
SUBSTITUTE HOUSE BILL 2764

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Housing (originally sponsored by Representatives Cooper, Winsley, Mitchell, Kremen, Ogden, Leonard, Nelson, Chandler, Ferguson and Paris)

Read first time 02/07/92.

1 AN ACT Relating to manufactured housing installation; adding a new
2 section to chapter 18.27 RCW; adding a new chapter to Title 18 RCW;
3 recodifying RCW 18.27.117; prescribing penalties; and declaring an
4 emergency.

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

6 NEW SECTION. **Sec. 1.** The purpose of this chapter is to ensure
7 that purchasers of manufactured homes have their homes installed in
8 accordance with the state installation code, chapter 296-150B WAC.
9 This chapter requires that all manufactured homes are installed by a
10 certified manufactured home installer.

11 NEW SECTION. **Sec. 2.** Unless the context clearly requires
12 otherwise, the definitions in this section apply throughout this
13 chapter.

1 (1) "Authorized representative" means an employee of a state
2 agency, city, or county acting on behalf of such a unit of government.

3 (2) "Certified manufactured home installer" means a person who has
4 been issued a certificate by the department of community development as
5 provided in this chapter.

6 (3) "Department" means the department of community development.

7 (4) "Director" means the director of the department of community
8 development.

9 (5) "Manufactured home" includes mobile homes.

10 (6) "Manufactured home installation" includes all work necessary
11 for the installation of a manufactured home, including: The
12 construction of the support piers and foundation system; required
13 connections to the support piers and foundation system; the
14 installation of on-site water, gas, electrical, and sewer systems; and
15 required connections to the on-site water, gas, electrical, and sewer
16 systems that are necessary for the normal operation of the manufactured
17 home. This definition does not include specialty trades that are
18 responsible for: Constructing accessory structures such as garages,
19 carports, and deck and storage buildings; pouring concrete into forms;
20 painting and drywall finishing; carpet installation; or specialty work
21 performed by licensed plumbers or electricians. This definition does
22 not waive or lessen any state regulations related to licensing or
23 permits required for electricians or plumbers.

24 (7) "Manufactured home standards" means the manufactured home
25 construction and safety standards as promulgated by the United States
26 department of housing and urban development.

27 (8) "Training course" means the education program administered by
28 the department as a prerequisite to taking the examination for
29 certification.

1 NEW SECTION. **Sec. 3.** After July 1, 1993, a manufactured home
2 may not be installed without a certified manufactured home installer
3 providing on-site supervision whenever installation work is being
4 performed. The certified manufactured home installer is responsible
5 for the performance of noncertified workers engaged in the installation
6 of the manufactured home. There shall be at least one certified
7 manufactured home installer for each two noncertified workers on the
8 installation site whenever installation work is being performed.
9 Violation of this section is an infraction.

10 NEW SECTION. **Sec. 4.** A person desiring to be issued a
11 certificate of mobile home installation as provided in this chapter
12 shall make application to the department, in such a form as required by
13 the department. The applicant must demonstrate that he or she has had
14 sufficient experience in, as well as demonstrated general knowledge of
15 manufactured housing installation so as to qualify the applicant to
16 make an application for a certificate of manufactured home
17 installation.

18 NEW SECTION. **Sec. 5.** Upon receipt of the application and
19 evidence required in this chapter, the director shall review the
20 information and make a determination as to whether the applicant is
21 eligible to take the training course and examination for the
22 certificate of manufactured home installation. An applicant must
23 furnish written evidence of twelve months of experience under the
24 direct supervision of a certified manufactured home installer in order
25 to be eligible to take the training course and examination. The
26 director shall establish reasonable rules for the training course and
27 examinations to be given to applicants for certificates of manufactured
28 home installation. Upon determining that the applicant is eligible to

1 take the training course and examination, the director shall notify the
2 applicant, indicating the time and place for taking the training course
3 and examination.

4 The requirement that an applicant must be under the direct
5 supervision of a certified manufactured home installer for one year
6 only applies to applications made on or after July 1, 1995. For
7 applications made before July 1, 1995, the department shall require
8 evidence of experience to satisfy this requirement.

9 The director may allow local building code officials and utility
10 representatives to take the training course and examination on
11 manufactured home installation.

12 NEW SECTION. **Sec. 6.** The department shall prepare a written
13 training course and examination to be administered to applicants for
14 certificates to be certified manufactured home installers. The
15 examination shall be constructed to determine:

16 (1) Whether the applicant possesses general knowledge of the
17 technical information and practical procedures that are necessary for
18 manufactured home installations.

19 (2) Whether the applicant is familiar with the applicable federal
20 and state codes and administrative rules pertaining to manufactured
21 homes.

22 (3) Whether the applicant is familiar with local government
23 regulations as related to manufactured home installations.

24 The department shall administer the training course and examination
25 to eligible persons and shall charge reasonable fees to cover the costs
26 to administer the certification program.

27 The department shall certify the results of the examination and
28 shall notify the applicant in writing whether the applicant has passed
29 or failed the examination. An applicant who failed the examination may

1 retake the training course and examination. The director may not limit
2 the number of times that a person may take the training course and
3 examination.

4 NEW SECTION. **Sec. 7.** (1) The department shall issue a
5 certificate of manufactured home installation to all applicants who
6 have taken the training course, passed the examination, paid the fee
7 for the certificate, and in all other respects meets the
8 qualifications. The certificate shall bear the date of issuance and is
9 renewable every three years upon application and completion of a
10 continuing education program as determined by the department. A
11 renewal fee shall be assessed for each certificate. If a person fails
12 to renew a certificate by the renewal date, the person must retake the
13 examination and pay the examination fee.

14 (2) The certificate of manufactured home installation provided for
15 in this chapter grants the holder the right to engage in manufactured
16 home installation throughout the state and within any city or county,
17 without any other license, permit, or fee. This provision does not
18 waive or modify requirements for local building or installation permits
19 or fees.

20 NEW SECTION. **Sec. 8.** (1) The department may revoke a
21 certificate of manufactured home installation upon the following
22 grounds:

23 (a) The certificate was obtained through error or fraud.

24 (b) The holder of the certificate is judged to be incompetent as a
25 result of multiple violations of the state installation code, WAC 296-
26 150B-200 through 296-150B-255.

27 (c) The holder's bond has expired, exhausted, or terminated.

1 (d) The holder has violated a provision of this chapter or a rule
2 adopted to implement this chapter.

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

12 NEW SECTION. **Sec. 9.** The department shall charge fees for the
13 issuance, renewal, and reinstatement of all certificates, and for
14 training courses and examinations required under this chapter. The
15 amount of each fee shall be established by the department in rule. All
16 fees collected under this chapter shall be used only for the purposes
17 specified in this chapter.

18 The fees shall be limited to covering the full cost of issuing the
19 certificates, devising and administering the examinations, and
20 administering and enforcing this chapter. The costs shall include
21 necessary travel, per diem, and administrative support costs.

22 NEW SECTION. **Sec. 10.** An authorized representative may
23 investigate alleged or apparent violations of this chapter. An
24 authorized representative, including a local government building
25 official upon presentation of credentials, may inspect sites at which
26 manufactured home installation work is undertaken to determine whether
27 such work is in compliance with this chapter. Upon request of the
28 authorized representative, a person performing manufactured home

1 installation work shall identify the persons holding the certificate
2 issued by the department in accordance with this chapter.

3 NEW SECTION. **Sec. 11.** An authorized representative of the
4 department may issue a notice of infraction if: (1) The person
5 responsible for the manufactured home installation work fails to
6 produce evidence of having a certificate issued by the department in
7 accordance with this chapter; or (2) the installation is not in
8 compliance with this chapter. A notice of infraction issued under this
9 chapter shall be personally served on or sent by certified mail to the
10 person named in the notice by the authorized representative.

11 NEW SECTION. **Sec. 12.** (1) The department shall prescribe the
12 form of the notice of infraction issued under this chapter.

13 (2) The notice of infraction shall include the following:

14 (a) A statement that the notice represents a determination that the
15 infraction has been committed by the person named in the notice and
16 that the determination is final unless contested as provided in this
17 chapter.

18 (b) A statement that the infraction is a noncriminal offense for
19 which imprisonment may not be imposed as a sanction.

20 (c) A statement of the specific infraction for which the notice was
21 issued.

22 (d) A statement of a monetary penalty that has been established for
23 the infraction.

24 (e) A statement of the options provided in this chapter for
25 responding to the notice and the procedures necessary to exercise these
26 options.

27 (f) A statement that, at a hearing to contest the determination,
28 the state has the burden of proving, by a preponderance of the

1 evidence, that the infraction was committed, and that the person may
2 subpoena witnesses including the authorized representative who issued
3 and served the notice of the infraction.

4 (g) A statement, that the person shall sign, that the person
5 promises to respond to the notice of infraction in one of the ways
6 provided in this chapter.

7 (h) A statement that refusal to sign the infraction as directed in
8 (g) of this subsection is a misdemeanor.

9 (i) A statement that failure to respond to a notice of infraction
10 as promised is a misdemeanor and may be punished by a fine or
11 imprisonment in jail.

12 NEW SECTION. **Sec. 13.** Each day in which a person engages in
13 the installation of manufactured homes in violation of this chapter is
14 a separate infraction. Each worksite at which a person engages in the
15 trade of manufactured home installation in violation of this chapter is
16 a separate infraction.

17 NEW SECTION. **Sec. 14.** It is a violation of this chapter for
18 any manufactured home dealer, manufacturer, or home dealer's or
19 manufacturer's agent to engage any person to install a manufactured
20 home who is not certified in accordance with this chapter.

21 NEW SECTION. **Sec. 15.** A district court shall hear and
22 determine a violation designated as an infraction under this chapter.
23 A notice of infraction shall be filed in the district court in which
24 the infraction is alleged to have occurred. If a notice of infraction
25 is filed in a court that is not the proper venue, the notice shall be
26 dismissed without prejudice on motion of either party.

1 NEW SECTION. **Sec. 16.** Unless contested in accordance with this
2 chapter, the notice of infraction represents a determination that the
3 person to whom the notice was issued committed the infraction.

4 NEW SECTION. **Sec. 17.** (1) A person who receives a notice of
5 infraction shall respond to the notice as provided in this section
6 within fourteen days of the date the notice was served.

7 (2) If the person named in the notice of infraction does not wish
8 to contest the determination, the person shall respond by completing
9 the appropriate portion of the notice of infraction and submitting it,
10 either by mail or in person, to the court specified on the notice. A
11 check or money order in the amount of the penalty prescribed for the
12 infraction must be submitted with the response. When a response that
13 does not contest the determination is received, an appropriate order
14 shall be entered in the court's records, and a record of the response
15 and order shall be furnished to the department.

16 (3) If the person named in the notice of infraction wishes to
17 contest the determination, the person shall respond by completing the
18 portion of the notice of infraction requesting a hearing and submitting
19 it, either by mail or in person, to the court specified on the notice.
20 The court shall notify the person in writing of the time, place, and
21 date of the hearing, and that date shall not be sooner than fourteen
22 days from the date of the notice, except by agreement of the parties.

23 (4) If a person issued a notice of infraction:

24 (a) Fails to respond to the notice of infraction as provided in
25 subsection (2) of this section; or

26 (b) Fails to appear at a hearing requested under subsection (3) of
27 this section; the court shall enter an appropriate order assessing the
28 monetary penalty prescribed for the infraction and shall notify the

1 department of the failure to respond to the notice of infraction or to
2 appear at a requested hearing.

3 (5) An order entered by a court under subsection (4) of this
4 section may, for good cause shown and upon such terms as the court
5 deems just, be set aside for the same grounds a default judgment may be
6 set aside in civil actions in courts of limited jurisdiction.

7 NEW SECTION. **Sec. 18.** It is a misdemeanor for a person who has
8 been served with a notice of infraction:

9 (1) To refuse to sign a written promise to respond to a notice; or

10 (2) To willfully violate the written promise to respond to a notice
11 of infraction as provided in this chapter, regardless of the ultimate
12 disposition of the infraction.

13 NEW SECTION. **Sec. 19.** A person subject to proceedings under
14 this chapter may appear or be represented by counsel. The attorney
15 general shall represent the department in a proceeding under this
16 chapter.

17 NEW SECTION. **Sec. 20.** (1) A hearing held for the purpose of
18 contesting the determination that an infraction has been committed
19 shall be without a jury.

20 (2) The court may consider the notice of infraction and any other
21 written report made under oath, submitted by the department's
22 authorized representative who issued and served the notice, and has the
23 right to present evidence and examine witnesses present in court.

24 (3) The burden of proof is on the department to establish the
25 commission of the infraction by a preponderance of the evidence. The
26 notice of infraction shall be dismissed if the defendant establishes
27 that, at the time the notice was issued, the defendant held a

1 certificate issued by the department or was exempt from holding a
2 certificate.

3 (4) After consideration of the evidence and argument, the court
4 shall determine whether the infraction was committed. If it has not
5 been established that the infraction was committed, an order dismissing
6 the notice shall be entered in the court's records and the defendant
7 shall be reimbursed all reasonable expenses. If it has been
8 established that the infraction was committed, an appropriate order
9 shall be entered in the court's records. A record of the court's
10 determination and order shall be furnished to the department.

11 (5) An appeal from the court's determination or order shall be to
12 the superior court. The decision of the superior court is subject only
13 to discretionary review under Rule 2.3 of the rules of appellate
14 procedure.

15 NEW SECTION. **Sec. 21.** The court shall, within thirty days
16 after entry of an order under this chapter, forward a record of the
17 court's order to the department on a form prescribed by the department.

18 NEW SECTION. **Sec. 22.** (1) A person found to have committed an
19 infraction under this chapter shall be assessed a monetary penalty of
20 one thousand dollars.

21 (2) Three violations within a twelve-month period shall cause a
22 review and may subject the installer to a suspension of certification
23 in addition to the monetary penalty.

24 (3) The court may waive, reduce, or suspend the monetary penalty
25 imposed for the infraction.

26 (4) Monetary penalties collected under this chapter shall be
27 remitted as provided in chapter 3.62 RCW.

1 NEW SECTION. **Sec. 23.** The director may adopt rules in
2 accordance with chapter 34.05 RCW, make specific decisions, orders, and
3 rulings, include demands and findings within the decisions, orders, and
4 rulings, and take other necessary action for the implementation and
5 enforcement of duties under this chapter.

6 NEW SECTION. **Sec. 24.** A new section is added to chapter 18.27 RCW
7 to read as follows:

8 No person may be registered as a contractor for the installation of
9 manufactured homes without being certified in accordance with chapter
10 18.-- RCW (sections 1 through 23 of this act).

11 NEW SECTION. **Sec. 25.** RCW 18.27.117 is recodified as a section
12 in chapter 18.-- RCW (sections 1 through 23 of this act).

13 NEW SECTION. **Sec. 26.** Sections 1 through 23 of this act shall
14 constitute a new chapter in Title 18 RCW.

15 NEW SECTION. **Sec. 27.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect immediately.