
SENATE BILL 5067

State of Washington

62nd Legislature

2011 Regular Session

By Senators Keiser, Kohl-Welles, Conway, and Chase; by request of Department of Labor & Industries

Read first time 01/12/11. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to changing the department of labor and industries
2 certified and registered mail requirements; and amending RCW 18.27.060,
3 18.27.230, 18.27.370, 18.106.100, 18.106.180, 19.28.131, 19.28.271,
4 19.28.341, 19.28.490, 43.22.435, 43.22A.080, 43.22A.130, 49.17.140,
5 49.26.110, 49.40.060, 49.48.083, 70.79.320, 70.87.125, 70.87.185, and
6 70.87.205.

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

8 **Sec. 1.** RCW 18.27.060 and 2006 c 185 s 14 are each amended to read
9 as follows:

10 (1) A certificate of registration shall be valid for two years and
11 shall be renewed on or before the expiration date. The department
12 shall issue to the applicant a certificate of registration upon
13 compliance with the registration requirements of this chapter.

14 (2) If the department approves an application, it shall issue a
15 certificate of registration to the applicant.

16 (3) If a contractor's surety bond or other security has an
17 unsatisfied judgment against it or is canceled, or if the contractor's
18 insurance policy is canceled, the contractor's registration shall be
19 automatically suspended on the effective date of the impairment or

1 cancellation. The department shall mail notice of the suspension to
2 the contractor's address on the certificate of registration (~~by~~
3 ~~certified and by first class mail~~) within two days after suspension
4 using a method by which the mailing can be tracked or the delivery can
5 be confirmed.

6 (4) Renewal of registration is valid on the date the department
7 receives the required fee and proof of bond and liability insurance, if
8 sent by certified mail or other means requiring proof of delivery. The
9 receipt or proof of delivery shall serve as the contractor's proof of
10 renewed registration until he or she receives verification from the
11 department.

12 (5) The department shall immediately suspend the certificate of
13 registration of a contractor who has been certified by the department
14 of social and health services as a person who is not in compliance with
15 a support order or a visitation order as provided in RCW 74.20A.320.
16 The certificate of registration shall not be reissued or renewed unless
17 the person provides to the department a release from the department of
18 social and health services stating that he or she is in compliance with
19 the order and the person has continued to meet all other requirements
20 for certification during the suspension.

21 (6) For a contractor who employs plumbers, as described in RCW
22 18.106.010(10)(c), and is also required to be licensed as an electrical
23 contractor as required in RCW 19.28.041, while doing pump and
24 irrigation or domestic pump work described in rule as authorized by RCW
25 19.28.251, the department shall establish a single
26 registration/licensing document for those who qualify for both general
27 contractor registration as defined by this chapter and an electrical
28 contractor license as defined by chapter 19.28 RCW.

29 **Sec. 2.** RCW 18.27.230 and 2007 c 436 s 12 are each amended to read
30 as follows:

31 The department may issue a notice of infraction if the department
32 reasonably believes that the contractor has committed an infraction
33 under this chapter. A notice of infraction issued under this section
34 shall be personally served on the contractor named in the notice by the
35 department's compliance inspectors or service can be made (~~by~~
36 ~~certified mail~~) using a method by which the mailing can be tracked or
37 the delivery can be confirmed directed to the contractor named in the

1 notice of infraction at the contractor's last known address of record.
2 If the contractor named in the notice of infraction is a firm or
3 corporation, the notice may be personally served on any employee of the
4 firm or corporation. If a notice of infraction is personally served
5 upon an employee of a firm or corporation, the department shall send a
6 copy of the notice (~~((by mail, return receipt requested,))~~) using a
7 method by which the mailing can be tracked or the delivery can be
8 confirmed to the contractor if the department is able to obtain the
9 contractor's address.

10 **Sec. 3.** RCW 18.27.370 and 2001 c 159 s 6 are each amended to read
11 as follows:

12 (1) If an unregistered contractor defaults in a payment, penalty,
13 or fine due to the department, the director or the director's designee
14 may issue a notice of assessment certifying the amount due. The notice
15 must be served upon the unregistered contractor by mailing the notice
16 to the unregistered contractor (~~((by certified mail))~~) using a method by
17 which the mailing can be tracked or the delivery can be confirmed to
18 the unregistered contractor's last known address or served in the
19 manner prescribed for the service of a summons in a civil action.

20 (2) A notice of assessment becomes final thirty days from the date
21 the notice was served upon the unregistered contractor unless a written
22 request for reconsideration is filed with the department or an appeal
23 is filed in a court of competent jurisdiction in the manner specified
24 in RCW 34.05.510 through 34.05.598. The request for reconsideration
25 must set forth with particularity the reason for the unregistered
26 contractor's request. The department, within thirty days after
27 receiving a written request for reconsideration, may modify or reverse
28 a notice of assessment, or may hold a notice of assessment in abeyance
29 pending further investigation. If a final decision of a court in favor
30 of the department is not appealed within the time allowed by law, then
31 the amount of the unappealed assessment, or such amount of the
32 assessment as is found due by the final decision of the court, is
33 final.

34 (3) The director or the director's designee may file with the clerk
35 of any county within the state, a warrant in the amount of the notice
36 of assessment, plus interest, penalties, and a filing fee of twenty
37 dollars. The clerk of the county in which the warrant is filed shall

1 immediately designate a superior court cause number for the warrant,
2 and the clerk shall cause to be entered in the judgment docket under
3 the superior court cause number assigned to the warrant, the name of
4 the unregistered contractor mentioned in the warrant, the amount of
5 payment, penalty, fine due on it, or filing fee, and the date when the
6 warrant was filed. The aggregate amount of the warrant as docketed
7 shall become a lien upon the title to, and interest in, all real and
8 personal property of the unregistered contractor against whom the
9 warrant is issued, the same as a judgment in a civil case docketed in
10 the office of the clerk. The sheriff shall proceed upon the warrant in
11 all respects and with like effect as prescribed by law with respect to
12 execution or other process issued against rights or property upon
13 judgment in a court of competent jurisdiction. The warrant so docketed
14 is sufficient to support the issuance of writs of garnishment in favor
15 of the state in a manner provided by law in case of judgment, wholly or
16 partially unsatisfied. The clerk of the court is entitled to a filing
17 fee which will be added to the amount of the warrant. A copy of the
18 warrant shall be mailed to the unregistered contractor within three
19 days of filing with the clerk.

20 (4) The director or the director's designee may issue to any
21 person, firm, corporation, other entity, municipal corporation,
22 political subdivision of the state, a public corporation, or any agency
23 of the state, a notice and order to withhold and deliver property of
24 any kind whatsoever when he or she has reason to believe that there is
25 in the possession of the person, firm, corporation, other entity,
26 municipal corporation, political subdivision of the state, public
27 corporation, or agency of the state, property that is or will become
28 due, owing, or belonging to an unregistered contractor upon whom a
29 notice of assessment has been served by the department for payments,
30 penalties, or fines due to the department. The effect of a notice and
31 order is continuous from the date the notice and order is first made
32 until the liability out of which the notice and order arose is
33 satisfied or becomes unenforceable because of lapse of time. The
34 department shall release the notice and order when the liability out of
35 which the notice and order arose is satisfied or becomes unenforceable
36 by reason of lapse of time and shall notify the person against whom the
37 notice and order was made that the notice and order has been released.

1 The notice and order to withhold and deliver must be served by the
2 sheriff of the county or by the sheriff's deputy, (~~by certified mail,~~
3 ~~return receipt requested~~) using a method by which the mailing can be
4 tracked or the delivery can be confirmed, or by an authorized
5 representative of the director. A person, firm, corporation, other
6 entity, municipal corporation, political subdivision of the state,
7 public corporation, or agency of the state upon whom service has been
8 made shall answer the notice within twenty days exclusive of the day of
9 service, under oath and in writing, and shall make true answers to the
10 matters inquired of in the notice and order. Upon service of the
11 notice and order, if the party served possesses any property that may
12 be subject to the claim of the department, the party shall promptly
13 deliver the property to the director or the director's authorized
14 representative. The director shall hold the property in trust for
15 application on the unregistered contractor's indebtedness to the
16 department, or for return without interest, in accordance with a final
17 determination of a petition for review. In the alternative, the party
18 shall furnish a good and sufficient surety bond satisfactory to the
19 director conditioned upon final determination of liability. If a party
20 served and named in the notice fails to answer the notice within the
21 time prescribed in this section, the court may render judgment by
22 default against the party for the full amount claimed by the director
23 in the notice, together with costs. If a notice is served upon an
24 unregistered contractor and the property subject to it is wages, the
25 unregistered contractor may assert in the answer all exemptions
26 provided for by chapter 6.27 RCW to which the wage earner is entitled.

27 (5) In addition to the procedure for collection of a payment,
28 penalty, or fine due to the department as set forth in this section,
29 the department may recover civil penalties imposed under this chapter
30 in a civil action in the name of the department brought in a court of
31 competent jurisdiction of the county where the violation is alleged to
32 have occurred.

33 **Sec. 4.** RCW 18.106.100 and 1996 c 147 s 3 are each amended to read
34 as follows:

35 (1) The department may revoke or suspend a certificate of
36 competency for any of the following reasons:

37 (a) The certificate was obtained through error or fraud;

1 (b) The certificate holder is judged to be incompetent to carry on
2 the trade of plumbing as a journeyman plumber or specialty plumber;

3 (c) The certificate holder has violated any provision of this
4 chapter or any rule adopted under this chapter.

5 (2) Before a certificate of competency is revoked or suspended, the
6 department shall send written notice (~~((by registered mail with return
7 receipt requested))~~) using a method by which the mailing can be tracked
8 or the delivery can be confirmed to the certificate holder's last known
9 address. The notice must list the allegations against the certificate
10 holder and give him or her the opportunity to request a hearing before
11 the advisory board. At the hearing, the department and the certificate
12 holder have opportunity to produce witnesses and give testimony. The
13 hearing must be conducted in accordance with chapter 34.05 RCW. The
14 board shall render its decision based upon the testimony and evidence
15 presented and shall notify the parties immediately upon reaching its
16 decision. A majority of the board is necessary to render a decision.

17 (3) The department may deny renewal of a certificate of competency
18 issued under this chapter if the applicant owes outstanding penalties
19 for a final judgment under this chapter. The department shall notify
20 the applicant of the denial (~~((by registered mail, return receipt
21 requested,))~~) using a method by which the mailing can be tracked or the
22 delivery can be confirmed to the address on the application. The
23 applicant may appeal the denial within twenty days by filing a notice
24 of appeal with the department accompanied by a certified check for two
25 hundred dollars which shall be returned to the applicant if the
26 decision of the department is not upheld by the hearings officer. The
27 office of administrative hearings shall conduct the hearing under
28 chapter 34.05 RCW. If the hearings officer sustains the decision of
29 the department, the two hundred dollars must be applied to the cost of
30 the hearing.

31 **Sec. 5.** RCW 18.106.180 and 2002 c 82 s 3 are each amended to read
32 as follows:

33 (1) An authorized representative of the department may issue a
34 notice of infraction as specified in RCW 18.106.020 if:

35 (a) A person who is doing plumbing work or who is offering to do
36 plumbing work fails to produce evidence of:

1 (i) Having a certificate or permit issued by the department in
2 accordance with this chapter, or being supervised by a person who has
3 such a certificate or permit; and

4 (ii) Being registered as a contractor as required under chapter
5 18.27 RCW or this chapter, or being employed by a person who is
6 registered as a contractor;

7 (b) A person who employs anyone, or offers or advertises to employ
8 anyone, to do plumbing work fails to produce evidence of being
9 registered as a contractor as required under chapter 18.27 RCW or this
10 chapter; or

11 (c) A contractor violates RCW 18.106.320.

12 (2) A notice of infraction issued under this section shall be
13 personally served on the person named in the notice by an authorized
14 representative of the department or sent (~~by certified mail~~) using a
15 method by which the mailing can be tracked or the delivery can be
16 confirmed to the last known address provided to the department of the
17 person named in the notice.

18 **Sec. 6.** RCW 19.28.131 and 2006 c 185 s 13 are each amended to read
19 as follows:

20 Until July 1, 2007, the department shall issue a written warning to
21 any specialty contractor, performing the scope of work defined by rule
22 for the pump and irrigation or domestic pump specialties, not having a
23 valid electrical contractor license. The warning will state that the
24 contractor must be qualified for and apply for a specialty electrical
25 contractor license under the requirements in RCW 19.28.041 within
26 thirty calendar days of the warning. Only one warning will be issued
27 to any contractor. If the contractor fails to comply with this
28 section, the department shall issue a penalty or penalties as
29 authorized in this section to the contractor. Any person, firm,
30 partnership, corporation, or other entity violating any of the
31 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through
32 19.28.361 shall be assessed a penalty of not less than fifty dollars or
33 more than ten thousand dollars. The department shall set by rule a
34 schedule of penalties for violating RCW 19.28.010 through 19.28.141 and
35 19.28.311 through 19.28.361. The department shall notify the person,
36 firm, partnership, corporation, or other entity violating any of the
37 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through

1 19.28.361 of the amount of the penalty and of the specific violation
2 (~~by certified mail, return receipt requested,~~) using a method by
3 which the mailing can be tracked or the delivery can be confirmed sent
4 to the last known address of the assessed party. Any penalty is
5 subject to review by an appeal to the board. The filing of an appeal
6 stays the effect of the penalty until the board makes its decision.
7 The appeal shall be filed within twenty days after notice of the
8 penalty is given to the assessed party (~~by certified mail, return~~
9 ~~receipt requested~~) using a method by which the mailing can be tracked
10 or the delivery can be confirmed, sent to the last known address of the
11 assessed party and shall be made by filing a written notice of appeal
12 with the department. The notice shall be accompanied by a certified
13 check for two hundred dollars, which shall be returned to the assessed
14 party if the decision of the department is not sustained by the board.
15 If the board sustains the decision of the department, the two hundred
16 dollars shall be applied by the department to the payment of the per
17 diem and expenses of the members of the board incurred in the matter,
18 and any balance remaining after payment of per diem and expenses shall
19 be paid into the electrical license fund. The hearing and review
20 procedures shall be conducted in accordance with chapter 34.05 RCW.
21 The board shall assign its hearings to an administrative law judge to
22 conduct the hearing and issue a proposed decision and order. The board
23 shall be allowed a minimum of twenty days to review a proposed decision
24 and shall issue its decision no later than the next regularly scheduled
25 board meeting.

26 **Sec. 7.** RCW 19.28.271 and 2009 c 36 s 6 are each amended to read
27 as follows:

28 (1) It is unlawful for any person, firm, partnership, corporation,
29 or other entity to employ an individual for purposes of RCW 19.28.161
30 through 19.28.271 who has not been issued a certificate of competency,
31 a temporary permit, or a training certificate. It is unlawful for any
32 individual to engage in the electrical construction trade or to
33 maintain or install any electrical equipment or conductors without
34 having in his or her possession a certificate of competency, a
35 temporary permit, or a training certificate under RCW 19.28.161 through
36 19.28.271, and photo identification. The department may establish by

1 rule a requirement that the individual also wear and visibly display
2 his or her certificate or permit.

3 (2) Any person, firm, partnership, corporation, or other entity
4 found in violation of RCW 19.28.161 through 19.28.271 shall be assessed
5 a penalty of not less than fifty dollars or more than five hundred
6 dollars. The department shall set by rule a schedule of penalties for
7 violating RCW 19.28.161 through 19.28.271. An appeal may be made to
8 the board as is provided in RCW 19.28.131. The appeal shall be filed
9 within twenty days after the notice of the penalty is given to the
10 assessed party (~~by certified mail, return receipt requested~~) using a
11 method by which the mailing can be tracked or the delivery can be
12 confirmed, sent to the last known address of the assessed party and
13 shall be made by filing a written notice of appeal with the department.
14 Any equipment maintained or installed by any person who does not
15 possess a certificate of competency under RCW 19.28.161 through
16 19.28.271 shall not receive an electrical work permit and electrical
17 service shall not be connected or maintained to operate the equipment.
18 Each day that a person, firm, partnership, corporation, or other entity
19 violates RCW 19.28.161 through 19.28.271 is a separate violation.

20 (3) A civil penalty shall be collected in a civil action brought by
21 the attorney general in the county wherein the alleged violation arose
22 at the request of the department if any of RCW 19.28.161 through
23 19.28.271 or any rules adopted under RCW 19.28.161 through 19.28.271
24 are violated.

25 **Sec. 8.** RCW 19.28.341 and 2000 c 238 s 4 are each amended to read
26 as follows:

27 (1) The department has the power, in case of serious noncompliance
28 with the provisions of this chapter, to revoke or suspend for such a
29 period as it determines, any electrical or telecommunications
30 contractor license or electrical or telecommunications contractor
31 administrator certificate issued under this chapter. The department
32 shall notify the holder of the license or certificate of the revocation
33 or suspension (~~by certified mail~~) using a method by which the mailing
34 can be tracked or the delivery can be confirmed. A revocation or
35 suspension is effective twenty days after the holder receives the
36 notice. Any revocation or suspension is subject to review by an appeal
37 to the board. The filing of an appeal stays the effect of a revocation

1 or suspension until the board makes its decision. The appeal shall be
2 filed within twenty days after notice of the revocation or suspension
3 is given (~~(by certified mail)~~) using a method by which the mailing can
4 be tracked or the delivery can be confirmed sent to the address of the
5 holder of the license or certificate as shown on the application for
6 the license or certificate, and shall be effected by filing a written
7 notice of appeal with the department, accompanied by a certified check
8 for two hundred dollars, which shall be returned to the holder of the
9 license or certificate if the decision of the department is not
10 sustained by the board. The hearing shall be conducted in accordance
11 with chapter 34.05 RCW. If the board sustains the decision of the
12 department, the two hundred dollars shall be applied by the department
13 to the payment of the per diem and expenses of the members of the board
14 incurred in the matter, and any balance remaining after payment of per
15 diem and expenses shall be paid into the electrical license fund.

16 (2) The department shall immediately suspend the license or
17 certificate of a person who has been certified pursuant to RCW
18 74.20A.320 by the department of social and health services as a person
19 who is not in compliance with a support order. If the person has
20 continued to meet all other requirements for reinstatement during the
21 suspension, reissuance of the license or certificate shall be automatic
22 upon the department's receipt of a release issued by the department of
23 social and health services stating that the licensee is in compliance
24 with the order.

25 **Sec. 9.** RCW 19.28.490 and 2000 c 238 s 213 are each amended to
26 read as follows:

27 Any person, firm, partnership, corporation, or other entity
28 violating any of the provisions of this chapter may be assessed a
29 penalty of not less than one hundred dollars or more than ten thousand
30 dollars per violation. The department, after consulting with the board
31 and receiving the board's recommendations, shall set by rule a schedule
32 of penalties for violating this chapter. The department shall notify
33 the person, firm, partnership, corporation, or other entity violating
34 any of these provisions of the amount of the penalty and of the
35 specific violation. The notice shall be sent (~~(by certified mail,~~
36 ~~return receipt requested,)~~) using a method by which the mailing can be
37 tracked or the delivery can be confirmed to the last known address of

1 the assessed party. Penalties are subject to review by an appeal to
2 the board. The filing of an appeal stays the effect of the penalty
3 until the board makes its decision. The appeal shall be filed within
4 twenty days after notice of the penalty is given to the assessed party,
5 and shall be made by filing a written notice of appeal with the
6 department. The notice shall be accompanied by a certified check for
7 two hundred dollars, that shall be returned to the assessed party if
8 the decision of the department is not sustained by the board. If the
9 board sustains the decision of the department, the two hundred dollars
10 shall be applied by the department to the payment of the per diem and
11 expenses of the members of the board incurred in the matter, and any
12 balance remaining after payment of per diem and expenses shall be paid
13 into the electrical license fund. The hearing and review procedures
14 shall be conducted in accordance with chapter 34.05 RCW. The board
15 shall assign its hearings to an administrative law judge to conduct the
16 hearing and issue a proposed decision and order. The board shall be
17 allowed a minimum of twenty days to review a proposed decision and
18 shall issue its decision no later than the next regularly scheduled
19 board meeting.

20 **Sec. 10.** RCW 43.22.435 and 2002 c 268 s 4 are each amended to read
21 as follows:

22 (1)(a) In addition to or in lieu of any other penalty applicable
23 under this chapter, and except as provided in (b) of this subsection,
24 the department may assess a civil penalty of not more than one thousand
25 dollars against a contractor, firm, partnership, or corporation, that
26 fails to obtain a permit before altering a mobile or manufactured home
27 as required under this chapter or rules adopted under this chapter.
28 Each day on which a violation occurs constitutes a separate violation.
29 However, the cumulative penalty for the same occurrence may not exceed
30 five thousand dollars.

31 (b) The department must adopt a schedule of civil penalties giving
32 due consideration to the appropriateness of the penalty with respect to
33 the gravity of the violation and the history of previous violations.
34 Penalties for subsequent violations, not constituting the same
35 occurrence, committed within two years of a prior violation by the same
36 party or entity, or by an individual who was a principal or officer of

1 the same entity, must be double the amount of the penalty for the prior
2 violation or one thousand dollars, whichever is greater.

3 (2)(a) The department may issue a notice of correction before
4 issuing a civil penalty assessment. The notice must include:

5 (i) A description of the violation;

6 (ii) A statement of what is required to correct the violation;

7 (iii) The date by which the department requires correction to be
8 achieved; and

9 (iv) Notice of the individual or department office that must be
10 contacted to obtain a permit or other compliance information.

11 (b) A notice of correction is not a formal enforcement action, is
12 not subject to appeal, and is a public record.

13 (c) If the department issues a notice of correction, it shall not
14 issue a civil penalty for the violation identified in the notice of
15 correction unless the responsible person fails to comply with the
16 notice.

17 (3)(a) The department must issue written notices of civil penalties
18 imposed under this section, with the reasons for the penalty, (~~by~~
19 ~~certified mail~~) using a method by which the mailing can be tracked or
20 the delivery can be confirmed to the last known address of the party
21 named in the notice.

22 (b) If a party desires to contest a notice of civil penalty issued
23 under this section, the party must file a notice of appeal with the
24 department within twenty days of the department's mailing of the notice
25 of civil penalty. An administrative law judge of the office of
26 administrative hearings will hear and determine the appeal. Appeal
27 proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal
28 of the administrative law judge's determination or order shall be to
29 the superior court. The superior court's decision is subject only to
30 discretionary review under the rules of appellate procedure.

31 **Sec. 11.** RCW 43.22A.080 and 1994 c 284 s 21 are each amended to
32 read as follows:

33 (1) The department may revoke a certificate of manufactured home
34 installation upon the following grounds:

35 (a) The certificate was obtained through error or fraud;

36 (b) The holder of the certificate is judged to be incompetent as a

1 result of multiple infractions of the state installation code, WAC 296-
2 150B-200 through 296-150B-255; or

3 (c) The holder has violated a provision of this chapter or a rule
4 adopted to implement this chapter.

5 (2) Before a certificate of manufactured home installation is
6 revoked, the holder must be given written notice of the department's
7 intention to revoke the certificate, sent (~~(by registered mail, return~~
8 ~~receipt requested,)~~) using a method by which the mailing can be tracked
9 or the delivery can be confirmed to the holder's last known address.
10 The notice shall enumerate the allegations against the holder, and
11 shall give the holder the opportunity to request a hearing. At the
12 hearing, the department and the holder may produce witnesses and give
13 testimony. The hearing shall be conducted in accordance with the
14 provisions of chapter 34.05 RCW.

15 **Sec. 12.** RCW 43.22A.130 and 1994 c 284 s 25 are each amended to
16 read as follows:

17 An authorized representative of the department may issue a notice
18 of infraction if the person supervising the manufactured home
19 installation work fails to produce evidence of having a certificate
20 issued by the department in accordance with this chapter. A notice of
21 infraction issued under this chapter shall be personally served on or
22 sent (~~(by certified mail)~~) using a method by which the mailing can be
23 tracked or the delivery can be confirmed to the person named in the
24 notice by the authorized representative.

25 **Sec. 13.** RCW 49.17.140 and 1994 c 61 s 1 are each amended to read
26 as follows:

27 (1) If after an inspection or investigation the director or the
28 director's authorized representative issues a citation under the
29 authority of RCW 49.17.120 or 49.17.130, the department, within a
30 reasonable time after the termination of such inspection or
31 investigation, shall notify the employer (~~(by certified mail)~~) using a
32 method by which the mailing can be tracked or the delivery can be
33 confirmed of the penalty to be assessed under the authority of RCW
34 49.17.180 and shall state that the employer has fifteen working days
35 within which to notify the director that the employer wishes to appeal
36 the citation or assessment of penalty. If, within fifteen working days

1 from the communication of the notice issued by the director the
2 employer fails to notify the director that the employer intends to
3 appeal the citation or assessment penalty, and no notice is filed by
4 any employee or representative of employees under subsection (3) of
5 this section within such time, the citation and the assessment shall be
6 deemed a final order of the department and not subject to review by any
7 court or agency.

8 (2) If the director has reason to believe that an employer has
9 failed to correct a violation for which a citation has been issued
10 within the period permitted in the citation for its correction, which
11 period shall not begin to run until the entry of a final order in the
12 case of any appeal proceedings under this section initiated by the
13 employer in good faith and not solely for delay or avoidance of
14 penalties, the director shall notify the employer (~~(by certified mail)~~)
15 using a method by which the mailing can be tracked or the delivery can
16 be confirmed of such failure to correct the violation and of the
17 penalty to be assessed under RCW 49.17.180 by reason of such failure,
18 and shall state that the employer has fifteen working days from the
19 communication of such notification and assessment of penalty to notify
20 the director that the employer wishes to appeal the director's
21 notification of the assessment of penalty. If, within fifteen working
22 days from the receipt of notification issued by the director the
23 employer fails to notify the director that the employer intends to
24 appeal the notification of assessment of penalty, the notification and
25 assessment of penalty shall be deemed a final order of the department
26 and not subject to review by any court or agency.

27 (3) If any employer notifies the director that the employer intends
28 to appeal the citation issued under either RCW 49.17.120 or 49.17.130
29 or notification of the assessment of a penalty issued under subsections
30 (1) or (2) of this section, or if, within fifteen working days from the
31 issuance of a citation under either RCW 49.17.120 or 49.17.130 any
32 employee or representative of employees files a notice with the
33 director alleging that the period of time fixed in the citation for the
34 abatement of the violation is unreasonable, the director may reassume
35 jurisdiction over the entire matter, or any portion thereof upon which
36 notice of intention to appeal has been filed with the director pursuant
37 to this subsection. If the director reassumes jurisdiction of all or
38 any portion of the matter upon which notice of appeal has been filed

1 with the director, any redetermination shall be completed and
2 corrective notices of assessment of penalty, citations, or revised
3 periods of abatement completed within a period of thirty working days.
4 The thirty-working-day redetermination period may be extended up to
5 fifteen additional working days upon agreement of all parties to the
6 appeal. The redetermination shall then become final subject to direct
7 appeal to the board of industrial insurance appeals within fifteen
8 working days of such redetermination with service of notice of appeal
9 upon the director. In the event that the director does not reassume
10 jurisdiction as provided in this subsection, the director shall
11 promptly notify the state board of industrial insurance appeals of all
12 notifications of intention to appeal any such citations, any such
13 notices of assessment of penalty and any employee or representative of
14 employees notice of intention to appeal the period of time fixed for
15 abatement of a violation and in addition certify a full copy of the
16 record in such appeal matters to the board. The director shall adopt
17 rules of procedure for the reassumption of jurisdiction under this
18 subsection affording employers, employees, and employee representatives
19 notice of the reassumption of jurisdiction by the director, and an
20 opportunity to object or support the reassumption of jurisdiction,
21 either in writing or orally at an informal conference to be held prior
22 to the expiration of the redetermination period. A notice of appeal
23 filed under this section shall stay the effectiveness of any citation
24 or notice of the assessment of a penalty pending review by the board of
25 industrial insurance appeals, but such appeal shall not stay the
26 effectiveness of any order of immediate restraint issued by the
27 director under the authority of RCW 49.17.130. The board of industrial
28 insurance appeals shall afford an opportunity for a hearing in the case
29 of each such appellant and the department shall be represented in such
30 hearing by the attorney general and the board shall in addition provide
31 affected employees or authorized representatives of affected employees
32 an opportunity to participate as parties to hearings under this
33 subsection. The board shall thereafter make disposition of the issues
34 in accordance with procedures relative to contested cases appealed to
35 the state board of industrial insurance appeals.

36 Upon application by an employer showing that a good faith effort to
37 comply with the abatement requirements of a citation has been made and
38 that the abatement has not been completed because of factors beyond the

1 employer's control, the director after affording an opportunity for a
2 hearing shall issue an order affirming or modifying the abatement
3 requirements in such citation.

4 **Sec. 14.** RCW 49.26.110 and 1995 c 218 s 4 are each amended to read
5 as follows:

6 (1) No employee or other individual is eligible to do work governed
7 by this chapter unless issued a certificate by the department.

8 (2) To qualify for a certificate:

9 (a) Certified asbestos workers must have successfully completed a
10 four-day training course. Certified asbestos supervisors must have
11 completed a five-day training course. Training courses shall be
12 provided or approved by the department; shall cover such topics as the
13 health and safety aspects of the removal and encapsulation of asbestos,
14 including but not limited to the federal and state standards regarding
15 protective clothing, respirator use, disposal, air monitoring,
16 cleaning, and decontamination; and shall meet such additional
17 qualifications as may be established by the department by rule for the
18 type of certification sought. The department may require the
19 successful completion of annual refresher courses provided or approved
20 by the department for continued certification as an asbestos worker or
21 supervisor. However, the authority of the director to adopt rules
22 implementing this section is limited to rules that are specifically
23 required, and only to the extent specifically required, for the
24 standards to be as stringent as the applicable federal laws governing
25 work subject to this chapter; and

26 (b) All applicants for certification as asbestos workers or
27 supervisors must pass an examination in the type of certification
28 sought which shall be provided or approved by the department.

29 These requirements are intended to represent the minimum
30 requirements for certification and shall not preclude contractors or
31 employers from providing additional education or training.

32 (3) The department shall provide for the reciprocal certification
33 of any individual trained to engage in asbestos projects in another
34 state when the prior training is shown to be substantially similar to
35 the training required by the department. Nothing shall prevent the
36 department from requiring such individuals to take an examination or
37 refresher course before certification.

1 (4) The department may deny, suspend, or revoke a certificate, as
2 provided under RCW 49.26.140, for failure of the holder to comply with
3 any requirement of this chapter or chapter 49.17 RCW, or any rule
4 adopted under those chapters, or applicable health and safety standards
5 and regulations. In addition to any penalty imposed under RCW
6 49.26.016, the department may suspend or revoke any certificate issued
7 under this chapter for a period of not less than six months upon the
8 following grounds:

9 (a) The certificate was obtained through error or fraud; or

10 (b) The holder thereof is judged to be incompetent to carry out the
11 work for which the certificate was issued.

12 Before any certificate may be denied, suspended, or revoked, the
13 holder thereof shall be given written notice of the department's
14 intention to do so, mailed (~~by registered mail, return receipt~~
15 ~~requested,~~) using a method by which the mailing can be tracked or the
16 delivery can be confirmed to the holder's last known address. The
17 notice shall enumerate the allegations against such holder, and shall
18 give him or her the opportunity to request a hearing before the
19 department. At such hearing, the department and the holder shall have
20 opportunity to produce witnesses and give testimony.

21 (5) A denial, suspension, or revocation order may be appealed to
22 the board of industrial insurance appeals within fifteen working days
23 after the denial, suspension, or revocation order is entered. The
24 notice of appeal may be filed with the department or the board of
25 industrial insurance appeals. The board of industrial insurance
26 appeals shall hold the hearing in accordance with procedures
27 established in RCW 49.17.140. Any party aggrieved by an order of the
28 board of industrial insurance appeals may obtain superior court review
29 in the manner provided in RCW 49.17.150.

30 (6) Each person certified under this chapter shall display, upon
31 the request of an authorized representative of the department, valid
32 identification issued by the department.

33 **Sec. 15.** RCW 49.40.060 and 2010 c 8 s 12035 are each amended to
34 read as follows:

35 The director of labor and industries, or his or her deputy holding
36 the hearing shall, after such hearing, determine the amount due from
37 the employer to the employee, and shall make findings of fact and an

1 award in accordance therewith, which findings and award shall be filed
2 in the office of the director and a copy thereof served upon the
3 employer and upon the employee (~~(by registered mail)~~) using a method by
4 which the mailing can be tracked or the delivery can be confirmed
5 directed to their last known post office address.

6 **Sec. 16.** RCW 49.48.083 and 2010 c 42 s 2 are each amended to read
7 as follows:

8 (1) If an employee files a wage complaint with the department, the
9 department shall investigate the wage complaint. Unless otherwise
10 resolved, the department shall issue either a citation and notice of
11 assessment or a determination of compliance no later than sixty days
12 after the date on which the department received the wage complaint.
13 The department may extend the time period by providing advance written
14 notice to the employee and the employer setting forth good cause for an
15 extension of the time period and specifying the duration of the
16 extension. The department may not investigate any alleged violation of
17 a wage payment requirement that occurred more than three years before
18 the date that the employee filed the wage complaint. The department
19 shall send the citation and notice of assessment or the determination
20 of compliance to both the employer and the employee by service of
21 process or (~~certified mail~~) using a method by which the mailing can
22 be tracked or the delivery can be confirmed to their last known
23 addresses.

24 (2) If the department determines that an employer has violated a
25 wage payment requirement and issues to the employer a citation and
26 notice of assessment, the department may order the employer to pay
27 employees all wages owed, including interest of one percent per month
28 on all wages owed, to the employee. The wages and interest owed must
29 be calculated from the first date wages were owed to the employee,
30 except that the department may not order the employer to pay any wages
31 and interest that were owed more than three years before the date the
32 wage complaint was filed with the department.

33 (3) If the department determines that the violation of the wage
34 payment requirement was a willful violation, the department also may
35 order the employer to pay the department a civil penalty as specified
36 in (a) of this subsection.

1 (a) A civil penalty for a willful violation of a wage payment
2 requirement shall be not less than one thousand dollars or an amount
3 equal to ten percent of the total amount of unpaid wages, whichever is
4 greater. The maximum civil penalty for a willful violation of a wage
5 payment requirement shall be twenty thousand dollars.

6 (b) The department may not assess a civil penalty if the employer
7 reasonably relied on: (i) A rule related to any wage payment
8 requirement; (ii) a written order, ruling, approval, opinion, advice,
9 determination, or interpretation of the director; or (iii) an
10 interpretive or administrative policy issued by the department and
11 filed with the office of the code reviser. In accordance with the
12 department's retention schedule obligations under chapter 40.14 RCW,
13 the department shall maintain a complete and accurate record of all
14 written orders, rulings, approvals, opinions, advice, determinations,
15 and interpretations for purposes of determining whether an employer is
16 immune from civil penalties under (b)(ii) of this subsection.

17 (c) The department shall waive any civil penalty assessed against
18 an employer under this section if the employer is not a repeat willful
19 violator, and the director determines that the employer has provided
20 payment to the employee of all wages that the department determined
21 that the employer owed to the employee, including interest, within ten
22 business days of the employer's receipt of the citation and notice of
23 assessment from the department.

24 (d) The department may waive or reduce at any time a civil penalty
25 assessed under this section if the director determines that the
26 employer paid all wages and interest owed to an employee.

27 (e) The department shall deposit civil penalties paid under this
28 section in the supplemental pension fund established under RCW
29 51.44.033.

30 (4) Upon payment by an employer, and acceptance by an employee, of
31 all wages and interest assessed by the department in a citation and
32 notice of assessment issued to the employer, the fact of such payment
33 by the employer, and of such acceptance by the employee, shall: (a)
34 Constitute a full and complete satisfaction by the employer of all
35 specific wage payment requirements addressed in the citation and notice
36 of assessment; and (b) bar the employee from initiating or pursuing any
37 court action or other judicial or administrative proceeding based on
38 the specific wage payment requirements addressed in the citation and

1 notice of assessment. The citation and notice of assessment shall
2 include a notification and summary of the specific requirements of this
3 subsection.

4 (5) The applicable statute of limitations for civil actions is
5 tolled during the department's investigation of an employee's wage
6 complaint against an employer. For the purposes of this subsection,
7 the department's investigation begins on the date the employee files
8 the wage complaint with the department and ends when: (a) The wage
9 complaint is finally determined through a final and binding citation
10 and notice of assessment or determination of compliance; or (b) the
11 department notifies the employer and the employee in writing that the
12 wage complaint has been otherwise resolved or that the employee has
13 elected to terminate the department's administrative action under RCW
14 49.48.085.

15 **Sec. 17.** RCW 70.79.320 and 2005 c 22 s 6 are each amended to read
16 as follows:

17 (1) It shall be unlawful for any person, firm, partnership, or
18 corporation to operate under pressure in this state a boiler or unfired
19 pressure vessel, to which this chapter applies, without a valid
20 inspection certificate as provided for in this chapter.

21 (2) The department may assess a penalty against a person violating
22 a provision of this chapter. The penalty shall be not more than five
23 hundred dollars. Each day that the violation continues is a separate
24 violation and is subject to a separate penalty.

25 (3) The department may not assess a penalty until it adopts rules
26 describing the method it will use to calculate penalties for various
27 violations.

28 (4) The department shall notify the violator of its action, and the
29 reasons for its action, in writing. The department shall send the
30 notice (~~(by certified mail)~~) using a method by which the mailing can be
31 tracked or the delivery can be confirmed to the violator that a hearing
32 may be requested under RCW 70.79.361. The hearing shall not stay the
33 effect of the penalty.

34 **Sec. 18.** RCW 70.87.125 and 2003 c 143 s 16 are each amended to
35 read as follows:

1 (1) A license issued under this chapter may be suspended, revoked,
2 or subject to civil penalty by the department upon verification that
3 any one or more of the following reasons exist:

4 (a) Any false statement as to a material matter in the application;

5 (b) Fraud, misrepresentation, or bribery in securing a license;

6 (c) Failure to notify the department and the owner or lessee of a
7 conveyance or related mechanisms of any condition not in compliance
8 with this chapter;

9 (d) A violation of any provisions of this chapter; and

10 (e) If the elevator contractor does not employ an individual
11 designated as the primary point of contact with the department and who
12 has successfully completed the elevator contractor examination. In the
13 case of a separation of employment, termination of this relationship or
14 designation, or death of the designated individual, the elevator
15 contractor must, within ninety days, designate a new individual who has
16 successfully completed the elevator contractor examination.

17 (2) The department may suspend or revoke a permit if:

18 (a) The permit was obtained through fraud or by error if, in the
19 absence of error, the department would not have issued the permit;

20 (b) The conveyance for which the permit was issued has not been
21 worked on in accordance with this chapter; or

22 (c) The conveyance has become unsafe.

23 (3) The department shall suspend any license issued under this
24 chapter promptly after receiving notice from the department of social
25 and health services that the holder of the license has been certified
26 pursuant to RCW 74.20A.320 as a person who is not in compliance with a
27 support order. If the person has continued to meet all other license
28 requirements during the suspension, reissuance of the license shall be
29 automatic upon the department's receipt of a release issued by the
30 department of social and health services stating that the person is in
31 compliance with the order.

32 (4) The department shall notify in writing the owner, licensee, or
33 person performing conveyance work, of its action and the reason for the
34 action. The department shall send the notice (~~by certified mail~~)
35 using a method by which the mailing can be tracked or the delivery can
36 be confirmed to the last known address of the owner or person. The
37 notice shall inform the owner or person that a hearing may be requested
38 pursuant to RCW 70.87.170.

1 (5)(a) If the department has suspended or revoked a permit or
2 license because of fraud or error, and a hearing is requested, the
3 suspension or revocation shall be stayed until the hearing is concluded
4 and a decision is issued.

5 (b) If the department has revoked or suspended a license because
6 the licensee performing the work covered by this chapter is working in
7 a manner that does not effectively prevent injuries or deaths or
8 protect employees and the public from unsafe conditions as is required
9 by this chapter, the suspension or revocation is effective immediately
10 and shall not be stayed by a request for a hearing.

11 (c) If the department has revoked or suspended a permit because the
12 conveyance is unsafe or the conveyance work is not permitted and
13 performed in accordance with this chapter, the suspension or revocation
14 is effective immediately and shall not be stayed by a request for a
15 hearing.

16 (6) The department must remove a suspension or reinstate a revoked
17 license if the licensee pays all the assessed civil penalties and is
18 able to demonstrate to the department that the licensee has met all the
19 qualifications established by this chapter.

20 (7) The department shall remove a suspension or reinstate a revoked
21 permit if a conveyance is repaired or modified to bring it into
22 compliance with this chapter.

23 **Sec. 19.** RCW 70.87.185 and 1983 c 123 s 18 are each amended to
24 read as follows:

25 (1) The department may assess a penalty against a person violating
26 a provision of this chapter. The penalty shall be not more than five
27 hundred dollars. Each day that the violation continues is a separate
28 violation and is subject to a separate penalty.

29 (2) The department may not assess a penalty until it adopts rules
30 describing the method it will use to calculate penalties for various
31 violations.

32 (3) The department shall notify the violator of its action, and the
33 reasons for its action, in writing. The department shall send the
34 notice (~~by certified mail~~) using a method by which the mailing can be
35 tracked or the delivery can be confirmed to the violator's last known
36 address. The notice shall inform the violator that a hearing may be

1 requested under RCW 70.87.170. The hearing shall not stay the effect
2 of the penalty.

3 **Sec. 20.** RCW 70.87.205 and 2005 c 433 s 49 are each amended to
4 read as follows:

5 (1) Disputes arising under RCW 70.87.200(2) shall be resolved by
6 arbitration. The request shall be sent (~~by certified mail~~) using a
7 method by which the mailing can be tracked or the delivery can be
8 confirmed.

9 (2) The department shall appoint one arbitrator; the municipality
10 shall appoint one arbitrator; and the arbitrators chosen by the
11 department and the municipality shall appoint the third arbitrator. If
12 the two arbitrators cannot agree on the third arbitrator, the presiding
13 judge of the Thurston county superior court, or his or her designee,
14 shall appoint the third arbitrator.

15 (3) The arbitration shall be held pursuant to the procedures in
16 chapter 7.04A RCW, except that RCW 7.04A.280(1)(f) shall not apply.
17 The decision of the arbitrators is final and binding on the parties.
18 Neither party may appeal a decision to any court.

19 (4) A party may petition the Thurston county superior court to
20 enforce a decision of the arbitrators.

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