
HOUSE BILL 2764

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Cooper, Winsley, Mitchell, Kremen, Ogden, Leonard, Nelson, Chandler, Ferguson and Paris

Read first time 01/27/92. Referred to Committee on Housing.

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

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

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

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

1 (1) "Advisory committee" means the committee appointed by the
2 director to advise the department on the training and certification of
3 manufactured home installers.

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

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

9 (4) "Department" means the department of community development.

10 (5) "Director" means the director of the department of community
11 development.

12 (6) "Manufactured home" includes mobile homes.

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

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

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

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

9 (2) A certified manufactured home installer is not required to be
10 a registered contractor under chapter 18.27 RCW.

11 (3) Violation of subsection (1) of this section is an infraction.

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

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

1 director shall establish reasonable rules for the training course and
2 examinations to be given to applicants for certificates of manufactured
3 home installation. Upon determining that the applicant is eligible to
4 take the training course and examination, the director shall notify the
5 applicant, indicating the time and place for taking the training course
6 and examination.

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

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.

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

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

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

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

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

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

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

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

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

1 exclusively by service upon the department. Three copies of the
2 summons and complaint and a fee of ten dollars to cover the handling
3 costs shall be served by registered or certified mail upon the
4 department at the time suit is started and the department shall
5 maintain a record, available for public inspection, of all suits so
6 commenced. Service is not complete until the department receives the
7 fee and three copies of the summons and complaint. The service
8 constitutes service on the installer and the surety for suit upon the
9 bond or deposit and the department shall transmit the summons and
10 complaint or a copy thereof to the installer at the address listed in
11 the application and to the surety within forty-eight hours after it has
12 been received.

13 (3) The surety upon the bond is not liable in an aggregate amount
14 in excess of the amount named in the bond nor for a monetary penalty
15 assessed under this chapter for an infraction. The liability of the
16 surety may not cumulate where the bond has been renewed, continued,
17 reinstated, reissued or otherwise extended. The surety upon the bond
18 may, upon notice to the department and the parties, tender to the clerk
19 of the court having jurisdiction of the action an amount equal to the
20 claims thereunder or the amount of the bond less the amount of
21 judgments, if any, previously satisfied therefrom and to the extent of
22 such tender the surety upon the bond shall be exonerated. If the
23 actions commenced and pending at any one time exceed the amount of the
24 bond then unimpaired, claims shall be satisfied from the bond in the
25 following order:

26 (a) Labor, including employee benefits;

27 (b) Claims for breach of contract by a party to the installation
28 contract;

29 (c) Material and equipment;

30 (d) Taxes and contributions due the state of Washington;

1 (e) Court costs, interest, and attorneys' fees plaintiff may be
2 entitled to recover.

3 (4) In the event that a final judgment impairs the liability of the
4 surety upon the bond so furnished that there is not in effect a bond
5 undertaking in the full amount prescribed in this section, the
6 department shall suspend the certification of the installer until the
7 bond liability in the required amount unimpaired by unsatisfied
8 judgment claims has been furnished. If the bond becomes fully
9 impaired, a new bond must be furnished at the increased rates
10 prescribed under this section.

11 (5) In lieu of the surety bond required under this section the
12 installer may file with the department a deposit consisting of cash or
13 other security acceptable to the department.

14 (6) A person having filed and served a summons and complaint as
15 required under this section having an unsatisfied final judgment
16 against the installer for any items referred to in this section may
17 execute a certified copy of the unsatisfied final judgment by
18 registered or certified mail upon the department within one year of the
19 date of entry of such judgment. Upon the receipt of service of the
20 certified copy the department shall pay or order paid from the deposit,
21 through the registry of the superior court that rendered judgment,
22 towards the amount of the unsatisfied judgment. The priority of
23 payment by the department is the order of receipt by the department,
24 but the department has no liability for payment in excess of the amount
25 of the deposit.

26 (7) The director may adopt rules necessary for the proper
27 administration of the security in accordance with chapter 34.05 RCW.

28 NEW SECTION. **Sec. 12.** There is hereby created a manufactured
29 home installation advisory committee consisting of ten members

1 appointed by the director. The committee shall advise the director on
2 all matters pertaining to the enforcement of this chapter including all
3 aspects of manufactured home installation. The committee shall
4 periodically review the rules adopted to effect this chapter, and shall
5 recommend changes of the rules to the department as it deems advisable.

6 The members of the committee shall consist of two representatives
7 of consumers, manufactured home installers, manufactured home dealers,
8 manufacturers, and local building officials. The term of each member
9 shall be four years, except that the director may appoint the initial
10 members of the advisory board to staggered terms not exceeding four
11 years.

12 NEW SECTION. **Sec. 13.** An authorized representative of the
13 department may issue a notice of infraction if: (1) The person
14 responsible for the manufactured home installation work fails to
15 produce evidence of having a certificate issued by the department in
16 accordance with this chapter; or (2) the installation is not in
17 compliance with this chapter. A notice of infraction issued under this
18 chapter shall be personally served on or sent by certified mail to the
19 person named in the notice by the authorized representative.

20 NEW SECTION. **Sec. 14.** (1) The department shall prescribe the
21 form of the notice of infraction issued under this chapter.

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

23 (a) A statement that the notice represents a determination that the
24 infraction has been committed by the person named in the notice and
25 that the determination is final unless contested as provided in this
26 chapter.

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

1 (c) A statement of the specific infraction for which the notice was
2 issued.

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

5 (e) A statement of the options provided in this chapter for
6 responding to the notice and the procedures necessary to exercise these
7 options.

8 (f) A statement that, at a hearing to contest the determination,
9 the state has the burden of proving, by a preponderance of the
10 evidence, that the infraction was committed, and that the person may
11 subpoena witnesses including the authorized representative who issued
12 and served the notice of the infraction.

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

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

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

21 NEW SECTION. **Sec. 15.** Each day in which a person engages in
22 the installation of manufactured homes in violation of this chapter is
23 a separate infraction. Each worksite at which a person engages in the
24 trade of manufactured home installation in violation of this chapter is
25 a separate infraction.

26 NEW SECTION. **Sec. 16.** It is a violation of this chapter for
27 any manufactured home dealer, manufacturer, or home dealer's or

1 manufacturer's agent to engage any person to install a manufactured
2 home who is not certified in accordance with this chapter.

3 NEW SECTION. **Sec. 17.** A district court shall hear and
4 determine a violation designated as an infraction under this chapter.
5 A notice of infraction shall be filed in the district court in which
6 the infraction is alleged to have occurred. If a notice of infraction
7 is filed in a court that is not the proper venue, the notice shall be
8 dismissed without prejudice on motion of either party.

9 NEW SECTION. **Sec. 18.** Unless contested in accordance with this
10 chapter, the notice of infraction represents a determination that the
11 person to whom the notice was issued committed the infraction.

12 NEW SECTION. **Sec. 19.** (1) A person who receives a notice of
13 infraction shall respond to the notice as provided in this section
14 within fourteen days of the date the notice was served.

15 (2) If the person named in the notice of infraction does not wish
16 to contest the determination, the person shall respond by completing
17 the appropriate portion of the notice of infraction and submitting it,
18 either by mail or in person, to the court specified on the notice. A
19 check or money order in the amount of the penalty prescribed for the
20 infraction must be submitted with the response. When a response that
21 does not contest the determination is received, an appropriate order
22 shall be entered in the court's records, and a record of the response
23 and order shall be furnished to the department.

24 (3) If the person named in the notice of infraction wishes to
25 contest the determination, the person shall respond by completing the
26 portion of the notice of infraction requesting a hearing and submitting
27 it, either by mail or in person, to the court specified on the notice.

1 The court shall notify the person in writing of the time, place, and
2 date of the hearing, and that date shall not be sooner than fourteen
3 days from the date of the notice, except by agreement of the parties.

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

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

7 (b) Fails to appear at a hearing requested under subsection (3) of
8 this section; the court shall enter an appropriate order assessing the
9 monetary penalty prescribed for the infraction and shall notify the
10 department of the failure to respond to the notice of infraction or to
11 appear at a requested hearing.

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

16 NEW SECTION. **Sec. 20.** It is a misdemeanor for a person who has
17 been served with a notice of infraction:

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

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

22 NEW SECTION. **Sec. 21.** A person subject to proceedings under
23 this chapter may appear or be represented by counsel. The attorney
24 general shall represent the department in a proceeding under this
25 chapter.

1 NEW SECTION. **Sec. 22.** (1) A hearing held for the purpose of
2 contesting the determination that an infraction has been committed
3 shall be without a jury.

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

8 (3) The burden of proof is on the department to establish the
9 commission of the infraction by a preponderance of the evidence. The
10 notice of infraction shall be dismissed if the defendant establishes
11 that, at the time the notice was issued, the defendant held a
12 certificate issued by the department or was exempt from holding a
13 certificate.

14 (4) After consideration of the evidence and argument, the court
15 shall determine whether the infraction was committed. If it has not
16 been established that the infraction was committed, an order dismissing
17 the notice shall be entered in the court's records and the defendant
18 shall be reimbursed all reasonable expenses. If it has been
19 established that the infraction was committed, an appropriate order
20 shall be entered in the court's records. A record of the court's
21 determination and order shall be furnished to the department.

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

26 NEW SECTION. **Sec. 23.** The court shall, within thirty days
27 after entry of an order under this chapter, forward a record of the
28 court's order to the department on a form prescribed by the department.

1 NEW SECTION. **Sec. 24.** (1) A person found to have committed an
2 infraction under this chapter shall be assessed a monetary penalty of
3 one thousand dollars.

4 (2) Three violations within a twelve-month period shall cause a
5 review and may subject the installer to a suspension of certification
6 in addition to the monetary penalty. Manufactured home dealers or
7 manufacturers in violation of this chapter may be subject to suspension
8 of their business license.

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

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

13 NEW SECTION. **Sec. 25.** The director may adopt rules in
14 accordance with chapter 34.05 RCW, make specific decisions, orders, and
15 rulings, include demands and findings within the decisions, orders, and
16 rulings, and take other necessary action for the implementation and
17 enforcement of duties under this chapter.

18 **Sec. 26.** RCW 18.27.117 and 1987 c 313 s 2 are each amended to read
19 as follows:

20 The legislature finds that setting up and siting
21 mobile/manufactured homes must be done properly for the health, safety,
22 and enjoyment of the occupants. Therefore, when any of the following
23 cause a health and safety risk to the occupants of a
24 mobile/manufactured home, or severely hinder the use and enjoyment of
25 the mobile/manufactured home, a violation of RCW 19.86.020 shall have
26 occurred:

27 (1) The mobile/manufactured home has been improperly installed by
28 a contractor (~~(licensed under chapter 18.27 RCW,~~) or a

1 mobile/manufactured dealer or manufacturer (~~licensed under chapter~~
2 ~~46.70 RCW~~) who is a certified manufactured home installer;

3 (2) A warranty given under chapter 18.27 RCW or chapter 46.70 RCW
4 has not been fulfilled by the person or business giving the warranty;
5 and

6 (3) A bonding company that issues a bond under chapter 18.27 RCW or
7 chapter 46.70 RCW does not reasonably and professionally investigate
8 and resolve claims made by injured parties.

9 NEW SECTION. Sec. 27. RCW 18.27.117 is recodified as a section
10 in chapter 18.-- RCW (sections 1 through 25 of this act).

11 NEW SECTION. Sec. 28. Sections 1 through 25 of this act shall
12 constitute a new chapter in Title 18 RCW.

13 NEW SECTION. Sec. 29. If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. Sec. 30. This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately.