

RCW 18.130.190 Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties.

(1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine.

(5) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(6) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(7) (a) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor for a single violation.

(b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(8) All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account. [2003 c 53 s 141; 2001 c 207 s 2. Prior: 1995 c 285 s 35; 1993 c 367 s 19; 1991 c 3 s 271; prior: 1989 c 373 s 20; 1989 c 175 s 71; 1987 c 150 s 7; 1986 c 259 s 11; 1984 c 279 s 19.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—2001 c 207: "The purpose of this act is to respond to *State v. Thomas*, 103 Wn. App. 800, by reenacting and ranking, without changes, legislation relating to the crime of unlicensed practice of a profession or a business, enacted as section 35, chapter 285, Laws of 1995." [2001 c 207 s 1.]

Effective date—2001 c 207: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 7, 2001]." [2001 c 207 s 4.]

Effective date—1995 c 285: See RCW 48.30A.900.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.