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HOUSE BILL 2589

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State of Washington

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By Representative Green

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1 AN ACT Relating to on-site wastewater treatment systems designer  
2 licensing; amending RCW 18.210.010, 18.210.020, 18.210.030, 18.210.040,  
3 18.210.050, 18.210.080, 18.210.100, 18.210.120, 18.210.140, 18.210.160,  
4 18.210.170, 18.210.180, and 18.210.190; and repealing RCW 18.210.090  
5 and 18.210.210.

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

7 **Sec. 1.** RCW 18.210.010 and 1999 c 263 s 2 are each amended to read  
8 as follows:

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

11 (1) "Advisory committee" means a group of individuals with broad  
12 knowledge and experience in the design, construction, and regulation of  
13 on-site wastewater treatment systems, appointed under this chapter to  
14 offer recommendations to the board and the director on the  
15 administration of the program established under this chapter.

16 (2) "Board" means the board of registration for professional  
17 engineers and land surveyors as defined in chapter 18.43 RCW.

18 (3) "Designer((7))" or "licensee((7))" ((~~or "permit holder"~~)) means

1 an individual authorized under this chapter to perform design services  
2 for on-site wastewater treatment systems.

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

5 (5) "Engineer" means a professional engineer licensed under chapter  
6 18.43 RCW.

7 (6) "Practice of engineering" has the meaning set forth in RCW  
8 18.43.020(5).

9 (7) "On-site wastewater treatment system" means an integrated  
10 system of components that: Convey, store, treat, and/or provide  
11 subsurface soil treatment and disposal of wastewater effluent on the  
12 property where it originates or on adjacent or other property and  
13 includes piping, treatment devices, other accessories, and soil  
14 underlying the disposal component of the initial and reserve areas, for  
15 on-site wastewater treatment under three thousand five hundred gallons  
16 per day when not connected to a public sewer system.

17 (8) "On-site wastewater design" means the development of plans,  
18 details, specifications, instructions, or inspections by application of  
19 specialized knowledge in analysis of soils, on-site wastewater  
20 treatment systems, disposal methods, and technologies to create an  
21 integrated system of collection, transport, distribution, treatment,  
22 and disposal of on-site wastewater.

23 (9) "Local health jurisdiction" or "jurisdictional health  
24 department" means an administrative agency created under chapter 70.05,  
25 70.08, or 70.46 RCW, that administers the regulation and codes  
26 regarding on-site wastewater treatment systems.

27 ~~(10) ("Practice permit" means an authorization to practice granted  
28 to an individual who designs on-site wastewater treatment systems and  
29 who has been authorized by a local health jurisdiction to practice on  
30 or before July 1, 2000.~~

31 ~~(11))~~ "License" means a license to design on-site wastewater  
32 treatment systems under this chapter.

33 ~~((12))~~ (11) "Certificate of competency" or "certificate" means a  
34 certificate issued to employees of local health jurisdictions  
35 indicating that the certificate holder has passed the licensing  
36 examination required under this chapter.

1           **Sec. 2.** RCW 18.210.020 and 2002 c 86 s 256 are each amended to  
2 read as follows:

3           In addition to the unprofessional conduct described in RCW  
4 18.235.130, the following conduct, acts, and conditions constitute  
5 unprofessional conduct:

6           (1) Practicing with a practice permit or license issued under this  
7 chapter that is expired, suspended, or revoked;

8           (2) Being willfully untruthful or deceptive in any document,  
9 report, statement, testimony, or plan that pertains to the design or  
10 construction of an on-site wastewater treatment system; (~~and~~)

11           (3) Submission of a design or as-built record to a local health  
12 jurisdiction, to the department of health, or to the department of  
13 ecology, that is knowingly based upon false, incorrect, misleading, or  
14 fabricated information; and

15           (4) Submission of any application for licensure or certification  
16 that contains false, fraudulent, or misleading information.

17           **Sec. 3.** RCW 18.210.030 and 2002 c 86 s 257 are each amended to  
18 read as follows:

19           The board shall immediately suspend the license (~~or practice~~  
20 ~~permit~~) of a person who has been certified pursuant to RCW 74.20A.320  
21 by the department of social and health services as a person who is not  
22 in compliance with a support order. If the person has continued to  
23 meet all other requirements for a license under this chapter during the  
24 suspension, reissuance of the license or certificate shall be automatic  
25 upon the department's receipt of a release issued by the department of  
26 social and health services stating that the licensee is in compliance  
27 with the child support order. The procedure in RCW 74.20A.320 is the  
28 exclusive administrative remedy for contesting the establishment of  
29 noncompliance with a child support order, and suspension of a license  
30 under this (~~subsection—[section]~~) section, and satisfies the  
31 requirements of RCW 34.05.422.

32           **Sec. 4.** RCW 18.210.040 and 1999 c 263 s 5 are each amended to read  
33 as follows:

34           (1) There is created an advisory committee, which shall provide  
35 recommendations to the board and the director concerning the  
36 implementation of this chapter. The advisory committee shall consist

1 of five members who are conversant with and experienced in the design,  
2 inspection, construction, and/or maintenance of on-site wastewater  
3 treatment systems, and who are otherwise eligible for licensure under  
4 this chapter. Each member of the committee must be a resident of the  
5 state and must have a minimum of seven years of continuous experience  
6 with on-site wastewater treatment systems immediately prior to  
7 appointment.

8 (2) The director shall appoint to the committee individuals from  
9 across the state, thus utilizing geographic and experiential diversity  
10 as much as possible. The terms of the members of the advisory  
11 committee shall be a maximum of three years, except that the initial  
12 appointees to the committee shall serve the following terms: Two  
13 members for two years and three members for three years. No member of  
14 the advisory committee is eligible for reappointment to a third  
15 consecutive term, but any member is eligible for reappointment after an  
16 absence of at least one year from the committee. Any member who is  
17 reappointed following an absence of at least one year from the  
18 committee is eligible for reappointment to a second consecutive term  
19 and is again eligible for reappointment after an absence of at least  
20 one year from the committee.

21 (3) Members of the advisory committee shall serve until replaced by  
22 a subsequent appointment, but may resign prior to completing the term  
23 of appointment. The director may for just cause remove a committee  
24 member. The director shall appoint a new member to fill any vacancy on  
25 the advisory committee for the remainder of the unexpired term.  
26 Members of the advisory committee shall not be compensated, but shall  
27 be reimbursed for expenses incurred in accordance with RCW 43.03.050  
28 and 43.03.060. Three members (~~constitutes~~ ~~constitute~~) constitute  
29 a quorum.

30 (4) At the request of the (~~advisory committee~~) board, the  
31 director may appoint temporary additional members to the advisory  
32 committee for assistance with rule development, examination  
33 development, and technical advice on complaints. Members temporarily  
34 appointed must meet the same minimum qualifications as regular members  
35 of the advisory committee. Temporary members have all the powers,  
36 duties, and immunities of regular members of the advisory committee and  
37 shall be reimbursed for expenses incurred in accordance with RCW

1 43.03.050 and 43.03.060. The director shall limit the term of  
2 temporary members to one year, but may for just cause extend the  
3 original appointment up to one additional year.

4 **Sec. 5.** RCW 18.210.050 and 1999 c 263 s 6 are each amended to read  
5 as follows:

6 The director may:

7 (1) Appoint and reappoint members to the advisory committee,  
8 including temporary additional members, and remove committee members  
9 for just cause;

10 (2) Employ administrative, clerical, and investigative staff as  
11 necessary to administer and enforce this chapter;

12 (3) Establish fees for applications, examinations, and renewals in  
13 accordance with chapter 43.24 RCW;

14 (4) Issue (~~(practice permits and)~~) licenses to applicants who meet  
15 the requirements of this chapter; and

16 (5) Exercise rule-making authority to implement this section.

17 **Sec. 6.** RCW 18.210.080 and 1999 c 263 s 9 are each amended to read  
18 as follows:

19 The director, members of the board, and individuals acting on  
20 behalf of the director or the board are immune to liability in any  
21 civil action or criminal case based on any acts performed in the course  
22 of their duties under this chapter, except for acts displaying  
23 intentional or willful misconduct.

24 **Sec. 7.** RCW 18.210.100 and 1999 c 263 s 11 are each amended to  
25 read as follows:

26 All applicants for licensure under this chapter, except as provided  
27 in RCW 18.210.180, must pass a written examination administered by the  
28 board and must also meet the following minimum requirements:

29 (1) A high school diploma or equivalent; and

30 (2) A minimum of four years of experience, as approved by the  
31 board, showing increased responsibility for the design of on-site  
32 wastewater treatment systems. The experience (~~(must)~~) should  
33 include(~~(, but is not limited to,)~~) site soil assessment, hydraulics,  
34 topographic delineations, use of specialized treatment processes and  
35 devices, microbiology, and construction practices. Completion of (~~two~~

1 ~~years of~~) satisfactory college level course work (~~in subjects dealing~~  
2 ~~with, but not limited to, soils, hydraulics, topographic delineations,~~  
3 ~~construction practices, and/or microbiology or completion of a two-year~~  
4 ~~curriculum in on-site treatment systems, technology, and applications,~~  
5 ~~as approved by the board,~~) or successful participation in a board-  
6 approved internship or mentoring program may be substituted for up to  
7 two years of the experience requirement.

8 **Sec. 8.** RCW 18.210.120 and 1999 c 263 s 13 are each amended to  
9 read as follows:

10 (1) Application for licensure must be on forms prescribed by the  
11 board and furnished by the director. The application must contain  
12 statements, made under oath, demonstrating the applicant's education  
13 and work experience.

14 (2) Applicants shall provide not less than two verifications of  
15 experience (~~from~~). Verifications of experience may be provided by  
16 licensed professional engineers, licensed on-site wastewater treatment  
17 system designers (~~licensed under this chapter~~), or state/local  
18 regulatory officials in the on-site wastewater treatment field who have  
19 direct knowledge of the applicant's qualifications to practice in  
20 accordance with this chapter and who can verify the applicant's work  
21 experience.

22 (3) The director, as provided in RCW 43.24.086, shall determine an  
23 application fee for licensure as an on-site wastewater treatment system  
24 designer. A nonrefundable application fee must accompany the  
25 application. The director shall ensure that the application fee  
26 includes the cost of the examination and the cost issuance of a license  
27 and certificate. A candidate who fails an examination may apply for  
28 reexamination. The director shall determine the fee for reexamination.

29 **Sec. 9.** RCW 18.210.140 and 1999 c 263 s 15 are each amended to  
30 read as follows:

31 (1) (~~Practice permits and~~) Licenses and certificates issued under  
32 this chapter are valid for (~~one year~~) a period of time as determined  
33 by the director and may be renewed under the conditions described in  
34 this chapter. An expired (~~practice permit or~~) license or certificate  
35 is invalid and must be renewed (~~before lawful practice can resume~~).  
36 Any (~~permit holder or~~) licensee or certificate holder who fails to

1 pay the renewal fee within ninety days following the date of expiration  
2 shall be assessed a penalty fee as determined by the director and must  
3 pay the penalty fee and the base renewal fee before the ((~~practice~~  
4 ~~permit or~~)) license or certificate may be ((~~returned to a valid~~  
5 ~~status~~)) renewed.

6 (2) Any license ((~~or practice permit~~)) issued under this chapter  
7 that is not renewed within two years of its date of expiration must be  
8 canceled. Following cancellation, a person seeking to renew must  
9 reapply as a new applicant under this chapter.

10 (3) ((~~The director, in conformance with RCW 43.24.140, may modify~~  
11 ~~the duration of the license.~~)) The director, as provided in RCW  
12 43.24.086, shall determine the fee for applications and for renewals of  
13 ((~~practice permits and~~)) licenses and certificates issued under this  
14 chapter. For determining renewal fees, the pool of licensees and  
15 certificate holders under this chapter must be combined with the  
16 licensees established in chapter 18.43 RCW.

17 **Sec. 10.** RCW 18.210.160 and 2002 c 86 s 259 are each amended to  
18 read as follows:

19 On or after July 1, 2003, it is a gross misdemeanor for any person,  
20 not otherwise exempt from the requirements of this chapter, to: (1)  
21 Perform on-site wastewater treatment systems design services without a  
22 license; (2) purport to be qualified to perform those services without  
23 having been issued a ((~~standard~~)) license under this chapter; (3)  
24 attempt to use the license or seal of another; (4) attempt to use a  
25 revoked or suspended license; or (5) attempt to use false or fraudulent  
26 credentials. In addition, action may be taken under RCW 18.235.150.

27 **Sec. 11.** RCW 18.210.170 and 1999 c 263 s 18 are each amended to  
28 read as follows:

29 The board shall require licensees ((~~and holders of certificates of~~  
30 ~~competency~~)) under this chapter to ((~~obtain~~)) maintain continuing  
31 professional development ((~~or continuing education~~)). The board may  
32 ((~~also~~)) require these licensees ((~~and certificate holders~~)) to  
33 demonstrate maintenance of knowledge and skills as a condition of  
34 license ((~~or certificate~~)) renewal, including peer review of work  
35 products and periodic reexamination.

1       **Sec. 12.** RCW 18.210.180 and 1999 c 263 s 19 are each amended to  
2 read as follows:

3       Any person holding a license issued by a jurisdiction outside the  
4 state of Washington authorizing that person to perform design services  
5 for ~~((the construction))~~ site soil assessment, hydraulics, topographic  
6 delineations, use of specialized treatment processes and devices,  
7 microbiology, and construction practices of on-site wastewater  
8 treatment systems may be granted a license without examination under  
9 this chapter, if:

10       (1) The education, experience, and/or examination forming the basis  
11 of the license is determined by the board to be equal to or greater  
12 than the conditions for the issuance of a license under this chapter;  
13 and

14       (2) The individual has paid the applicable fee and has submitted  
15 the necessary application form.

16       **Sec. 13.** RCW 18.210.190 and 1999 c 263 s 20 are each amended to  
17 read as follows:

18       (1) Employees of local health jurisdictions who review, inspect, or  
19 approve the design and construction of on-site wastewater treatment  
20 systems shall obtain a certificate of competency by obtaining a passing  
21 score on the written examination administered for licensure under this  
22 chapter. Eligibility to apply for the certificate of competency is  
23 based upon a written request from the local health director or designee  
24 and payment of a fee established by the director. ~~((Applications for~~  
25 ~~a certificate of competency may not be accepted until on or after July~~  
26 ~~1, 2000.))~~ The certificate of competency is renewable upon payment of  
27 a fee established by the director. Certificate holders are also  
28 subject to the requirements of RCW 18.210.140(1).

29       (2) Issuance of the certificate of competency does not authorize  
30 the certificate holder to offer or provide on-site wastewater treatment  
31 system design services. However, nothing in this chapter limits or  
32 affects the ability of local health jurisdictions to perform on-site  
33 design services under their authority in chapter 70.05 RCW.

34       (3) Local health jurisdictions and the state department of health  
35 retain authority to:

36       (a) Administer local regulations and codes for approval or  
37 disapproval of designs for on-site wastewater treatment systems;



- 1        (b) Issue permits for construction;  
2        (c) Evaluate soils and site conditions for compliance with code  
3 requirements; and  
4        (d) Perform on-site wastewater treatment design work as authorized  
5 in state local board of health rules.

6        NEW SECTION.    **Sec. 14.**    The following acts or parts of acts are  
7 each repealed:

8        (1) RCW 18.210.090 (Practice permits--License) and 1999 c 263 s 10;  
9 and

10       (2) RCW 18.210.210 (Chapter evaluation--Financial assurance) and  
11 1999 c 263 s 23.

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