

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6364

Chapter 268, Laws of 2002

57th Legislature
2002 Regular Session

MOBILE/MANUFACTURED HOME ALTERATION AND REPAIR

EFFECTIVE DATE: 3/29/02 - Except section 3, which becomes effective 4/1/04.

Passed by the Senate March 12, 2002
YEAS 37 NAYS 9

BRAD OWEN
President of the Senate

Passed by the House March 5, 2002
YEAS 73 NAYS 23

FRANK CHOPP
**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6364** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

Approved March 29, 2002

FILED

March 29, 2002 - 4:03 p.m.

GARY LOCKE
Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6364

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Winsley, Prentice, Hargrove, Fairley,
Kastama and Rasmussen)

READ FIRST TIME 02/04/2002.

1 AN ACT Relating to the recommendations of the joint legislative
2 task force on mobile/manufactured home alteration and repair; amending
3 RCW 43.22.434, 43.22.434, 43.22.340, 43.22.432, 64.06.005, and
4 43.22.335; adding new sections to chapter 43.22 RCW; creating a new
5 section; providing an effective date; providing an expiration date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The purpose of this act is to implement the
9 recommendations of the joint legislative task force created by chapter
10 335, Laws of 2001. The legislature recognizes the need to improve
11 communications among mobile/manufactured homeowners, regulatory
12 agencies, and other interested parties, to streamline the complex
13 regulatory environment and inflexible enforcement system, and to
14 promote problem-solving at an early stage. To assist in achieving
15 these goals, the legislature:

16 (1) Encourages the relevant agencies to conduct a pilot project
17 that tests an interagency coordinated system for processing permits for
18 alterations or repairs of mobile and manufactured homes; and

1 (2) Recognizes the task force's work in reviewing agency rules
2 related to alteration permit requirements and supports the task force's
3 recommendations to the agency regarding those rules. The legislature
4 finds that assisting consumers to understand when an alteration of a
5 mobile or manufactured home is subject to a permit, and when it is not,
6 will improve compliance with the agency rules and further the code's
7 safety goals.

8 **Sec. 2.** RCW 43.22.434 and 2001 c 335 s 5 are each amended to read
9 as follows:

10 (1) The director or the director's authorized representative may
11 conduct such inspections, investigations, and audits as may be
12 necessary to adopt or enforce manufactured and mobile home, commercial
13 coach, conversion vending units, medical units, recreational vehicle,
14 park trailer, factory built housing, and factory built commercial
15 structure rules adopted under the authority of this chapter or to carry
16 out the director's duties under this chapter.

17 (2) For purposes of enforcement of this chapter, persons duly
18 designated by the director upon presenting appropriate credentials to
19 the owner, operator, or agent in charge may:

20 (a) At reasonable times and without advance notice enter any
21 factory, warehouse, or establishment in which manufactured and mobile
22 homes, commercial coaches, conversion vending units, medical units,
23 recreational vehicles, park trailers, factory built housing, and
24 factory built commercial structures are manufactured, stored, or held
25 for sale;

26 (b) At reasonable times, within reasonable limits, and in a
27 reasonable manner inspect any factory, warehouse, or establishment as
28 required to comply with the standards adopted by the secretary of
29 housing and urban development under the national manufactured home
30 construction and safety standards act of 1974. Each inspection shall
31 be commenced and completed with reasonable promptness; and

32 (c) As requested by an owner of a conversion vending unit or
33 medical unit, inspect an alteration.

34 (3) For purposes of determining compliance with this chapter's
35 permitting requirements for alterations of mobile and manufactured
36 homes, the department may audit the records of a contractor as defined
37 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor
38 as defined in RCW 19.28.006 when the department has reason to believe

1 that a violation of the permitting requirements has occurred. The
2 department shall adopt rules implementing the auditing procedures.
3 Information obtained from a contractor through an audit authorized by
4 this subsection is confidential and not open to public inspection under
5 chapter 42.17 RCW.

6 (4)(a) The department shall set a schedule of fees by rule which
7 will cover the costs incurred by the department in the administration
8 of RCW 43.22.335 through 43.22.490.

9 (b) Subject to (a) of this subsection, and for the purposes of
10 implementing the pilot project approved by the mobile/manufactured home
11 alteration task force, the department may adopt by rule a temporary
12 statewide fee schedule that decreases fees for mobile/manufactured home
13 alteration permits and increases fees for factory-built housing and
14 commercial structures plan review and inspection services. Under the
15 temporary fee schedule, the department may waive mobile/manufactured
16 home alteration permit fees for indigent permit applicants. The
17 department may increase fees for factory-built housing and commercial
18 structures plan review and inspection services in excess of the fiscal
19 growth factor under chapter 43.135 RCW, if the increases are necessary
20 to fund the cost of administering RCW 43.22.335 through 43.22.490. In
21 no instance shall any fee that applies to the factory-built housing and
22 commercial plan review and inspection services be increased in excess
23 of forty percent.

24 (5) This section expires April 1, 2004.

25 **Sec. 3.** RCW 43.22.434 and 2001 c 335 s 5 are each amended to read
26 as follows:

27 (1) The director or the director's authorized representative may
28 conduct such inspections, investigations, and audits as may be
29 necessary to adopt or enforce manufactured and mobile home, commercial
30 coach, conversion vending units, medical units, recreational vehicle,
31 park trailer, factory built housing, and factory built commercial
32 structure rules adopted under the authority of this chapter or to carry
33 out the director's duties under this chapter.

34 (2) For purposes of enforcement of this chapter, persons duly
35 designated by the director upon presenting appropriate credentials to
36 the owner, operator, or agent in charge may:

37 (a) At reasonable times and without advance notice enter any
38 factory, warehouse, or establishment in which manufactured and mobile

1 homes, commercial coaches, conversion vending units, medical units,
2 recreational vehicles, park trailers, factory built housing, and
3 factory built commercial structures are manufactured, stored, or held
4 for sale;

5 (b) At reasonable times, within reasonable limits, and in a
6 reasonable manner inspect any factory, warehouse, or establishment as
7 required to comply with the standards adopted by the secretary of
8 housing and urban development under the national manufactured home
9 construction and safety standards act of 1974. Each inspection shall
10 be commenced and completed with reasonable promptness; and

11 (c) As requested by an owner of a conversion vending unit or
12 medical unit, inspect an alteration.

13 (3) For purposes of determining compliance with this chapter's
14 permitting requirements for alterations of mobile and manufactured
15 homes, the department may audit the records of a contractor as defined
16 in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor
17 as defined in RCW 19.28.006 when the department has reason to believe
18 that a violation of the permitting requirements has occurred. The
19 department shall adopt rules implementing the auditing procedures.
20 Information obtained from a contractor through an audit authorized by
21 this subsection is confidential and not open to public inspection under
22 chapter 42.17 RCW.

23 (4)(a) The department shall set a schedule of fees by rule which
24 will cover the costs incurred by the department in the administration
25 of RCW 43.22.335 through 43.22.490.

26 (b) Effective April 1, 2004, the department must adopt a new fee
27 schedule that is the same as the fee schedule that was in effect
28 immediately prior to the temporary fee schedule authorized in section
29 2(4)(b), chapter . . ., Laws of 2002 (section 2 of this act). However,
30 the new fee schedule must be adjusted by the fiscal growth factors not
31 applied during the period that the temporary fee schedule was in
32 effect.

33 NEW SECTION. Sec. 4. A new section is added to chapter 43.22 RCW
34 to read as follows:

35 (1)(a) In addition to or in lieu of any other penalty applicable
36 under this chapter, and except as provided in (b) of this subsection,
37 the department may assess a civil penalty of not more than one thousand
38 dollars against a contractor, firm, partnership, or corporation, that

1 fails to obtain a permit before altering a mobile or manufactured home
2 as required under this chapter or rules adopted under this chapter.
3 Each day on which a violation occurs constitutes a separate violation.
4 However, the cumulative penalty for the same occurrence may not exceed
5 five thousand dollars.

6 (b) The department must adopt a schedule of civil penalties giving
7 due consideration to the appropriateness of the penalty with respect to
8 the gravity of the violation and the history of previous violations.
9 Penalties for subsequent violations, not constituting the same
10 occurrence, committed within two years of a prior violation by the same
11 party or entity, or by an individual who was a principal or officer of
12 the same entity, must be double the amount of the penalty for the prior
13 violation or one thousand dollars, whichever is greater.

14 (2)(a) The department may issue a notice of correction before
15 issuing a civil penalty assessment. The notice must include:

16 (i) A description of the violation;

17 (ii) A statement of what is required to correct the violation;

18 (iii) The date by which the department requires correction to be
19 achieved; and

20 (iv) Notice of the individual or department office that must be
21 contacted to obtain a permit or other compliance information.

22 (b) A notice of correction is not a formal enforcement action, is
23 not subject to appeal, and is a public record.

24 (c) If the department issues a notice of correction, it shall not
25 issue a civil penalty for the violation identified in the notice of
26 correction unless the responsible person fails to comply with the
27 notice.

28 (3)(a) The department must issue written notices of civil penalties
29 imposed under this section, with the reasons for the penalty, by
30 certified mail to the last known address of the party named in the
31 notice.

32 (b) If a party desires to contest a notice of civil penalty issued
33 under this section, the party must file a notice of appeal with the
34 department within twenty days of the department's mailing of the notice
35 of civil penalty. An administrative law judge of the office of
36 administrative hearings will hear and determine the appeal. Appeal
37 proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal
38 of the administrative law judge's determination or order shall be to

1 the superior court. The superior court's decision is subject only to
2 discretionary review under the rules of appellate procedure.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.22 RCW
4 to read as follows:

5 (1) With respect to mobile and manufactured homes that are
6 installed in accordance with the standards adopted under RCW 43.22.440:

7 (a) The department shall adopt rules that:

8 (i) Specify exemptions from a requirement for a permit to alter a
9 mobile or manufactured home;

10 (ii) Authorize the granting of variances from the rules adopted
11 under this section for alterations that use materials, designs, or
12 methods of construction different from those required under the rules
13 adopted under this chapter; and

14 (iii) Require the seller of a mobile or manufactured home to
15 deliver to the buyer prior to the sale: (A) A completed property
16 transfer disclosure statement in accordance with chapter 64.06 RCW,
17 unless the seller is exempt or the buyer waives his or her rights under
18 chapter 64.06 RCW; and (B) the variance, if any, granted under the
19 rules adopted under this section.

20 (b) The department may adopt a rule that allows parties to enter
21 into a conditional sale of an altered mobile or manufactured home.
22 However, a conditional sales agreement may be executed only if, prior
23 to execution, the parties have complied with the department's
24 requirements related to permit approval and a variance granted under
25 the rules, if any, and with property transfer disclosure statement
26 requirements.

27 (2) This chapter does not prohibit the sale of an altered mobile or
28 manufactured home installed in accordance with the standards adopted
29 under RCW 43.22.440. If, after an inspection requested by any party to
30 a sale, including a party financing the sale, the department determines
31 that an alteration may constitute a hazard to life, safety, or health,
32 the department shall so notify the parties in writing within thirty
33 days of completing the inspection and may notify the local official
34 responsible for enforcing the uniform fire code adopted under chapter
35 19.27 RCW or local health officer, as applicable, within the relevant
36 jurisdiction.

1 **Sec. 6.** RCW 43.22.340 and 1999 c 22 s 2 are each amended to read
2 as follows:

3 (1) The director shall adopt specific rules for conversion vending
4 units and medical units. The rules for conversion vending units and
5 medical units shall be established to protect the occupants from fire;
6 to address other life safety issues; and to ensure that the design and
7 construction are capable of supporting any concentrated load of five
8 hundred pounds or more.

9 (2) The director of labor and industries shall adopt rules
10 governing safety of body and frame design, and the installation of
11 plumbing, heating, and electrical equipment in mobile homes, commercial
12 coaches, recreational vehicles, and/or park trailers: PROVIDED, That
13 the director shall not prescribe or enforce rules governing the body
14 and frame design of recreational vehicles and park trailers until after
15 the American National Standards Institute shall have published
16 standards and specifications upon this subject. The rules shall be
17 reasonably consistent with recognized and accepted principles of safety
18 for body and frame design and plumbing, heating, and electrical
19 installations, in order to protect the health and safety of the people
20 of this state from dangers inherent in the use of substandard and
21 unsafe body and frame design, construction, plumbing, heating,
22 electrical, and other equipment and shall correlate with and, so far as
23 practicable, conform to the then current standards and specifications
24 of the American National Standards Institute standards A119.1 for
25 mobile homes and commercial coaches, A119.2 for recreational vehicles,
26 and A119.5 for park trailers.

27 (3) Except as provided in section 5 of this act, it shall be
28 unlawful for any person to lease, sell or offer for sale, within this
29 state, any mobile homes, commercial coaches, conversion vending units,
30 medical units, recreational vehicles, and/or park trailers manufactured
31 after January 1, 1968, containing plumbing, heating, electrical, or
32 other equipment, and after July 1, 1970, body and frame design or
33 construction, unless such equipment, design, or construction meets the
34 requirements of the rules provided for in this section.

35 **Sec. 7.** RCW 43.22.432 and 2001 c 335 s 4 are each amended to read
36 as follows:

37 (1) The department may adopt all standards and regulations adopted
38 by the secretary under the national manufactured home construction and

1 safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426)
2 for manufactured home construction and safety standards. If any
3 deletions or amendments to the federal standards or regulations are
4 thereafter made and notice thereof is given to the department, the
5 standards or regulations shall be considered automatically adopted by
6 the state under this chapter after the expiration of thirty days from
7 publication in the federal register of a final order describing the
8 deletions or amendments unless within that thirty day period the
9 department objects to the deletion or amendment. In case of objection,
10 the department shall proceed under the rule making procedure of chapter
11 34.05 RCW.

12 (2) The department shall adopt rules with respect to manufactured
13 homes (~~((installed in accordance with the standards adopted under RCW
14 43.22.440 that:~~

15 ~~(a) Specify exemptions from a requirement for a permit to alter a
16 manufactured home;~~

17 ~~(b) Authorize the granting of variances from the rules adopted
18 under this section for alterations that use materials, designs, or
19 methods of construction different from those required under the rules
20 adopted under this section; and~~

21 ~~(c) Require the seller of a manufactured home to deliver to the
22 buyer prior to the sale a completed property transfer disclosure
23 statement that includes all the criteria specified in RCW 64.06.020 and
24 a copy of a variance, if any, granted under the rules adopted under
25 this section. Nothing in this chapter shall be construed to prohibit
26 the sale of a manufactured home that was altered unless the alteration
27 makes the home unsafe so that its use may constitute a hazard to life,
28 safety, or health)) that require the prior written approval of the
29 department before changes or alterations may be made to a manufactured
30 home that differ from the construction standards provided for in this
31 section.~~

32 (3) Except as provided in section 5 of this act, it is unlawful for
33 any person to lease, sell, or offer for sale, within this state, a
34 manufactured home unless the home meets the requirements of the rules
35 provided for in this section.

36 **Sec. 8.** RCW 64.06.005 and 1994 c 200 s 1 are each amended to read
37 as follows:

1 This chapter applies only to residential real property. For
2 purposes of this chapter, residential real property means:

3 (1) Real property consisting of, or improved by, one to four
4 dwelling units;

5 (2) A residential condominium as defined in RCW 64.34.020(9),
6 unless the sale is subject to the public offering statement requirement
7 in the Washington condominium act, chapter 64.34 RCW; ~~((or))~~

8 (3) A residential timeshare, as defined in RCW 64.36.010(11),
9 unless subject to written disclosure under the Washington timeshare
10 act, chapter 64.36 RCW; or

11 (4) A mobile or manufactured home, as defined in RCW 43.22.335 or
12 46.04.302, that is personal property.

13 **Sec. 9.** RCW 43.22.335 and 2001 c 335 s 1 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout RCW 43.22.340 through ~~((43.22.420))~~
17 43.22.434, 43.22.442, and 43.22.495.

18 (1) "Conversion vendor units" means a motor vehicle or recreational
19 vehicle that has been converted or built for the purpose of being used
20 for commercial sales at temporary locations. The units must be less
21 than eight feet six inches wide in the set-up position and the inside
22 working area must be less than forty feet in length.

23 (2) "Indigent" means a person receiving an annual income, after
24 taxes, of one hundred twenty-five percent or less of the current
25 federally established poverty level.

26 (3) "Manufactured home" means a single-family dwelling required to
27 be built in accordance with regulations adopted under the national
28 manufactured housing construction and safety standards act of 1974 (42
29 U.S.C. 5401 et seq.).

30 ~~((+3+))~~ (4) "Medical unit" means a self-propelled unit used to
31 provide medical examinations, treatments, and medical and dental
32 services or procedures, not including emergency response vehicles.

33 ~~((+4+))~~ (5) "Mobile home" means a factory-built dwelling built
34 before June 15, 1976, to standards other than the national manufactured
35 housing construction and safety standards act of 1974 (42 U.S.C. 5401
36 et seq.), and acceptable under applicable state codes in effect at the
37 time of construction or introduction of the home into this state.

1 (~~(5)~~) (6) "Park trailer" means a park trailer as defined in the
2 American national standards institute A119.5 standard for park
3 trailers.

4 (~~(6)~~) (7) "Recreational vehicle" means a vehicular-type unit
5 primarily designed for recreational camping or travel use that has its
6 own motive power or is mounted on or towed by another vehicle. The
7 units include travel trailers, fifth-wheel trailers, folding camping
8 trailers, truck campers, and motor homes.

9 NEW SECTION. **Sec. 10.** (1) Sections 1, 2, and 4 through 9 of this
10 act are necessary for the immediate preservation of the public peace,
11 health, or safety, or support of the state government and its existing
12 public institutions, and take effect immediately.

13 (2) Section 3 of this act takes effect April 1, 2004.

 Passed the Senate March 12, 2002.

 Passed the House March 5, 2002.

 Approved by the Governor March 29, 2002.

 Filed in Office of Secretary of State March 29, 2002.