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**SENATE BILL 6053**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senators Sheldon, Hale, Winsley and Oke

Read first time 03/01/95. Referred to Committee on Government Operations.

1 AN ACT Relating to regulatory reform; amending RCW 43.21A.080,  
2 43.70.040, 82.01.060, 46.01.110, 50.12.040, 76.09.040, 77.04.090, and  
3 48.02.060; adding a new section to chapter 43.12 RCW; adding a new  
4 section to chapter 43.20A RCW; adding a new section to chapter 43.23  
5 RCW; adding a new section to chapter 43.22 RCW; and adding a new  
6 section to chapter 43.24 RCW.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.12 RCW  
9 to read as follows:

10 For rules adopted after the effective date of this section, the  
11 commissioner of public lands may not rely solely on a statute's  
12 statement of intent or purpose, on the enabling provisions of the  
13 statute establishing the agency, or on any combination of such  
14 provisions, for statutory authority to adopt any rule.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW  
16 to read as follows:

17 For rules adopted after the effective date of this section, the  
18 secretary may not rely solely on a statute's statement of intent or

1 purpose, on the enabling provisions of the statute establishing the  
2 agency, or on any combination of such provisions, for statutory  
3 authority to adopt any rule.

4 **Sec. 3.** RCW 43.21A.080 and 1970 ex.s. c 62 s 8 are each amended to  
5 read as follows:

6 The director of the department of ecology is authorized to adopt  
7 such rules and regulations as are necessary and appropriate to carry  
8 out the provisions of this chapter: PROVIDED, That the director may  
9 not adopt rules after the effective date of this section that are based  
10 solely on a statute's statement of intent or purpose, on the enabling  
11 provisions of the statute establishing the agency, or on any  
12 combination of such provisions, for statutory authority to adopt the  
13 rule.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.23 RCW  
15 to read as follows:

16 For rules adopted after the effective date of this section, the  
17 director of agriculture may not rely solely on a statute's statement of  
18 intent or purpose, on the enabling provisions of the statute  
19 establishing the agency, or on any combination of such provisions, for  
20 statutory authority to adopt any rule.

21 **Sec. 5.** RCW 43.70.040 and 1989 1st ex.s. c 9 s 106 are each  
22 amended to read as follows:

23 In addition to any other powers granted the secretary, the  
24 secretary may:

25 (1) Adopt, in accordance with chapter 34.05 RCW, rules necessary  
26 to carry out the provisions of ~~((this act))~~ chapter 9, Laws of 1989 1st  
27 ex. sess.: PROVIDED, That for rules adopted after the effective date  
28 of this section, the secretary may not rely solely on a statute's  
29 statement of intent or purpose, on the enabling provisions of the  
30 statute establishing the agency, or on any combination of such  
31 provisions, for statutory authority to adopt any rule;

32 (2) Appoint such advisory committees as may be necessary to carry  
33 out the provisions of ~~((this act))~~ chapter 9, Laws of 1989 1st ex.  
34 sess. Members of such advisory committees are authorized to receive  
35 travel expenses in accordance with RCW 43.03.050 and 43.03.060. The  
36 secretary and the board of health shall review each advisory committee

1 within their jurisdiction and each statutory advisory committee on a  
2 biennial basis to determine if such advisory committee is needed. The  
3 criteria specified in RCW 43.131.070 shall be used to determine whether  
4 or not each advisory committee shall be continued;

5 (3) Undertake studies, research, and analysis necessary to carry  
6 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.  
7 sess. in accordance with RCW 43.70.050;

8 (4) Delegate powers, duties, and functions of the department to  
9 employees of the department as the secretary deems necessary to carry  
10 out the provisions of (~~this act~~) chapter 9, Laws of 1989 1st ex.  
11 sess.;

12 (5) Enter into contracts on behalf of the department to carry out  
13 the purposes of (~~this act~~) chapter 9, Laws of 1989 1st ex. sess.;

14 (6) Act for the state in the initiation of, or the participation  
15 in, any intergovernmental program to the purposes of (~~this act~~)  
16 chapter 9, Laws of 1989 1st ex. sess.; or

17 (7) Accept gifts, grants, or other funds.

18 **Sec. 6.** RCW 82.01.060 and 1977 c 75 s 92 are each amended to read  
19 as follows:

20 The director of revenue, hereinafter in (~~this 1967 amendatory~~  
21 ~~act~~) chapter 26, Laws of 1967 ex. sess. referred to as the director,  
22 through the department of revenue, hereinafter in (~~this 1967~~  
23 ~~amendatory act~~) chapter 26, Laws of 1967 ex. sess. referred to as the  
24 department, shall:

25 (1) Assess and collect all taxes and administer all programs  
26 relating to taxes which are the responsibility of the tax commission at  
27 the time (~~this 1967 amendatory act~~) chapter 26, Laws of 1967 ex.  
28 sess. takes effect or which the legislature may hereafter make the  
29 responsibility of the director or of the department;

30 (2) Make, adopt and publish such rules (~~and regulations~~) as he or  
31 she may deem necessary or desirable to carry out the powers and duties  
32 imposed upon him or her or the department by the legislature:  
33 PROVIDED, That the director may not adopt rules after the effective  
34 date of this section that are based solely on a statute's statement of  
35 intent or purpose, on the enabling provisions of the statute  
36 establishing the agency, or on any combination of such provisions, for  
37 statutory authority to adopt any rule;

1        ~~(3) Rules ((and regulations))~~ adopted by the tax commission ~~((prior~~  
2 ~~to))~~ before the effective date of this ~~((1967-amendatory-act))~~ section  
3 shall remain in force until such time as they may be revised or  
4 rescinded by the director;

5        ~~((+3+))~~ (4) Provide by general regulations for an adequate system  
6 of departmental review of the actions of the department or of its  
7 officers and employees in the assessment or collection of taxes;

8        ~~((+4+))~~ (5) Maintain a tax research section with sufficient  
9 technical, clerical and other employees to conduct constant observation  
10 and investigation of the effectiveness and adequacy of the revenue laws  
11 of this state and of the sister states in order to assist the governor,  
12 the legislature and the director in estimation of revenue, analysis of  
13 tax measures, and determination of the administrative feasibility of  
14 proposed tax legislation and allied problems;

15        ~~((+5+))~~ (6) Recommend to the governor such amendments, changes in,  
16 and modifications of the revenue laws as seem proper and requisite to  
17 remedy injustice and irregularities in taxation, and to facilitate the  
18 assessment and collection of taxes in the most economical manner.

19        NEW SECTION. Sec. 7. A new section is added to chapter 43.22 RCW  
20 to read as follows:

21        For rules adopted after the effective date of this section, the  
22 director of the department of labor and industries may not rely solely  
23 on a statute's statement of intent or purpose, on the enabling  
24 provisions of the statute establishing the agency, or on any  
25 combination of such provisions, for statutory authority to adopt any  
26 rule.

27        NEW SECTION. Sec. 8. A new section is added to chapter 43.24 RCW  
28 to read as follows:

29        For rules adopted after the effective date of this section, the  
30 director of the department of licensing may not rely solely on a  
31 statute's statement of intent or purpose, on the enabling provisions of  
32 the statute establishing the agency, or on any combination of such  
33 provisions, for statutory authority to adopt any rule.

34        Sec. 9. RCW 46.01.110 and 1979 c 158 s 120 are each amended to  
35 read as follows:

1       The director of licensing is hereby authorized to adopt and enforce  
2 such reasonable rules (~~(and regulations)~~) as may be consistent with and  
3 necessary to carry out the provisions relating to vehicle licenses,  
4 certificates of ownership and license registration and drivers'  
5 licenses not in conflict with the provisions of Title 46 RCW:  
6 PROVIDED, That the director of licensing may not adopt rules after the  
7 effective date of this section that are based solely on a statute's  
8 statement of intent or purpose, on the enabling provisions of the  
9 statute establishing the agency, or on any combination of such  
10 provisions, for statutory authority to adopt any rule.

11       **Sec. 10.** RCW 50.12.040 and 1973 1st ex.s. c 158 s 3 are each  
12 amended to read as follows:

13       Regular and emergency rules (~~(and regulations)~~) shall be adopted,  
14 amended, or repealed by the commissioner in accordance with the  
15 provisions of Title 34 RCW and the rules (~~(or regulations)~~) adopted  
16 pursuant thereto: PROVIDED, That the commissioner may not adopt rules  
17 after the effective date of this section that are based solely on a  
18 statute's statement of intent or purpose, on the enabling provisions of  
19 the statute establishing the agency, or on any combination of such  
20 provisions, for statutory authority to adopt any rule.

21       **Sec. 11.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to  
22 read as follows:

23       (1) Where necessary to accomplish the purposes and policies stated  
24 in RCW 76.09.010, and to implement the provisions of this chapter, the  
25 board shall (~~(promulgate)~~) adopt forest practices ((regulations)) rules  
26 pursuant to chapter 34.05 RCW and in accordance with the procedures  
27 enumerated in this section: PROVIDED, That the board may not adopt  
28 rules after the effective date of this section that are based solely on  
29 a statute's statement of intent or purpose, on the enabling provisions  
30 of the statute establishing the agency, or on any combination of such  
31 provisions, for statutory authority to adopt any rule.

32       (2) The board shall adopt rules that:

33       (a) Establish minimum standards for forest practices;

34       (b) Provide procedures for the voluntary development of resource  
35 management plans which may be adopted as an alternative to the minimum  
36 standards in (a) of this subsection if the plan is consistent with the

1 purposes and policies stated in RCW 76.09.010 and the plan meets or  
2 exceeds the objectives of the minimum standards;

3 (c) Set forth necessary administrative provisions; and

4 (d) Establish procedures for the collection and administration of  
5 forest practice fees as set forth by this chapter.

6 Forest practices (~~((regulations))~~) rules pertaining to water quality  
7 protection shall be (~~((promulgated))~~) adopted individually by the board  
8 and by the department of ecology after they have reached agreement with  
9 respect thereto. All other forest practices (~~((regulations))~~) rules  
10 shall be (~~((promulgated))~~) adopted by the board.

11 Forest practices (~~((regulations))~~) rules shall be administered and  
12 enforced by the department except as otherwise provided in this  
13 chapter. Such (~~((regulations))~~) rules shall be (~~((promulgated))~~) adopted  
14 and administered so as to give consideration to all purposes and  
15 policies set forth in RCW 76.09.010.

16 (~~((+2))~~) (3) The board shall prepare proposed forest practices  
17 (~~((regulations))~~) rules. In addition to any forest practices  
18 (~~((regulations))~~) rules relating to water quality protection proposed by  
19 the board, the department of ecology shall prepare proposed forest  
20 practices (~~((regulations))~~) rules relating to water quality protection.

21 Prior to initiating the rule making process, the proposed  
22 (~~((regulations))~~) rules shall be submitted for review and comments to the  
23 department of fish and wildlife and to the counties of the state.  
24 After receipt of the proposed forest practices (~~((regulations))~~) rules,  
25 the department of fish and wildlife and the counties of the state shall  
26 have thirty days in which to review and submit comments to the board,  
27 and to the department of ecology with respect to its proposed  
28 (~~((regulations))~~) rules relating to water quality protection. After the  
29 expiration of such thirty day period the board and the department of  
30 ecology shall jointly hold one or more hearings on the proposed  
31 (~~((regulations))~~) rules pursuant to chapter 34.05 RCW. At such  
32 hearing(s) any county may propose specific forest practices  
33 (~~((regulations))~~) rules relating to problems existing within such county.  
34 The board and the department of ecology may adopt such proposals if  
35 they find the proposals are consistent with the purposes and policies  
36 of this chapter.

37 **Sec. 12.** RCW 77.04.090 and 1984 c 240 s 1 are each amended to read  
38 as follows:

1 The commission shall adopt permanent rules and amendments to or  
2 repeals of existing rules by approval of four members by resolution,  
3 entered and recorded in the minutes of the commission: PROVIDED, That  
4 the commission may not adopt rules after the effective date of this  
5 section that are based solely on a statute's statement of intent or  
6 purpose, on the enabling provisions of the statute establishing the  
7 agency, or on any combination of such provisions, for statutory  
8 authority to adopt any rule. The commission shall adopt emergency  
9 rules by approval of four members. The commission or the director,  
10 when adopting emergency rules under RCW 77.12.150, shall adopt rules in  
11 conformance with chapter 34.05 RCW. Judicial notice shall be taken of  
12 the rules filed and published as provided in RCW 34.05.380 and  
13 34.05.210.

14 A copy of an emergency rule, certified as a true copy by a member  
15 of the commission, the director, or by a person authorized in writing  
16 by the director to make the certification, is admissible in court as  
17 prima facie evidence of the adoption and validity of the rule.

18 **Sec. 13.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to  
19 read as follows:

20 (1) The commissioner shall have the authority expressly conferred  
21 upon him or her by or reasonably implied from the provisions of this  
22 code.

23 (2) The commissioner shall execute his or her duties and shall  
24 enforce the provisions of this code.

25 (3) The commissioner may:

26 (a) Make reasonable rules ((and regulations)) for effectuating any  
27 provision of this code, except those relating to his election,  
28 qualifications, or compensation. No such rules ((and regulations))  
29 shall be effective prior to their being filed for public inspection in  
30 the commissioner's office: PROVIDED, That the commissioner may not  
31 adopt rules after the effective date of this section that are based  
32 solely on a statute's statement of intent or purpose, on the enabling  
33 provisions of the statute establishing the agency, or on any  
34 combination of such provisions, for statutory authority to adopt any  
35 rule.

36 (b) Conduct investigations to determine whether any person has  
37 violated any provision of this code.

1           (c) Conduct examinations, investigations, hearings, in addition to  
2 those specifically provided for, useful and proper for the efficient  
3 administration of any provision of this code.

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