

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6107

Chapter 284, Laws of 1994

(partial veto)

53rd Legislature
1994 Regular Session

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT--
FEES--MANUFACTURED HOUSING, CONSUMER PROTECTION

EFFECTIVE DATE: 4/1/94

Passed by the Senate March 10, 1994
YEAS 36 NAYS 10

JOEL PRITCHARD

President of the Senate

Passed by the House March 10, 1994
YEAS 79 NAYS 15

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved April 1, 1994, with the
exception of sections 3, 5, and 6,
which are vetoed.

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SECOND SUBSTITUTE SENATE BILL 6107 as
passed by the Senate and the House of
Representatives on the dates hereon
set forth.

MARTY BROWN

Secretary

FILED

April 1, 1994 - 2:32 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6107

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1994 Regular Session

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Skratek, Sheldon and M. Rasmussen)

Read first time 02/08/94.

1 AN ACT Relating to fees for services for the department of
2 community, trade, and economic development; amending RCW 70.95H.040,
3 46.70.135, and 46.70.180; reenacting and amending RCW 43.210.110;
4 adding new sections to chapter 43.330 RCW; adding a new section to
5 chapter 70.95H RCW; adding new sections to chapter 46.70 RCW; adding a
6 new chapter to Title 43 RCW; creating a new section; prescribing
7 penalties; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330 RCW
10 to read as follows:

11 The department is authorized to charge reasonable fees to cover
12 costs for conferences, workshops, and training purposes and to expend
13 those fees for the purposes for which they were collected.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW
15 to read as follows:

16 In order to extend its services and programs, the department may
17 charge reasonable fees for services and products provided in the areas
18 of financial assistance, housing, international trade, community

1 assistance, economic development, and other service delivery areas,
2 except as otherwise provided. These fees are not intended to exceed
3 the costs of providing the service or preparing and distributing the
4 product.

5 ***NEW SECTION.** *Sec. 3. A new section is added to chapter 43.330*
6 *RCW to read as follows:*

7 *Before the fees authorized in sections 2, 12, and 22 of this act*
8 *become effective the department shall:*

9 *(1) Submit the proposed schedule of fees to the office of financial*
10 *management for approval on or before November 1, 1994; and*

11 *(2) Submit the fees approved by the office of financial management*
12 *to the appropriate committees of the senate and house of*
13 *representatives before December 1, 1994.*

14 **Sec. 3 was vetoed, see message at end of chapter.*

15 **NEW SECTION.** *Sec. 4. A new section is added to chapter 43.330 RCW*
16 *to read as follows:*

17 *The community and economic development fee account is created in*
18 *the state treasury. The department may create subaccounts as*
19 *necessary. The account consists of all receipts from fees charged by*
20 *the department under sections 1 and 2 of this act and RCW 43.210.110.*
21 *Expenditures from the account may be used only for the purposes of this*
22 *chapter. Only the director or the director's designee may authorize*
23 *expenditures from the account. Expenditures from the account may be*
24 *spent only after appropriation.*

25 **Sec. 5. RCW 70.95H.040 and 1991 c 319 s 206 are each amended to*
26 *read as follows:*

27 *In order to carry out its responsibilities under this chapter, the*
28 *center may:*

29 *(1) Receive such gifts, grants, funds, fees, and endowments, in*
30 *trust or otherwise, for the use and benefit of the purposes of the*
31 *center. The center may expend the same or any income therefrom*
32 *according to the terms of the gifts, grants, or endowments;*

33 *(2) Initiate, conduct, or contract for studies and searches*
34 *relating to market development for recyclable materials, including but*
35 *not limited to applied research, technology transfer, and pilot*
36 *demonstration projects;*

1 (3) Obtain and disseminate information relating to market
2 development for recyclable materials from other state and local
3 agencies;

4 (4) Enter into, amend, and terminate contracts with individuals,
5 corporations, trade associations, and research institutions for the
6 purposes of this chapter;

7 (5) Provide grants to local governments or other public
8 institutions to further the development of recycling markets;

9 (6) Provide business and marketing assistance to public and private
10 sector entities within the state; ((and))

11 (7) Evaluate, analyze, and make recommendations on state policies
12 that may affect markets for recyclable materials; and

13 (8) Charge reasonable fees for services, products, conferences,
14 workshops, or any other activity of the center upon any person not
15 required to pay assessments imposed under chapter 82.18 or 82.19 RCW.
16 The fees collected under this subsection shall be expended solely for
17 the purposes of the center.

18 *Sec. 5 was vetoed, see message at end of chapter.

19 ***NEW SECTION.** Sec. 6. A new section is added to chapter 70.95H
20 RCW to read as follows:

21 The clean Washington center fee account is created in the state
22 treasury. Proceeds from fees collected by the center for services and
23 products shall be deposited into this account. Expenditures from this
24 account may be used only for the purposes under this chapter. Only the
25 director or the director's designee may authorize expenditures from the
26 account. Expenditures from the account may be spent only after
27 appropriation.

28 *Sec. 6 was vetoed, see message at end of chapter.

29 **Sec. 7.** RCW 43.210.110 and 1993 sp.s. c 24 s 922, 1993 c 366 s 1,
30 and 1993 c 280 s 57 are each reenacted and amended to read as follows:

31 (1) The small business export finance assistance center has the
32 following powers and duties when exercising its authority under RCW
33 43.210.100(3):

34 (a) Solicit and accept grants, contributions, and any other
35 financial assistance from the federal government, federal agencies, and
36 any other public or private sources to carry out its purposes;

37 (b) Offer comprehensive export assistance and counseling to
38 manufacturers relatively new to exporting with gross annual revenues

1 less than twenty-five million dollars. As close to seventy-five
2 percent as possible of each year's new cadre of clients must have gross
3 annual revenues of less than five million dollars at the time of their
4 initial contract. At least fifty percent of each year's new cadre of
5 clients shall be from timber impact areas as defined in RCW 43.31.601.
6 Counseling may include, but not be limited to, helping clients obtain
7 debt or equity financing, in constructing competent proposals, and
8 assessing federal guarantee and/or insurance programs that underwrite
9 exporting risk; assisting clients in evaluating their international
10 marketplace by developing marketing materials, assessing and selecting
11 targeted markets; assisting firms in finding foreign customers by
12 conducting foreign market research, evaluating distribution systems,
13 selecting and assisting in identification of and/or negotiations with
14 foreign agents, distributors, retailers, and by promoting products
15 through attending trade shows abroad; advising companies on their
16 products, guarantees, and after sales service requirements necessary to
17 compete effectively in a foreign market; designing a competitive
18 strategy for a firm's products in targeted markets and methods of
19 minimizing their commercial and political risks; securing for clients
20 specific assistance as needed, outside the center's field of expertise,
21 by referrals to other public or private organizations. The Pacific
22 Northwest export assistance project shall focus its efforts on
23 facilitating export transactions for its clients, and in doing so,
24 provide such technical services as are appropriate to accomplish its
25 mission either with staff or outside consultants;

26 (c) Sign three-year counseling agreements with its clients that
27 provide for termination if adequate funding for the Pacific Northwest
28 export assistance project is not provided in future appropriations.
29 Counseling agreements shall not be renewed unless there are compelling
30 reasons to do so, and under no circumstances shall they be renewed for
31 more than two additional years. A counseling agreement may not be
32 renewed more than once. The counseling agreements shall have mutual
33 performance clauses, that if not met, will be grounds for releasing
34 each party, without penalty, from the provisions of the agreement.
35 Clients shall be immediately released from a counseling agreement with
36 the Pacific Northwest export assistance project, without penalty, if a
37 client wishes to switch to a private export management service and
38 produces a valid contract signed with a private export management
39 service, or if the president of the small business export finance

1 assistance center determines there are compelling reasons to release a
2 client from the provisions of the counseling agreement;

3 (d) May contract with private or public international trade
4 education services to provide Pacific Northwest export assistance
5 project clients with training in international business. The president
6 and board of directors shall decide the amount of funding allocated for
7 educational services based on the availability of resources in the
8 operating budget of the Pacific Northwest export assistance project;

9 (e) May contract with the Washington state international trade fair
10 to provide services for Pacific Northwest export assistance project
11 clients to participate in one trade show annually. The president and
12 board of directors shall decide the amount of funding allocated for
13 trade fair assistance based on the availability of resources in the
14 operating budget of the Pacific Northwest export assistance project;

15 (f) Provide biennial assessments of its performance. Project
16 personnel shall work with the department of revenue and employment
17 security department to confidentially track the performance of the
18 project's clients in increasing tax revenues to the state, increasing
19 gross sales revenues and volume of products destined to foreign
20 clients, and in creating new jobs for Washington citizens. A biennial
21 report shall be prepared for the governor and legislature to assess the
22 costs and benefits to the state from creating the project. The
23 president of the small business export finance assistance center shall
24 design an appropriate methodology for biennial assessments in
25 consultation with the director of community, trade, and economic
26 development and the director of the Washington state department of
27 agriculture. The department of revenue and the employment security
28 department shall provide data necessary to complete this biennial
29 evaluation, if the data being requested is available from existing data
30 bases. Client-specific information generated from the files of the
31 department of revenue and the employment security department for the
32 purposes of this evaluation shall be kept strictly confidential by each
33 department and the small business export finance assistance center;

34 (g) Take whatever action may be necessary to accomplish the
35 purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120;
36 and

37 (h) Limit its assistance to promoting the exportation of value-
38 added manufactured goods. The project shall not provide counseling or

1 assistance, under any circumstances, for the importation of foreign
2 made goods into the United States.

3 (2) The Pacific Northwest export assistance project shall not,
4 under any circumstances, assume ownership or take title to the goods of
5 its clients.

6 (3) The Pacific Northwest export assistance project may not use any
7 Washington state funds which come from the public treasury of the state
8 of Washington to make loans or to make any payment under a loan
9 guarantee agreement. Under no circumstances may the center use any
10 funds received under RCW 43.210.050 to make or assist in making any
11 loan or to pay or assist in paying any amount under a loan guarantee
12 agreement. Debts of the center shall be center debts only and may be
13 satisfied only from the resources of the center. The state of
14 Washington shall not in any way be liable for such debts.

15 (4) The Pacific Northwest export assistance project shall make
16 every effort to seek nonstate funds to supplement its operations. The
17 small business export finance assistance center and the project are
18 authorized to charge reasonable fees for services and products provided
19 and to expend the proceeds for the particular purposes for which they
20 were collected.

21 (5) The small business export finance assistance center and its
22 Pacific Northwest export assistance project shall take whatever steps
23 are necessary to provide its services, if requested, to the states of
24 Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British
25 Columbia and Alberta. Interstate services shall not be provided by the
26 Pacific Northwest export assistance project during its first biennium
27 of operation. The provision of services may be temporary and subject
28 to the payment of fees, or each state may request permanent services
29 contingent upon a level of permanent funding adequate for services
30 provided. Temporary services and fees may be negotiated by the small
31 business export finance assistance center's president subject to
32 approval of the board of directors. The president of the small
33 business export finance assistance center may enter into negotiations
34 with neighboring states to contract for delivery of the project's
35 services. Final contracts for providing the project's counseling and
36 services outside of the state of Washington on a permanent basis shall
37 be subject to approval of the governor, appropriate legislative
38 oversight committees, and the small business export finance assistance
39 center's board of directors.

1 (6) The small business export finance assistance center may receive
2 such gifts, grants, and endowments from public or private sources as
3 may be made from time to time, in trust or otherwise, for the use and
4 benefit of the purposes of the Pacific Northwest export assistance
5 project and expend the same or any income therefrom according to the
6 terms of the gifts, grants, or endowments.

7 (7) The president of the small business export finance assistance
8 center, in consultation with the board of directors, may use the
9 following formula in determining the number of clients that can be
10 reasonably served by the Pacific Northwest export assistance project
11 relative to its appropriation. Divide the amount appropriated for
12 administration of the Pacific Northwest export assistance project by
13 the marginal cost of adding each additional Pacific Northwest export
14 assistance project client. For the purposes of this calculation, and
15 only for the first biennium of operation, the biennial marginal cost of
16 adding each additional Pacific Northwest export assistance project
17 client shall be fifty-seven thousand ninety-five dollars. The biennial
18 marginal cost of adding each additional client after the first biennium
19 of operation shall be established from the actual operating experience
20 of the Pacific Northwest export assistance project.

21 ~~((8) All receipts from the Pacific Northwest export assistance
22 project shall be deposited into the general fund. However, during the
23 1993-95 fiscal biennium, the receipts of the project shall be deposited
24 into the small business export finance assistance center fund under RCW
25 43.210.070.))~~

26 NEW SECTION. **Sec. 8.** The fees authorized under sections 1 and 2
27 of this act and RCW 70.95H.040 and 43.210.110 shall be adopted by rule
28 pursuant to chapter 34.05 RCW.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 46.70 RCW
30 to read as follows:

31 (1) In addition to the requirements contained in RCW 46.70.135,
32 each sale of a new manufactured home in this state is made with an
33 implied warranty that the manufactured home conforms in all material
34 aspects to applicable federal and state laws and regulations
35 establishing standards of safety or quality, and with implied
36 warranties of merchantability and fitness for a particular purpose as
37 permanent housing in the climate of the state.

1 (2) The implied warranties contained in this section may not be
2 waived, limited, or modified. Any provision that attempts to waive,
3 limit, or modify the implied warranties contained in this section is
4 void and unenforceable.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.70 RCW
6 to read as follows:

7 Any dealer, manufacturer, or contractor who installs a manufactured
8 home warrants that the manufactured home is installed in accordance
9 with the state installation code, chapter 296-150B WAC. The warranty
10 contained in this section may not be waived, limited, or modified. Any
11 provision attempting to waive, limit, or modify the warranty contained
12 in this section is void and unenforceable. This section does not apply
13 when the manufactured home is installed by the purchaser of the home.

14 **Sec. 11.** RCW 46.70.135 and 1989 c 343 s 22 are each amended to
15 read as follows:

16 Mobile home manufacturers and mobile home dealers who sell mobile
17 homes to be assembled on site and used as residences in this state
18 shall conform to the following requirements:

19 (1) No new manufactured home may be sold unless the purchaser is
20 provided with a manufacturer's written warranty for construction of the
21 home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183;
22 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

23 (2) No new manufactured home may be sold unless the purchaser is
24 provided with a dealer's written warranty for all installation services
25 performed by the dealer.

26 (3) The warranties required by subsections (1) and (2) of this
27 section shall be valid for a minimum of one year measured from the date
28 of ((sale)) delivery and shall not be invalidated by resale by the
29 original purchaser to a subsequent purchaser or by the certificate of
30 ownership being eliminated or not issued as described in chapter 65.20
31 RCW. Copies of the warranties shall be given to the purchaser upon
32 signing a purchase agreement and shall include an explanation of
33 remedies available to the purchaser under state and federal law for
34 breach of warranty, the name and address of the federal department of
35 housing and urban development and the state departments of licensing
36 and labor and industries, and a brief description of the duties of
37 these agencies concerning mobile homes.

1 (4) Warranty service shall be completed within forty-five days
2 after the owner gives written notice of the defect unless there is a
3 bona fide dispute between the parties. Warranty service for a defect
4 affecting health or safety shall be completed within seventy-two hours
5 of receipt of written notice. Warranty service shall be performed on
6 site and a written work order describing labor performed and parts used
7 shall be completed and signed by the service agent and the owner. If
8 the owner's signature cannot be obtained, the reasons shall be
9 described on the work order. Work orders shall be retained by the
10 dealer or manufacturer for a period of three years.

11 (5) Before delivery of possession of the home to the purchaser, an
12 inspection shall be performed by the dealer or his or her agent and by
13 the purchaser or his or her agent which shall include a test of all
14 systems of the home to insure proper operation, unless such systems
15 test is delayed pursuant to this subsection. At the time of the
16 inspection, the purchaser shall be given copies of all documents
17 required by state or federal agencies to be supplied by the
18 manufacturer with the home which have not previously been provided as
19 required under subsection (3) of this section, and the dealer shall
20 complete any required purchaser information card and forward the card
21 to the manufacturer. A purchaser is deemed to have taken delivery of
22 the manufactured home when all three of the following events have
23 occurred: (a) The contractual obligations between the purchaser and
24 the seller have been met; (b) the inspection of the home is completed;
25 and (c) the systems test of the home has been completed subsequent to
26 the installation of the home, or fifteen days has elapsed since the
27 transport of the home to the site where it will be installed, whichever
28 is earlier. Occupancy of the manufactured home shall only occur after
29 the systems test has occurred and all required utility connections have
30 been approved after inspection.

31 (6) Manufacturer and dealer advertising which states the dimensions
32 of a home shall not include the length of the draw bar assembly in a
33 listed dimension, and shall state the square footage of the actual
34 floor area.

35 NEW SECTION. Sec. 12. A new section is added to chapter 43.330
36 RCW to read as follows:

37 The department may mediate disputes that arise regarding any
38 warranty required in chapter 46.70 RCW pertaining to the purchase or

1 installation of a manufactured home. The department may charge
2 reasonable fees for this service and shall deposit the moneys collected
3 in accordance with section 23 of this act.

4 **Sec. 13.** RCW 46.70.180 and 1993 c 175 s 3 are each amended to read
5 as follows:

6 Each of the following acts or practices is unlawful:

7 (1) To cause or permit to be advertised, printed, displayed,
8 published, distributed, broadcasted, televised, or disseminated in any
9 manner whatsoever, any statement or representation with regard to the
10 sale or financing of a vehicle which is false, deceptive, or
11 misleading, including but not limited to the following:

12 (a) That no down payment is required in connection with the sale of
13 a vehicle when a down payment is in fact required, or that a vehicle
14 may be purchased for a smaller down payment than is actually required;

15 (b) That a certain percentage of the sale price of a vehicle may be
16 financed when such financing is not offered in a single document
17 evidencing the entire security transaction;

18 (c) That a certain percentage is the amount of the service charge
19 to be charged for financing, without stating whether this percentage
20 charge is a monthly amount or an amount to be charged per year;

21 (d) That a new vehicle will be sold for a certain amount above or
22 below cost without computing cost as the exact amount of the factory
23 invoice on the specific vehicle to be sold;

24 (e) That a vehicle will be sold upon a monthly payment of a certain
25 amount, without including in the statement the number of payments of
26 that same amount which are required to liquidate the unpaid purchase
27 price.

28 (2) To incorporate within the terms of any purchase and sale
29 agreement any statement or representation with regard to the sale or
30 financing of a vehicle which is false, deceptive, or misleading,
31 including but not limited to terms that include as an added cost to the
32 selling price of a vehicle an amount for licensing or transfer of title
33 of that vehicle which is not actually due to the state, unless such
34 amount has in fact been paid by the dealer prior to such sale.

35 (3) To set up, promote, or aid in the promotion of a plan by which
36 vehicles are to be sold to a person for a consideration and upon
37 further consideration that the purchaser agrees to secure one or more
38 persons to participate in the plan by respectively making a similar

1 purchase and in turn agreeing to secure one or more persons likewise to
2 join in said plan, each purchaser being given the right to secure
3 money, credits, goods, or something of value, depending upon the number
4 of persons joining the plan.

5 (4) To commit, allow, or ratify any act of "bushing" which is
6 defined as follows: Taking from a prospective buyer of a vehicle a
7 written order or offer to purchase, or a contract document signed by
8 the buyer, which:

9 (a) Is subject to the dealer's, or his or her authorized
10 representative's future acceptance, and the dealer fails or refuses
11 within forty-eight hours, exclusive of Saturday, Sunday, or legal
12 holiday, and prior to any further negotiations with said buyer, to
13 deliver to the buyer either the dealer's signed acceptance or all
14 copies of the order, offer, or contract document together with any
15 initial payment or security made or given by the buyer, including but
16 not limited to money, check, promissory note, vehicle keys, a trade-in,
17 or certificate of title to a trade-in; or

18 (b) Permits the dealer to renegotiate a dollar amount specified as
19 trade-in allowance on a vehicle delivered or to be delivered by the
20 buyer as part of the purchase price, for any reason except substantial
21 physical damage or latent mechanical defect occurring before the dealer
22 took possession of the vehicle and which could not have been reasonably
23 discoverable at the time of the taking of the order, offer, or
24 contract; or

25 (c) Fails to comply with the obligation of any written warranty or
26 guarantee given by the dealer requiring the furnishing of services or
27 repairs within a reasonable time.

28 (5) To commit any offense relating to odometers, as such offenses
29 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
30 violation of this subsection is a class C felony punishable under
31 chapter 9A.20 RCW.

32 (6) For any vehicle dealer or vehicle salesman to refuse to
33 furnish, upon request of a prospective purchaser, the name and address
34 of the previous registered owner of any used vehicle offered for sale.

35 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
36 46.37.425.

37 (8) To commit any offense relating to a dealer's temporary license
38 permit, including but not limited to failure to properly complete each

1 such permit, or the issuance of more than one such permit on any one
2 vehicle.

3 (9) For a dealer, salesman, or mobile home manufacturer, having
4 taken an instrument or cash "on deposit" from a purchaser prior to the
5 delivery of the bargained-for vehicle, to commingle ((said)) the "on
6 deposit" funds with assets of the dealer, salesman, or mobile home
7 manufacturer instead of holding ((said)) the "on deposit" funds as
8 trustee in a separate trust account until the purchaser has taken
9 delivery of the bargained-for vehicle. Delivery of a manufactured home
10 shall be deemed to occur in accordance with RCW 46.70.135(5). Failure,
11 immediately upon receipt, to endorse "on deposit" instruments to such
12 a trust account, or to set aside "on deposit" cash for deposit in such
13 trust account, and failure to deposit such instruments or cash in such
14 trust account by the close of banking hours on the day following
15 receipt thereof, shall be evidence of intent to commit this unlawful
16 practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a
17 separate trust account which equals his or her customary total customer
18 deposits for vehicles for future delivery. For purposes of this
19 section, "on deposit" funds received from a purchaser of a manufactured
20 home means those funds that a seller requires a purchaser to advance
21 before ordering the manufactured home, but does not include any loan
22 proceeds or moneys that might have been paid on an installment
23 contract.

24 (10) For a dealer or manufacturer to fail to comply with the
25 obligations of any written warranty or guarantee given by the dealer or
26 manufacturer requiring the furnishing of goods and services or repairs
27 within a reasonable period of time, or to fail to furnish to a
28 purchaser, all parts which attach to the manufactured unit including
29 but not limited to the undercarriage, and all items specified in the
30 terms of a sales agreement signed by the seller and buyer.

31 (11) For a vehicle dealer to pay to or receive from any person,
32 firm, partnership, association, or corporation acting, either directly
33 or through a subsidiary, as a buyer's agent for consumers, any
34 compensation, fee, gratuity, or reward in connection with the purchase
35 or sale of a new motor vehicle.

36 (12) For a buyer's agent acting directly or through a subsidiary to
37 pay to or to receive from any motor vehicle dealer any compensation,
38 fee, gratuity, or reward in connection with the purchase or sale of a
39 new motor vehicle.

1 (13) For a buyer's agent to arrange for or to negotiate the
2 purchase, or both, of a new motor vehicle through an out-of-state
3 dealer without disclosing in writing to the customer that the new
4 vehicle would not be subject to chapter 19.118 RCW.

5 (14) Being a manufacturer, other than a motorcycle manufacturer
6 governed by chapter 46.94 RCW, to:

7 (a) Coerce or attempt to coerce any vehicle dealer to order or
8 accept delivery of any vehicle or vehicles, parts or accessories, or
9 any other commodities which have not been voluntarily ordered by the
10 vehicle dealer: PROVIDED, That recommendation, endorsement,
11 exposition, persuasion, urging, or argument are not deemed to
12 constitute coercion;

13 (b) Cancel or fail to renew the franchise or selling agreement of
14 any vehicle dealer doing business in this state without fairly
15 compensating the dealer at a fair going business value for his or her
16 capital investment which shall include but not be limited to tools,
17 equipment, and parts inventory possessed by the dealer on the day he or
18 she is notified of such cancellation or termination and which are still
19 within the dealer's possession on the day the cancellation or
20 termination is effective, if: (i) The capital investment has been
21 entered into with reasonable and prudent business judgment for the
22 purpose of fulfilling the franchise; and (ii) (~~said~~) the cancellation
23 or nonrenewal was not done in good faith. Good faith is defined as the
24 duty of each party to any franchise to act in a fair and equitable
25 manner towards each other, so as to guarantee one party freedom from
26 coercion, intimidation, or threats of coercion or intimidation from the
27 other party: PROVIDED, That recommendation, endorsement, exposition,
28 persuasion, urging, or argument are not deemed to constitute a lack of
29 good faith.

30 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
31 vehicles through any false, deceptive, or misleading sales or financing
32 practices including but not limited to those practices declared
33 unlawful in this section;

34 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
35 practice forbidden in this section by either threats of actual
36 cancellation or failure to renew the dealer's franchise agreement;

37 (e) Refuse to deliver any vehicle publicly advertised for immediate
38 delivery to any duly licensed vehicle dealer having a franchise or
39 contractual agreement for the retail sale of new and unused vehicles

1 sold or distributed by such manufacturer within sixty days after such
2 dealer's order has been received in writing unless caused by inability
3 to deliver because of shortage or curtailment of material, labor,
4 transportation, or utility services, or by any labor or production
5 difficulty, or by any cause beyond the reasonable control of the
6 manufacturer;

7 (f) To provide under the terms of any warranty that a purchaser of
8 any new or unused vehicle that has been sold, distributed for sale, or
9 transferred into this state for resale by the vehicle manufacturer may
10 only make any warranty claim on any item included as an integral part
11 of the vehicle against the manufacturer of that item.

12 Nothing in this section may be construed to impair the obligations
13 of a contract or to prevent a manufacturer, distributor,
14 representative, or any other person, whether or not licensed under this
15 chapter, from requiring performance of a written contract entered into
16 with any licensee hereunder, nor does the requirement of such
17 performance constitute a violation of any of the provisions of this
18 section if any such contract or the terms thereof requiring
19 performance, have been freely entered into and executed between the
20 contracting parties. This paragraph and subsection (~~((11)(b))~~) (14)(b)
21 of this section do not apply to new motor vehicle manufacturers
22 governed by chapter 46.96 RCW.

23 (15) Unlawful transfer of an ownership interest in a motor vehicle
24 as defined in RCW 19.116.050.

25 NEW SECTION. **Sec. 14.** The purpose of this chapter is to ensure
26 that all mobile and manufactured homes are installed by a certified
27 manufactured home installer in accordance with the state installation
28 code, chapter 296-150B WAC, in order to provide greater protections to
29 consumers and make the warranty requirement of section 2 of this act
30 easier to achieve.

31 NEW SECTION. **Sec. 15.** Unless the context clearly requires
32 otherwise, the definitions in this section apply throughout this
33 chapter.

34 (1) "Authorized representative" means an employee of a state
35 agency, city, or county acting on behalf of the department.

36 (2) "Certified manufactured home installer" means a person who is
37 in the business of installing mobile or manufactured homes and who has

1 been issued a certificate by the department as provided in this
2 chapter.

3 (3) "Department" means the department of community, trade, and
4 economic development.

5 (4) "Director" means the director of community, trade, and economic
6 development.

7 (5) "Manufactured home" means a single-family dwelling built in
8 accordance with the department of housing and urban development
9 manufactured home construction and safety standards act, which is a
10 national, preemptive building code.

11 (6) "Mobile or manufactured home installation" means all on-site
12 work necessary for the installation of a manufactured home, including:

13 (a) Construction of the foundation system;

14 (b) Installation of the support piers;

15 (c) Required connection to foundation system and support piers;

16 (d) Skirting;

17 (e) Connections to the on-site water and sewer systems that are
18 necessary for the normal operation of the home; and

19 (f) Extension of the pressure relief valve for the water heater.

20 (7) "Manufactured home standards" means the manufactured home
21 construction and safety standards as promulgated by the United States
22 department of housing and urban development (HUD).

23 (8) "Mobile home" means a factory-built dwelling built prior to
24 June 15, 1976, to standards other than the HUD code, and acceptable
25 under applicable state codes in effect at the time of construction or
26 introduction of the home into the state. Mobile homes have not been
27 built since introduction of the HUD manufactured home construction and
28 safety standards act.

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

32 NEW SECTION. **Sec. 16.** After July 1, 1995, a mobile or
33 manufactured home may not be installed without a certified manufactured
34 home installer providing on-site supervision whenever installation work
35 is being performed. The certified manufactured home installer is
36 responsible for the reading, understanding, and following the
37 manufacturer's installation instructions and performance of
38 noncertified workers engaged in the installation of the home. There

1 shall be at least one certified manufactured home installer on the
2 installation site whenever installation work is being performed.

3 A manufactured home installer certification shall not be required
4 for:

5 (1) Site preparation;

6 (2) Sewer and water connections outside of the building site;

7 (3) Specialty trades that are responsible for constructing
8 accessory structures such as garages, carports, and decks;

9 (4) Pouring concrete into forms;

10 (5) Painting and dry wall finishing;

11 (6) Carpet installation;

12 (7) Specialty work performed within the scope of their license by
13 licensed plumbers or electricians. This provision does not waive or
14 lessen any state regulations related to licensing or permits required
15 for electricians or plumbers;

16 (8) A mobile or manufactured home owner performing installation
17 work on their own home; and

18 (9) A manufacturer's mobile home installation crew installing a
19 mobile or manufactured home sold by the manufacturer except for the on-
20 site supervisor.

21 Violation of this section is an infraction.

22 NEW SECTION. **Sec. 17.** A person desiring to be issued a
23 certificate of manufactured home installation as provided in this
24 chapter shall make application to the department, in such a form as
25 required by the department.

26 Upon receipt of the application and evidence required in this
27 chapter, the director shall review the information and make a
28 determination as to whether the applicant is eligible to take the
29 training course and examination for the certificate of manufactured
30 home installation. An applicant must furnish written evidence of six
31 months of experience under the direct supervision of a certified
32 manufactured home installer, or other equivalent experience, in order
33 to be eligible to take the training course and examination. The
34 director shall establish reasonable rules for the training course and
35 examinations to be given to applicants for certificates of manufactured
36 home installation. Upon determining that the applicant is eligible to
37 take the training course and examination, the director shall notify the

1 applicant, indicating the time and place for taking the training course
2 and examination.

3 The requirement that an applicant must be under the direct
4 supervision of a certified manufactured home installer for six months
5 only applies to applications made on or after July 1, 1996. For
6 applications made before July 1, 1996, the department shall require
7 evidence of experience to satisfy this requirement.

8 The director may allow other persons to take the training course
9 and examination on manufactured home installation, without
10 certification.

11 NEW SECTION. **Sec. 18.** The department shall prepare a written
12 training course and examination to be administered to applicants for
13 manufactured home installer certification. The examination shall be
14 constructed to determine whether the applicant:

15 (1) Possesses general knowledge of the technical information and
16 practical procedures that are necessary for manufactured home
17 installation;

18 (2) Is familiar with the federal and state codes and administrative
19 rules pertaining to manufactured homes; and

20 (3) Is familiar with the local government regulations as related to
21 manufactured home installations.

22 The department shall certify the results of the examination and
23 shall notify the applicant in writing whether the applicant has passed
24 or failed the examination. An applicant who failed the examination may
25 retake the training course and examination. The director may not limit
26 the number of times that a person may take the training course and
27 examination.

28 NEW SECTION. **Sec. 19.** (1) The department shall issue a
29 certificate of manufactured home installation to an applicant who has
30 taken the training course, passed the examination, paid the fees, and
31 in all other respects meet the qualifications. The certificate shall
32 bear the date of issuance, a certification identification number, and
33 is renewable every three years upon application and completion of a
34 continuing education program as determined by the department. A
35 renewal fee shall be assessed for each certificate. If a person fails
36 to renew a certificate by the renewal date, the person must retake the
37 examination and pay the examination fee.

1 (2) The certificate of manufactured home installation provided for
2 in this chapter grants the holder the right to engage in manufactured
3 home installation throughout the state, without any other installer
4 certification.

5 NEW SECTION. **Sec. 20.** Any local government mobile or manufactured
6 home installation application and permit shall state the name and
7 certification identification number of the certified manufactured home
8 installer supervising such installation. A local government may not
9 issue a permit to install a manufactured home unless: (1) The
10 installer submits a copy of the certificate of manufactured home
11 installation to the local government; or (2) work is being performed
12 that does not require a certified installer. When work must be
13 performed by a certified manufactured home installer, no work may
14 commence until the installer or the installer's agent has posted or
15 otherwise made available, with the inspection record card at the set-up
16 site, a copy of the certified manufactured home installer's certificate
17 of manufactured home installation.

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

- 20 (a) The certificate was obtained through error or fraud;
21 (b) The holder of the certificate is judged to be incompetent as a
22 result of multiple infractions of the state installation code, WAC 296-
23 150B-200 through 296-150B-255; or
24 (c) The holder has violated a provision of this chapter or a rule
25 adopted to implement this chapter.

26 (2) Before a certificate of manufactured home installation is
27 revoked, the holder must be given written notice of the department's
28 intention to revoke the certificate, sent by registered mail, return
29 receipt requested, to the holder's last known address. The notice
30 shall enumerate the allegations against the holder, and shall give the
31 holder the opportunity to request a hearing. At the hearing, the
32 department and the holder may produce witnesses and give testimony.
33 The hearing shall be conducted in accordance with the provisions of
34 chapter 34.05 RCW.

35 NEW SECTION. **Sec. 22.** The department shall charge reasonable fees
36 to cover the costs to administer the certification program which shall

1 include but not be limited to the issuance, renewal, and reinstatement
2 of all certificates, training courses, and examinations required under
3 this chapter. All fees collected under this chapter shall be deposited
4 in the manufactured home installation training account created in
5 section 23 of this act and used only for the purposes specified in this
6 chapter.

7 The fees shall be limited to covering the direct cost of issuing
8 the certificates, administering the examinations, and administering and
9 enforcing this chapter. The costs shall include only essential travel,
10 per diem, and administrative support costs.

11 NEW SECTION. **Sec. 23.** The manufactured home installation training
12 account is created in the state treasury. All receipts collected under
13 this chapter and any legislative appropriations for manufactured home
14 installation training shall be deposited into the account. Moneys in
15 the account may only be spent after appropriation. Expenditures from
16 the account may only be used for the purposes of this chapter.
17 Unexpended and unencumbered moneys that remain in the account at the
18 end of the fiscal year do not revert to the state general fund but
19 remain in the account, separately accounted for, as a contingency
20 reserve.

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

31 NEW SECTION. **Sec. 25.** An authorized representative of the
32 department may issue a notice of infraction if the person supervising
33 the manufactured home installation work fails to produce evidence of
34 having a certificate issued by the department in accordance with this
35 chapter. A notice of infraction issued under this chapter shall be

1 personally served on or sent by certified mail to the person named in
2 the notice by the authorized representative.

3 NEW SECTION. **Sec. 26.** (1) The department shall prescribe the form
4 of the notice of infraction issued under this chapter.

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

6 (a) A statement that the notice represents a determination that the
7 infraction has been committed by the person named in the notice and
8 that the determination is final unless contested as provided in this
9 chapter;

10 (b) A statement that the infraction is a noncriminal offense for
11 which imprisonment may not be imposed as a sanction;

12 (c) A statement of the specific infraction for which the notice was
13 issued;

14 (d) A statement of a monetary penalty that has been established for
15 the infraction;

16 (e) A statement of the options provided in this chapter for
17 responding to the notice and the procedures necessary to exercise these
18 options;

19 (f) A statement that, at a hearing to contest the determination,
20 the state has the burden of proving, by a preponderance of the
21 evidence, that the infraction was committed, and that the person may
22 subpoena witnesses including the authorized representative who issued
23 and served the notice of the infraction;

24 (g) A statement, that the person shall sign, that the person
25 promises to respond to the notice of infraction in one of the ways
26 provided in this chapter;

27 (h) A statement that refusal to sign the infraction as directed in
28 (g) of this subsection is a misdemeanor; and

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

32 NEW SECTION. **Sec. 27.** Each day in which a person engages in the
33 installation of manufactured homes in violation of this chapter is a
34 separate infraction. Each worksite at which a person engages in the
35 trade of manufactured home installation in violation of this chapter is
36 a separate infraction.

1 NEW SECTION. **Sec. 28.** It is a violation of this chapter for any
2 contractor, manufactured home dealer, manufacturer, or home dealer's or
3 manufacturer's agent to engage any person to install a manufactured
4 home who is not certified in accordance with this chapter.

5 NEW SECTION. **Sec. 29.** All violations designated as an infraction
6 shall be adjudicated in accordance with the administrative procedure
7 act, chapter 34.05 RCW.

8 NEW SECTION. **Sec. 30.** Unless contested in accordance with this
9 chapter, the notice of infraction represents a determination that the
10 person to whom the notice was issued committed the infraction.

11 NEW SECTION. **Sec. 31.** (1) A person found to have committed an
12 infraction under this chapter shall be assessed a monetary penalty of
13 one thousand dollars.

14 (2) The administrative law judge may waive, reduce, or suspend the
15 monetary penalty imposed for the infraction.

16 (3) Monetary penalties collected under this chapter shall be
17 remitted as provided in chapter 3.62 RCW.

18 NEW SECTION. **Sec. 32.** The director may adopt rules in accordance
19 with chapter 34.05 RCW, make specific decisions, orders, and rulings,
20 include demands and findings within the decisions, orders, and rulings,
21 and take other necessary action for the implementation and enforcement
22 of duties under this chapter.

23 NEW SECTION. **Sec. 33.** Sections 14 through 32 of this act shall
24 constitute a new chapter in Title 43 RCW.

25 NEW SECTION. **Sec. 34.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 35.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect immediately.

Passed the Senate March 10, 1994.
Passed the House March 10, 1994.
Approved by the Governor April 1, 1994, with the exception of
certain items which were vetoed.
Filed in Office of Secretary of State April 1, 1994.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 3, 5,
3 and 6, Second Substitute Senate Bill No. 6107 entitled:

4 "AN ACT Relating to fees for services for the department of
5 community, trade and economic development;"

6 Sections 1 through 8 of Second Substitute Senate Bill No. 6107
7 grant authority to assess fees for services provided by various
8 economic development programs.

9 Section 3 would require the Office of Financial Management to
10 approve a fee schedule proposed by the Department of Community, Trade
11 and Economic Development. I am concerned that the section would set an
12 inappropriate precedent for the Office of Financial Management's review
13 of fees. Currently OFM approves certain internal revolving fund rates
14 because of the effect these charges have on other state agency budgets.
15 It does not approve specific fee schedules for the various fees
16 assessed by other agencies. The section would establish an unnecessary
17 oversight role for OFM.

18 Section 5 would grant authority to the Clean Washington Center to
19 assess fees for services rendered. It prohibits fees to be assessed to
20 any person who pays assessments imposed under chapter 82.18 or 82.19
21 RCW. I am concerned that the language is written so broadly that it
22 would apply to nearly every citizen of the state who purchases a
23 product upon which these taxes are levied. In effect, the Clean
24 Washington Center would be denied the ability to assess fees. In the
25 process of setting fees by rule, the department shall take into account
26 any assessments paid by a firm participating in the program.

27 Section 6 of the bill creates a Clean Washington Center fee account
28 in the state treasury. I believe that it is more appropriate for the
29 department to maintain these funds in a subaccount as they have
30 authority to do under current law. For this reason, I am vetoing this
31 section.

32 With the exception of sections 3, 5, and 6, Second Substitute
33 Senate Bill No. 6107 is approved."