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**SUBSTITUTE HOUSE BILL 1283**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Environmental Health (originally sponsored by Representatives Rolfes, Campbell, Kretz, Upthegrove, and Ormsby; by request of Department of Health)

READ FIRST TIME 02/23/09.

1            AN ACT Relating to public water supply system operators; amending  
2            RCW 70.119.020, 70.119.030, 70.119.110, 70.119.130, and 70.119.160; and  
3            adding new sections to chapter 70.119 RCW.

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

5            **Sec. 1.** RCW 70.119.020 and 1999 c 153 s 67 are each amended to  
6            read as follows:

7            ~~((As used))~~ The definitions in this section apply throughout this  
8            chapter unless the context clearly requires ~~((another meaning:))~~  
9            otherwise.

10            (1) "Backflow assembly tester" means a person in charge of  
11            inspecting, testing, maintaining, and repairing backflow assemblies,  
12            devices, and air gaps that protect the public water system.

13            (2) "Certificate" means a certificate of competency issued by the  
14            secretary stating that the operator has met the requirements for the  
15            specified operator classification of the certification program.

16            ~~((+2))~~(3) "Certified operator" means an individual holding a valid  
17            certificate and employed or appointed by any county, water-sewer  
18            district, municipality, public or private corporation, company,

1 institution, person, federal agency, or the state of Washington and who  
2 is designated by the employing or appointing officials as the person  
3 responsible for active daily technical operation.

4 ~~((+3))~~(4) "Cross-connection control specialist" means a person in  
5 charge of developing and implementing cross-connection control  
6 programs.

7 (5) "Department" means the department of health.

8 ~~((+4))~~(6) "Distribution system" means that portion of a public  
9 water system which stores, transmits, pumps and distributes water to  
10 consumers.

11 ~~((+5))~~(7) "Groundwater under the direct influence of surface  
12 water" means any water beneath the surface of the ground with:

13 (a) Significant occurrence of insects or other macroorganisms,  
14 algae, or large diameter pathogens such as giardia lamblia; or

15 (b) Significant and relatively rapid shifts in water  
16 characteristics such as turbidity, temperature, conductivity, or pH  
17 which closely correlate to climatological or surface water conditions.

18 ~~((+6))~~(8) "Group A water system" means a system with fifteen or  
19 more service connections, regardless of the number of people; or a  
20 system serving an average of twenty-five or more people per day for  
21 sixty or more days within a calendar year, regardless of the number of  
22 service connections. ~~((Group A water system does not include a system~~  
23 ~~servicing fewer than fifteen single family residences, regardless of the~~  
24 ~~number of people.~~

25 ~~(+7))~~(9) "Nationally recognized association of certification  
26 authorities" shall mean an organization which serves as an information  
27 center for certification activities, recommends minimum standards and  
28 guidelines for classification of potable water treatment plants, water  
29 distribution systems and waste water facilities and certification of  
30 operators, facilitates reciprocity between state programs and assists  
31 authorities in establishing new certification programs and updating  
32 existing ones.

33 ~~((+8))~~(10) "Operator" includes backflow assembly tester, certified  
34 operator, and cross-connection control specialist as these terms are  
35 defined in this section.

36 (11) "Public water system" means any system, excluding a system  
37 serving only one single-family residence and a system with four or  
38 fewer connections all of which serve residences on the same farm,

1 providing piped water for human consumption, including any collection,  
2 treatment, storage, or distribution facilities under control of the  
3 purveyor and used primarily in connection with the system; and  
4 collection or pretreatment storage facilities not under control of the  
5 purveyor but primarily used in connection with the system.

6 ~~((+9))~~(12) "Purification plant" means that portion of a public  
7 water system which treats or improves the physical, chemical or  
8 bacteriological quality of the system's water to bring the water into  
9 compliance with state board of health standards.

10 ~~((+10))~~(13) "Secretary" means the secretary of the department of  
11 health.

12 ~~((+11))~~(14) "Service" means a connection to a public water system  
13 designed to serve a single-family residence, dwelling unit, or  
14 equivalent use. If the facility has group home or barracks-type  
15 accommodations, three persons will be considered equivalent to one  
16 service.

17 ~~((+12))~~(15) "Surface water" means all water open to the atmosphere  
18 and subject to surface runoff.

19 **Sec. 2.** RCW 70.119.030 and 1997 c 218 s 2 are each amended to read  
20 as follows:

21 (1) A public water system shall have a certified operator if:

- 22 (a) It is a group A water system; or
- 23 (b) It is a public water system using a surface water source or a  
24 groundwater source under the direct influence of surface water.

25 (2) The certified operators shall be in charge of the technical  
26 direction of a water system's operation, or an operating shift of such  
27 a system, or a major segment of a system necessary for monitoring or  
28 improving the quality of water. The operator shall be certified as  
29 provided in RCW 70.119.050.

30 (3) A certified operator may provide required services to more than  
31 one system or to a group of systems. The amount of time that a  
32 certified operator shall be required to be present at any given system  
33 shall be based upon the time required to properly operate and maintain  
34 the public water system as designed and constructed in accordance with  
35 RCW 43.20.050. The employing or appointing officials shall designate  
36 the position or positions requiring mandatory certification within

1 their individual systems and shall assure that such certified operators  
2 are responsible for the system's technical operation.

3 (4) The department shall, in establishing by rule or otherwise the  
4 requirements for public water systems with fewer than one hundred  
5 connections, phase in such requirements in order to assure that (a) an  
6 adequate number of certified operators are available to serve the  
7 additional systems, (b) the systems have adequate notice and time to  
8 plan for securing the services of a certified operator, (c) the  
9 department has the additional data and other administrative capacity,  
10 (d) adequate training is available to certify additional operators as  
11 necessary, and (e) any additional requirements under federal law are  
12 satisfied. The department shall require certified operators for all  
13 group A systems as necessary to conform to federal law or implementing  
14 rules or guidelines. Unless necessary to conform to federal law,  
15 rules, or guidelines, the department shall not require a certified  
16 operator for a system with fewer than one hundred connections unless  
17 that system is determined by the department to be in significant  
18 noncompliance with operational, monitoring, or water quality standards  
19 that would put the public health at risk, as defined by the department  
20 by rule, or has, or is required to have, water treatment facilities  
21 other than simple disinfection.

22 ~~((5) Any examination required by the department as a prerequisite  
23 for the issuance of a certificate under this chapter shall be offered  
24 in each region where the department has a regional office.~~

25 ~~(6) Operators not required to be certified by this chapter are  
26 encouraged to become certified on a voluntary basis.))~~

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.119 RCW  
28 to read as follows:

29 (1) Backflow assembly testers and cross-connection control  
30 specialists must hold a valid certificate and must be certified as  
31 provided by rule as adopted under the authority of RCW 70.119.050.

32 (2) Backflow assembly testers who maintain or repair backflow  
33 assemblies, devices, or air gaps inside a building are subject to  
34 certification under chapter 18.106 RCW.

35 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.119 RCW  
36 to read as follows:

1 (1) Any examination required by the department as a prerequisite  
2 for the issuance of certificate under this chapter must be offered in  
3 both eastern and western Washington.

4 (2) Operators not required to be certified by this chapter are  
5 encouraged to become certified on a voluntary basis.

6 **Sec. 5.** RCW 70.119.110 and 1995 c 269 s 2906 are each amended to  
7 read as follows:

8 The secretary may (~~after conducting a hearing~~) revoke or suspend  
9 a certificate: (1) Found to have been obtained by fraud or deceit;  
10 (~~or~~) (2) for fraud, deceit, or gross negligence (~~in~~) involving the  
11 operation or maintenance of a (~~purification plant or distribution~~  
12 ~~system~~) public water system; (3) for fraud, deceit, or gross  
13 negligence in inspecting, testing, maintenance, or repair of backflow  
14 assemblies, devices, or air gaps intended to protect a public water  
15 system from contamination; or (4) for an intentional violation of the  
16 requirements of this chapter or any lawful rules, order, or regulation  
17 of the department. No person whose certificate is revoked under this  
18 section shall be eligible to apply for a certificate (~~for one year~~  
19 ~~from the effective date of the final order of~~) until the completion of  
20 the revocation period.

21 **Sec. 6.** RCW 70.119.130 and 1991 c 305 s 8 are each amended to read  
22 as follows:

23 Any person, including any operator or any firm, association,  
24 corporation, municipal corporation, or other governmental subdivision  
25 or agency who, after thirty days' written notice, operates a public  
26 water system which is not in compliance with RCW 70.119.030(1), shall  
27 be guilty of a misdemeanor. Each month of such operation out of  
28 compliance with RCW 70.119.030(1) shall constitute a separate offense.  
29 Upon conviction, violators shall be fined an amount not exceeding one  
30 hundred dollars for each offense. It shall be the duty of the  
31 prosecuting attorney or the attorney general, as appropriate, to secure  
32 injunctions of continuing violations of any provisions of this chapter  
33 or the rules and regulations adopted (~~hereunder: PROVIDED, That,~~  
34 ~~except in the case of fraud, deceit, or gross negligence under RCW~~  
35 ~~70.119.110, no revocation, citation or charge shall be made under RCW~~

1 ~~70.119.110 and 70.119.130 until a proper written notice of violation is~~  
2 ~~received and a reasonable opportunity for correction has been given))~~  
3 under this chapter.

4 **Sec. 7.** RCW 70.119.160 and 1993 c 306 s 4 are each amended to read  
5 as follows:

6 The department of health certifies (~~individuals responsible for~~  
7 ~~the active daily technical operation of~~) public water (~~supply~~  
8 ~~systems~~) system operators and monitors public water (~~supply~~) systems  
9 to ensure that such systems comply with the requirements of this  
10 chapter and (~~regulations~~) rules implementing this chapter. The  
11 secretary shall establish a schedule of fees for (~~certified~~) operator  
12 applicants and renewal licenses and a separate schedule of fees for  
13 public water systems to support the waterworks operator certification  
14 program. The fees shall be set at a level sufficient for the  
15 department to recover the costs of the waterworks operator  
16 certification program and in accordance with the procedures established  
17 under RCW 43.70.250.

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