
SUBSTITUTE SENATE BILL 5831

State of Washington 60th Legislature 2008 Regular Session

By Senate Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Franklin, Keiser, and Murray)

READ FIRST TIME 02/07/08.

1 AN ACT Relating to certification of heating, ventilation, air
2 conditioning, and refrigeration contractors and mechanics; amending RCW
3 18.106.125 and 18.106.130; reenacting and amending RCW 43.79A.040;
4 adding a new chapter to Title 18 RCW; creating a new section;
5 prescribing penalties; providing an effective date; and providing
6 expiration dates.

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

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

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

15 (2) "Board" means the HVAC/R board established in section 26 of
16 this act.

17 (3) "Boiler" means a closed vessel in which water is heated, steam
18 is generated, steam is superheated, or a combination thereof, under
19 pressure or vacuum by the application of heat, electricity, or nuclear

1 energy. "Boiler" also includes fired units for heating or vaporizing
2 liquids other than water where these systems are complete within
3 themselves.

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

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

7 (6) "Certified specialty mechanic" means a person who has been
8 issued one or more valid specialty mechanic certificates under section
9 15 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (26) "Refrigeration system" means a combination of interconnected
2 refrigerant-containing parts constituting one closed refrigerant
3 circuit in which a refrigerant is circulated for the purpose of
4 extracting heat and includes systems in which a secondary coolant,
5 cooled or heated by the refrigeration system, is circulated to the air
6 or other substance to be cooled or heated.

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

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

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

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

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

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

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

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

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

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

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

34 (c) Any person, on and after July 1, 2010, to employ a person to
35 perform or offer to perform HVAC/R work who has not been issued a valid
36 HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R

1 mechanic certificate, trainee certificate, or HVAC/R operator
2 certificate issued by the department under this chapter.

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

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

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

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

20 (6) This section does not apply to:

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

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

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

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

33 (2) No political subdivision of the state shall require a person
34 possessing a valid HVAC/R certificate, specialty certificate, temporary
35 HVAC/R mechanic certificate, trainee certificate issued by the
36 department under this chapter, or any person who is exempted under this

1 chapter to demonstrate any additional proof of competency in, obtain
2 any license for, or pay any fee to perform HVAC/R work in that
3 political subdivision.

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

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

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

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

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

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

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

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

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

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

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

4 (j) Making a like-in-kind replacement of a household appliance; or

5 (k) Installing wood or pellet stoves, including directly related
6 venting such as a chimney or flue.

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

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

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

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

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

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

33 (a) Refrigeration work authorized to be performed by a
34 refrigeration specialty mechanic I;

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

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

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

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

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

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

14 (7) Refrigeration specialty mechanic III. A person issued a
15 refrigeration specialty mechanic III certificate may perform
16 refrigeration work on any refrigeration system using any refrigerant.

17 (8) HVAC specialty mechanic III. A person issued an HVAC specialty
18 mechanic III certificate may perform all HVAC work on HVAC equipment
19 and systems.

20 NEW SECTION. **Sec. 6.** HVAC/R MECHANIC CERTIFICATES--SCOPE OF WORK.
21 The department may issue the following HVAC/R mechanic certificates to
22 an applicant who has successfully met the requirements under this
23 chapter for an HVAC/R certificate, and the scope of work that may be
24 performed by a person under each of the HVAC/R mechanic certificates is
25 as follows:

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

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

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

32 (c) HVAC work authorized to be performed by an HVAC specialty
33 mechanic I.

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

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

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

3 (c) HVAC work authorized to be performed by an HVAC specialty
4 mechanic II.

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

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

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

11 (c) HVAC work authorized to be performed by an HVAC specialty
12 mechanic III.

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

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

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

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

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

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

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

35 (4) A person issued a temporary HVAC/R mechanic certificate shall
36 have that certificate in his or her possession when performing any

1 HVAC/R work and shall show the certificate to any authorized
2 representative of the department upon request.

3 (5) A person issued a temporary HVAC/R mechanic certificate under
4 this section may only perform the scope of work authorized under
5 section 6 of this act for the equivalent HVAC/R mechanic certificate
6 and may not supervise any person with a trainee certificate issued
7 under this chapter.

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

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

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

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

- 23 (a) Within the scope of work authorized under that certificate;
- 24 (b) On the same job site and under the direction of an
25 appropriately certified HVAC/R mechanic or an appropriately certified
26 specialty mechanic; and
- 27 (c) Under the applicable supervision ratios required in section 16
28 of this act.

29 (4) A trainee shall have his or her certificate in his or her
30 possession when performing any HVAC/R work and shall show the
31 certificate to any authorized representative of the department upon
32 request.

33 (5) A trainee certificate shall be valid for a maximum of two years
34 from the date of issuance. The certificate shall include the
35 expiration date.

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

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

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

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

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

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

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

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

35 (a) Cleaning or replacing air filters, lubricating bearings,
36 replacing fan belts, cleaning evaporators or condensers, cleaning

1 cooling towers, or equipment logging on any HVAC/R equipment or
2 systems; or

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

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

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

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

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

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

26 (9) The hours accrued as an HVAC/R operating engineer under this
27 section may accrue towards the hours required to be eligible to take an
28 examination for an HVAC/R mechanic certificate under section 13 of this
29 act only if the HVAC/R operating engineer is supervised by an
30 appropriately certified HVAC/R mechanic or appropriately supervised
31 specialty mechanic and was issued a trainee certificate under section
32 8 of this act.

33 NEW SECTION. **Sec. 10.** HVAC/R MECHANIC CERTIFICATION WITHOUT
34 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who
35 has performed HVAC/R work may, in a form and manner prescribed by the
36 department, apply for an HVAC/R mechanic certificate without

1 examination. The application shall contain evidence of the person's
2 hours of HVAC/R work or other required information that is verifiable
3 by the department.

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

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

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

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

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

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

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

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

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

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

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

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

35 (a) If the applicant holds a valid journey refrigeration mechanic
36 license issued by the city of Seattle, issue a refrigeration specialty

1 mechanic III certificate and an HVAC specialty mechanic III
2 certificate;

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

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

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

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

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

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

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

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

30 (a) Whether the applicant possesses general knowledge of the
31 technical information and practical procedures that are identified
32 within the relevant scope of work; and

33 (b) Whether the applicant is familiar with the applicable laws and
34 administrative rules of the department pertaining to the relevant scope
35 of work.

36 (3) The department, with advice from the board, may enter into a
37 contract with a professional testing agency to develop, administer, and

1 score the examinations provided for in this section. The department
2 may set the examination fee by contract with the professional testing
3 agency. However, the examination fee the department charges must
4 cover, but not exceed, the costs of preparing and administering the
5 examination.

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

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

13 (6) A person may be given the appropriate level of examination they
14 are eligible to take as many times as necessary without limit.
15 However, each time an examination is given, the applicant must first
16 pay the required examination fee.

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

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

22 (1) A person with a valid temporary HVAC/R mechanic certificate or
23 trainee certificate may, in a form and manner prescribed by the
24 department, apply for any of the examinations provided for in section
25 12 of this act. The application shall contain evidence of the person's
26 hours of HVAC/R work or other required information that is verifiable
27 by the department.

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

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

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

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

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

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

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

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

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

17 (i) Performed under appropriate supervision levels the amount of
18 HVAC/R work required for an HVAC/R mechanic II certificate under (b)(i)
19 of this subsection plus an additional two thousand hours and the entire
20 amount of the additional hours required under this subsection must be
21 supervised;

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

24 (iii) Successfully completed an appropriately related
25 apprenticeship program under chapter 49.04 RCW that meets the
26 requirements of this level of certification.

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

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

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

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

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

1 (6) Work hours being accrued by an applicant as hours of HVAC/R
2 work under this chapter or towards electrical certification under
3 chapter 19.28 RCW may be credited for both the hours of HVAC/R work
4 required under this chapter and the hours of work required under
5 chapter 19.28 RCW.

6 (7) If an applicant is eligible for an examination under this
7 section and an examination under chapter 19.28 RCW, the department may
8 administer all such examinations at the same examination session.
9 However, upon request of the applicant, the department may administer
10 each examination at the time required in statute or rule for each
11 examination.

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

	Type of Certificate	Substitution for Hours of HVAC/R Work
17 (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.
18 (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.
19 (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (9) The department shall, on or before July 1, 2011, create a
38 single document and establish a single expiration date for a person who

1 holds two or more certificates or specialty certificates under chapter
2 18.106 RCW, chapter 19.28 RCW, and this chapter. The document shall
3 list all of the person's certificates and specialty certificates.

4 NEW SECTION. **Sec. 16.** SUPERVISION RATIOS--SUPERVISION. (1) The
5 ratio of trainees to appropriately certified HVAC/R mechanics or
6 appropriately certified specialty mechanics on the same job site must
7 not be greater than:

8 (a) For trainees not in a technical college program, two trainees
9 to each appropriately certified HVAC/R mechanic or appropriately
10 certified specialty mechanic; or

11 (b) For trainees in a technical college program, four trainees to
12 each appropriately certified HVAC/R mechanic or appropriately certified
13 specialty mechanic.

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

21 (3) When the ratio of trainees to appropriately certified HVAC/R
22 mechanics or appropriately certified specialty mechanics on a job site
23 is one appropriately certified HVAC/R mechanic or appropriately
24 certified specialty mechanic to three or four trainees, the
25 appropriately certified HVAC/R mechanic or appropriately certified
26 specialty mechanic must:

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

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

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

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

35 (a) Who has successfully completed, or is currently enrolled in, an
36 approved appropriately related apprenticeship program or an HVAC/R

1 program at a technical college may perform, unsupervised, the remaining
2 six months of the experience requirements of this chapter;

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

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

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

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

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

26 (b) The names and certificate numbers of the appropriately
27 certified HVAC/R mechanics or appropriately certified specialty
28 mechanics who supervised the trainees identified in (a) of this
29 subsection.

30 (2) Every person who reported hours of HVAC/R work performed by
31 trainees under subsection (1) of this section shall attest that all of
32 the reported hours of HVAC/R work performed by trainees was in
33 compliance with the supervision ratio requirements in section 16 of
34 this act.

35 (3) The department may audit the records of a person who reported
36 hours of HVAC/R work performed by trainees under subsection (1) of this
37 section in the following circumstances: (a) Excessive hours were

1 reported; (b) hours were reported outside the normal course of the
2 HVAC/R contractor's business; (c) the type of hours reported do not
3 reasonably match the type of permits purchased; or (d) for other
4 similar circumstances in which the department demonstrates a likelihood
5 of excessive hours being reported. The department shall limit the audit
6 to records necessary to verify hours.

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

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

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

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

28 (4) The department, with the advice of the board, shall determine
29 the contents of the related supplemental instruction or equivalent
30 training courses, or courses taken as part of an appropriately related
31 apprenticeship program approved under chapter 49.04 RCW required under
32 subsection (3) of this section, and establish the requirements for
33 satisfactory completion of such courses.

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

1 (6) Hours of approved continuing education required under this
2 section and hours of approved continuing education required under
3 chapter 19.28 RCW may be accrued concurrently. However, nothing in
4 this subsection shall be construed to relieve any person from having to
5 complete any continuing education mandated by the department by rule
6 pursuant to this chapter or pursuant to chapter 19.28 RCW.

7 NEW SECTION. **Sec. 19.** RECIPROCITY. The department may enter into
8 a reciprocity agreement with another state whose certification
9 requirements are equal to the standards set under this chapter. The
10 reciprocity agreement shall provide for the acceptance of Washington
11 and the other state's certification program or its equivalent by
12 Washington and the other state.

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

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

27 NEW SECTION. **Sec. 21.** CIVIL PENALTIES. Any person found in
28 violation of this chapter shall be assessed a penalty not to exceed
29 five thousand dollars. The department shall set by rule a schedule of
30 penalties for violating this chapter. Each day that a person violates
31 this chapter is a separate violation. Any penalties collected by the
32 department under this chapter shall be deposited into the plumbing and
33 HVAC/R certificate fund.

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

7 NEW SECTION. **Sec. 23.** FEES. (1) The department shall charge fees
8 for the issuance, renewal, and reinstatement of all certificates and
9 examinations required by this chapter. The department shall set the
10 fee amounts by rule.

11 (2) The fees collected under this section shall cover the full
12 costs of issuing the registrations and the certificates required by
13 this chapter, devising and administering the examinations required by
14 this chapter, and administering and enforcing this chapter and chapter
15 18.106 RCW.

16 NEW SECTION. **Sec. 24.** DEPOSITS. All moneys received by the
17 department from certificates, examinations, or any other sources under
18 this chapter shall be paid to the state treasurer as ex officio
19 custodian thereof and placed in a special fund designated as the
20 "plumbing and HVAC/R certificate fund." The treasurer shall pay out
21 upon vouchers duly and regularly issued therefore and approved by the
22 director. The treasurer shall keep an accurate record of payments into
23 the fund, and of all disbursements from the fund. The fund shall be
24 charged with its pro rata share of the cost of administering the fund.

25 NEW SECTION. **Sec. 25.** LIABILITY. (1) This chapter may not be
26 construed to relieve from or lessen the responsibility or liability of
27 any person for injury or damage to person or property caused by or
28 resulting from any HVAC/R work performed by the person.

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

32 NEW SECTION. **Sec. 26.** HVAC/R BOARD. (1) An HVAC/R board is
33 established.

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

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

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

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

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

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

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

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

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

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

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

34 (6) The board shall:

35 (a) Conduct proceedings for denying applications, suspending or
36 revoking certificates, and imposing civil penalties or other remedies.
37 Such proceedings shall be conducted in accordance with chapter 34.05
38 RCW;

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

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

9 (d) Approve expenditures from the plumbing and HVAC/R certificate
10 fund; and

11 (e) Advise the department on all other matters relative to this
12 chapter.

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

15 NEW SECTION. **Sec. 27.** ADMINISTRATION. (1) The director may adopt
16 rules necessary for the administration of this chapter.

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

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

22 NEW SECTION. **Sec. 28.** EFFECT ON OTHER LAWS. With the exception
23 of sections 2(3), 8(7), 13 (6) and (7), 15(9), and 18(6) of this act,
24 nothing in this chapter shall be construed to:

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

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

29 (3) Regulate or include plumbing work defined in chapter 18.106 RCW
30 and its applicable rules or electrical work defined in chapter 19.28
31 RCW and its applicable rules.

32 NEW SECTION. **Sec. 29.** COMPLIANCE AGENTS. (1) The director shall
33 appoint compliance agents to investigate alleged or apparent violations
34 of this chapter. The director, or authorized compliance agent, upon
35 presentation of appropriate credentials, may inspect and investigate

1 job sites at which an HVAC/R contractor had bid or presently is working
2 to determine whether the HVAC/R contractor is registered and their
3 employees are certified and working in accordance with this chapter or
4 the rules adopted under this chapter or whether there is a violation of
5 this act. Upon request of the compliance agent, an HVAC/R contractor
6 or an employee of the HVAC/R contractor shall provide information
7 identifying the HVAC/R contractor and those employees working on-site.

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

17 NEW SECTION. **Sec. 30.** NOTICE OF INFRACTION. The department may
18 issue a notice of infraction if the department reasonably believes that
19 a person has committed an infraction under this chapter. A notice of
20 infraction issued under this section shall be personally served on the
21 person named in the notice by the department's compliance agents or
22 service can be made by certified mail directed to the person named in
23 the notice of infraction at the last known address as provided to the
24 department.

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

28 (1) A statement that the notice represents a determination that the
29 infraction has been committed by the person named in the notice and
30 that the determination shall be final unless contested as provided in
31 this chapter;

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

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

1 (4) A statement of penalty involved if the infraction is
2 established;

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

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

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

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

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

24 NEW SECTION. **Sec. 32.** VIOLATIONS. A violation designated as an
25 infraction under this chapter shall be heard and determined by an
26 administrative law judge of the office of administrative hearings. If
27 a person desires to contest the notice of infraction, the person shall
28 file a notice of appeal with the department specifying the grounds of
29 the appeal within twenty days of service of the infraction in a manner
30 provided by this chapter. The appeal must be accompanied by a
31 certified check for two hundred dollars, which shall be returned to the
32 assessed person if the decision of the department is not sustained
33 following the final decision in the appeal. If the final decision
34 sustains the decision of the department, the department must apply the
35 two hundred dollars to the payment of the expenses of the appeal,
36 including costs charged by the office of administrative hearings. The

1 administrative law judge shall conduct hearings in these cases at
2 locations in the county where the infraction occurred.

3 NEW SECTION. **Sec. 33.** RESPONSE TO NOTICE OF INFRACTION. (1) A
4 person who is issued a notice of infraction shall respond within twenty
5 days of the date of issuance of the notice of infraction.

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

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

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

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

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

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

35 **Sec. 34.** RCW 18.106.125 and 1983 c 124 s 17 are each amended to
36 read as follows:

1 The department shall charge fees for issuance, renewal, and
2 reinstatement of all certificates and permits and for examinations
3 required by this chapter. The department shall set the fees by rule.

4 The fees collected under this chapter and chapter 18.-- RCW
5 (sections 1 through 33 of this act) shall cover the full cost of
6 issuing the certificates and permits, devising and administering the
7 examinations, and administering and enforcing this chapter and chapter
8 18.-- RCW (sections 1 through 33 of this act). The costs shall include
9 travel, per diem, and administrative support costs.

10 **Sec. 35.** RCW 18.106.130 and 1973 1st ex.s. c 175 s 13 are each
11 amended to read as follows:

12 All moneys received from certificates, permits, or other
13 sources(~~(τ)~~) shall be paid to the state treasurer as ex officio
14 custodian thereof and (~~by him~~) placed in a special fund designated as
15 the (~~(π)~~)plumbing and HVAC/R certificate fund(~~(π)~~). (~~He~~) The
16 treasurer shall pay out upon vouchers duly and regularly issued
17 therefor and approved by the director. The treasurer shall keep an
18 accurate record of payments into (~~said~~) the fund(~~(τ)~~) and of all
19 disbursement (~~therefrom~~) from the fund. (~~Said~~) The fund shall be
20 charged with its pro rata share of the cost of administering (~~said~~)
21 the fund.

22 **Sec. 36.** RCW 43.79A.040 and 2007 c 523 s 5, 2007 c 357 s 21, and
23 2007 c 214 s 14 are each reenacted and amended to read as follows:

24 (1) Money in the treasurer's trust fund may be deposited, invested,
25 and reinvested by the state treasurer in accordance with RCW 43.84.080
26 in the same manner and to the same extent as if the money were in the
27 state treasury.

28 (2) All income received from investment of the treasurer's trust
29 fund shall be set aside in an account in the treasury trust fund to be
30 known as the investment income account.

31 (3) The investment income account may be utilized for the payment
32 of purchased banking services on behalf of treasurer's trust funds
33 including, but not limited to, depository, safekeeping, and
34 disbursement functions for the state treasurer or affected state
35 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to
2 financial institutions. Payments shall occur prior to distribution of
3 earnings set forth in subsection (4) of this section.

4 (4)(a) Monthly, the state treasurer shall distribute the earnings
5 credited to the investment income account to the state general fund
6 except under (b) and (c) of this subsection.

7 (b) The following accounts and funds shall receive their
8 proportionate share of earnings based upon each account's or fund's
9 average daily balance for the period: The Washington promise
10 scholarship account, the college savings program account, the
11 Washington advanced college tuition payment program account, the
12 agricultural local fund, the American Indian scholarship endowment
13 fund, the foster care scholarship endowment fund, the foster care
14 endowed scholarship trust fund, the students with dependents grant
15 account, the basic health plan self-insurance reserve account, the
16 contract harvesting revolving account, the Washington state combined
17 fund drive account, the commemorative works account, the Washington
18 international exchange scholarship endowment fund, the developmental
19 disabilities endowment trust fund, the energy account, the fair fund,
20 the family leave insurance account, the fruit and vegetable inspection
21 account, the future teachers conditional scholarship account, the game
22 farm alternative account, the GET ready for math and science
23 scholarship account, the grain inspection revolving fund, the juvenile
24 accountability incentive account, the law enforcement officers' and
25 firefighters' plan 2 expense fund, the local tourism promotion account,
26 the produce railcar pool account, the regional transportation
27 investment district account, the rural rehabilitation account, the
28 stadium and exhibition center account, the youth athletic facility
29 account, the self-insurance revolving fund, the sulfur dioxide
30 abatement account, the children's trust fund, the Washington horse
31 racing commission Washington bred owners' bonus fund account, the
32 Washington horse racing commission class C purse fund account, the
33 individual development account program account, the Washington horse
34 racing commission operating account (earnings from the Washington horse
35 racing commission operating account must be credited to the Washington
36 horse racing commission class C purse fund account), the life sciences
37 discovery fund, the Washington state heritage center account, (~~and~~)
38 the reading achievement account, and the plumbing and HVAC/R

1 certificate fund. However, the earnings to be distributed shall first
2 be reduced by the allocation to the state treasurer's service fund
3 pursuant to RCW 43.08.190.

4 (c) The following accounts and funds shall receive eighty percent
5 of their proportionate share of earnings based upon each account's or
6 fund's average daily balance for the period: The advanced right-of-way
7 revolving fund, the advanced environmental mitigation revolving
8 account, the city and county advance right-of-way revolving fund, the
9 federal narcotics asset forfeitures account, the high occupancy vehicle
10 account, the local rail service assistance account, and the
11 miscellaneous transportation programs account.

12 (5) In conformance with Article II, section 37 of the state
13 Constitution, no trust accounts or funds shall be allocated earnings
14 without the specific affirmative directive of this section.

15 NEW SECTION. Sec. 37. CODIFICATION. Sections 1 through 33 of
16 this act constitute a new chapter in Title 18 RCW.

17 NEW SECTION. Sec. 38. CAPTIONS. Captions used in this act are
18 not any part of the law.

19 NEW SECTION. Sec. 39. SEVERABILITY. If any provision of this act
20 or its application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. Sec. 40. EFFECTIVE DATE. This act takes effect July
24 1, 2008.

--- END ---