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HOUSE BILL 2133

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State of Washington

66th Legislature

2019 Regular Session

By Representative Steele

Read first time 03/01/19. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to the Washington state explosives act; amending  
2 RCW 70.74.360 and 70.74.370; adding a new section to chapter 70.74  
3 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 70.74.360 and 2009 c 39 s 1 are each amended to read  
6 as follows:

7 (1) The director of labor and industries shall require, as a  
8 condition precedent to the original issuance (~~and upon renewal every~~  
9 ~~three years thereafter~~) of any explosive license, fingerprinting and  
10 criminal history record information checks of every applicant. (~~In~~  
11 ~~the case of a corporation,~~) Upon yearly renewal, a criminal  
12 background check of every licensee must be made using the information  
13 provided with their application, verified by fingerprints, that is  
14 reflected on their license. Fingerprinting and criminal history  
15 record information checks shall be required for the management  
16 officials directly responsible for the operations where explosives  
17 are used if such persons have not previously had their fingerprints  
18 recorded with the department of labor and industries(~~. In the case~~  
19 ~~of a partnership, fingerprinting and criminal history record~~  
20 ~~information checks shall be required of all general partners~~) for  
21 all privately held companies, corporations, partnerships, and public

1 organizations. Such fingerprints as are required by the department of  
2 labor and industries shall be submitted (~~on forms provided by the~~  
3 ~~department~~) to the identification section of the Washington state  
4 patrol and to the identification division of the federal bureau of  
5 investigation on the form they specify to use in order that these  
6 agencies may search their records for prior convictions of the  
7 individuals fingerprinted. The Washington state patrol shall provide  
8 to the director of labor and industries such criminal record  
9 information as the director may request. The applicant shall give  
10 full cooperation to the department of labor and industries and shall  
11 assist the department of labor and industries in all aspects of the  
12 fingerprinting and criminal history record information check. The  
13 applicant shall be required to pay the current federal and state fee  
14 for (~~fingerprint-based~~) criminal history background checks of  
15 themselves and their employees.

16 (2) The director of labor and industries shall not issue a  
17 license to manufacture, purchase, store, use, or deal with explosives  
18 to:

19 (a) Any person under twenty-one years of age;

20 (b) Any person whose license is suspended or whose license has  
21 been revoked, except as provided in RCW 70.74.370;

22 (c) Any person who (~~has been convicted~~) in this state or  
23 elsewhere:

24 (i) Has been convicted of a (~~violent~~) felony offense (~~as~~  
25 defined in RCW 9.94A.030,);

26 (ii) Has been convicted of domestic violence as defined in RCW  
27 10.99.020;

28 (iii) Is currently under a restraining order issued by a court  
29 from harassing, stalking, or threatening an intimate partner of the  
30 person or child of the intimate partner or person, or engaging in  
31 other conduct that would place an intimate partner in reasonable fear  
32 of bodily injury to the partner or child, which is the result of a  
33 hearing at which the person has actual notice and an opportunity to  
34 participate; or

35 (iv) Has been convicted of perjury, false swearing, or bomb  
36 threats or a crime involving a schedule I or II controlled substance,  
37 or any other drug or alcohol related offense, unless such other drug  
38 or alcohol related offense does not reflect a drug or alcohol  
39 dependency. However, the director of labor and industries may issue a  
40 license if the person suffering a drug or alcohol related dependency

1 is participating in or has completed an alcohol or drug recovery  
2 program acceptable to the department of labor and industries and has  
3 established control of their alcohol or drug dependency. The director  
4 of labor and industries shall require the applicant to provide proof  
5 of such participation and control; (~~or~~)

6 (d) Any person who has previously been (~~adjudged~~) found by duly  
7 appointed mental health authorities or courts in this state or  
8 elsewhere to be (~~mentally ill or insane~~) an individual with mental  
9 illness, or to be incompetent due to any mental (~~disability or~~  
10 disease) illness, intellectual disability, or impairment as defined  
11 in RCW 49.60.040(7) whose condition prohibits access to explosives or  
12 other dangerous items or materials in the interest of public safety  
13 and who has not at the time of application been restored to  
14 competency by the authority having jurisdiction over the case; or

15 (e) Any person dishonorably discharged from the armed forces of  
16 the United States.

17 (3) Persons denied licensing for any reason must be notified in  
18 writing by the department.

19 (4) Persons denied licensing may request relief as outlined in  
20 section 3(1) of this act.

21 (5) The director of labor and industries may establish reasonable  
22 licensing fees for the manufacture, dealing, purchase, use, and  
23 storage of explosives.

24 **Sec. 2.** RCW 70.74.370 and 1997 c 58 s 872 are each amended to  
25 read as follows:

26 (1) The department of labor and industries shall revoke and not  
27 renew the license of any person holding a manufacturer, dealer,  
28 purchaser, user, or storage license upon conviction of any of the  
29 following offenses, which conviction has become final:

30 (a) A (~~violent offense as defined in RCW 9.94A.030~~) felony  
31 under the laws of this state or any out-of-state offense that under  
32 the laws of this state would be a felony;

33 (b) A crime involving perjury or false swearing, including the  
34 making of a false affidavit or statement under oath or the omission  
35 of a required report to the department of labor and industries in an  
36 application or report made pursuant to this title;

37 (c) A crime involving bomb threats;

38 (d) A crime involving a schedule I or II controlled substance, or  
39 any other drug or alcohol related offense, unless such other drug or

1 alcohol related offense does not reflect a drug or alcohol  
2 dependency. However, the department of labor and industries may  
3 condition renewal of the license to any convicted person suffering a  
4 drug or alcohol dependency who is participating in an alcoholism or  
5 drug recovery program acceptable to the department of labor and  
6 industries and has established control of their alcohol or drug  
7 dependency. The department of labor and industries shall require the  
8 licensee to provide proof of such participation and control;

9 (e) A crime relating to possession, use, transfer, or sale of  
10 explosives under this chapter or any other chapter of the Revised  
11 Code of Washington;

12 (f) A crime of domestic violence as defined in RCW 10.99.020;

13 (g) A crime resulting in punishment that includes a dishonorable  
14 discharge from the armed forces of the United States.

15 (2) The department of labor and industries shall revoke the  
16 license of any person (~~(adjudged)~~) found by duly appointed mental  
17 health authorities or courts in this state or elsewhere to be  
18 (~~(mentally ill or insane)~~) an individual with mental illness, or to  
19 be incompetent due to any mental (~~(disability or disease)~~) illness,  
20 intellectual disability, or impairment as defined in RCW 49.60.040(7)  
21 whose condition prohibits access to explosives or other dangerous  
22 items or materials in the interest of public safety. The director  
23 shall not renew the license until the person has been restored to  
24 competency by the authority having jurisdiction over the case.

25 (3) The department of labor and industries is authorized to  
26 suspend, for a period of time not to exceed six months, the license  
27 of any person who has violated this chapter or the rules promulgated  
28 pursuant to this chapter.

29 (4) The department of labor and industries may revoke the license  
30 of any person who has repeatedly violated this chapter or the rules  
31 promulgated pursuant to this chapter, or who has twice had his or her  
32 license suspended under this chapter.

33 (5) The department of labor and industries shall immediately  
34 suspend the license or certificate of a person who has been certified  
35 pursuant to RCW 74.20A.320 by the department of social and health  
36 services as a person who is not in compliance with a support order  
37 (~~(or a residential or visitation order)~~). (~~(If the person has~~  
38 ~~continued to meet all other requirements for reinstatement during the~~  
39 ~~suspension, reissuance of the license or certificate shall be~~  
40 ~~automatic upon the department of labor and industries' receipt of a~~

1 ~~release issued by the department of social and health services~~  
2 ~~stating that the licensee is in compliance with the order.)~~)

3 (6) The department of labor and industries shall immediately  
4 suspend the license or certificate of a person who has been, under  
5 the laws of this state or any out-of-state court:

6 (a) Charged by an appointed prosecuting attorney with a felony  
7 for an offense that under the laws of this state would be a felony;

8 (b) Placed under a restraining order by a court for harassing,  
9 stalking, or threatening an intimate partner of the person or child  
10 of the intimate partner or person, or engaging in other conduct that  
11 would place an intimate partner in reasonable fear of bodily injury  
12 to the partner or child which is the result of a hearing at which the  
13 person had actual notice and an opportunity to participate; or

14 (c) Charged by an appointed prosecuting attorney with a crime of  
15 domestic violence as defined in RCW 10.99.020.

16 (7) Licensed persons who meet the criteria of subsection (6) of  
17 this section are required to report the charging of the offense to  
18 the department within thirty days. Failure to make the report is a  
19 gross misdemeanor punishable under chapter 9A.20 RCW.

20 (8) If the person has continued to meet all other requirements  
21 for reinstatement during the suspension, reissuance of the license or  
22 certificate is automatic upon the department of labor and industries'  
23 receipt of:

24 (a) A dismissal of charges; or

25 (b) Court allowance of continued use of explosives as described  
26 in section 3(2) of this act.

27 (9) The department of labor and industries must provide written  
28 notification to any person denied licensing.

29 (10) Upon receipt of notification by the department of labor and  
30 industries of revocation or suspension, a licensee must surrender  
31 immediately to the department any or all such licenses revoked or  
32 suspended.

33 NEW SECTION. Sec. 3. A new section is added to chapter 70.74  
34 RCW to read as follows:

35 (1) Persons denied licensing by any condition identified in RCW  
36 70.74.360(2) (b) through (d) may request a review of the decision by  
37 the board of industrial insurance appeals for relief from the denial  
38 of licensing within thirty days of notification by the department of  
39 labor and industries. The person requesting relief must prove that:

1 (a) The circumstances, their reputation, and record are such that  
2 they will not be likely to act in a manner dangerous to public  
3 safety; and

4 (b) The granting of such relief is not contrary to the public  
5 interest.

6 (2) A person whose license is denied or suspended for any  
7 condition identified in RCW 70.74.370 (1), (2), or (6) must request  
8 relief from the court that is conducting the proceedings for  
9 continued use, possession, manufacture, sale, and/or purchase of  
10 explosives. That court shall determine whether:

11 (a) The circumstances, their reputation, and record are such that  
12 they will not be likely to act in a manner dangerous to public  
13 safety; and

14 (b) The granting of such relief is not contrary to the public  
15 interest.

16 (3) Persons requesting relief for denial or suspension of  
17 licensing who are also permitted the use or access to explosives by  
18 the federal bureau of alcohol, tobacco, firearms and explosives must  
19 present proof of relief from disability as provided in 18 U.S.C. Sec.  
20 1102 Part 845 at every hearing. For those whose relief from  
21 disability is denied or withdrawn, no further relief may be  
22 considered in this state.

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