
SENATE BILL 5122

State of Washington 61st Legislature 2009 Regular Session

By Senators Kline and Kohl-Welles; by request of Statute Law Committee

Read first time 01/14/09. Referred to Committee on Judiciary.

1 AN ACT Relating to technical corrections to the Revised Code of
2 Washington; reenacting and amending RCW 13.40.210 and 79A.55.020; and
3 reenacting RCW 43.185.070, 43.185A.030, 46.09.170, 49.60.040,
4 66.20.310, and 70.105D.070.

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

6 **Sec. 1.** RCW 13.40.210 and 2007 c 203 s 1 and 2007 c 199 s 13 are
7 each reenacted and amended to read as follows:

8 (1) The secretary shall set a release date for each juvenile
9 committed to its custody. The release date shall be within the
10 prescribed range to which a juvenile has been committed under RCW
11 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
12 offenders the department determines are eligible for the juvenile
13 offender basic training camp program. Such dates shall be determined
14 prior to the expiration of sixty percent of a juvenile's minimum term
15 of confinement included within the prescribed range to which the
16 juvenile has been committed. The secretary shall release any juvenile
17 committed to the custody of the department within four calendar days
18 prior to the juvenile's release date or on the release date set under
19 this chapter. Days spent in the custody of the department shall be

1 tolled by any period of time during which a juvenile has absented
2 himself or herself from the department's supervision without the prior
3 approval of the secretary or the secretary's designee.

4 (2) The secretary shall monitor the average daily population of the
5 state's juvenile residential facilities. When the secretary concludes
6 that in-residence population of residential facilities exceeds one
7 hundred five percent of the rated bed capacity specified in statute, or
8 in absence of such specification, as specified by the department in
9 rule, the secretary may recommend reductions to the governor. On
10 certification by the governor that the recommended reductions are
11 necessary, the secretary has authority to administratively release a
12 sufficient number of offenders to reduce in-residence population to one
13 hundred percent of rated bed capacity. The secretary shall release
14 those offenders who have served the greatest proportion of their
15 sentence. However, the secretary may deny release in a particular case
16 at the request of an offender, or if the secretary finds that there is
17 no responsible custodian, as determined by the department, to whom to
18 release the offender, or if the release of the offender would pose a
19 clear danger to society. The department shall notify the committing
20 court of the release at the time of release if any such early releases
21 have occurred as a result of excessive in-residence population. In no
22 event shall an offender adjudicated of a violent offense be granted
23 release under the provisions of this subsection.

24 (3)(a) Following the release of any juvenile under subsection (1)
25 of this section, the secretary may require the juvenile to comply with
26 a program of parole to be administered by the department in his or her
27 community which shall last no longer than eighteen months, except that
28 in the case of a juvenile sentenced for rape in the first or second
29 degree, rape of a child in the first or second degree, child
30 molestation in the first degree, or indecent liberties with forcible
31 compulsion, the period of parole shall be twenty-four months and, in
32 the discretion of the secretary, may be up to thirty-six months when
33 the secretary finds that an additional period of parole is necessary
34 and appropriate in the interests of public safety or to meet the
35 ongoing needs of the juvenile. A parole program is mandatory for
36 offenders released under subsection (2) of this section and for
37 offenders who receive a juvenile residential commitment sentence of
38 theft of a motor vehicle ((±)), possession of a stolen motor vehicle,

1 or taking a motor vehicle without permission 1. The decision to place
2 an offender on parole shall be based on an assessment by the department
3 of the offender's risk for reoffending upon release. The department
4 shall prioritize available parole resources to provide supervision and
5 services to offenders at moderate to high risk for reoffending.

6 (b) The secretary shall, for the period of parole, facilitate the
7 juvenile's reintegration into his or her community and to further this
8 goal shall require the juvenile to refrain from possessing a firearm or
9 using a deadly weapon and refrain from committing new offenses and may
10 require the juvenile to: (i) Undergo available medical, psychiatric,
11 drug and alcohol, sex offender, mental health, and other offense-
12 related treatment services; (ii) report as directed to a parole officer
13 and/or designee; (iii) pursue a course of study, vocational training,
14 or employment; (iv) notify the parole officer of the current address
15 where he or she resides; (v) be present at a particular address during
16 specified hours; (vi) remain within prescribed geographical boundaries;
17 (vii) submit to electronic monitoring; (viii) refrain from using
18 illegal drugs and alcohol, and submit to random urinalysis when
19 requested by the assigned parole officer; (ix) refrain from contact
20 with specific individuals or a specified class of individuals; (x) meet
21 other conditions determined by the parole officer to further enhance
22 the juvenile's reintegration into the community; (xi) pay any court-
23 ordered fines or restitution; and (xii) perform community restitution.
24 Community restitution for the purpose of this section means compulsory
25 service, without compensation, performed for the benefit of the
26 community by the offender. Community restitution may be performed
27 through public or private organizations or through work crews.

28 (c) The secretary may further require up to twenty-five percent of
29 the highest risk juvenile offenders who are placed on parole to
30 participate in an intensive supervision program. Offenders
31 participating in an intensive supervision program shall be required to
32 comply with all terms and conditions listed in (b) of this subsection
33 and shall also be required to comply with the following additional
34 terms and conditions: (i) Obey all laws and refrain from any conduct
35 that threatens public safety; (ii) report at least once a week to an
36 assigned community case manager; and (iii) meet all other requirements
37 imposed by the community case manager related to participating in the

1 intensive supervision program. As a part of the intensive supervision
2 program, the secretary may require day reporting.

3 (d) After termination of the parole period, the juvenile shall be
4 discharged from the department's supervision.

5 (4)(a) The department may also modify parole for violation thereof.
6 If, after affording a juvenile all of the due process rights to which
7 he or she would be entitled if the juvenile were an adult, the
8 secretary finds that a juvenile has violated a condition of his or her
9 parole, the secretary shall order one of the following which is
10 reasonably likely to effectuate the purpose of the parole and to
11 protect the public: (i) Continued supervision under the same
12 conditions previously imposed; (ii) intensified supervision with
13 increased reporting requirements; (iii) additional conditions of
14 supervision authorized by this chapter; (iv) except as provided in
15 (a)(v) and (vi) of this subsection, imposition of a period of
16 confinement not to exceed thirty days in a facility operated by or
17 pursuant to a contract with the state of Washington or any city or
18 county for a portion of each day or for a certain number of days each
19 week with the balance of the days or weeks spent under supervision; (v)
20 the secretary may order any of the conditions or may return the
21 offender to confinement for the remainder of the sentence range if the
22 offense for which the offender was sentenced is rape in the first or
23 second degree, rape of a child in the first or second degree, child
24 molestation in the first degree, indecent liberties with forcible
25 compulsion, or a sex offense that is also a serious violent offense as
26 defined by RCW 9.94A.030; and (vi) the secretary may order any of the
27 conditions or may return the offender to confinement for the remainder
28 of the sentence range if the youth has completed the basic training
29 camp program as described in RCW 13.40.320.

30 (b) The secretary may modify parole and order any of the conditions
31 or may return the offender to confinement for up to twenty-four weeks
32 if the offender was sentenced for a sex offense as defined under RCW
33 9A.44.130 and is known to have violated the terms of parole.
34 Confinement beyond thirty days is intended to only be used for a small
35 and limited number of sex offenders. It shall only be used when other
36 graduated sanctions or interventions have not been effective or the
37 behavior is so egregious it warrants the use of the higher level
38 intervention and the violation: (i) Is a known pattern of behavior

1 consistent with a previous sex offense that puts the youth at high risk
2 for reoffending sexually; (ii) consists of sexual behavior that is
3 determined to be predatory as defined in RCW 71.09.020; or (iii)
4 requires a review under chapter 71.09 RCW, due to a recent overt act.
5 The total number of days of confinement for violations of parole
6 conditions during the parole period shall not exceed the number of days
7 provided by the maximum sentence imposed by the disposition for the
8 underlying offense pursuant to RCW 13.40.0357. The department shall
9 not aggregate multiple parole violations that occur prior to the parole
10 revocation hearing and impose consecutive twenty-four week periods of
11 confinement for each parole violation. The department is authorized to
12 engage in rule making pursuant to chapter 34.05 RCW, to implement this
13 subsection, including narrowly defining the behaviors that could lead
14 to this higher level intervention.

15 (c) If the department finds that any juvenile in a program of
16 parole has possessed a firearm or used a deadly weapon during the
17 program of parole, the department shall modify the parole under (a) of
18 this subsection and confine the juvenile for at least thirty days.
19 Confinement shall be in a facility operated by or pursuant to a
20 contract with the state or any county.

21 (5) A parole officer of the department of social and health
22 services shall have the power to arrest a juvenile under his or her
23 supervision on the same grounds as a law enforcement officer would be
24 authorized to arrest the person.

25 (6) If so requested and approved under chapter 13.06 RCW, the
26 secretary shall permit a county or group of counties to perform
27 functions under subsections (3) through (5) of this section.

28 **Sec. 2.** RCW 43.185.070 and 2005 c 518 s 1802 and 2005 c 219 s 2
29 are each reenacted to read as follows:

30 (1) During each calendar year in which funds from the housing trust
31 fund or other legislative appropriations are available for use by the
32 department for the housing assistance program, the department shall
33 announce to all known interested parties, and through major media
34 throughout the state, a grant and loan application period of at least
35 ninety days' duration. This announcement shall be made as often as the
36 director deems appropriate for proper utilization of resources. The
37 department shall then promptly grant as many applications as will

1 utilize available funds less appropriate administrative costs of the
2 department. Administrative costs paid out of the housing trust fund
3 may not exceed five percent of annual revenues available for
4 distribution to housing trust fund projects. In awarding funds under
5 this chapter, the department shall provide for a geographic
6 distribution on a statewide basis.

7 (2) The department shall give first priority to applications for
8 projects and activities which utilize existing privately owned housing
9 stock including privately owned housing stock purchased by nonprofit
10 public development authorities and public housing authorities as
11 created in chapter 35.82 RCW. As used in this subsection, privately
12 owned housing stock includes housing that is acquired by a federal
13 agency through a default on the mortgage by the private owner. Such
14 projects and activities shall be evaluated under subsection (3) of this
15 section. Second priority shall be given to activities and projects
16 which utilize existing publicly owned housing stock. All projects and
17 activities shall be evaluated by some or all of the criteria under
18 subsection (3) of this section, and similar projects and activities
19 shall be evaluated under the same criteria.

20 (3) The department shall give preference for applications based on
21 some or all of the criteria under this subsection, and similar projects
22 and activities shall be evaluated under the same criteria:

23 (a) The degree of leveraging of other funds that will occur;

24 (b) The degree of commitment from programs to provide necessary
25 habilitation and support services for projects focusing on special
26 needs populations;

27 (c) Recipient contributions to total project costs, including
28 allied contributions from other sources such as professional, craft and
29 trade services, and lender interest rate subsidies;

30 (d) Local government project contributions in the form of
31 infrastructure improvements, and others;

32 (e) Projects that encourage ownership, management, and other
33 project-related responsibility opportunities;

34 (f) Projects that demonstrate a strong probability of serving the
35 original target group or income level for a period of at least twenty-
36 five years;

37 (g) The applicant has the demonstrated ability, stability and
38 resources to implement the project;

- 1 (h) Projects which demonstrate serving the greatest need;
- 2 (i) Projects that provide housing for persons and families with the
3 lowest incomes;
- 4 (j) Projects serving special needs populations which are under
5 statutory mandate to develop community housing;
- 6 (k) Project location and access to employment centers in the region
7 or area;
- 8 (l) Projects that provide employment and training opportunities for
9 disadvantaged youth under a youthbuild or youthbuild-type program as
10 defined in RCW 50.72.020; and
- 11 (m) Project location and access to available public transportation
12 services.
- 13 (4) The department shall only approve applications for projects for
14 mentally ill persons that are consistent with a regional support
15 network six-year capital and operating plan.

16 **Sec. 3.** RCW 43.185A.030 and 2005 c 518 s 1803 and 2005 c 219 s 3
17 are each reenacted to read as follows:

18 (1) Using moneys specifically appropriated for such purpose, the
19 department shall finance in whole or in part projects that will provide
20 housing for low-income households.

21 (2) Activities eligible for assistance include, but are not limited
22 to:

23 (a) New construction, rehabilitation, or acquisition of housing for
24 low-income households;

25 (b) Rent subsidies in new construction or rehabilitated multifamily
26 units;

27 (c) Down payment or closing costs assistance for first-time home
28 buyers;

29 (d) Mortgage subsidies for new construction or rehabilitation of
30 eligible multifamily units; and

31 (e) Mortgage insurance guarantee or payments for eligible projects.

32 (3) Legislative appropriations from capital bond proceeds may be
33 used only for the costs of projects authorized under subsection (2)
34 (a), (c), (d), and (e) of this section, and not for the administrative
35 costs of the department.

36 (4) Moneys from repayment of loans from appropriations from capital

1 bond proceeds may be used for all activities necessary for the proper
2 functioning of the affordable housing program except for activities
3 authorized under subsection (2)(b) of this section.

4 (5) Administrative costs of the department shall not exceed five
5 percent of the annual funds available for the affordable housing
6 program.

7 **Sec. 4.** RCW 46.09.170 and 2007 c 522 s 953 and 2007 c 241 s 16 are
8 each reenacted to read as follows:

9 (1) From time to time, but at least once each year, the state
10 treasurer shall refund from the motor vehicle fund one percent of the
11 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
12 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
13 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
14 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
15 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
16 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
17 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
18 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
19 and thereafter, less proper deductions for refunds and costs of
20 collection as provided in RCW 46.68.090.

21 (2) The treasurer shall place these funds in the general fund as
22 follows:

23 (a) Thirty-six percent shall be credited to the ORV and nonhighway
24 vehicle account and administered by the department of natural resources
25 solely for acquisition, planning, development, maintenance, and
26 management of ORV, nonmotorized, and nonhighway road recreation
27 facilities, and information programs and maintenance of nonhighway
28 roads;

29 (b) Three and one-half percent shall be credited to the ORV and
30 nonhighway vehicle account and administered by the department of fish
31 and wildlife solely for the acquisition, planning, development,
32 maintenance, and management of ORV, nonmotorized, and nonhighway road
33 recreation facilities and the maintenance of nonhighway roads;

34 (c) Two percent shall be credited to the ORV and nonhighway vehicle
35 account and administered by the parks and recreation commission solely
36 for the acquisition, planning, development, maintenance, and management
37 of ORV, nonmotorized, and nonhighway road recreation facilities; and

1 (d) Fifty-eight and one-half percent shall be credited to the
2 nonhighway and off-road vehicle activities program account to be
3 administered by the board for planning, acquisition, development,
4 maintenance, and management of ORV, nonmotorized, and nonhighway road
5 recreation facilities and for education, information, and law
6 enforcement programs. The funds under this subsection shall be
7 expended in accordance with the following limitations:

8 (i) Not more than thirty percent may be expended for education,
9 information, and law enforcement programs under this chapter;

10 (ii) Not less than seventy percent may be expended for ORV,
11 nonmotorized, and nonhighway road recreation facilities. Except as
12 provided in (d)(iii) of this subsection, of this amount:

13 (A) Not less than thirty percent, together with the funds the board
14 receives under RCW 46.09.110, may be expended for ORV recreation
15 facilities;

16 (B) Not less than thirty percent may be expended for nonmotorized
17 recreation facilities. Funds expended under this subsection
18 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
19 facilities funds; and

20 (C) Not less than thirty percent may be expended for nonhighway
21 road recreation facilities;

22 (iii) The board may waive the minimum percentage cited in (d)(ii)
23 of this subsection due to insufficient requests for funds or projects
24 that score low in the board's project evaluation. Funds remaining
25 after such a waiver must be allocated in accordance with board policy.

26 (3) On a yearly basis an agency may not, except as provided in RCW
27 46.09.110, expend more than ten percent of the funds it receives under
28 this chapter for general administration expenses incurred in carrying
29 out this chapter.

30 (4) During the 2007-09 fiscal biennium, the legislature may
31 appropriate such amounts as reflect the excess fund balance in the NOVA
32 account to the department of natural resources for planning and
33 designing consistent off-road vehicle signage at department-managed
34 recreation sites, and for planning recreation opportunities on
35 department-managed lands in the Reiter block and Ahtanum state forest.
36 This appropriation is not required to follow the specific distribution
37 specified in subsection (2) of this section.

1 **Sec. 5.** RCW 49.60.040 and 2007 c 317 s 2 and 2007 c 187 s 4 are
2 each reenacted to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Person" includes one or more individuals, partnerships,
6 associations, organizations, corporations, cooperatives, legal
7 representatives, trustees and receivers, or any group of persons; it
8 includes any owner, lessee, proprietor, manager, agent, or employee,
9 whether one or more natural persons; and further includes any political
10 or civil subdivisions of the state and any agency or instrumentality of
11 the state or of any political or civil subdivision thereof.

12 (2) "Commission" means the Washington state human rights
13 commission.

14 (3) "Employer" includes any person acting in the interest of an
15 employer, directly or indirectly, who employs eight or more persons,
16 and does not include any religious or sectarian organization not
17 organized for private profit.

18 (4) "Employee" does not include any individual employed by his or
19 her parents, spouse, or child, or in the domestic service of any
20 person.

21 (5) "Labor organization" includes any organization which exists for
22 the purpose, in whole or in part, of dealing with employers concerning
23 grievances or terms or conditions of employment, or for other mutual
24 aid or protection in connection with employment.

25 (6) "Employment agency" includes any person undertaking with or
26 without compensation to recruit, procure, refer, or place employees for
27 an employer.

28 (7) "Marital status" means the legal status of being married,
29 single, separated, divorced, or widowed.

30 (8) "National origin" includes "ancestry".

31 (9) "Full enjoyment of" includes the right to purchase any service,
32 commodity, or article of personal property offered or sold on, or by,
33 any establishment to the public, and the admission of any person to
34 accommodations, advantages, facilities, or privileges of any place of
35 public resort, accommodation, assemblage, or amusement, without acts
36 directly or indirectly causing persons of any particular race, creed,
37 color, sex, sexual orientation, national origin, or with any sensory,

1 mental, or physical disability, or the use of a trained dog guide or
2 service animal by a person with a disability, to be treated as not
3 welcome, accepted, desired, or solicited.

4 (10) "Any place of public resort, accommodation, assemblage, or
5 amusement" includes, but is not limited to, any place, licensed or
6 unlicensed, kept for gain, hire, or reward, or where charges are made
7 for admission, service, occupancy, or use of any property or
8 facilities, whether conducted for the entertainment, housing, or
9 lodging of transient guests, or for the benefit, use, or accommodation
10 of those seeking health, recreation, or rest, or for the burial or
11 other disposition of human remains, or for the sale of goods,
12 merchandise, services, or personal property, or for the rendering of
13 personal services, or for public conveyance or transportation on land,
14 water, or in the air, including the stations and terminals thereof and
15 the garaging of vehicles, or where food or beverages of any kind are
16 sold for consumption on the premises, or where public amusement,
17 entertainment, sports, or recreation of any kind is offered with or
18 without charge, or where medical service or care is made available, or
19 where the public gathers, congregates, or assembles for amusement,
20 recreation, or public purposes, or public halls, public elevators, and
21 public washrooms of buildings and structures occupied by two or more
22 tenants, or by the owner and one or more tenants, or any public library
23 or educational institution, or schools of special instruction, or
24 nursery schools, or day care centers or children's camps: PROVIDED,
25 That nothing contained in this definition shall be construed to include
26 or apply to any institute, bona fide club, or place of accommodation,
27 which is by its nature distinctly private, including fraternal
28 organizations, though where public use is permitted that use shall be
29 covered by this chapter; nor shall anything contained in this
30 definition apply to any educational facility, columbarium, crematory,
31 mausoleum, or cemetery operated or maintained by a bona fide religious
32 or sectarian institution.

33 (11) "Real property" includes buildings, structures, dwellings,
34 real estate, lands, tenements, leaseholds, interests in real estate
35 cooperatives, condominiums, and hereditaments, corporeal and
36 incorporeal, or any interest therein.

37 (12) "Real estate transaction" includes the sale, appraisal,

1 brokering, exchange, purchase, rental, or lease of real property,
2 transacting or applying for a real estate loan, or the provision of
3 brokerage services.

4 (13) "Dwelling" means any building, structure, or portion thereof
5 that is occupied as, or designed or intended for occupancy as, a
6 residence by one or more families, and any vacant land that is offered
7 for sale or lease for the construction or location thereon of any such
8 building, structure, or portion thereof.

9 (14) "Sex" means gender.

10 (15) "Sexual orientation" means heterosexuality, homosexuality,
11 bisexuality, and gender expression or identity. As used in this
12 definition, "gender expression or identity" means having or being
13 perceived as having a gender identity, self-image, appearance,
14 behavior, or expression, whether or not that gender identity, self-
15 image, appearance, behavior, or expression is different from that
16 traditionally associated with the sex assigned to that person at birth.

17 (16) "Aggrieved person" means any person who: (a) Claims to have
18 been injured by an unfair practice in a real estate transaction; or (b)
19 believes that he or she will be injured by an unfair practice in a real
20 estate transaction that is about to occur.

21 (17) "Complainant" means the person who files a complaint in a real
22 estate transaction.

23 (18) "Respondent" means any person accused in a complaint or
24 amended complaint of an unfair practice in a real estate transaction.

25 (19) "Credit transaction" includes any open or closed end credit
26 transaction, whether in the nature of a loan, retail installment
27 transaction, credit card issue or charge, or otherwise, and whether for
28 personal or for business purposes, in which a service, finance, or
29 interest charge is imposed, or which provides for repayment in
30 scheduled payments, when such credit is extended in the regular course
31 of any trade or commerce, including but not limited to transactions by
32 banks, savings and loan associations or other financial lending
33 institutions of whatever nature, stock brokers, or by a merchant or
34 mercantile establishment which as part of its ordinary business permits
35 or provides that payment for purchases of property or service therefrom
36 may be deferred.

37 (20) "Families with children status" means one or more individuals
38 who have not attained the age of eighteen years being domiciled with a

1 parent or another person having legal custody of such individual or
2 individuals, or with the designee of such parent or other person having
3 such legal custody, with the written permission of such parent or other
4 person. Families with children status also applies to any person who
5 is pregnant or is in the process of securing legal custody of any
6 individual who has not attained the age of eighteen years.

7 (21) "Covered multifamily dwelling" means: (a) Buildings
8 consisting of four or more dwelling units if such buildings have one or
9 more elevators; and (b) ground floor dwelling units in other buildings
10 consisting of four or more dwelling units.

11 (22) "Premises" means the interior or exterior spaces, parts,
12 components, or elements of a building, including individual dwelling
13 units and the public and common use areas of a building.

14 (23) "Dog guide" means a dog that is trained for the purpose of
15 guiding blind persons or a dog that is trained for the purpose of
16 assisting hearing impaired persons.

17 (24) "Service animal" means an animal that is trained for the
18 purpose of assisting or accommodating a sensory, mental, or physical
19 disability of a person with a disability.

20 (25)(a) "Disability" means the presence of a sensory, mental, or
21 physical impairment that:

22 (i) Is medically cognizable or diagnosable; or

23 (ii) Exists as a record or history; or

24 (iii) Is perceived to exist whether or not it exists in fact.

25 (b) A disability exists whether it is temporary or permanent,
26 common or uncommon, mitigated or unmitigated, or whether or not it
27 limits the ability to work generally or work at a particular job or
28 whether or not it limits any other activity within the scope of this
29 chapter.

30 (c) For purposes of this definition, "impairment" includes, but is
31 not limited to:

32 (i) Any physiological disorder, or condition, cosmetic
33 disfigurement, or anatomical loss affecting one or more of the
34 following body systems: Neurological, musculoskeletal, special sense
35 organs, respiratory, including speech organs, cardiovascular,
36 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,
37 and endocrine; or

1 (ii) Any mental, developmental, traumatic, or psychological
2 disorder, including but not limited to cognitive limitation, organic
3 brain syndrome, emotional or mental illness, and specific learning
4 disabilities.

5 (d) Only for the purposes of qualifying for reasonable
6 accommodation in employment, an impairment must be known or shown
7 through an interactive process to exist in fact and:

8 (i) The impairment must have a substantially limiting effect upon
9 the individual's ability to perform his or her job, the individual's
10 ability to apply or be considered for a job, or the individual's access
11 to equal benefits, privileges, or terms or conditions of employment; or

12 (ii) The employee must have put the employer on notice of the
13 existence of an impairment, and medical documentation must establish a
14 reasonable likelihood that engaging in job functions without an
15 accommodation would aggravate the impairment to the extent that it
16 would create a substantially limiting effect.

17 (e) For purposes of (d) of this subsection, a limitation is not
18 substantial if it has only a trivial effect.

19 (26) "Honorably discharged veteran or military status" means a
20 person who is:

21 (a) A veteran, as defined in RCW 41.04.007; or

22 (b) An active or reserve member in any branch of the armed forces
23 of the United States, including the national guard, coast guard, and
24 armed forces reserves.

25 **Sec. 6.** RCW 66.20.310 and 2008 c 94 s 11 and 2008 c 41 s 3 are
26 each reenacted to read as follows:

27 (1)(a) There shall be an alcohol server permit, known as a class 12
28 permit, for a manager or bartender selling or mixing alcohol, spirits,
29 wines, or beer for consumption at an on-premises licensed facility.

30 (b) There shall be an alcohol server permit, known as a class 13
31 permit, for a person who only serves alcohol, spirits, wines, or beer
32 for consumption at an on-premises licensed facility.

33 (c) As provided by rule by the board, a class 13 permit holder may
34 be allowed to act as a bartender without holding a class 12 permit.

35 (2)(a) Effective January 1, 1997, except as provided in (d) of this
36 subsection, every alcohol server employed, under contract or otherwise,

1 at a retail licensed premise shall have issued to them a class 12 or
2 class 13 permit.

3 (b) Every class 12 and class 13 permit issued shall be issued in
4 the name of the applicant and no other person may use the permit of
5 another permit holder. The holder shall present the permit upon
6 request to inspection by a representative of the board or a peace
7 officer. The class 12 or class 13 permit shall be valid for employment
8 at any retail licensed premises described in (a) of this subsection.

9 (c) Except as provided in (d) of this subsection, no licensee
10 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
11 66.24.400, 66.24.425, 66.24.450, and 66.24.570 may employ or accept the
12 services of any person without the person first having a valid class 12
13 or class 13 permit.

14 (d) Within sixty days of initial employment, every person whose
15 duties include the compounding, sale, service, or handling of liquor
16 shall have a class 12 or class 13 permit.

17 (e) No person may perform duties that include the sale or service
18 of alcoholic beverages on a retail licensed premises without possessing
19 a valid alcohol server permit.

20 (3) A permit issued by a training entity under this section is
21 valid for employment at any retail licensed premises described in
22 subsection (2)(a) of this section for a period of five years unless
23 suspended by the board.

24 (4) The board may suspend or revoke an existing permit if any of
25 the following occur:

26 (a) The applicant or permittee has been convicted of violating any
27 of the state or local intoxicating liquor laws of this state or has
28 been convicted at any time of a felony; or

29 (b) The permittee has performed or permitted any act that
30 constitutes a violation of this title or of any rule of the board.

31 (5) The suspension or revocation of a permit under this section
32 does not relieve a licensee from responsibility for any act of the
33 employee or agent while employed upon the retail licensed premises.
34 The board may, as appropriate, revoke or suspend either the permit of
35 the employee who committed the violation or the license of the licensee
36 upon whose premises the violation occurred, or both the permit and the
37 license.

1 (6)(a) After January 1, 1997, it is a violation of this title for
2 any retail licensee or agent of a retail licensee as described in
3 subsection (2)(a) of this section to employ in the sale or service of
4 alcoholic beverages, any person who does not have a valid alcohol
5 server permit or whose permit has been revoked, suspended, or denied.

6 (b) It is a violation of this title for a person whose alcohol
7 server permit has been denied, suspended, or revoked to accept
8 employment in the sale or service of alcoholic beverages.

9 (7) Grocery stores licensed under RCW 66.24.360, the primary
10 commercial activity of which is the sale of grocery products and for
11 which the sale and service of beer and wine for on-premises consumption
12 with food is incidental to the primary business, and employees of such
13 establishments, are exempt from RCW 66.20.300 through 66.20.350.

14 **Sec. 7.** RCW 70.105D.070 and 2008 c 329 s 921, 2008 c 329 s 920,
15 2008 c 329 s 919, and 2008 c 328 s 6009 are each reenacted to read as
16 follows:

17 (1) The state toxics control account and the local toxics control
18 account are hereby created in the state treasury.

19 (2) The following moneys shall be deposited into the state toxics
20 control account: (a) Those revenues which are raised by the tax
21 imposed under RCW 82.21.030 and which are attributable to that portion
22 of the rate equal to thirty-three one-hundredths of one percent; (b)
23 the costs of remedial actions recovered under this chapter or chapter
24 70.105A RCW; (c) penalties collected or recovered under this chapter;
25 and (d) any other money appropriated or transferred to the account by
26 the legislature. Moneys in the account may be used only to carry out
27 the purposes of this chapter, including but not limited to the
28 following activities:

29 (i) The state's responsibility for hazardous waste planning,
30 management, regulation, enforcement, technical assistance, and public
31 education required under chapter 70.105 RCW;

32 (ii) The state's responsibility for solid waste planning,
33 management, regulation, enforcement, technical assistance, and public
34 education required under chapter 70.95 RCW;

35 (iii) The hazardous waste cleanup program required under this
36 chapter;

37 (iv) State matching funds required under the federal cleanup law;

1 (v) Financial assistance for local programs in accordance with
2 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

3 (vi) State government programs for the safe reduction, recycling,
4 or disposal of hazardous wastes from households, small businesses, and
5 agriculture;

6 (vii) Hazardous materials emergency response training;

7 (viii) Water and environmental health protection and monitoring
8 programs;

9 (ix) Programs authorized under chapter 70.146 RCW;

10 (x) A public participation program, including regional citizen
11 advisory committees;

12 (xi) Public funding to assist potentially liable persons to pay for
13 the costs of remedial action in compliance with cleanup standards under
14 RCW 70.105D.030(2)(e) but only when the amount and terms of such
15 funding are established under a settlement agreement under RCW
16 70.105D.040(4) and when the director has found that the funding will
17 achieve both (A) a substantially more expeditious or enhanced cleanup
18 than would otherwise occur, and (B) the prevention or mitigation of
19 unfair economic hardship; and

20 (xii) Development and demonstration of alternative management
21 technologies designed to carry out the hazardous waste management
22 priorities of RCW 70.105.150.

23 (3) The following moneys shall be deposited into the local toxics
24 control account: Those revenues which are raised by the tax imposed
25 under RCW 82.21.030 and which are attributable to that portion of the
26 rate equal to thirty-seven one-hundredths of one percent.

27 (a) Moneys deposited in the local toxics control account shall be
28 used by the department for grants or loans to local governments for the
29 following purposes in descending order of priority:

30 (i) Remedial actions;

31 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

32 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
33 70.95I, and 70.105 RCW;

34 (iv) Funds for a program to assist in the assessment and cleanup of
35 sites of methamphetamine production, but not to be used for the initial
36 containment of such sites, consistent with the responsibilities and
37 intent of RCW 69.50.511; and

1 (v) Cleanup and disposal of hazardous substances from abandoned or
2 derelict vessels, defined for the purposes of this section as vessels
3 that have little or no value and either have no identified owner or
4 have an identified owner lacking financial resources to clean up and
5 dispose of the vessel, that pose a threat to human health or the
6 environment.

7 (b) Funds for plans and programs shall be allocated consistent with
8 the priorities and matching requirements established in chapters
9 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that
10 is a Puget Sound partner, as defined in RCW 90.71.010, along with any
11 project that is referenced in the action agenda developed by the Puget
12 Sound partnership under RCW 90.71.310, shall, except as conditioned by
13 RCW 70.105D.120, receive priority for any available funding for any
14 grant or funding programs or sources that use a competitive bidding
15 process. During the 2007-2009 fiscal biennium, moneys in the account
16 may also be used for grants to local governments to retrofit public
17 sector diesel equipment and for storm water planning and implementation
18 activities.

19 (c) Funds may also be appropriated to the department of health to
20 implement programs to reduce testing requirements under the federal
21 safe drinking water act for public water systems. The department of
22 health shall reimburse the account from fees assessed under RCW
23 70.119A.115 by June 30, 1995.

24 (d) To expedite cleanups throughout the state, the department shall
25 partner with local communities and liable parties for cleanups. The
26 department is authorized to use the following additional strategies in
27 order to ensure a healthful environment for future generations:

28 (i) The director may alter grant-matching requirements to create
29 incentives for local governments to expedite cleanups when one of the
30 following conditions exists:

31 (A) Funding would prevent or mitigate unfair economic hardship
32 imposed by the clean-up liability;

33 (B) Funding would create new substantial economic development,
34 public recreational, or habitat restoration opportunities that would
35 not otherwise occur; or

36 (C) Funding would create an opportunity for acquisition and
37 redevelopment of vacant, orphaned, or abandoned property under RCW
38 70.105D.040(5) that would not otherwise occur;

1 (ii) The use of outside contracts to conduct necessary studies;

2 (iii) The purchase of remedial action cost-cap insurance, when
3 necessary to expedite multiparty clean-up efforts.

4 (4) Except for unanticipated receipts under RCW 43.79.260 through
5 43.79.282, moneys in the state and local toxics control accounts may be
6 spent only after appropriation by statute.

7 (5) One percent of the moneys deposited into the state and local
8 toxics control accounts shall be allocated only for public
9 participation grants to persons who may be adversely affected by a
10 release or threatened release of a hazardous substance and to not-for-
11 profit public interest organizations. The primary purpose of these
12 grants is to facilitate the participation by persons and organizations
13 in the investigation and remedying of releases or threatened releases
14 of hazardous substances and to implement the state's solid and
15 hazardous waste management priorities. However, during the 1999-2001
16 fiscal biennium, funding may not be granted to entities engaged in
17 lobbying activities, and applicants may not be awarded grants if their
18 cumulative grant awards under this section exceed two hundred thousand
19 dollars. No grant may exceed sixty thousand dollars. Grants may be
20 renewed annually. Moneys appropriated for public participation from
21 either account which are not expended at the close of any biennium
22 shall revert to the state toxics control account.

23 (6) No moneys deposited into either the state or local toxics
24 control account may be used for solid waste incinerator feasibility
25 studies, construction, maintenance, or operation, or, after January 1,
26 2010, for projects designed to address the restoration of Puget Sound,
27 funded in a competitive grant process, that are in conflict with the
28 action agenda developed by the Puget Sound partnership under RCW
29 90.71.310.

30 (7) The department shall adopt rules for grant or loan issuance and
31 performance.

32 (8) During the 2007-2009 fiscal biennium, the legislature may
33 transfer from the local toxics control account to the state toxics
34 control account such amounts as reflect excess fund balance in the
35 account.

36 (9) During the 2007-2009 fiscal biennium, the local toxics control
37 account may also be used for a standby rescue tug at Neah Bay.

1 **Sec. 8.** RCW 79A.55.020 and 1999 c 249 s 802 and 1999 c 151 s 1702
2 are each reenacted and amended to read as follows:

3 (1) The commission shall develop and adopt management policies for
4 publicly owned or leased land on the rivers designated by the
5 legislature as being a part of the state's scenic river system and
6 within the associated river areas. The commission may adopt rules
7 identifying river classifications which reflect the characteristics
8 common to various segments of scenic rivers and may adopt management
9 policies consistent with local government's shoreline management master
10 plans appropriate for each such river classification. All such
11 policies shall be adopted by the commission in accordance with the
12 provisions of chapter 34.05 RCW, as now or hereafter amended. Any
13 variance with such a policy by any public agency shall be authorized
14 only by the approval of the ((department)) commission and shall be made
15 only to alleviate unusual hardships unique to a given segment of the
16 system.

17 (2) Any policies developed pursuant to subsection (1) of this
18 section shall include management plans for protecting ecological,
19 economic, recreational, aesthetic, botanical, scenic, geological,
20 hydrological, fish and wildlife, historical, cultural, archaeological,
21 and scientific features of the rivers designated as being in the
22 system. Such policies shall also include management plans to encourage
23 any nonprofit group, organization, association, person, or corporation
24 to develop and adopt programs for the purpose of increasing fish
25 propagation.

26 (3) The ((department)) commission shall identify on a river by
27 river basis any publicly owned or leased lands which could be included
28 in a river area of the system but which are developed in a manner
29 unsuitable for land to be managed as part of the system. The
30 commission shall exclude lands so identified from the provisions of any
31 management policies implementing the provisions of this chapter.

32 (4) The ((department)) commission shall determine the boundaries
33 which shall define the river area associated with any included river.
34 With respect to the rivers named in RCW ((79.72.080)) 79A.55.070, the
35 ((department)) commission shall make such determination, and those
36 determinations authorized by subsection (3) of this section, within one
37 year of September 21, 1977.

1 (5) Before making a decision regarding the river area to be
2 included in the system, a variance in policy, or the excluding of land
3 from the provisions of the management policies, the ((department))
4 commission shall hold hearings in accord with chapter 34.05 RCW, with
5 at least one public hearing to be held in the general locale of the
6 river under consideration. The commission shall cause to be published
7 in a newspaper of general circulation in the area which includes the
8 river or rivers to be considered, a description, including a map
9 showing such river or rivers, of the material to be considered at the
10 public hearing. Such notice shall appear at least twice in the time
11 period between two and four weeks prior to the public hearing.

12 The ((department)) commission shall seek and receive comments from
13 the public regarding potential additions to the system, shall initiate
14 studies, and may submit to any session of the legislature proposals for
15 additions to the state scenic river system. These proposals shall be
16 accompanied by a detailed report on the factors which, in the
17 ((department's)) commission's judgment, make an area a worthy addition
18 to the system.

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