
SUBSTITUTE HOUSE BILL 1806

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Environmental Affairs (originally sponsored by Representatives Bray, Horn and Rust)

Read first time 03/03/93.

1 AN ACT Relating to wells; amending RCW 18.104.010, 18.104.020,
2 18.104.030, 18.104.040, 18.104.043, 18.104.048, 18.104.050, 18.104.060,
3 18.104.070, 18.104.080, 18.104.100, 18.104.110, 18.104.120, 18.104.150,
4 18.104.155, 18.104.180, 18.104.900, and 89.16.055; adding new sections
5 to chapter 18.104 RCW; prescribing penalties; and providing an
6 expiration date.

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

8 **Sec. 1.** RCW 18.104.010 and 1971 ex.s. c 212 s 1 are each amended
9 to read as follows:

10 The legislature declares that the drilling, making or constructing
11 of ((water)) wells ((using the ground water resources)) within the
12 state is a business and activity of vital interest to the public. In
13 order to protect the public health, welfare, and safety of the people
14 it is necessary that provision be made for the regulation and licensing
15 of ((water)) well contractors and operators and for the regulation of
16 ((water)) well design and construction.

17 **Sec. 2.** RCW 18.104.020 and 1983 1st ex.s. c 27 s 14 are each
18 amended to read as follows:

1 The definitions set forth in this section apply throughout this
2 chapter, unless a different meaning is plainly required by the context.

3 (1) "Abandoned well" means a well that is unused, unmaintained, and
4 is in such disrepair as to be unusable.

5 (2) "Constructing a well" or "construct a well" means ((and
6 includes)):

7 (a) Boring, digging, drilling, or excavating ((and)) a well;

8 (b) Installing casing, sheeting, lining, or well screens, ((whether
9 in the installation of a new well or)) in a well; or

10 (c) Drilling a geotechnical soil boring.

11 "Constructing a well" or "construct a well" includes the alteration
12 of an existing well.

13 ((+2)) (3) "Decommission" means to fill or plug a well so that it
14 will not produce water, serve as a channel for movement of water or
15 pollution, or allow the entry of pollutants into the well or aquifers.

16 (4) "Department" means the department of ecology.

17 ((+3)) (5) "Dewatering well" means a cased or lined excavation or
18 boring that is intended to withdraw or divert ground water for the
19 purpose of facilitating construction, stabilizing a landslide, or
20 protecting an aquifer.

21 (6) "Director" means the director of the department of ecology.

22 ((+4)) (7) "Geotechnical soil boring" or "boring" means an uncased
23 well drilled for purpose of obtaining soil samples to ascertain
24 structural properties of the subsurface. Geotechnical soil boring
25 includes auger borings, rotary borings, cone penetrometer probes and
26 vane shear probes, or any other uncased ground penetration for
27 geotechnical information.

28 (8) "Ground water" means and includes ground waters as defined in
29 RCW 90.44.035(~~, as now or hereafter amended~~)).

30 ((+5)) (9) "Instrumentation well" means a well in which pneumatic
31 or electric geotechnical or hydrological instrumentation is permanently
32 or periodically installed to measure or monitor subsurface strength and
33 movement. Instrumentation well includes borehole extensometers, slope
34 indicators, pneumatic or electric pore pressure transducers, and load
35 cells.

36 (10) "Monitoring well" means a well designed to obtain a
37 representative ground water sample or designed to measure the water
38 level elevation in either clean or contaminated water or soil.

1 (11) "Observation well" means a well designed to measure the depth
2 to the water level elevation in either clean or contaminated water or
3 soil.

4 (12) "Operator" means ~~((any))~~ a person~~((, other than a person~~
5 ~~exempted by RCW 18.104.180,))~~ who (a) is employed by a ~~((water))~~ well
6 ~~contractor ~~((for the control and supervision of the))~~; (b) is licensed~~
7 ~~under this chapter; or (c) who controls, supervises, or oversees the~~
8 ~~construction of a ~~((water))~~ well ~~((or for the operation of water))~~ or~~
9 ~~who operates well construction equipment.~~

10 ~~((6))~~ (13) "Owner" or "well owner" means the person, firm,
11 partnership, copartnership, corporation association, or other entity
12 who owns the property on which the well is or will be constructed.

13 (14) "Pollution" and "contamination" have the meanings provided in
14 RCW 90.48.020.

15 (15) "Resource protection well" means a cased boring used to
16 determine the existence or migration of pollutants within an
17 underground formation. Resource protection wells include monitoring
18 wells, observation wells, piezometers, spill response wells, vapor
19 extraction wells, and instrumentation wells.

20 (16) "Resource protection well contractor" means any person, firm,
21 partnership, copartnership, corporation, association, or other entity,
22 licensed and bonded under chapter 18.27 RCW, engaged in the business of
23 constructing resource protection wells or geotechnical soil borings.

24 (17) "Water well" means ~~((and includes))~~ any excavation that is
25 ~~((drilled, cored, bored, washed, driven, dug, jetted, or otherwise))~~
26 constructed when the intended use of the well is for the location,
27 diversion, artificial recharge, observation, monitoring, dewatering, or
28 withdrawal of ground water. ~~(("Water well" does not mean an excavation~~
29 ~~made for the purpose of obtaining or prospecting for oil, natural gas,~~
30 ~~minerals, or products of mining, or quarrying, or for inserting media~~
31 ~~to repressure oil or natural gas bearing formations, or for storing~~
32 ~~petroleum, natural gas, or other products.~~

33 ~~(7))~~ (18) "Water well contractor" means any person, firm,
34 partnership, copartnership, corporation, association, or other entity,
35 licensed and bonded under chapter 18.27 RCW, engaged in the business of
36 constructing water wells.

37 (19) "Well" means water wells, resource protection wells,
38 instrumentation wells, dewatering wells, and geotechnical soil borings.
39 Well does not mean an excavation made for the purpose of obtaining or

1 prospecting for oil, natural gas, geothermal resources, minerals, or
2 products of mining, or quarrying, or for inserting media to repressure
3 oil or natural gas bearing formations, or for storing petroleum,
4 natural gas, or other products.

5 (20) "Well contractor" means a resource protection well contractor
6 and a water well contractor.

7 **Sec. 3.** RCW 18.104.030 and 1971 ex.s. c 212 s 3 are each amended
8 to read as follows:

9 It is unlawful:

10 (1) For any ~~((water well contractor))~~ person to supervise,
11 construct, alter, or decommission a ((water)) well ((for compensation))
12 without complying with the ((licensing)) provisions of this chapter((;

13 ~~((2) For any water well contractor to construct a water well for~~
14 ~~compensation without complying with))~~ and the rules ((and regulations))
15 for ((water)) well construction adopted pursuant to this chapter;

16 ~~((3) For any water well construction operator to supervise the~~
17 ~~construction of a water well without having an operators license as~~
18 ~~provided in this chapter))~~ (2) For any person to cause a well to be

19 constructed in violation of the standards for well construction
20 established by this chapter and rules adopted by the department
21 pursuant to this chapter;

22 (3) For a prospective water well owner to have a water well
23 constructed without first obtaining a water right permit, if a permit
24 is required;

25 (4) For any person to construct, alter, or decommission a well
26 unless the fees required by section 9 of this act have been paid;

27 (5) For a person to tamper with or remove a well identification tag
28 except during well alteration; and

29 (6) Except as provided in RCW 18.104.180, for any person to
30 contract to engage in the construction of a well or to act as a well
31 operator without first obtaining a license pursuant to this chapter.

32 **Sec. 4.** RCW 18.104.040 and 1991 c 3 s 249 are each amended to read
33 as follows:

34 The department shall have the power:

35 (1) To issue, deny, suspend or revoke licenses pursuant to the
36 provisions of this chapter;

1 (2) At all reasonable times, to enter upon lands for the purpose of
2 inspecting, taking measurements from, or tagging any ((water)) well,
3 ((drilled or being drilled, at all reasonable times)) constructed or
4 being constructed;

5 (3) To call upon or receive professional or technical advice from
6 ((any)) the department of health, the technical advisory group created
7 in section 23 of this act, or any other public agency or ((any))
8 person;

9 (4) To ((make such)) adopt rules, in consultation with the
10 department of health and the technical advisory group created in
11 section 23 of this act, governing licensing ((hereunder)) and ((water))
12 well construction as may be appropriate to carry out the purposes of
13 this chapter. ((Without limiting the generality of the foregoing,))
14 The rules adopted by the department may ((in cooperation with the
15 department of health make rules regarding)) include, but are not
16 limited to:

17 (a) Standards for the construction and maintenance of ((water))
18 wells and their casings;

19 (b) Methods of capping, sealing ((artesian)), and decommissioning
20 wells ((and water wells to be abandoned or which may contaminate
21 other)) to prevent contamination of ground water resources and to
22 protect public health and safety;

23 (c) Methods of artificial recharge of ground water bodies and of
24 construction of wells which insure separation of individual water
25 bearing formations;

26 (d) The manner of conducting and the content of examinations
27 required to be taken by applicants for license hereunder;

28 (e) Requirements for the filing of notices of intent, well reports,
29 and the payment of fees;

30 (f) Reporting requirements of ((water)) well contractors;

31 ((f)) (g) Limitations on ((water)) well construction in areas
32 identified by the department as requiring intensive control of
33 withdrawals in the interests of sound management of the ground water
34 resource;

35 (5) To require the operator in the construction of a well and the
36 property owner in the maintenance of a well to guard against waste and
37 contamination of the ground water resources;

38 (6) To require the operator to place a well identification tag on
39 a new well and on an existing well on which work is performed after the

1 effective date of rules requiring well identification tags and to place
2 or require the owner to place a well identification tag on an existing
3 well;

4 (7) To require the well owner to repair or decommission any well:

5 (a) That is abandoned, unusable, or not intended for future use; or

6 (b) That is an environmental, safety, or public health hazard.

7 **Sec. 5.** RCW 18.104.043 and 1992 c 67 s 2 are each amended to read
8 as follows:

9 (1) If requested in writing by the governing body of a local health
10 district or county, the department by memorandum of agreement may
11 delegate to the governing body the authority to administer and enforce
12 the well tagging, sealing, and decommissioning portions of the water
13 well construction program.

14 (2) The department shall determine whether a local health district
15 or county that seeks delegation under this section has the resources,
16 capability, and expertise, including qualified field inspectors, to
17 administer the delegated program. If the department determines the
18 local government has these resources, it shall notify (~~(drilling)~~) well
19 contractors, consultants, and operators of the proposal. The
20 department shall accept written comments on the proposal for sixty days
21 after the notice is mailed.

22 (3) If the department determines that a delegation of authority to
23 a local health district or county to administer and enforce the well
24 sealing and decommissioning portions of the water well construction
25 program will enhance the public health and safety and the environment,
26 the department and the local governing body may enter into a memorandum
27 of agreement setting forth the specific authorities delegated by the
28 department to the local governing body. The memorandum of agreement
29 shall provide for an initial review of the delegation within one year
30 and for periodic review thereafter.

31 (4) The local governing body shall exercise any authority delegated
32 under this section in accordance with this chapter, other applicable
33 laws, the memorandum of agreement, and applicable ordinances. If,
34 after a public hearing, the department determines that a local
35 governing body is not administering the program in accordance with this
36 chapter, it shall notify the local governing body of the deficiencies.
37 If corrective action is not taken within a reasonable time, not to

1 exceed sixty days, the department by order shall withdraw the
2 delegation of authority.

3 (5) The department shall promptly furnish the local governing body
4 with a copy of each water well report and notification of start cards
5 received in the area covered by a delegated program.

6 (6) The department and the local governing body shall coordinate to
7 reduce duplication of effort and shall share all appropriate
8 information including technical reports, violations, and well reports.

9 (7) Any person aggrieved by a decision of a local health district
10 or county under a delegated program may appeal the decision to the
11 department. The department's decision is subject to review by the
12 pollution control hearings board as provided in RCW 18.104.130.

13 (8) The department shall not delegate the authority to license
14 ~~((water))~~ well contractors, renew licenses, receive notices of intent
15 to commence ~~((drilling))~~ constructing a well, receive well reports, or
16 collect state fees provided for in this chapter.

17 **Sec. 6.** RCW 18.104.048 and 1987 c 394 s 3 are each amended to read
18 as follows:

19 ~~((To enable the department to monitor the construction,~~
20 ~~reconstruction, and abandonment of water wells more efficiently and~~
21 ~~effectively, water well contractors))~~ A property owner or the owner's
22 agent shall ~~((provide notification to))~~ notify the department of
23 ~~((their))~~ his or her intent to begin well construction, reconstruction,
24 or ~~((abandonment))~~ decommissioning procedures at least seventy-two
25 hours in advance of commencing work. The ~~((notification))~~ notice shall
26 be submitted on forms provided by the department and shall be
27 accompanied by the fees required by section 9 of this act. The notice
28 shall contain the name of the owner of the well, location of the well,
29 proposed use, approximate start date, ~~((driller's))~~ well contractor's
30 or operator's name and license number, ~~((drilling))~~ company's name, and
31 other pertinent information as prescribed by rule of the department.
32 Rules of the department shall also provide for prior telephonic
33 notification by well ~~((drillers))~~ contractors or operators in
34 exceptional situations. Within five days after the notice has been
35 submitted to the department, it shall issue a receipt indicating that
36 the notice has been filed with the department and the fees have been
37 paid.

1 NEW SECTION. Sec. 7. A new section is added to chapter 18.104 RCW
2 to read as follows:

3 The department by rule shall adopt procedures to permit a well
4 operator to modify construction standards to meet unforeseen
5 circumstances encountered during the construction of a well. The
6 procedures shall be developed in consultation with the technical
7 advisory group established in section 23 of this act.

8 **Sec. 8.** RCW 18.104.050 and 1971 ex.s. c 212 s 5 are each amended
9 to read as follows:

10 (~~In order to enable the state to protect the welfare, health and~~
11 ~~safety of its citizens, any water~~) (1) A well contractor shall furnish
12 a (~~water~~) well report to the director within thirty days after the
13 completion of the construction or alteration of a well by (~~him of any~~
14 ~~water well~~) the contractor. The director, by (~~regulation~~) rule,
15 shall prescribe the form of the report and the information to be
16 contained therein.

17 (2) In the case of a dewatering well project:

18 (a) A single well construction report may be submitted for all
19 similar dewatering wells constructed with no significant change in
20 geologic formation; and

21 (b) A single well decommissioning report may be submitted for all
22 similar dewatering wells decommissioned that have no significant change
23 in geologic formation.

24 NEW SECTION. Sec. 9. A new section is added to chapter 18.104 RCW
25 to read as follows:

26 (1) A fee is hereby imposed on each well constructed in this state
27 on or after July 1, 1993.

28 (2)(a) The fee for one new water well, other than a dewatering
29 well, with a minimum top casing diameter of less than twelve inches is
30 one hundred dollars. The fee for each additional monitoring or
31 observation well at the same site is twenty-five dollars.

32 (b) The fee for one new water well, other than a dewatering well,
33 with a minimum top casing diameter of twelve inches or greater is two
34 hundred dollars. The fee for each additional monitoring or observation
35 well at the same site is twenty-five dollars.

1 (c) The fee for a new resource protection, observation, and
2 monitoring well or a geotechnical soil boring is forty dollars for each
3 well or boring.

4 (d) The combined fee for construction and decommissioning of a
5 dewatering well system shall be forty dollars for each two hundred
6 horizontal lineal feet, or portion thereof, of the dewatering well
7 system.

8 (3) The fees imposed by this section shall be paid at the time the
9 notice of well construction is submitted to the department as provided
10 by RCW 18.104.048. The department by rule may adopt procedures to
11 permit the fees required for resource protection wells to be paid after
12 the number of wells actually constructed has been determined. The
13 department shall refund the amount of any fees collected for any wells
14 on which construction is not started.

15 **Sec. 10.** RCW 18.104.060 and 1971 ex.s. c 212 s 6 are each amended
16 to read as follows:

17 Notwithstanding and in addition to any other powers granted to the
18 department, whenever it appears to the director, or to an assistant
19 authorized by the director to issue regulatory orders under this
20 section, that a person is violating or is about to violate any of the
21 provisions of this chapter, the director, or ~~((his))~~ the director's
22 authorized assistant, may cause a written regulatory order to be served
23 upon said person either personally, or by registered or certified mail
24 delivered to the addressee only with return receipt requested and
25 acknowledged by him or her. The order shall specify the provision of
26 this chapter, and if applicable, the rule ~~((or regulation))~~ adopted
27 pursuant to this chapter alleged to be or about to be violated, and the
28 facts upon which the conclusion of violating or potential violation is
29 based, and shall order the act constituting the violation or the
30 potential violation to cease and desist or, in appropriate cases, shall
31 order necessary corrective action to be taken with regard to such acts
32 within a specific and reasonable time. ~~((A regulatory))~~ An order
33 issued ~~((hereunder))~~ under this chapter shall become effective
34 immediately upon receipt by the person to whom the order is directed,
35 and shall become final unless review thereof is requested as provided
36 in this chapter.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.104
2 RCW to read as follows:

3 (1) The department may order a well contractor or well operator to
4 repair, alter, or decommission a well if the department demonstrates
5 that the construction of the well did not meet the standards for well
6 construction in effect at the time construction of the well was
7 completed.

8 (2) The department may not issue an order pursuant to this section:

9 (a) For wells for which construction has been substantially
10 completed before July 1, 1993, more than six years after construction
11 has been substantially completed; or

12 (b) For wells for which construction has been substantially
13 completed on or after July 1, 1993, more than three years after
14 construction has been substantially completed.

15 For purposes of this subsection, "construction has been
16 substantially completed" has the same meaning as "substantial
17 completion of construction" in RCW 4.16.310.

18 (3) Subsection (2) of this section shall only apply to a well for
19 which the notice of construction required by RCW 18.104.048 and the
20 report required by RCW 18.104.050 have been filed with the department.

21 **Sec. 12.** RCW 18.104.070 and 1987 c 394 s 2 are each amended to
22 read as follows:

23 (~~Except as provided in RCW 18.104.180, no person may contract to~~
24 ~~engage in the construction of a water well and no person may act as an~~
25 ~~operator without first obtaining a license by applying to the~~
26 ~~department.))~~

27 A person shall be qualified to receive a water well
28 ((construction)) operator's license if ((he)) the person:

29 (1) Has ((made)) submitted a completed application ((therefor)) to
30 the department on forms provided by the department and has paid to the
31 department ((an)) the application fee ((of twenty five dollars))
32 determined by rule adopted pursuant to this chapter; and

33 (2) Has ((at least two years of field experience with a licensed
34 ~~well driller or one year of field experience and an equivalent of at~~
35 ~~least one school year of qualifying educational training that satisfies~~
36 ~~the criteria established by department rule)) the field experience and
37 educational training required by rule adopted by the department
38 pursuant to this chapter; and~~

1 (3) Has passed a written examination as provided for in RCW
2 18.104.080(~~(: PROVIDED, That should any applicant establish his~~
3 ~~illiteracy to the satisfaction of the department, such applicant shall~~
4 ~~be entitled to an oral examination in lieu of the written examination~~
5 ~~authorized herein)); and~~

6 (4) Has passed an on-site examination by the department if the
7 person's qualifying field experience under subsection (2) of this
8 section is from another state. The department may waive the on-site
9 examination.

10 NEW SECTION. Sec. 13. A new section is added to chapter 18.104
11 RCW to read as follows:

12 The department may issue a water well construction operator's
13 training license if the person:

14 (1) Has submitted a completed application to the department on
15 forms provided by the department and has paid to the department the
16 application fee required by rules adopted pursuant to this chapter;

17 (2) Has acquired field experience and educational training required
18 by rules adopted pursuant to this chapter;

19 (3) Has passed a written examination as provided for in RCW
20 18.104.080;

21 (4) Has passed an on-site examination by the department; and

22 (5) Presents a statement by a person licensed under this chapter,
23 other than a trainee, signed under penalty of perjury as provided in
24 RCW 9A.72.085, verifying that the applicant has the field experience
25 required by rules adopted pursuant to this chapter and assuming
26 liability for any and all well construction activities of the person
27 seeking the training license.

28 A person with a water well construction operator's training license
29 may operate a drilling rig without the direct supervision of a licensed
30 operator if a licensed operator is available by radio, telephone, or
31 other means of communication.

32 NEW SECTION. Sec. 14. A new section is added to chapter 18.104
33 RCW to read as follows:

34 A person shall be qualified to receive a resource protection well
35 operator's license if the person:

1 (1) Has submitted a completed application to the department on
2 forms provided by the department and has paid to the department the
3 application fee required by rules adopted pursuant to this chapter;

4 (2) Has acquired field experience and educational training required
5 by rules adopted pursuant to this chapter;

6 (3) Has passed a written examination as provided for in RCW
7 18.104.080. This requirement shall not apply to a person who passed
8 the written examination to obtain a resource protection well
9 construction operator's training license; and

10 (4) Has passed an on-site examination by the department if the
11 person's qualifying field experience is from another state. The
12 department may waive the on-site examination.

13 A person with a license issued pursuant to this chapter before the
14 effective date of this section may obtain a resource protection well
15 construction operator's license by paying the application fee
16 determined by rule adopted by the department pursuant to this chapter
17 and submitting evidence required by the department to demonstrate that
18 the person has the required experience to construct resource protection
19 wells.

20 NEW SECTION. **Sec. 15.** A new section is added to chapter 18.104
21 RCW to read as follows:

22 The department may issue a resource protection well operator's
23 training license if the person:

24 (1) Has submitted a completed application to the department on
25 forms provided by the department and has paid to the department the
26 application fee required by rules adopted pursuant to this chapter;

27 (2) Has acquired field experience and educational training required
28 by rules adopted pursuant to this chapter;

29 (3) Has passed a written examination as provided for in RCW
30 18.104.080;

31 (4) Has passed an on-site examination by the department; and

32 (5) Presents a statement by a person licensed under this chapter,
33 other than a trainee, signed under penalty of perjury as provided in
34 RCW 9A.72.085, verifying that the applicant has the field experience
35 required by rules adopted pursuant to this chapter and assuming
36 liability for any and all well construction activities of the person
37 seeking the training license.

1 A person with a resource protection well construction operator's
2 training license may operate a drilling rig without direct supervision
3 of a licensed operator if a licensed operator is accessible by radio,
4 telephone, or other means of communication.

5 **Sec. 16.** RCW 18.104.080 and 1991 c 3 s 250 are each amended to
6 read as follows:

7 The examination(~~(, which is made a prerequisite for obtaining a~~
8 ~~license hereunder,)~~) for a license issued pursuant to this chapter
9 shall be prepared to test knowledge and understanding of at least the
10 following subjects:

11 (1) Washington ground water laws as they relate to well
12 construction;

13 (2) Sanitary standards for ~~((water))~~ well drilling and construction
14 of ~~((water))~~ wells;

15 (3) Types of ~~((water))~~ well construction;

16 (4) Drilling tools and equipment;

17 (5) Underground geology as it relates to ~~((water))~~ well
18 construction; and

19 (6) Rules of the department and the department of health relating
20 to ~~((water))~~ well construction.

21 Examinations shall be held at such times and places as may be
22 determined by the department but not later than thirty days after an
23 applicant has filed a completed application with the department. The
24 department shall make a determination of the applicant's qualifications
25 for a license within ten days after the examination.

26 **Sec. 17.** RCW 18.104.100 and 1971 ex.s. c 212 s 10 are each amended
27 to read as follows:

28 ~~((The term for the effectiveness of any license))~~ (1) Licenses
29 issued pursuant to this chapter shall be ~~((one))~~ renewed every two
30 years~~((, commencing on the date the license is issued))~~. ~~((Every))~~ A
31 license shall be renewed ~~((annually))~~ upon payment of a renewal fee
32 ~~((of ten dollars))~~ and completion of continuing education required by
33 rule adopted by the department. If a licensee fails to submit an
34 application for renewal, ~~((together with))~~ the renewal fee, ~~((before~~
35 ~~the end of the effective term of his license, his license shall be~~
36 suspended for thirty days on notice by the director. If his renewal
37 fee is paid prior to the end of said suspension period, the suspension

1 shall automatically terminate. If during the period of suspension
2 renewal is not completed, his license shall be revoked: PROVIDED, That
3 the director shall give the licensee ten days notice prior to the
4 revocation of any license for failure to renew)) and proof of
5 completion of the required continuing education, the license shall
6 expire at the end of its effective term.

7 (2) A person whose license ((is revoked under this section and who
8 thereafter desires to engage in the supervision of construction of
9 water wells)) has expired must ((make application)) apply for a new
10 license ((and pay twenty five dollars)) as provided in ((RCW
11 18.104.070)) this chapter. The department may waive the requirement
12 for a written examination and on-site testing for a person whose
13 license has expired.

14 (3) The department may refuse to renew a license if the licensee
15 has not complied with an order issued by the department or has not paid
16 a penalty imposed in accordance with this chapter, unless the order or
17 penalty is under appeal.

18 (4) The department may issue a conditional license to enable a
19 former licensee to comply with an order to correct problems with a
20 well.

21 **Sec. 18.** RCW 18.104.110 and 1991 c 3 s 251 are each amended to
22 read as follows:

23 In cases other than those relating to the failure of a licensee to
24 renew a license, ((any license issued hereunder may be suspended or
25 revoked by)) the director may suspend or revoke a license issued
26 pursuant to this chapter for any of the following reasons:

- 27 (1) For fraud or deception in obtaining the license;
28 (2) For fraud or deception in reporting under RCW 18.104.050;
29 (3) For violating the provisions of this chapter, or of any lawful
30 rule or regulation of the department or the department of health.

31 No license shall be suspended for more than six months. No person
32 whose license is revoked shall be eligible to apply for a license for
33 one year from the effective date of the final order of revocation.

34 **Sec. 19.** RCW 18.104.120 and 1983 c 93 s 1 are each amended to read
35 as follows:

36 Any person with an economic or noneconomic interest may make a
37 complaint against any ((water)) well contractor or operator for

1 violating this chapter or any regulations under it to the department of
2 ecology. The complaint shall be in writing, signed by the complainant,
3 and specify the grievances against the licensee. The department shall
4 respond to the complaint by issuance of an order it deems appropriate.
5 Review of the order shall be subject to the hearings procedures set
6 forth in RCW 18.104.130.

7 **Sec. 20.** RCW 18.104.150 and 1971 ex.s. c 212 s 15 are each amended
8 to read as follows:

9 ~~((All receipts realized in the administration of this chapter shall
10 be paid into the general fund.))~~ (1) All fees paid under this chapter
11 shall be credited by the state treasurer to the reclamation account
12 established by chapter 89.16 RCW. Subject to legislative
13 appropriation, the fees collected under this chapter shall be allocated
14 and expended by the director for the administration of the well
15 construction, well operators' licensing, and education programs.

16 (2) The department shall provide grants to local governing entities
17 that have been delegated portions of the well construction program
18 pursuant to RCW 18.104.043 to assist in supporting well inspectors
19 hired by the local governing body. Grants provided to a local
20 governing body shall not exceed the revenues generated from fees for
21 the portion of the program delegated and from the area in which
22 authority is delegated to the local governing body.

23 **Sec. 21.** RCW 18.104.155 and 1987 c 394 s 1 are each amended to
24 read as follows:

25 (1) The department of ecology may ((levy)) assess a civil penalty
26 ((of up to one hundred dollars per day)) for a violation of this
27 chapter or rules or orders of the department adopted or issued pursuant
28 to it. ((Procedures of RCW 90.48.144 shall be applicable to all phases
29 of levying of such a penalty as well as review and appeal of them))

30 (2) There shall be three categories of violations: Minor, serious,
31 and major.

32 (a) A minor violation is a violation that does not seriously
33 threaten public health, safety, and the environment. Minor violations
34 include, but are not limited to:

35 (i) Failure to submit completed start cards and well reports within
36 the required time;

37 (ii) Failure to submit variance requests before construction;

1 (iii) Failure to submit well construction fees;

2 (iv) Failure to place a well identification tag on a new well; and

3 (v) Minor or reparable construction problems.

4 (b) A serious violation is a violation that poses a critical or
5 serious threat to public health, safety, and the environment. Serious
6 violations include, but are not limited to:

7 (i) Improper well construction;

8 (ii) Intentional and improper location or siting of a well;

9 (iii) Construction of a well without a required permit;

10 (iv) Violation of decommissioning requirements; or

11 (v) Repeated minor violations.

12 (c) A major violation is the construction of a well by a person
13 without a license or after that person's license has been revoked or
14 suspended.

15 (3)(a) The penalty for a minor violation shall be not less than one
16 hundred dollars and not more than five hundred dollars. Before the
17 imposition of a penalty for a minor violation, the department may issue
18 an order of noncompliance to provide an opportunity for mitigation or
19 compliance.

20 (b) The penalty for a serious violation shall be not less than five
21 hundred dollars and not more than five thousand dollars.

22 (c) The penalty for a major violation shall be not less than five
23 thousand dollars and not more than ten thousand dollars.

24 (4) In determining the appropriate penalty under subsection (3) of
25 this section the department shall consider whether the person:

26 (a) Has demonstrated a general disregard for public health and
27 safety through the number and magnitude of the violations;

28 (b) Has demonstrated a disregard for the well construction laws or
29 rules in repeated or continuous violations; or

30 (c) Knew or reasonably should have known of circumstances that
31 resulted in the violation.

32 (5) Penalties provided for in this section shall be imposed
33 pursuant to RCW 43.21B.300. The department shall provide thirty days
34 written notice of a violation as provided in RCW 43.21B.300(3).

35 (6) For ~~((each notice regarding))~~ informational purposes, a copy of
36 the notice of violation, resulting from the improper construction of a
37 well, that is sent to a water well contractor or water well
38 construction operator, ~~((the department shall send a copy of the notice~~
39 for information purposes only to the owner of the land on which the

1 ~~improperly constructed well is located~~) shall also be sent by the
2 department to the well owner.

3 (7) Penalties collected by the department pursuant to this section
4 shall be deposited in the reclamation account established by chapter
5 89.16 RCW. Subject to legislative appropriation, the penalties may be
6 spent only for purposes related to the restoration and enhancement of
7 ground water resources in the state.

8 **Sec. 22.** RCW 18.104.180 and 1971 ex.s. c 212 s 18 are each amended
9 to read as follows:

10 No license (~~hereunder~~) under this chapter shall be required of:

11 (1) Any individual who personally (~~drills~~) constructs a well on
12 land which is owned or leased by (~~him~~) the individual or in which
13 (~~he~~) the individual has a beneficial interest as a contract purchaser
14 and is used by the individual for farm or (~~nonecommercial domestic~~)
15 single-family residential use only. An individual who constructs a
16 well without a license pursuant to this subsection shall comply with
17 all other requirements of this chapter and rules adopted by the
18 department, including but not limited to, well construction standards,
19 payment of well construction fees, and notification of well
20 construction required by RCW 18.104.048. An individual without a
21 license may construct not more than one well every two years pursuant
22 to the provisions of this subsection.

23 (2) (~~Any~~) An individual who performs labor or services for a
24 (~~water~~) well contractor in connection with the (~~drilling~~)
25 construction of a well at the direction and under the supervision and
26 control of a licensed operator who is present at the construction site.

27 (3) A person licensed under the provisions of chapter 18.08 or
28 18.43 RCW if in the performance of duties covered by those licenses.

29 NEW SECTION. **Sec. 23.** A new section is added to chapter 18.104
30 RCW to read as follows:

31 (1) For the purpose of carrying out the provisions of this chapter,
32 the director shall appoint a technical advisory group, chaired by the
33 department. The technical advisory group shall have twelve members:
34 Two members shall represent the department of ecology, six members
35 shall represent resource protection well contractors or water well
36 contractors, one member shall represent the department of health, one
37 member shall represent local health departments, one member shall

1 represent licensed professional engineers, and one member shall be a
2 scientist knowledgeable in the design and construction of wells.

3 (2) The technical advisory group shall assist the department in the
4 development and revision of rules; the preparation and revision of
5 licensing examinations; the development of training criteria for
6 inspectors, well contractors, and well operators; and the review of
7 proposed changes to the minimum standards for construction and
8 maintenance of wells by local governments for the purpose of achieving
9 continuity with technology and state rules.

10 (3) The group shall meet at least twice each year to review rules
11 and suggest any necessary changes.

12 (4) Each member of the group shall be compensated in accordance
13 with RCW 43.03.240 and reimbursed for travel expenses while engaged in
14 the business of the group as prescribed in RCW 43.03.050 and 43.03.060.

15 **Sec. 24.** RCW 18.104.900 and 1971 ex.s. c 212 s 19 are each amended
16 to read as follows:

17 This chapter shall be known and may be cited as the "Washington
18 (~~Water~~) well construction act((~~^~~))."

19 **Sec. 25.** RCW 89.16.055 and 1981 c 216 s 1 are each amended to read
20 as follows:

21 In addition to the powers provided in RCW 89.16.050, the department
22 of ecology is authorized and empowered to:

23 (1) Conduct surveys, studies, investigations, and water right
24 examinations for proposed reclamation projects or the rehabilitation of
25 existing reclamation projects that may be funded fully or partially
26 from the receipts of the sale of bonds issued by the state of
27 Washington.

28 (2) Support the preparation for and administration of proceedings,
29 provided in RCW 90.03.110 or 90.44.220, or both, pertaining to river
30 systems or other water bodies that are associated with existing or
31 proposed reclamation projects.

32 (3) Conduct a regulatory program for well construction as provided
33 in chapter 18.104 RCW.

34 Funds of the account established by RCW 89.16.020 may, as
35 appropriated by the legislature, be used in relation to the powers
36 provided in this section, notwithstanding any other provisions of
37 chapter 89.16 RCW that may be to the contrary.

1 NEW SECTION. **Sec. 26.** Section 5 of this act expires on June 30,
2 1996.

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