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SECOND SUBSTITUTE HOUSE BILL 2966

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State of Washington

60th Legislature

2008 Regular Session

By House Appropriations (originally sponsored by Representatives Conway, Wood, McIntire, Campbell, Simpson, Appleton, Hasegawa, and Ormsby)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to certification of heating, ventilation, air  
2 conditioning, and refrigeration contractors and mechanics; adding a new  
3 chapter to Title 18 RCW; creating new sections; prescribing penalties;  
4 providing an effective date; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this  
7 section apply throughout this chapter unless the context clearly  
8 requires otherwise.

9 (1) "Applicant" means a person who has submitted the appropriate  
10 form or forms to be considered for an HVAC/R mechanic certificate, a  
11 temporary HVAC/R mechanic certificate, a trainee certificate, or an  
12 HVAC/R operator certificate, as required by the department.

13 (2) "Board" means the HVAC/R board established in section 23 of  
14 this act.

15 (3) "Boiler" means a closed vessel in which water is heated, steam  
16 is generated, steam is superheated, or a combination thereof, under  
17 pressure or vacuum by the application of heat, electricity, or nuclear  
18 energy. "Boiler" also includes fired units for heating or vaporizing

1 liquids other than water where these systems are complete within  
2 themselves.

3 (4) "BTUH" means British thermal units per hour.

4 (5) "Certified HVAC/R mechanic" means a person who has been issued  
5 a valid HVAC/R mechanic certificate under section 15 of this act.

6 (6) "Certified specialty mechanic" means a person who has been  
7 issued one or more valid specialty mechanic certificates under section  
8 15 of this act.

9 (7) "CFM" means cubic feet per minute.

10 (8) "Department" means the department of labor and industries.

11 (9) "Director" means the director of the department or the  
12 director's designee.

13 (10) "Gas company" has the same meaning as in RCW 80.04.010.

14 (11) "Gas company service piping" means gas piping that is owned by  
15 or under the control of a gas company and used for transmission or  
16 distribution of fuel to the point of contact at the premises or  
17 property supplied or to be supplied, including service connections,  
18 meters, or other apparatus or appliance used in the measurement of the  
19 consumption of fuel by the customer. For the purposes of this  
20 subsection, "point of contact" means the outlet of the meter or the  
21 connection to the customer's gas piping, whichever is farther  
22 downstream.

23 (12) "Gas piping" means pipes, valves, or fittings used to convey  
24 fuel gas installed on a premise or in a building. "Gas piping" does  
25 not include gas company service piping or any gas piping used directly  
26 in the generation of electricity by an electric utility or a  
27 commercial-scale nonutility generator of electricity.

28 (13) "Gas piping work" means to design, fabricate, construct,  
29 install, replace, or service gas piping and venting related to gas  
30 piping.

31 (14) "Hours of HVAC/R work" means any combination of accrued hours  
32 of HVAC/R work performed while:

33 (a) Employed by an HVAC/R contractor or a person exempt from the  
34 requirements of chapter 18.27 RCW, chapter 19.28 RCW, or this chapter;

35 (b) Employed by a registered or licensed general or specialty  
36 contractor, or the equivalent, in another state or country; or

37 (c) Serving in the United States armed forces.

38 (15) "HVAC" means heating, ventilating, and air conditioning.

1 (16)(a) "HVAC equipment and systems" means equipment necessary for  
2 any system that heats, cools, conditions, ventilates, filters,  
3 humidifies, or dehumidifies environmental air for residential,  
4 industrial, or commercial use, including all related ventilation and  
5 ducting systems.

6 (b) "HVAC equipment and systems" does not include: (i) Solid fuel  
7 burning devices, such as wood stoves and coal stoves; (ii) gas company  
8 service piping; (iii) gas piping other than that necessary to deliver  
9 fuel; or (iv) boilers.

10 (17) "HVAC work" means to design, fabricate, construct, install,  
11 replace, service, test, or adjust and balance HVAC equipment and  
12 systems.

13 (18) "HVAC/R" means heating, ventilating, air conditioning, and  
14 refrigeration.

15 (19) "HVAC/R contractor" means any person who:

16 (a) Advertises for, offers to perform, submits a bid for, or  
17 performs any HVAC/R work covered by the provisions of this chapter;

18 (b) Employs anyone, or offers or advertises to employ anyone, to  
19 perform any HVAC/R work that is subject to the provisions of this  
20 chapter; or

21 (c) Is registered under section 2(1)(b) of this act.

22 (20) "HVAC/R equipment and systems" means HVAC equipment and  
23 systems, refrigeration systems, and gas piping.

24 (21) "HVAC/R mechanic certificate" means any of the certificates  
25 identified under section 6 of this act.

26 (22) "HVAC/R operator certificate" means the certificate identified  
27 under section 9 of this act.

28 (23) "HVAC/R work" means all HVAC work, refrigeration work, and gas  
29 piping work not otherwise exempted by this chapter.

30 (24) "Person" or "company," used interchangeably throughout this  
31 chapter, means any individual, corporation, partnership, limited  
32 partnership, organization, or any other entity whatsoever, whether  
33 public or private.

34 (25) "Property management company" means a company that is  
35 operating in compliance with state real estate licensing rules and is  
36 under contract with a property owner to manage the buildings.

37 (26) "Refrigeration system" means a combination of interconnected  
38 refrigerant-containing parts constituting one closed refrigerant

1 circuit in which a refrigerant is circulated for the purpose of  
2 extracting heat and includes systems in which a secondary coolant,  
3 cooled or heated by the refrigeration system, is circulated to the air  
4 or other substance to be cooled or heated.

5 (27) "Refrigeration work" means to design, fabricate, construct,  
6 install, replace, or service refrigeration systems.

7 (28) "Service" means to repair, modify, or perform other work  
8 required for the normal continued performance of HVAC/R equipment and  
9 systems.

10 (29) "Specialty certificate" means any of the certificates  
11 identified under section 5 of this act.

12 (30) "Technical college" means a public community or technical  
13 college, or a not-for-profit nationally accredited technical or trade  
14 school licensed by the workforce training and education coordinating  
15 board under chapter 28C.10 RCW.

16 (31) "Temporary certificate" means any of the certificates issued  
17 under section 7 of this act.

18 (32) "Trainee" means a person who has been issued a trainee  
19 certificate by the department under section 8 of this act.

20 (33) "Trainee certificate" means any certificate issued under  
21 section 8 of this act.

22 (34) "Valid" means not expired, revoked, or suspended.

23 NEW SECTION. **Sec. 2.** CONTRACTOR REGISTRATION--CONCURRENT  
24 REGISTRATION--REQUIREMENTS. (1) Except as provided in this chapter, it  
25 is unlawful for:

26 (a) Any person to engage in business as an HVAC/R contractor,  
27 within the state, without having been issued a valid registration as a  
28 contractor under chapter 18.27 RCW;

29 (b) Any person, on or after July 1, 2009, to engage in business as  
30 an HVAC/R contractor, within the state, without having been issued a  
31 valid registration as an HVAC/R contractor from the department; and

32 (c) Any person, on and after July 1, 2010, to employ a person to  
33 perform or offer to perform HVAC/R work who has not been issued a valid  
34 HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R  
35 mechanic certificate, trainee certificate, or HVAC/R operator  
36 certificate issued by the department under this chapter.

1 (2) The department shall prescribe an application form to be used  
2 to apply for an HVAC/R contractor registration under this chapter, and  
3 shall ensure that the person applying for an HVAC/R contractor  
4 registration is also a registered general or specialty contractor under  
5 chapter 18.27 RCW before it issues that person an HVAC/R contractor  
6 registration.

7 (3) For a person who may be issued two or more registrations or  
8 licenses provided for in chapter 18.27 RCW, chapter 19.28 RCW, or this  
9 chapter, the department shall establish on or before July 1, 2011, a  
10 single registration/licensing document. The document shall list all of  
11 the person's registrations and licenses.

12 (4) Regardless of when the HVAC/R contractor registration is  
13 issued, it shall become suspended, revoked, expired, or renewed at the  
14 same time as the registration issued under chapter 18.27 RCW.

15 (5) No bond or security in addition to that required of  
16 contractors under chapter 18.27 RCW shall be required of an HVAC/R  
17 contractor under this chapter.

18 (6) This section does not apply to:

19 (a) A person who is contracting for HVAC/R work on his or her own  
20 residence;

21 (b) Property management companies whose employees perform only  
22 HVAC/R work exempted under section 4 of this act; or

23 (c) A person who is specifically exempted under RCW 18.27.090 from  
24 contractor registration requirements.

25 NEW SECTION. **Sec. 3.** CERTIFICATE REQUIRED--LOCAL PREEMPTION. (1)  
26 Except as provided in this chapter, it is unlawful for any person, on  
27 and after July 1, 2010, to perform or offer to perform HVAC/R work  
28 without having been issued a valid HVAC/R mechanic certificate,  
29 specialty certificate, temporary HVAC/R mechanic certificate, or  
30 trainee certificate under this chapter.

31 (2) No political subdivision of the state shall require a person  
32 possessing a valid HVAC/R certificate, specialty certificate, temporary  
33 HVAC/R mechanic certificate, trainee certificate issued by the  
34 department under this chapter, or any person who is exempted under this  
35 chapter to demonstrate any additional proof of competency in, obtain  
36 any license for, or pay any fee to perform HVAC/R work in that  
37 political subdivision.

1 (3) The department, with approval of the HVAC/R board, may adopt  
2 rules to establish specific criteria for recognizing a national  
3 certification for propane gas in place of an appropriate or equivalent  
4 level of certification required under this chapter.

5 NEW SECTION. **Sec. 4.** EXEMPTIONS FROM CERTIFICATION. (1) The  
6 provisions of section 3(1) of this act do not apply to a person:

7 (a) Cleaning or replacing air filters, lubricating bearings,  
8 replacing fan belts, cleaning evaporators or condensers, cleaning  
9 cooling towers, or equipment logging on any HVAC/R equipment or  
10 systems;

11 (b) Performing HVAC/R work on HVAC/R equipment or systems that:  
12 (i) Contain six pounds or less of any refrigerant and is actuated by a  
13 motor or engine having a standard rating of one-quarter horsepower or  
14 less; or (ii) are an absorption system that has a rating of one-quarter  
15 ton or less refrigeration effect;

16 (c) Setting oil tanks and related piping to a furnace;

17 (d) Setting propane tanks and related piping outside a building;

18 (e) Performing gas piping work on a fuel burning appliance with a  
19 maximum capacity of five hundred thousand BTUH while holding a valid  
20 journeyman plumber certificate issued under chapter 18.106 RCW or a  
21 valid specialty plumber certificate issued under chapter 18.106 RCW for  
22 performing services in RCW 18.106.010(10)(a);

23 (f) Performing HVAC/R work at his or her residence, farm, place of  
24 business, or on other property owned by him or her, unless the HVAC/R  
25 work is performed in the construction of a new building intended for  
26 rent, sale, or lease;

27 (g) Performing HVAC/R work on his or her own property or to  
28 regularly employed persons working on the premises of their employer,  
29 unless the HVAC/R work is performed in the construction of a new  
30 building intended for rent, sale, or lease;

31 (h) Performing HVAC/R work for or on behalf of a gas company when  
32 such work is (i) incidental to the business of delivering fuel gas to  
33 the premises or (ii) performed pursuant to any tariff on file with the  
34 state utilities and transportation commission;

35 (i) Licensed under chapter 18.08 or 18.43 RCW who is designing  
36 HVAC/R equipment or systems, but who is not otherwise performing HVAC/R  
37 work;

- 1 (j) Making a like-in-kind replacement of a household appliance; or  
2 (k) Installing wood or pellet stoves, including directly related  
3 venting such as a chimney or flue.

4 (2) Nothing in this section precludes any person who is exempted  
5 under this section from obtaining an HVAC/R mechanic certificate,  
6 specialty certificate, temporary HVAC/R mechanic certificate, trainee  
7 certificate, or HVAC/R operator certificate if they otherwise meet the  
8 requirements of this chapter.

9 NEW SECTION. **Sec. 5.** SPECIALTY CERTIFICATES--SCOPE OF WORK. The  
10 department may issue the following specialty certificates to an  
11 applicant who has successfully met the requirements under this chapter  
12 for a specialty certificate, and the scope of work that may be  
13 performed by a person under each of the specialty certificates is as  
14 follows:

15 (1) Gas piping specialty mechanic I/II. A person issued a gas  
16 piping specialty mechanic I/II certificate may perform gas piping work  
17 on a fuel burning appliance with a maximum capacity of five hundred  
18 thousand BTUH.

19 (2) Refrigeration specialty mechanic I. A person issued a  
20 refrigeration specialty mechanic I certificate may perform  
21 refrigeration work on a refrigeration system with one or more  
22 compressors not exceeding ninety thousand BTUH per compressor using  
23 class A1 refrigerants.

24 (3) HVAC specialty mechanic I. A person issued an HVAC specialty  
25 mechanic I certificate may perform HVAC work on HVAC equipment and  
26 systems of seven and one-half tons or less or HVAC equipment and  
27 systems of three thousand three hundred seventy-five CFM or less.

28 (4) Refrigeration specialty mechanic II. A person issued a  
29 refrigeration specialty mechanic II certificate may perform:

30 (a) Refrigeration work authorized to be performed by a  
31 refrigeration specialty mechanic I;

32 (b) Installation or replacement of a self-contained refrigeration  
33 system up to three hundred thousand BTUH; and

34 (c) With the exception of installation or replacement,  
35 refrigeration work on a refrigeration system with one or more  
36 compressors not exceeding three hundred thousand BTUH per compressor  
37 using class A1 refrigerants.

1 (5) HVAC specialty mechanic II. A person issued an HVAC specialty  
2 mechanic II certificate may perform:

3 (a) HVAC work authorized to be performed by an HVAC specialty  
4 mechanic I; and

5 (b) HVAC work on HVAC equipment and systems of twenty tons or less  
6 or HVAC equipment and systems of nine thousand CFM or less.

7 (6) Gas piping specialty mechanic III. A person issued a gas  
8 piping specialty mechanic III certificate may perform all gas piping  
9 work on any fuel burning appliance.

10 (7) Refrigeration specialty mechanic III. A person issued a  
11 refrigeration specialty mechanic III certificate may perform  
12 refrigeration work on any refrigeration system using any refrigerant.

13 (8) HVAC specialty mechanic III. A person issued an HVAC specialty  
14 mechanic III certificate may perform all HVAC work on HVAC equipment  
15 and systems.

16 NEW SECTION. **Sec. 6.** HVAC/R MECHANIC CERTIFICATES--SCOPE OF WORK.

17 The department may issue the following HVAC/R mechanic certificates to  
18 an applicant who has successfully met the requirements under this  
19 chapter for an HVAC/R certificate, and the scope of work that may be  
20 performed by a person under each of the HVAC/R mechanic certificates is  
21 as follows:

22 (1) HVAC/R mechanic I. A person issued an HVAC/R mechanic I  
23 certificate may perform:

24 (a) Gas piping work authorized to be performed by a gas piping  
25 specialty mechanic I/II;

26 (b) Refrigeration work authorized to be performed by a  
27 refrigeration specialty mechanic I; and

28 (c) HVAC work authorized to be performed by an HVAC specialty  
29 mechanic I.

30 (2) HVAC/R mechanic II. A person issued an HVAC/R mechanic II  
31 certificate may perform:

32 (a) Gas piping work authorized to be performed by a gas piping  
33 specialty mechanic I/II;

34 (b) Refrigeration work authorized to be performed by a  
35 refrigeration specialty mechanic II; and

36 (c) HVAC work authorized to be performed by an HVAC specialty  
37 mechanic II.



1 (3) HVAC/R mechanic III. A person issued an HVAC/R mechanic III  
2 certificate may perform:

3 (a) Gas piping work authorized to be performed by a gas piping  
4 specialty mechanic III;

5 (b) Refrigeration work authorized to be performed by a  
6 refrigeration specialty mechanic III; and

7 (c) HVAC work authorized to be performed by an HVAC specialty  
8 mechanic III.

9 NEW SECTION. **Sec. 7.** TEMPORARY HVAC/R CERTIFICATE--APPLICATION--  
10 EXAMINATION REQUIRED. (1) On and after July 1, 2010, a person who has  
11 performed HVAC/R work in other states or countries may, in a form and  
12 manner prescribed by the department, apply for a temporary HVAC/R  
13 mechanic certificate to perform HVAC/R work in this state. The  
14 application shall contain evidence of the person's hours of HVAC/R work  
15 in the other states or countries that is verifiable by the department.

16 (2) Upon review of the application provided in subsection (1) of  
17 this section, the department may:

18 (a) If the applicant has accrued less than two thousand hours of  
19 HVAC/R work, not issue a temporary HVAC/R mechanic certificate;

20 (b) If the applicant has accrued two thousand hours or more, but  
21 less than four thousand hours of HVAC/R work, issue a temporary HVAC/R  
22 mechanic I certificate;

23 (c) If the applicant has accrued four thousand hours or more, but  
24 less than eight thousand hours of HVAC/R work, issue a temporary HVAC/R  
25 mechanic II certificate; or

26 (d) If the applicant has accrued eight thousand hours or more of  
27 HVAC/R work, issue a temporary HVAC/R mechanic III certificate.

28 (3) The temporary HVAC/R mechanic certificate issued under this  
29 section shall clearly indicate on the document that it is temporary in  
30 nature and contain the period for which it is valid.

31 (4) A person issued a temporary HVAC/R mechanic certificate shall  
32 have that certificate in his or her possession when performing any  
33 HVAC/R work and shall show the certificate to any authorized  
34 representative of the department upon request.

35 (5) A person issued a temporary HVAC/R mechanic certificate under  
36 this section may only perform the scope of work authorized under

1 section 6 of this act for the equivalent HVAC/R mechanic certificate  
2 and may not supervise any person with a trainee certificate issued  
3 under this chapter.

4 (6) A temporary HVAC/R mechanic certificate issued under this  
5 section shall be valid for ninety days from the date the department  
6 issues a certificate or until the date the department furnishes to the  
7 applicant the results of their examination for the equivalent HVAC/R  
8 mechanic certificate, whichever is later. The applicant must take the  
9 examination provided under this chapter for the equivalent HVAC/R  
10 mechanic certificate within the ninety-day period granted under this  
11 subsection.

12 NEW SECTION. **Sec. 8.** TRAINEE CERTIFICATE. (1) A person may, in  
13 a form and manner prescribed by the department, apply for a trainee  
14 certificate to perform HVAC/R work in the state.

15 (2) Upon receipt of the application, the department shall issue a  
16 trainee certificate to the applicant.

17 (3) The HVAC/R work performed under a trainee certificate issued  
18 pursuant to this section must be:

19 (a) Within the scope of work authorized under that certificate;

20 (b) On the same job site and under the direction of an  
21 appropriately certified HVAC/R mechanic or an appropriately certified  
22 specialty mechanic; and

23 (c) Under the applicable supervision ratios required in section 16  
24 of this act.

25 (4) A trainee shall have his or her certificate in his or her  
26 possession when performing any HVAC/R work and shall show the  
27 certificate to any authorized representative of the department upon  
28 request.

29 (5) A trainee certificate shall be valid for a maximum of two years  
30 from the date of issuance. The certificate shall include the  
31 expiration date.

32 (6) The department may only renew a training certificate when the  
33 trainee provides the department with:

34 (a) An accurate list of the persons who employed the trainee in  
35 HVAC/R work for the previous two-year period and the number of hours of  
36 HVAC/R work performed under each employer; and

1 (b) Evidence that the trainee has met the continuing education  
2 requirements in section 18 of this act.

3 (7) If a person applies for a trainee certificate under this  
4 section and electrical trainee status under chapter 19.28 RCW, the  
5 department shall create, on or before July 1, 2011, a single document  
6 for that person that represents this concurrent trainee status.

7 (8) A trainee who has not successfully passed any portion of the  
8 examinations provided for in section 12 of this act is prohibited from  
9 performing HVAC/R work in excess of two thousand hours beyond the  
10 amount of hours required to become eligible under the requirements of  
11 section 13(2)(c) of this act to take the examination for an HVAC/R  
12 mechanic III certificate.

13 NEW SECTION. **Sec. 9.** HVAC/R OPERATOR CERTIFICATION. (1) An  
14 HVAC/R operating engineer may, in a form and manner prescribed by the  
15 department, apply for an HVAC/R operator certificate. For the purposes  
16 of this subsection, "HVAC/R operating engineer" means a full-time  
17 employee who spends a substantial portion of time in the maintenance  
18 and operation of HVAC/R equipment and systems in a building, or portion  
19 thereof, used for occupant comfort, manufacturing, processing, or  
20 storage of materials or products including, but not limited to,  
21 chemicals, food, candy, and ice cream factories, ice-making plants,  
22 meat packing plants, refineries, perishable food warehouses, hotels,  
23 hospitals, restaurants, and similar occupancies and equipped with a  
24 refrigeration system and whose duty it is to operate, maintain, and  
25 keep safe and in serviceable condition all of the employer's HVAC/R  
26 equipment and systems.

27 (2) The department may issue an HVAC/R operator certificate to an  
28 applicant who has successfully passed the examination provided for in  
29 subsection (8) of this section.

30 (3) The scope of work that may be performed by a person under an  
31 HVAC/R operator certificate is as follows:

32 (a) Cleaning or replacing air filters, lubricating bearings,  
33 replacing fan belts, cleaning evaporators or condensers, cleaning  
34 cooling towers, or equipment logging on any HVAC/R equipment or  
35 systems; or

36 (b) Performing minor HVAC/R equipment and systems repair and HVAC/R  
37 work on sealed HVAC/R equipment and systems.

1 (4) A person who performs HVAC/R work on HVAC/R equipment or  
2 systems that: (a) Contain six pounds or less of any refrigerant and is  
3 actuated by a motor or engine having a standard rating of one-quarter  
4 horsepower or less; or (b) are an absorption system that has a rating  
5 of one-quarter ton or less refrigeration effect, is not required to  
6 obtain a certificate under this section.

7 (5) Any person issued a valid refrigeration operating engineer  
8 license by the city of Seattle shall be issued an HVAC/R operator  
9 certificate without meeting any additional requirements.

10 (6) A person issued a valid HVAC/R operator certificate under this  
11 section shall have his or her certificate in his or her possession when  
12 performing any HVAC/R work and shall show the certificate to any  
13 authorized representative of the department upon request.

14 (7) An HVAC/R operator certificate issued under this section shall  
15 be valid for a maximum of three years and shall expire on the holder's  
16 birthdate. The certificate shall include the expiration date.

17 (8) The department shall develop an examination that an applicant  
18 must pass before they can be issued an HVAC/R operator certificate  
19 under this section. The exam shall be comparable to the current  
20 refrigeration operating engineer license test used by the city of  
21 Seattle.

22 (9) The hours accrued as an HVAC/R operating engineer under this  
23 section may accrue towards the hours required to be eligible to take an  
24 examination for an HVAC/R mechanic certificate under section 13 of this  
25 act only if the HVAC/R operating engineer is supervised by an  
26 appropriately certified HVAC/R mechanic or appropriately supervised  
27 specialty mechanic and was issued a trainee certificate under section  
28 8 of this act.

29 NEW SECTION. **Sec. 10.** HVAC/R MECHANIC CERTIFICATION WITHOUT  
30 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who  
31 has performed HVAC/R work may, in a form and manner prescribed by the  
32 department, apply for an HVAC/R mechanic certificate without  
33 examination. The application shall contain evidence of the person's  
34 hours of HVAC/R work or other required information that is verifiable  
35 by the department.

36 (2) Upon review of the application provided in subsection (1) of  
37 this section, the department shall:

1 (a) If the applicant has, since January 1, 1988, accrued less than  
2 two thousand hours of HVAC/R work, not issue any HVAC/R mechanic  
3 certificate;

4 (b) If the applicant has, since January 1, 1988, accrued two  
5 thousand hours or more, but less than four thousand hours of HVAC/R  
6 work, issue an HVAC/R mechanic I certificate;

7 (c) If the applicant has, since January 1, 1988, accrued four  
8 thousand hours or more, but less than eight thousand hours of HVAC/R  
9 work, issue an HVAC/R mechanic II certificate; or

10 (d) If the applicant has, since January 1, 1988:

11 (i) Accrued eight thousand hours or more of HVAC/R work;

12 (ii) Completed an appropriately related apprenticeship program  
13 approved under chapter 49.04 RCW; or

14 (iii) Completed an appropriately related apprenticeship program in  
15 another state or country equivalent to that provided in chapter 49.04  
16 RCW, issue an HVAC/R mechanic III certificate.

17 (3) Once the appropriate level of HVAC/R mechanic certificate is  
18 issued to a person under this section, that person shall become subject  
19 to the other provisions of this chapter for any additional  
20 certifications.

21 (4) This section expires July 1, 2010.

22 NEW SECTION. **Sec. 11.** SPECIALTY CERTIFICATION WITHOUT  
23 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who  
24 has performed HVAC/R work may, in a form and manner prescribed by the  
25 department, apply for specialty certificates without examination. The  
26 application shall contain evidence of the person's hours of HVAC/R work  
27 or other required information that is verifiable by the department.

28 (2) Upon review of the application provided in subsection (1) of  
29 this section, the department shall:

30 (a) If the applicant holds a valid journey refrigeration mechanic  
31 license issued by the city of Seattle, issue a refrigeration specialty  
32 mechanic III certificate and an HVAC specialty mechanic III  
33 certificate;

34 (b) If the applicant has, since January 1, 1988, accrued one  
35 thousand hours of gas piping work, issue a gas piping specialty  
36 mechanic I/II certificate;

1 (c) If the applicant was licensed in any local jurisdiction to  
2 perform gas piping work on a fuel burning appliance with a maximum  
3 capacity of five hundred thousand BTUH or less, issue a gas piping  
4 specialty mechanic I/II certificate; and

5 (d) If the applicant was licensed in any local jurisdiction to  
6 perform all gas piping work on any fuel burning appliance, issue a gas  
7 piping specialty mechanic III certificate.

8 (3) The specialty certificates provided for in subsection (2) of  
9 this section shall be in addition to any HVAC/R mechanic certificate  
10 issued by the department under section 10 of this act.

11 (4) Once the appropriate level of specialty certificate is issued  
12 to a person under this section, that person shall become subject to the  
13 other provisions of this chapter for any additional certifications.

14 (5) This section expires July 1, 2010.

15 NEW SECTION. **Sec. 12.** EXAMINATION. (1) The department, with  
16 advice from the board, shall prepare three separate examinations for  
17 the assessment of each level of HVAC/R mechanic certification created  
18 in section 6 of this act. Within each examination, there shall be a  
19 distinct portion that assesses the competency of the applicant in the  
20 appropriate level of gas piping work, refrigeration work, and HVAC  
21 work. The department shall adopt rules necessary to implement this  
22 section.

23 (2) The examinations provided for under this section shall be  
24 constructed to determine:

25 (a) Whether the applicant possesses general knowledge of the  
26 technical information and practical procedures that are identified  
27 within the relevant scope of work; and

28 (b) Whether the applicant is familiar with the applicable laws and  
29 administrative rules of the department pertaining to the relevant scope  
30 of work.

31 (3) The department, with advice from the board, may enter into a  
32 contract with a professional testing agency to develop, administer, and  
33 score the examinations provided for in this section.

34 (4) The department must administer, at least four times annually,  
35 each examination provided under this section to applicants who are  
36 eligible for examination under this chapter.

1 (5) The department must certify the results of each examination  
2 administered under this section upon the terms and after such a period  
3 of time as the department, with the advice of the board, deems  
4 necessary and proper.

5 (6) A person may be given the appropriate level of examination they  
6 are eligible to take as many times as necessary without limit.

7 (7) The department, with the advice of the board, may adopt  
8 policies and procedures to make examinations available in alternative  
9 languages or formats to accommodate all applicants who are eligible for  
10 examination under this chapter.

11 NEW SECTION. **Sec. 13.** APPLICATION FOR EXAMINATION--ELIGIBILITY.

12 (1) A person with a valid temporary HVAC/R mechanic certificate or  
13 trainee certificate may, in a form and manner prescribed by the  
14 department, apply for any of the examinations provided for in section  
15 12 of this act. The application shall contain evidence of the person's  
16 hours of HVAC/R work or other required information that is verifiable  
17 by the department.

18 (2) Upon receipt of an application for examination under this  
19 section, the department shall review the application and determine  
20 whether the applicant is eligible to take an examination for an HVAC/R  
21 mechanic certificate using the following criteria:

22 (a) HVAC/R mechanic I certificate. To be eligible to take the  
23 examination for an HVAC/R mechanic I certificate, the applicant must  
24 have:

25 (i) Performed a minimum of one thousand hours of HVAC/R work and  
26 the entire amount of those hours must be supervised;

27 (ii) Performed two thousand hours of HVAC/R work and seventy-five  
28 percent of those hours must be supervised; or

29 (iii) Successfully completed an appropriately related  
30 apprenticeship program approved under chapter 49.04 RCW that meets the  
31 requirements of this level of certification.

32 (b) HVAC/R mechanic II certificate. To be eligible to take the  
33 examination for an HVAC/R mechanic II certificate, the applicant must  
34 have:

35 (i) Performed a minimum of four thousand hours of HVAC/R work and  
36 seventy-five percent of those hours must be supervised; or

1 (ii) Successfully completed an appropriately related apprenticeship  
2 program approved under chapter 49.04 RCW that meets the requirements of  
3 this level of certification.

4 (c) HVAC/R mechanic III certificate. To be eligible to take the  
5 examination for an HVAC/R mechanic III certificate, the applicant must  
6 have:

7 (i) Performed under appropriate supervision levels the amount of  
8 HVAC/R work required for an HVAC/R mechanic II certificate under (b)(i)  
9 of this subsection plus an additional two thousand hours and the entire  
10 amount of the additional hours required under this subsection must be  
11 supervised;

12 (ii) Performed HVAC/R work for a minimum of eight thousand hours  
13 and seventy-five percent of those hours must be supervised; or

14 (iii) Successfully completed an appropriately related  
15 apprenticeship program under chapter 49.04 RCW that meets the  
16 requirements of this level of certification.

17 (3) For the purposes of this section, "supervised" means:

18 (a) A person has performed HVAC/R work on the same job site and  
19 under the direction of an appropriately certified HVAC/R mechanic or an  
20 appropriately certified specialty mechanic; and

21 (b) The appropriate supervision ratios required in section 16 of  
22 this act were followed.

23 (4) If any of an applicant's certificates issued prior to the  
24 current application have been revoked, the department may deny the  
25 current application for up to two years.

26 (5) Upon determining that the applicant is eligible to take an  
27 examination under this section, the department shall so notify the  
28 applicant, indicating the time and place for taking the examination.

29 (6) Work hours being accrued by an applicant as hours of HVAC/R  
30 work under this chapter or towards electrical certification under  
31 chapter 19.28 RCW may be credited for both the hours of HVAC/R work  
32 required under this chapter and the hours of work required under  
33 chapter 19.28 RCW.

34 (7) If an applicant is eligible for an examination under this  
35 section and an examination under chapter 19.28 RCW, the department may  
36 administer all such examinations at the same examination session.  
37 However, upon request of the applicant, the department may administer



1 each examination at the time required in statute or rule for each  
2 examination.

3 NEW SECTION. **Sec. 14.** ALTERNATIVES TO WORK EXPERIENCE. (1) A  
4 person who has applied for an examination under section 13 of this act  
5 and who has successfully completed a board-approved program in HVAC/R  
6 work at a technical college, may substitute technical college program  
7 hours for hours of HVAC/R work as follows:

	<b>Type of Certificate</b>	<b>Substitution for Hours of HVAC/R Work</b>
8 9 10	(a) HVAC/R Mechanic I	Up to 1,000 hours of technical college program may be substituted for up to 1,000 hours of HVAC/R work.
11 12 13	(b) HVAC/R Mechanic II	Up to 2,000 hours of technical college program may be substituted for up to 2,000 hours of required HVAC/R work.
14 15	(c) HVAC/R Mechanic III	Up to 4,000 hours of technical college program may be substituted for up to 4,000 hours of HVAC/R work.

16 (2) A person who has applied for an examination under section 13 of  
17 this act and who has received training in HVAC/R work in the United  
18 States armed forces may substitute those training hours for hours of  
19 HVAC/R work subject to approval of the department.

20 (3) The department shall determine whether program hours accrued  
21 under subsection (1) of this section or the training hours accrued  
22 under subsection (2) of this section are in HVAC/R work and are  
23 appropriate as a substitute for hours of HVAC/R work.

24 NEW SECTION. **Sec. 15.** ISSUANCE OF CERTIFICATES FOLLOWING  
25 EXAMINATION--RENEWAL. (1) If an applicant passes all portions of the  
26 examination administered to him or her under this chapter, that person:

27 (a) Is entitled to be issued the appropriate level of HVAC/R  
28 mechanic certificate; and

29 (b) Is subject to the other provisions of this chapter for  
30 additional certifications.

1 (2) If an applicant fails to pass one or more portions of an  
2 examination administered to him or her under this chapter, that person:

3 (a) Is still entitled to be issued the appropriate specialty  
4 certificate for each portion of the examination that was passed; and

5 (b) Is subject to the other provisions of this chapter for  
6 additional certifications.

7 (3) An HVAC/R mechanic certificate or specialty certificates issued  
8 under this section shall be valid for a maximum of three years and  
9 shall expire on the holder's birthdate. All certificates shall include  
10 the expiration date.

11 (4) A person issued an HVAC/R mechanic certificate or specialty  
12 certificates under this section may only perform the scope of work  
13 authorized under sections 5 and 6 of this act for those certificates.

14 (5) A person issued an HVAC/R mechanic certificate or specialty  
15 certificates shall have those certificates in his or her possession  
16 when performing any HVAC/R work and shall show the certificates to any  
17 authorized representative of the department upon request.

18 (6) The department shall renew an HVAC/R mechanic certificate or  
19 specialty certificates issued under this section if the person issued  
20 the certificates:

21 (a) Applies for renewal of his or her certificates not more than  
22 ninety days after the certificates expire; and

23 (b) Has complied with the continuing education requirement in  
24 section 18 of this act.

25 (7) The department may not renew a certificate that has been  
26 revoked or suspended.

27 (8) The department may deny renewal of a certificate if the person  
28 seeking renewal owes outstanding penalties for a final judgment under  
29 this chapter.

30 (9) The department shall, on or before July 1, 2011, create a  
31 single document and establish a single expiration date for a person who  
32 holds two or more certificates or specialty certificates under chapter  
33 18.106 RCW, chapter 19.28 RCW, and this chapter. The document shall  
34 list all of the person's certificates and specialty certificates.

35 NEW SECTION. **Sec. 16.** SUPERVISION RATIOS--SUPERVISION. (1) The  
36 ratio of trainees to appropriately certified HVAC/R mechanics or

1 appropriately certified specialty mechanics on the same job site must  
2 not be greater than:

3 (a) For trainees not in a technical college program, two trainees  
4 to each appropriately certified HVAC/R mechanic or appropriately  
5 certified specialty mechanic; or

6 (b) For trainees in a technical college program, four trainees to  
7 each appropriately certified HVAC/R mechanic or appropriately certified  
8 specialty mechanic.

9 (2) When the ratio of trainees to appropriately certified HVAC/R  
10 mechanics or appropriately certified specialty mechanics on a job site  
11 is one appropriately certified HVAC/R mechanic or appropriately  
12 certified specialty mechanic to one or two trainees, the appropriately  
13 certified HVAC/R mechanic or appropriately certified specialty mechanic  
14 must be on the same job site as the trainees for a minimum of seventy-  
15 five percent of each working day.

16 (3) When the ratio of trainees to appropriately certified HVAC/R  
17 mechanics or appropriately certified specialty mechanics on a job site  
18 is one appropriately certified HVAC/R mechanic or appropriately  
19 certified specialty mechanic to three or four trainees, the  
20 appropriately certified HVAC/R mechanic or appropriately certified  
21 specialty mechanic must:

22 (a) Directly supervise and instruct the trainees and may not  
23 directly make or engage in HVAC/R work; and

24 (b) Be on the same job site as the trainees for one hundred percent  
25 of each working day.

26 (4) Hours of HVAC/R work that are performed when the supervision  
27 ratios are not in compliance with this section do not qualify as  
28 supervised hours when accruing hours of HVAC/R work under this chapter.

29 (5) Notwithstanding any other provision of this chapter, a person:

30 (a) Who has successfully completed, or is currently enrolled in, an  
31 approved appropriately related apprenticeship program or an HVAC/R  
32 program at a technical college may perform, unsupervised, the remaining  
33 six months of the experience requirements of this chapter;

34 (b) Determined to be eligible for examination under section  
35 13(2)(a)(i) of this act and who passes all portions of that  
36 examination, may perform, unsupervised, the remaining one thousand  
37 hours of HVAC/R work required under this chapter for an HVAC/R mechanic  
38 I certificate. However, all HVAC/R work performed by this person must

1 be within the scope of work for an HVAC/R mechanic I certificate and  
2 this person may not supervise other trainees until they have completed  
3 the full two thousand hours of HVAC/R work required by this chapter;

4 (c) Determined to be eligible for examination under section  
5 13(2)(c)(i) of this act and who passes all portions of that  
6 examination, may perform, unsupervised, the remaining two thousand  
7 hours of HVAC/R work required under this chapter for an HVAC/R mechanic  
8 III certificate. However, all HVAC/R work performed by this person  
9 must be within the scope of work for an HVAC/R mechanic III certificate  
10 and this person may not supervise other trainees until they have  
11 completed the full eight thousand hours of HVAC/R work required by this  
12 chapter.

13 NEW SECTION. **Sec. 17.** CONTRACTOR REPORTING--AUDIT OF RECORDS.

14 (1) Every person who employs a trainee performing HVAC/R work shall  
15 report to the department:

16 (a) The names and certificate numbers of any trainee who performed  
17 HVAC/R work for them and the hours of HVAC/R work performed by each  
18 trainee; and

19 (b) The names and certificate numbers of the appropriately  
20 certified HVAC/R mechanics or appropriately certified specialty  
21 mechanics who supervised the trainees identified in (a) of this  
22 subsection.

23 (2) Every person who reported hours of HVAC/R work performed by  
24 trainees under subsection (1) of this section shall attest that all of  
25 the reported hours of HVAC/R work performed by trainees was in  
26 compliance with the supervision ratio requirements in section 16 of  
27 this act.

28 (3) The department may audit the records of a person who reported  
29 hours of HVAC/R work performed by trainees under subsection (1) of this  
30 section in the following circumstances: (a) Excessive hours were  
31 reported; (b) hours were reported outside the normal course of the  
32 HVAC/R contractor's business; (c) the type of hours reported do not  
33 reasonably match the type of permits purchased; or (d) for other  
34 similar circumstances in which the department demonstrates a likelihood  
35 of excessive hours being reported. The department shall limit the audit  
36 to records necessary to verify hours.

1 (4) Information obtained by the department from any person under  
2 this section is confidential and exempt from public disclosure under  
3 chapter 42.56 RCW.

4 NEW SECTION. **Sec. 18.** CONTINUING EDUCATION. (1) A person issued  
5 an HVAC/R mechanic certificate or any specialty certificates under this  
6 chapter must, prior to the renewal date on their certificate,  
7 demonstrate satisfactory completion of twenty-four hours of continuing  
8 education.

9 (2) The department, with the advice of the board, shall determine  
10 the contents of the continuing education courses required in subsection  
11 (1) of this section and establish the requirements for satisfactory  
12 completion of such courses. If the department determines that a  
13 continuing education course offered in another state is comparable to  
14 courses offered in Washington, the department shall accept proof of  
15 satisfactory completion of the out-of-state course as meeting the  
16 continuing education requirement in this section.

17 (3) A trainee must, prior to the renewal date on their certificate,  
18 demonstrate satisfactory completion of sixty hours of related  
19 supplemental instruction or equivalent training courses, or courses  
20 taken as part of an appropriately related apprenticeship program  
21 approved under chapter 49.04 RCW.

22 (4) The department, with the advice of the board, shall determine  
23 the contents of the related supplemental instruction or equivalent  
24 training courses, or courses taken as part of an appropriately related  
25 apprenticeship program approved under chapter 49.04 RCW required under  
26 subsection (3) of this section, and establish the requirements for  
27 satisfactory completion of such courses.

28 (5) All hours required under this section shall be accrued  
29 concurrently and shall not exceed sixty hours for any person in any  
30 certificate renewal period.

31 (6) Hours of approved continuing education required under this  
32 section and hours of approved continuing education required under  
33 chapter 19.28 RCW may be accrued concurrently. However, nothing in  
34 this subsection shall be construed to relieve any person from having to  
35 complete any continuing education mandated by the department by rule  
36 pursuant to this chapter or pursuant to chapter 19.28 RCW.

1        NEW SECTION.    **Sec. 19.**    RECIPROCITY.    The department may enter into  
2 a reciprocity agreement with another state whose certification  
3 requirements are equal to the standards set under this chapter.    The  
4 reciprocity agreement shall provide for the acceptance of Washington  
5 and the other state's certification program or its equivalent by  
6 Washington and the other state.

7        NEW SECTION.    **Sec. 20.**    SUSPENSION AND REVOCATION.    (1)    The  
8 department may revoke any certificate issued under this chapter if the  
9 department determines that the recipient:    (a) Obtained the certificate  
10 through error or fraud;    (b) is incompetent to perform HVAC/R work;    or  
11 (c) committed a violation of this chapter or rules adopted under this  
12 chapter that presents imminent danger to the public.

13        (2)    The department shall immediately suspend the certificates of  
14 any person who has been certified pursuant to RCW 74.20A.320 by the  
15 department of social and health services as a person who is not in  
16 compliance with a support order.    If the person has continued to meet  
17 all other requirements for reinstatement during the suspension,  
18 reissuance of the certificate shall be automatic upon the department's  
19 receipt of a release issued by the department of social and health  
20 services stating that the person is in compliance with the order.

21        NEW SECTION.    **Sec. 21.**    APPLICATION OF ADMINISTRATIVE PROCEDURE  
22 ACT.    The proceedings for denying applications, suspending or revoking  
23 certificates, and imposing civil penalties or other remedies issued  
24 pursuant to this chapter and any appeal from those proceedings or  
25 review of those proceedings shall be governed by the provisions of the  
26 administrative procedure act, chapter 34.05 RCW.

27        NEW SECTION.    **Sec. 22.**    LIABILITY.    (1)    This chapter may not be  
28 construed to relieve from or lessen the responsibility or liability of  
29 any person for injury or damage to person or property caused by or  
30 resulting from any HVAC/R work performed by the person.

31        (2)    The state of Washington and its officers, agents, and  
32 employees may not be held liable for any acts performed pursuant to  
33 this chapter.

1        NEW SECTION.    **Sec. 23.**    HVAC/R BOARD.    (1) An HVAC/R board is  
2 established.

3        (2) The board shall consist of thirteen members to be appointed by  
4 the governor with the advice of the director.

5        (a) Four members shall be certified HVAC/R mechanics, of which at  
6 least one, but not more than two, shall be a certified HVAC/R mechanic  
7 performing HVAC/R work east of the crest of the Cascade mountains.

8        (b) Four members shall be HVAC/R contractors, of which at least  
9 one, but not more than two, shall be an HVAC/R contractor doing  
10 business east of the crest of the Cascade mountains.

11       (c) One member shall be from the general public and be familiar  
12 with HVAC/R work.

13       (d) One member shall be a building operator representing the  
14 commercial property management industry.

15       (e) One member shall be from the stationary operating engineers.

16       (f) One member shall be from a technical college or an approved  
17 apprenticeship training program.

18       (g) One member shall be a building official familiar with  
19 enforcement of HVAC/R work.

20       (3) Except as provided in this subsection, the term of each member  
21 shall be three years. The term of each initial member shall expire as  
22 follows: (a) The terms of the first certified HVAC/R mechanic and the  
23 first HVAC/R contractor shall expire July 1, 2009; (b) the terms of the  
24 second certified HVAC/R mechanic, the second HVAC/R contractor, and the  
25 public member shall expire July 1, 2010; and (c) the terms of the third  
26 certified HVAC/R mechanic and the third certified HVAC/R contractor  
27 shall expire July 1, 2011. To ensure that the board may continue to  
28 act, a member whose term expires shall continue to serve until his or  
29 her replacement is appointed. In the case of any vacancy on the board  
30 for any reason, the governor shall appoint a new member to serve out  
31 the term of the person whose position has become vacant.

32       (4) The board shall, at its first meeting, elect one of its members  
33 to serve as chair.

34       (5) The board shall meet at least quarterly in accordance with a  
35 schedule established by the board.

36       (6) The board shall:

37       (a) Conduct proceedings for denying applications, suspending or

1 revoking certificates, and imposing civil penalties or other remedies.  
2 Such proceedings shall be conducted in accordance with chapter 34.05  
3 RCW;

4 (b) Review and make recommendations to adopt, amend, or repeal any  
5 rules under this chapter. The director may not adopt, amend, or repeal  
6 any rules until the board has conducted its review and made its  
7 recommendations;

8 (c) Establish an alternative method or methods for persons to  
9 attest for hours of HVAC/R work when applying for certificates under  
10 this chapter, but only when all traditional methods allowing for  
11 verification of hours of HVAC/R work have been exhausted;

12 (d) Approve expenditures from the plumbing and HVAC/R certificate  
13 fund; and

14 (e) Advise the department on all other matters relative to this  
15 chapter.

16 (7) The members of the board are entitled to be reimbursed for  
17 travel expenses in accordance with RCW 43.03.050 and 43.03.060.

18 NEW SECTION. **Sec. 24.** ADMINISTRATION. (1) The director may adopt  
19 rules necessary for the administration of this chapter.

20 (2) The department shall administer this chapter in conjunction  
21 with its administration of chapter 18.106 RCW.

22 (3) In the administration of this chapter, the department shall not  
23 enter any controversy arising over work assignments with respect to the  
24 trades involved in the construction industry.

25 NEW SECTION. **Sec. 25.** EFFECT ON OTHER LAWS. With the exception  
26 of sections 2(3), 8(7), 13 (6) and (7), 15(9), and 18(6) of this act,  
27 nothing in this chapter shall be construed to:

28 (1) Modify, amend, or supersede chapter 18.106 or 19.28 RCW;

29 (2) Prohibit or restrict an individual who is certified under  
30 chapter 18.106 or 19.28 RCW from engaging in the trade in which he or  
31 she is certified; or

32 (3) Regulate or include plumbing work defined in chapter 18.106 RCW  
33 and its applicable rules or electrical work defined in chapter 19.28  
34 RCW and its applicable rules.



1        NEW SECTION.    **Sec. 26.**    COMPLIANCE AGENTS.    (1) The director shall  
2    appoint compliance agents to investigate alleged or apparent violations  
3    of this chapter.    The director, or authorized compliance agent, upon  
4    presentation of appropriate credentials, may inspect and investigate  
5    job sites at which an HVAC/R contractor had bid or presently is working  
6    to determine whether the HVAC/R contractor is registered and their  
7    employees are certified and working in accordance with this chapter or  
8    the rules adopted under this chapter or whether there is a violation of  
9    this chapter.    Upon request of the compliance agent, an HVAC/R  
10   contractor or an employee of the HVAC/R contractor shall provide  
11   information identifying the HVAC/R contractor and those employees  
12   working on-site.

13        (2) If the employee of an unregistered HVAC/R contractor is cited  
14   by a compliance agent, that employee is cited as the agent of the  
15   employer, and issuance of the infraction to the employee is notice to  
16   the unregistered HVAC/R contractor that the contractor is in violation  
17   of this chapter.    An employee who is cited by a compliance agent shall  
18   not be liable for any of the alleged violations contained in the  
19   citation unless the employee is also the unregistered HVAC/R contractor  
20   or the employee is performing HVAC/R work that requires a certification  
21   under this chapter without proper proof of the certification.

22        NEW SECTION.    **Sec. 27.**    NOTICE OF INFRACTION.    The department may  
23   issue a notice of infraction if the department reasonably believes that  
24   a person has committed an infraction under this chapter.    A notice of  
25   infraction issued under this section shall be personally served on the  
26   person named in the notice by the department's compliance agents or  
27   service can be made by certified mail directed to the person named in  
28   the notice of infraction at the last known address as provided to the  
29   department.

30        NEW SECTION.    **Sec. 28.**    NOTICE OF INFRACTION FORM.    The form of the  
31   notice of infraction issued under this chapter shall include the  
32   following:

33        (1) A statement that the notice represents a determination that the  
34   infraction has been committed by the person named in the notice and  
35   that the determination shall be final unless contested as provided in  
36   this chapter;

1 (2) A statement that the infraction is a noncriminal offense for  
2 which imprisonment shall not be imposed as a sanction;

3 (3) A statement of the violation that necessitated issuance of the  
4 infraction;

5 (4) A statement of penalty involved if the infraction is  
6 established;

7 (5) A statement of the options provided in this chapter for  
8 responding to the notice and the procedures necessary to exercise these  
9 options;

10 (6) A statement that at any hearing to contest the notice of  
11 infraction the state has the burden of proving, by a preponderance of  
12 the evidence, that the infraction was committed; and that the person  
13 may subpoena witnesses, including the compliance agent of the  
14 department who issued and served the notice of infraction;

15 (7) A statement that, at any hearing to contest the notice of  
16 infraction against a person who is not properly registered or certified  
17 as required under this chapter, the person given the infraction has the  
18 burden of proving that the infraction did not occur;

19 (8) A statement that the person named on the notice of infraction  
20 must respond to the notice in one of the ways provided in this chapter;  
21 and

22 (9) A statement that the person's failure to timely select one of  
23 the options for responding to the notice of infraction after receiving  
24 a statement of the options provided in this chapter for responding to  
25 the notice of infraction and the procedures necessary to exercise these  
26 options is guilty of a gross misdemeanor and may be punished by a fine  
27 or imprisonment in jail.

28 NEW SECTION. **Sec. 29.** VIOLATIONS. A violation designated as an  
29 infraction under this chapter shall be heard and determined by an  
30 administrative law judge of the office of administrative hearings. If  
31 a person desires to contest the notice of infraction, the person shall  
32 file a notice of appeal with the department specifying the grounds of  
33 the appeal within twenty days of service of the infraction in a manner  
34 provided by this chapter. The administrative law judge shall conduct  
35 hearings in these cases at locations in the county where the infraction  
36 occurred.

1        NEW SECTION.    **Sec. 30.**    RESPONSE TO NOTICE OF INFRACTION.    (1) A  
2 person who is issued a notice of infraction shall respond within twenty  
3 days of the date of issuance of the notice of infraction.

4        (2) If the person named in the notice of infraction does not elect  
5 to contest the notice of infraction, then the person shall pay to the  
6 department, by check or money order, the amount of the penalty  
7 prescribed for the infraction. When a response that does not contest  
8 the notice of infraction is received by the department with the  
9 appropriate penalty, the department shall make the appropriate entry in  
10 its records.

11       (3) If the person named in the notice of infraction elects to  
12 contest the notice of infraction, the person shall respond by filing  
13 with the department specifying the appeal to the department in the  
14 manner specified in this chapter.

15       (4) If any person issued a notice of infraction fails to respond  
16 within the prescribed response period, the person shall be guilty of a  
17 misdemeanor and prosecuted in the county where the infraction occurred.

18       (5) After final determination by an administrative law judge that  
19 an infraction has been committed, a person who fails to pay a monetary  
20 penalty within thirty days, that is not waived pursuant to this  
21 chapter, and who fails to file an appeal shall be guilty of a  
22 misdemeanor and be prosecuted in the county where the infraction  
23 occurred.

24       (6) A person who fails to pay a monetary penalty within thirty days  
25 after exhausting appellate remedies shall be guilty of a misdemeanor  
26 and be prosecuted in the county where the infraction occurred.

27       (7) If a person who is issued a notice of infraction is a person  
28 who has failed to register or be certified as required under this  
29 chapter, the person is subject to a monetary penalty per infraction as  
30 provided in the schedule of penalties established by the department,  
31 and each day the person works without becoming registered or certified  
32 is a separate infraction.

33       NEW SECTION.    **Sec. 31.**    CODIFICATION.    Sections 1 through 30 of  
34 this act constitute a new chapter in Title 18 RCW.

35       NEW SECTION.    **Sec. 32.**    CAPTIONS.    Captions used in this act are  
36 not any part of the law.

1        NEW SECTION.   **Sec. 33.**   SEVERABILITY.   If any provision of this act  
2   or its application to any person or circumstance is held invalid, the  
3   remainder of the act or the application of the provision to other  
4   persons or circumstances is not affected.

5        NEW SECTION.   **Sec. 34.**   EFFECTIVE DATE.   This act takes effect July  
6   1, 2008.

7        NEW SECTION.   **Sec. 35.**   If specific funding for the purposes of  
8   this act, referencing this act by bill or chapter number, is not  
9   provided by June 30, 2008, in the omnibus appropriations act, this act  
10   is null and void.

--- END ---