails to pay the
4 prescribed fee within ninety days after expiration of his or her
5 certificate shall have his or her certificate classified as invalid
6 until the holder pays a renewal fee equal to the current fee plus an
7 amount equal to one year's renewal fee. Any certificate that has been
8 expired for five years or more may be reinstated in conformance with
9 rules adopted by the director. Reinstatement conditions may include
10 demonstration of continued practice or competency in the practice of
11 soil science or wetland science.

12 NEW SECTION. **Sec. 15.** All receipts from fees and fines collected
13 under this chapter must be deposited into the geologists' account
14 created in RCW 18.220.120. Expenditures from the fees and fines
15 collected under this chapter deposited in the account may be used only
16 for the purposes of administering this chapter.

17 NEW SECTION. **Sec. 16.** In addition to the unprofessional conduct
18 described in RCW 18.235.130, the following conduct, acts, and
19 conditions constitute unprofessional conduct:

20 (1) Violating any of the provisions of this chapter or the rules
21 adopted under this chapter;

22 (2) Committing any other act, or failing to act, which act or
23 failure is customarily regarded as being contrary to the accepted
24 professional conduct or standard generally expected of those practicing
25 soil science or wetland science;

26 (3) Failing to comply with the terms and conditions of an order
27 issued by the board;

28 (4) Failing to respond to inquiries from clients or other
29 professionals regarding conflicts with the holder's work, opinions, or
30 procedures, in a manner that would be expected from a prudent
31 practitioner;

32 (5) Modifying another holder's work without notifying that holder
33 and clearly describing the modifications in writing and signing the
34 report describing the modifications. However, this subsection does not
35 apply when the plans, maps, or documents are modified by the owner to

1 reflect changes over time for their own purposes and are not used for
2 submittals or bid documents;

3 (6) Offering or accepting money, goods, or other favors as
4 inducement to receive favorable consideration for a professional
5 assignment or as an inducement to approve, authorize, or influence the
6 granting of a professional assignment;

7 (7) Soliciting or accepting gratuities, directly or indirectly,
8 from contractors, their agents, or other parties dealing with clients
9 or employers in connection with work for which the holder is
10 responsible;

11 (8) Using privileged information coming to the holder in the course
12 of his or her assignments as a means of making personal profit beyond
13 their professional compensation;

14 (9) Requesting, proposing, or accepting professional commissions on
15 a contingent basis under circumstances in which the holder's integrity
16 may be compromised;

17 (10) Willfully attempting to interfere with a board investigation
18 by falsifying records, making false statements, or intimidating or
19 influencing witnesses; or

20 (11) Willfully attempting to suborn another person to violate the
21 law, public policy, or their code of professional ethics.

22 NEW SECTION. **Sec. 17.** The board shall immediately suspend the
23 certificate of a person who has been certified pursuant to RCW
24 74.20A.320 by the department of social and health services as a person
25 who is not in compliance with a child support order. If the person has
26 continued to meet all other requirements for a certificate under this
27 chapter during the suspension, reissuance of the certificate shall be
28 automatic upon the board's receipt of a release issued by the
29 department of social and health services stating that the holder is in
30 compliance with the child support order. The procedure in RCW
31 74.20A.320 is the exclusive administrative remedy for contesting the
32 establishment of noncompliance with a child support order, and
33 suspension of a certificate under this section, and satisfies the
34 requirements of RCW 34.05.422.

35 NEW SECTION. **Sec. 18.** The uniform regulation of business and

1 professions act, chapter 18.235 RCW, governs the issuance and denial of
2 certificates, and the discipline of holders under this chapter.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 18.220
4 RCW to read as follows:

5 The board has the following authority in administering chapter
6 18.-- RCW (sections 1 through 18 of this act):

7 (1) To adopt, amend, and rescind rules as deemed necessary to carry
8 out this chapter;

9 (2) To establish the minimum qualifications for applicants for
10 certification as provided by chapter 18.-- RCW (sections 1 through 18
11 of this act);

12 (3) To approve the method of administration for examinations
13 required by chapter 18.-- RCW (sections 1 through 18 of this act) or by
14 rule, to adopt or recognize examinations prepared by other
15 organizations, and to set the time and place of examinations with the
16 approval of the director; and

17 (4) To adopt standards of professional conduct and practice.

18 **Sec. 20.** RCW 18.235.020 and 2007 c 256 s 12 are each amended to
19 read as follows:

20 (1) This chapter applies only to the director and the boards and
21 commissions having jurisdiction in relation to the businesses and
22 professions licensed under the chapters specified in this section.
23 This chapter does not apply to any business or profession not licensed
24 under the chapters specified in this section.

25 (2)(a) The director has authority under this chapter in relation to
26 the following businesses and professions:

27 (i) Auctioneers under chapter 18.11 RCW;

28 (ii) Bail bond agents and bail bond recovery agents under chapter
29 18.185 RCW;

30 (iii) Camping resorts' operators and salespersons under chapter
31 19.105 RCW;

32 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

33 (v) Cosmetologists, barbers, manicurists, and estheticians under
34 chapter 18.16 RCW;

35 (vi) Court reporters under chapter 18.145 RCW;

1 (vii) Driver training schools and instructors under chapter 46.82
2 RCW;

3 (viii) Employment agencies under chapter 19.31 RCW;

4 (ix) For hire vehicle operators under chapter 46.72 RCW;

5 (x) Limousines under chapter 46.72A RCW;

6 (xi) Notaries public under chapter 42.44 RCW;

7 (xii) Private investigators under chapter 18.165 RCW;

8 (xiii) Professional boxing, martial arts, and wrestling under
9 chapter 67.08 RCW;

10 (xiv) Real estate appraisers under chapter 18.140 RCW;

11 (xv) Real estate brokers and salespersons under chapters 18.85 and
12 18.86 RCW;

13 (xvi) Security guards under chapter 18.170 RCW;

14 (xvii) Sellers of travel under chapter 19.138 RCW;

15 (xviii) Timeshares and timeshare salespersons under chapter 64.36
16 RCW; and

17 (xix) Whitewater river outfitters under chapter 79A.60 RCW.

18 (b) The boards and commissions having authority under this chapter
19 are as follows:

20 (i) The state board of registration for architects established in
21 chapter 18.08 RCW;

22 (ii) The cemetery board established in chapter 68.05 RCW;

23 (iii) The Washington state collection agency board established in
24 chapter 19.16 RCW;

25 (iv) The state board of registration for professional engineers and
26 land surveyors established in chapter 18.43 RCW governing licenses
27 issued under chapters 18.43 and 18.210 RCW;

28 (v) The state board of funeral directors and embalmers established
29 in chapter 18.39 RCW;

30 (vi) The state board of registration for landscape architects
31 established in chapter 18.96 RCW; and

32 (vii) The state geologist licensing board established in chapter
33 18.220 RCW, including with respect to chapter 18.-- RCW (sections 1
34 through 18 of this act).

35 (3) In addition to the authority to discipline license holders, the
36 disciplinary authority may grant or deny licenses based on the
37 conditions and criteria established in this chapter and the chapters
38 specified in subsection (2) of this section. This chapter also governs

1 any investigation, hearing, or proceeding relating to denial of
2 licensure or issuance of a license conditioned on the applicant's
3 compliance with an order entered under RCW 18.235.110 by the
4 disciplinary authority.

5 NEW SECTION. **Sec. 21.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 22.** Sections 1 through 18 of this act
10 constitute a new chapter in Title 18 RCW.

11 NEW SECTION. **Sec. 23.** Sections 1 through 21 of this act take
12 effect January 1, 2010.

13 NEW SECTION. **Sec. 24.** The director of the department of licensing
14 may take the necessary steps to ensure that sections 1 through 21 of
15 this act are implemented on January 1, 2010.

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