
HOUSE BILL 2805

State of Washington

66th Legislature

2020 Regular Session

By Representatives Steele, Senn, and Chapman

Read first time 01/22/20. 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 the
11 case of a corporation, fingerprinting and criminal history record
12 information checks shall be required for the management officials
13 directly responsible for the operations where explosives are used if
14 such persons have not previously had their fingerprints recorded with
15 the department of labor and industries. In the case of a partnership,
16 fingerprinting and criminal history record information checks shall
17 be required of all general partners. Such fingerprints as are
18 required by the department of labor and industries shall be submitted
19 on forms provided by the department to the identification section of
20 the Washington state patrol and to the identification division of the
21 federal bureau of investigation in order that these agencies may

1 search their records for prior convictions of the individuals
2 fingerprinted. The Washington state patrol shall provide to the
3 director of labor and industries such criminal record information as
4 the director may request. The applicant shall give full cooperation
5 to the department of labor and industries and shall assist the
6 department of labor and industries in all aspects of the
7 fingerprinting and criminal history record information check. The
8 applicant shall be required to pay the current federal and state fee
9 for fingerprint-based criminal history background checks.

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

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

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15 been revoked, except as provided in RCW 70.74.370;

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

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

20 (ii) Has been convicted of domestic violence as defined in RCW
21 10.99.020;

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

29 (iv) Has been convicted of perjury, false swearing, or bomb
30 threats or a crime involving a schedule I or II controlled substance,
31 or any other drug or alcohol related offense, unless such other drug
32 or alcohol related offense does not reflect a drug or alcohol
33 dependency. However, the director of labor and industries may issue a
34 license if the person suffering a drug or alcohol related dependency
35 is participating in or has completed an alcohol or drug recovery
36 program acceptable to the department of labor and industries and has
37 established control of their alcohol or drug dependency. The director
38 of labor and industries shall require the applicant to provide proof
39 of such participation and control; (~~or~~)

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

10 (e) Any person dishonorably discharged from the armed forces of
11 the United States.

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

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

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

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

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

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

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

32 (c) A crime involving bomb threats;

33 (d) A crime involving a schedule I or II controlled substance, or
34 any other drug or alcohol related offense, unless such other drug or
35 alcohol related offense does not reflect a drug or alcohol
36 dependency. However, the department of labor and industries may
37 condition renewal of the license to any convicted person suffering a
38 drug or alcohol dependency who is participating in an alcoholism or
39 drug recovery program acceptable to the department of labor and

1 industries and has established control of their alcohol or drug
2 dependency. The department of labor and industries shall require the
3 licensee to provide proof of such participation and control;

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) A dismissal of charges; or

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

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

24 (10) Upon receipt of notification by the department of labor and
25 industries of revocation or suspension, a licensee must surrender
26 immediately to the department any or all such licenses revoked or
27 suspended.

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

30 (1) Persons denied licensing by any condition identified in RCW
31 70.74.360(2) (b) through (d) may request a review of the decision by
32 the board of industrial insurance appeals for relief from the denial
33 of licensing within thirty days of notification by the department of
34 labor and industries. The person requesting relief must prove that:

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

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

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

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

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

11 (3) Persons requesting relief for denial or suspension of
12 licensing who are also permitted the use or access to explosives by
13 the federal bureau of alcohol, tobacco, firearms and explosives must
14 present proof of relief from disability as provided in 18 U.S.C. Sec.
15 1102 Part 845 at every hearing. For those whose relief from
16 disability is denied or withdrawn, no further relief may be
17 considered in this state.

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