CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5067

Chapter 301, Laws of 2011

62nd Legislature
2011 Regular Session

LABOR AND INDUSTRIES--EMPLOYMENT SECURITY--MAILING REQUIREMENTS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 18, 2011
YEAS 48  NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 7, 2011
YEAS 92  NAYS 0

FRANK CHOPP
Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 5067 as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN
Secretary

Approved May 10, 2011, 4:05 p.m.

FILED
May 11, 2011

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to changing the certified and registered mail requirements of the department of labor and industries and employment security department; and amending RCW 18.27.060, 18.27.230, 18.27.370, 18.106.100, 18.106.180, 19.28.131, 19.28.271, 19.28.341, 19.28.490, 43.22.435, 43.22A.080, 43.22A.130, 49.17.140, 49.26.110, 49.40.060, 49.48.083, 50.20.190, 50.24.070, 50.24.110, 50.24.115, 70.79.320, 70.87.125, 70.87.185, and 70.87.205.

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

Sec. 1. RCW 18.27.060 and 2006 c 185 s 14 are each amended to read as follows:

(1) A certificate of registration shall be valid for two years and shall be renewed on or before the expiration date. The department shall issue to the applicant a certificate of registration upon compliance with the registration requirements of this chapter.

(2) If the department approves an application, it shall issue a certificate of registration to the applicant.

(3) If a contractor's surety bond or other security has an unsatisfied judgment against it or is canceled, or if the contractor's insurance policy is canceled, the contractor's registration shall be
automatically suspended on the effective date of the impairment or
cancellation. The department shall mail notice of the suspension to
the contractor's address on the certificate of registration ((by
certified and by first-class mail)) within two days after suspension
using a method by which the mailing can be tracked or the delivery can
be confirmed.

(4) Renewal of registration is valid on the date the department
receives the required fee and proof of bond and liability insurance, if
sent by certified mail or other means requiring proof of delivery. The
receipt or proof of delivery shall serve as the contractor's proof of
renewed registration until he or she receives verification from the
department.

(5) The department shall immediately suspend the certificate of
registration of a contractor who has been certified by the department
of social and health services as a person who is not in compliance with
a support order or a visitation order as provided in RCW 74.20A.320.
The certificate of registration shall not be reissued or renewed unless
the person provides to the department a release from the department of
social and health services stating that he or she is in compliance with
the order and the person has continued to meet all other requirements
for certification during the suspension.

(6) For a contractor who employs plumbers, as described in RCW
18.106.010(10)(c), and is also required to be licensed as an electrical
contractor as required in RCW 19.28.041, while doing pump and
irrigation or domestic pump work described in rule as authorized by RCW
19.28.251, the department shall establish a single
registration/licensing document for those who qualify for both general
contractor registration as defined by this chapter and an electrical
contractor license as defined by chapter 19.28 RCW.

Sec. 2. RCW 18.27.230 and 2007 c 436 s 12 are each amended to read
as follows:

The department may issue a notice of infraction if the department
reasonably believes that the contractor has committed an infraction
under this chapter. A notice of infraction issued under this section
shall be personally served on the contractor named in the notice by the
department's compliance inspectors or service can be made ((by
certified mail)) using a method by which the mailing can be tracked or
the delivery can be confirmed directed to the contractor named in the
notice of infraction at the contractor's last known address of record.
If the contractor named in the notice of infraction is a firm or
corporation, the notice may be personally served on any employee of the
firm or corporation. If a notice of infraction is personally served
upon an employee of a firm or corporation, the department shall send a
copy of the notice (by mail, return receipt requested) using a
method by which the mailing can be tracked or the delivery can be
confirmed to the contractor if the department is able to obtain the
contractor's address.

Sec. 3. RCW 18.27.370 and 2001 c 159 s 6 are each amended to read
as follows:
(1) If an unregistered contractor defaults in a payment, penalty,
or fine due to the department, the director or the director's designee
may issue a notice of assessment certifying the amount due. The notice
must be served upon the unregistered contractor by mailing the notice
to the unregistered contractor by certified mail to the unregistered
contractor's last known address or served in the manner prescribed for
the service of a summons in a civil action.
(2) A notice of assessment becomes final thirty days from the date
the notice was served upon the unregistered contractor unless a written
request for reconsideration is filed with the department or an appeal
is filed in a court of competent jurisdiction in the manner specified
in RCW 34.05.510 through 34.05.598. The request for reconsideration
must set forth with particularity the reason for the unregistered
contractor's request. The department, within thirty days after
receiving a written request for reconsideration, may modify or reverse
a notice of assessment, or may hold a notice of assessment in abeyance
pending further investigation. If a final decision of a court in favor
of the department is not appealed within the time allowed by law, then
the amount of the unappealed assessment, or such amount of the
assessment as is found due by the final decision of the court, is
final.
(3) The director or the director's designee may file with the clerk
of any county within the state, a warrant in the amount of the notice
of assessment, plus interest, penalties, and a filing fee of twenty
dollars. The clerk of the county in which the warrant is filed shall
immediately designate a superior court cause number for the warrant,
and the clerk shall cause to be entered in the judgment docket under
the superior court cause number assigned to the warrant, the name of
the unregistered contractor mentioned in the warrant, the amount of
payment, penalty, fine due on it, or filing fee, and the date when the
warrant was filed. The aggregate amount of the warrant as docketed
shall become a lien upon the title to, and interest in, all real and
personal property of the unregistered contractor against whom the
warrant is issued, the same as a judgment in a civil case docketed in
the office of the clerk. The sheriff shall proceed upon the warrant in
all respects and with like effect as prescribed by law with respect to
execution or other process issued against rights or property upon
judgment in a court of competent jurisdiction. The warrant so docketed
is sufficient to support the issuance of writs of garnishment in favor
of the state in a manner provided by law in case of judgment, wholly or
partially unsatisfied. The clerk of the court is entitled to a filing
fee which will be added to the amount of the warrant. A copy of the
warrant shall be mailed to the unregistered contractor within three
days of filing with the clerk.

(4) The director or the director's designee may issue to any
person, firm, corporation, other entity, municipal corporation,
political subdivision of the state, a public corporation, or any agency
of the state, a notice and order to withhold and deliver property of
any kind whatsoever when he or she has reason to believe that there is
in the possession of the person, firm, corporation, other entity,
municipal corporation, political subdivision of the state, public
corporation, or agency of the state, property that is or will become
due, owing, or belonging to an unregistered contractor upon whom a
notice of assessment has been served by the department for payments,
penalties, or fines due to the department. The effect of a notice and
order is continuous from the date the notice and order is first made
until the liability out of which the notice and order arose is
satisfied or becomes unenforceable because of lapse of time. The
department shall release the notice and order when the liability out of
which the notice and order arose is satisfied or becomes unenforceable
by reason of lapse of time and shall notify the person against whom the
notice and order was made that the notice and order has been released.
The notice and order to withhold and deliver must be served by the sheriff of the county or by the sheriff's deputy, ((by certified mail, return receipt requested)) using a method by which the mailing can be tracked or the delivery can be confirmed, or by an authorized representative of the director. A person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order. Upon service of the notice and order, if the party served possesses any property that may be subject to the claim of the department, the party shall promptly deliver the property to the director or the director's authorized representative. The director shall hold the property in trust for application on the unregistered contractor's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review. In the alternative, the party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. If a party served and named in the notice fails to answer the notice within the time prescribed in this section, the court may render judgment by default against the party for the full amount claimed by the director in the notice, together with costs. If a notice is served upon an unregistered contractor and the property subject to it is wages, the unregistered contractor may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner is entitled.  

(5) In addition to the procedure for collection of a payment, penalty, or fine due to the department as set forth in this section, the department may recover civil penalties imposed under this chapter in a civil action in the name of the department brought in a court of competent jurisdiction of the county where the violation is alleged to have occurred.

Sec. 4. RCW 18.106.100 and 1996 c 147 s 3 are each amended to read as follows:

(1) The department may revoke or suspend a certificate of competency for any of the following reasons:
    (a) The certificate was obtained through error or fraud;
(b) The certificate holder is judged to be incompetent to carry on the trade of plumbing as a journeyman plumber or specialty plumber;

(c) The certificate holder has violated any provision of this chapter or any rule adopted under this chapter.

(2) Before a certificate of competency is revoked or suspended, the department shall send written notice ((by registered mail with return receipt requested)) using a method by which the mailing can be tracked or the delivery can be confirmed to the certificate holder's last known address. The notice must list the allegations against the certificate holder and give him or her the opportunity to request a hearing before the advisory board. At the hearing, the department and the certificate holder have opportunity to produce witnesses and give testimony. The hearing must be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented and shall notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

(3) The department may deny renewal of a certificate of competency issued under this chapter if the applicant owes outstanding penalties for a final judgment under this chapter. The department shall notify the applicant of the denial ((by registered mail, return receipt requested)) using a method by which the mailing can be tracked or the delivery can be confirmed to the address on the application. The applicant may appeal the denial within twenty days by filing a notice of appeal with the department accompanied by a certified check for two hundred dollars which shall be returned to the applicant if the decision of the department is not upheld by the hearings officer. The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW. If the hearings officer sustains the decision of the department, the two hundred dollars must be applied to the cost of the hearing.

Sec. 5. RCW 18.106.180 and 2002 c 82 s 3 are each amended to read as follows:

(1) An authorized representative of the department may issue a notice of infraction as specified in RCW 18.106.020 if:

(a) A person who is doing plumbing work or who is offering to do plumbing work fails to produce evidence of:
(i) Having a certificate or permit issued by the department in accordance with this chapter, or being supervised by a person who has such a certificate or permit; and

(ii) Being registered as a contractor as required under chapter 18.27 RCW or this chapter, or being employed by a person who is registered as a contractor;

(b) A person who employs anyone, or offers or advertises to employ anyone, to do plumbing work fails to produce evidence of being registered as a contractor as required under chapter 18.27 RCW or this chapter; or

(c) A contractor violates RCW 18.106.320.

(2) A notice of infraction issued under this section shall be personally served on the person named in the notice by an authorized representative of the department or sent (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address provided to the department of the person named in the notice.

Sec. 6. RCW 19.28.131 and 2006 c 185 s 13 are each amended to read as follows:

Until July 1, 2007, the department shall issue a written warning to any specialty contractor, performing the scope of work defined by rule for the pump and irrigation or domestic pump specialties, not having a valid electrical contractor license. The warning will state that the contractor must be qualified for and apply for a specialty electrical contractor license under the requirements in RCW 19.28.041 within thirty calendar days of the warning. Only one warning will be issued to any contractor. If the contractor fails to comply with this section, the department shall issue a penalty or penalties as authorized in this section to the contractor. Any person, firm, partnership, corporation, or other entity violating any of the provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through 19.28.361 shall be assessed a penalty of not less than fifty dollars or more than ten thousand dollars. The department shall set by rule a schedule of penalties for violating RCW 19.28.010 through 19.28.141 and 19.28.311 through 19.28.361. The department shall notify the person, firm, partnership, corporation, or other entity violating any of the provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through
19.28.361 of the amount of the penalty and of the specific violation 
((by certified mail, return receipt requested)) using a method by 
which the mailing can be tracked or the delivery can be confirmed sent 
to the last known address of the assessed party. Any penalty is 
subject to review by an appeal to the board. The filing of an appeal 
stays the effect of the penalty until the board makes its decision. 
The appeal shall be filed within twenty days after notice of the 
penalty is given to the assessed party ((by certified mail, return 
receipt requested)) using a method by which the mailing can be tracked 
or the delivery can be confirmed, sent to the last known address of the 
assessed party and shall be made by filing a written notice of appeal 
with the department. The notice shall be accompanied by a certified 
check for two hundred dollars, which shall be returned to the assessed 
party if the decision of the department is not sustained by the board. 
If the board sustains the decision of the department, the two hundred 
dollars shall be applied by the department to the payment of the per 
diem and expenses of the members of the board incurred in the matter, 
and any balance remaining after payment of per diem and expenses shall 
be paid into the electrical license fund. The hearing and review 
procedures shall be conducted in accordance with chapter 34.05 RCW. 
The board shall assign its hearings to an administrative law judge to 
conduct the hearing and issue a proposed decision and order. The board 
shall be allowed a minimum of twenty days to review a proposed decision 
and shall issue its decision no later than the next regularly scheduled 
board meeting.

Sec. 7. RCW 19.28.271 and 2009 c 36 s 6 are each amended to read 
as follows:

(1) It is unlawful for any person, firm, partnership, corporation, 
or other entity to employ an individual for purposes of RCW 19.28.161 
through 19.28.271 who has not been issued a certificate of competency, 
a temporary permit, or a training certificate. It is unlawful for any 
individual to engage in the electrical construction trade or to 
maintain or install any electrical equipment or conductors without 
having in his or her possession a certificate of competency, a 
temporary permit, or a training certificate under RCW 19.28.161 through 
19.28.271, and photo identification. The department may establish by
rule a requirement that the individual also wear and visibly display
his or her certificate or permit.

(2) Any person, firm, partnership, corporation, or other entity
found in violation of RCW 19.28.161 through 19.28.271 shall be assessed
a penalty of not less than fifty dollars or more than five hundred
dollars. The department shall set by rule a schedule of penalties for
violating RCW 19.28.161 through 19.28.271. An appeal may be made to
the board as is provided in RCW 19.28.131. The appeal shall be filed
within twenty days after the notice of the penalty is given to the
assessed party (by certified mail, return receipt requested) using a
method by which the mailing can be tracked or the delivery can be
confirmed, sent to the last known address of the assessed party and
shall be made by filing a written notice of appeal with the department.
Any equipment maintained or installed by any person who does not
possess a certificate of competency under RCW 19.28.161 through
19.28.271 shall not receive an electrical work permit and electrical
service shall not be connected or maintained to operate the equipment.
Each day that a person, firm, partnership, corporation, or other entity
violates RCW 19.28.161 through 19.28.271 is a separate violation.

(3) A civil penalty shall be collected in a civil action brought by
the attorney general in the county wherein the alleged violation arose
at the request of the department if any of RCW 19.28.161 through
19.28.271 or any rules adopted under RCW 19.28.161 through 19.28.271
are violated.

Sec. 8. RCW 19.28.341 and 2000 c 238 s 4 are each amended to read
as follows:

(1) The department has the power, in case of serious noncompliance
with the provisions of this chapter, to revoke or suspend for such a
period as it determines, any electrical or telecommunications
contractor license or electrical or telecommunications contractor
administrator certificate issued under this chapter. The department
shall notify the holder of the license or certificate of the revocation
or suspension (by certified mail) using a method by which the mailing
can be tracked or the delivery can be confirmed. A revocation or
suspension is effective twenty days after the holder receives the
notice. Any revocation or suspension is subject to review by an appeal
to the board. The filing of an appeal stays the effect of a revocation
or suspension until the board makes its decision. The appeal shall be filed within twenty days after notice of the revocation or suspension is given ((by certified mail)) using a method by which the mailing can be tracked or the delivery can be confirmed sent to the address of the holder of the license or certificate as shown on the application for the license or certificate, and shall be effected by filing a written notice of appeal with the department, accompanied by a certified check for two hundred dollars, which shall be returned to the holder of the license or certificate if the decision of the department is not sustained by the board. The hearing shall be conducted in accordance with chapter 34.05 RCW. If the board sustains the decision of the department, the two hundred dollars shall be applied by the department to the payment of the per diem and expenses of the members of the board incurred in the matter, and any balance remaining after payment of per diem and expenses shall be paid into the electrical license fund.

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

Sec. 9. RCW 19.28.490 and 2000 c 238 s 213 are each amended to read as follows:

Any person, firm, partnership, corporation, or other entity violating any of the provisions of this chapter may be assessed a penalty of not less than one hundred dollars or more than ten thousand dollars per violation. The department, after consulting with the board and receiving the board's recommendations, shall set by rule a schedule of penalties for violating this chapter. The department shall notify the person, firm, partnership, corporation, or other entity violating any of these provisions of the amount of the penalty and of the specific violation. The notice shall be sent ((by certified mail, return receipt requested)) using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address of
the assessed party. Penalties are subject to review by an appeal to
the board. The filing of an appeal stays the effect of the penalty
until the board makes its decision. The appeal shall be filed within
twenty days after notice of the penalty is given to the assessed party,
and shall be made by filing a written notice of appeal with the
department. The notice shall be accompanied by a certified check for
two hundred dollars, that shall be returned to the assessed party if
the decision of the department is not sustained by the board. If the
board sustains the decision of the department, the two hundred dollars
shall be applied by the department to the payment of the per diem and
expenses of the members of the board incurred in the matter, and any
balance remaining after payment of per diem and expenses shall be paid
into the electrical license fund. The hearing and review procedures
shall be conducted in accordance with chapter 34.05 RCW. The board
shall assign its hearings to an administrative law judge to conduct the
hearing and issue a proposed decision and order. The board shall be
allowed a minimum of twenty days to review a proposed decision and
shall issue its decision no later than the next regularly scheduled
board meeting.

Sec. 10. RCW 43.22.435 and 2002 c 268 s 4 are each amended to read
as follows:

(1)(a) In addition to or in lieu of any other penalty applicable
under this chapter, and except as provided in (b) of this subsection,
the department may assess a civil penalty of not more than one thousand
dollars against a contractor, firm, partnership, or corporation, that
fails to obtain a permit before altering a mobile or manufactured home
as required under this chapter or rules adopted under this chapter.
Each day on which a violation occurs constitutes a separate violation.
However, the cumulative penalty for the same occurrence may not exceed
five thousand dollars.

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

(2)(a) The department may issue a notice of correction before issuing a civil penalty assessment. The notice must include:
   (i) A description of the violation;
   (ii) A statement of what is required to correct the violation;
   (iii) The date by which the department requires correction to be achieved; and
   (iv) Notice of the individual or department office that must be contacted to obtain a permit or other compliance information.

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

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

(3)(a) The department must issue written notices of civil penalties imposed under this section, with the reasons for the penalty, using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address of the party named in the notice.

(b) If a party desires to contest a notice of civil penalty issued under this section, the party must file a notice of appeal with the department within twenty days of the department's mailing of the notice of civil penalty. An administrative law judge of the office of administrative hearings will hear and determine the appeal. Appeal proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal of the administrative law judge's determination or order shall be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure.

Sec. 11. RCW 43.22A.080 and 1994 c 284 s 21 are each amended to read as follows:

(1) The department may revoke a certificate of manufactured home installation upon the following grounds:
   (a) The certificate was obtained through error or fraud;
   (b) The holder of the certificate is judged to be incompetent as a
result of multiple infractions of the state installation code, WAC 296-150B-200 through 296-150B-255; or

(c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent (by registered mail, return receipt requested,) using a method by which the mailing can be tracked or the delivery can be confirmed to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW.

Sec. 12. RCW 43.22A.130 and 1994 c 284 s 25 are each amended to read as follows:

An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed to the person named in the notice by the authorized representative.

Sec. 13. RCW 49.17.140 and 1994 c 61 s 1 are each amended to read as follows:

(1) If after an inspection or investigation the director or the director's authorized representative issues a citation under the authority of RCW 49.17.120 or 49.17.130, the department, within a reasonable time after the termination of such inspection or investigation, shall notify the employer (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed of the penalty to be assessed under the authority of RCW 49.17.180 and shall state that the employer has fifteen working days within which to notify the director that the employer wishes to appeal the citation or assessment of penalty. If, within fifteen working days
from the communication of the notice issued by the director the employer fails to notify the director that the employer intends to appeal the citation or assessment penalty, and no notice is filed by any employee or representative of employees under subsection (3) of this section within such time, the citation and the assessment shall be deemed a final order of the department and not subject to review by any court or agency.

(2) If the director has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted in the citation for its correction, which period shall not begin to run until the entry of a final order in the case of any appeal proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, the director shall notify the employer ((by certified mail)) using a method by which the mailing can be tracked or the delivery can be confirmed of such failure to correct the violation and of the penalty to be assessed under RCW 49.17.180 by reason of such failure, and shall state that the employer has fifteen working days from the communication of such notification and assessment of penalty to notify the director that the employer wishes to appeal the director's notification of the assessment of penalty. If, within fifteen working days from the receipt of notification issued by the director the employer fails to notify the director that the employer intends to appeal the notification of assessment of penalty, the notification and assessment of penalty shall be deemed a final order of the department and not subject to review by any court or agency.

(3) If any employer notifies the director that the employer intends to appeal the citation issued under either RCW 49.17.120 or 49.17.130 or notification of the assessment of a penalty issued under subsections (1) or (2) of this section, or if, within fifteen working days from the issuance of a citation under either RCW 49.17.120 or 49.17.130 any employee or representative of employees files a notice with the director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the director may reassume jurisdiction over the entire matter, or any portion thereof upon which notice of intention to appeal has been filed with the director pursuant to this subsection. If the director reassumes jurisdiction of all or any portion of the matter upon which notice of appeal has been filed
with the director, any redetermination shall be completed and corrective notices of assessment of penalty, citations, or revised periods of abatement completed within a period of thirty working days. The thirty-working-day redetermination period may be extended up to fifteen additional working days upon agreement of all parties to the appeal. The redetermination shall then become final subject to direct appeal to the board of industrial insurance appeals within fifteen working days of such redetermination with service of notice of appeal upon the director. In the event that the director does not resume jurisdiction as provided in this subsection, the director shall promptly notify the state board of industrial insurance appeals of all notifications of intention to appeal any such citations, any such notices of assessment of penalty and any employee or representative of employees notice of intention to appeal the period of time fixed for abatement of a violation and in addition certify a full copy of the record in such appeal matters to the board. The director shall adopt rules of procedure for the reassumption of jurisdiction under this subsection affording employers, employees, and employee representatives notice of the reassumption of jurisdiction by the director, and an opportunity to object or support the reassumption of jurisdiction, either in writing or orally at an informal conference to be held prior to the expiration of the redetermination period. A notice of appeal filed under this section shall stay the effectiveness of any citation or notice of the assessment of a penalty pending review by the board of industrial insurance appeals, but such appeal shall not stay the effectiveness of any order of immediate restraint issued by the director under the authority of RCW 49.17.130. The board of industrial insurance appeals shall afford an opportunity for a hearing in the case of each such appellant and the department shall be represented in such hearing by the attorney general and the board shall in addition provide affected employees or authorized representatives of affected employees an opportunity to participate as parties to hearings under this subsection. The board shall thereafter make disposition of the issues in accordance with procedures relative to contested cases appealed to the state board of industrial insurance appeals.

Upon application by an employer showing that a good faith effort to comply with the abatement requirements of a citation has been made and that the abatement has not been completed because of factors beyond the
employer's control, the director after affording an opportunity for a
hearing shall issue an order affirming or modifying the abatement
requirements in such citation.

Sec. 14. RCW 49.26.110 and 1995 c 218 s 4 are each amended to read
as follows:
(1) No employee or other individual is eligible to do work governed
by this chapter unless issued a certificate by the department.
(2) To qualify for a certificate:
(a) Certified asbestos workers must have successfully completed a
four-day training course. Certified asbestos supervisors must have
completed a five-day training course. Training courses shall be
provided or approved by the department; shall cover such topics as the
health and safety aspects of the removal and encapsulation of asbestos,
including but not limited to the federal and state standards regarding
protective clothing, respirator use, disposal, air monitoring,
cleaning, and decontamination; and shall meet such additional
qualifications as may be established by the department by rule for the
type of certification sought. The department may require the
successful completion of annual refresher courses provided or approved
by the department for continued certification as an asbestos worker or
supervisor. However, the authority of the director to adopt rules
implementing this section is limited to rules that are specifically
required, and only to the extent specifically required, for the
standards to be as stringent as the applicable federal laws governing
work subject to this chapter; and
(b) All applicants for certification as asbestos workers or
supervisors must pass an examination in the type of certification
sought which shall be provided or approved by the department.
These requirements are intended to represent the minimum
requirements for certification and shall not preclude contractors or
employers from providing additional education or training.
(3) The department shall provide for the reciprocal certification
of any individual trained to engage in asbestos projects in another
state when the prior training is shown to be substantially similar to
the training required by the department. Nothing shall prevent the
department from requiring such individuals to take an examination or
refresher course before certification.
(4) The department may deny, suspend, or revoke a certificate, as provided under RCW 49.26.140, for failure of the holder to comply with any requirement of this chapter or chapter 49.17 RCW, or any rule adopted under those chapters, or applicable health and safety standards and regulations. In addition to any penalty imposed under RCW 49.26.016, the department may suspend or revoke any certificate issued under this chapter for a period of not less than six months upon the following grounds:

(a) The certificate was obtained through error or fraud; or
(b) The holder thereof is judged to be incompetent to carry out the work for which the certificate was issued.

Before any certificate may be denied, suspended, or revoked, the holder thereof shall be given written notice of the department's intention to do so, mailed (by registered mail, return receipt requested) using a method by which the mailing can be tracked or the delivery can be confirmed to the holder's last known address. The notice shall enumerate the allegations against such holder, and shall give him or her the opportunity to request a hearing before the department. At such hearing, the department and the holder shall have opportunity to produce witnesses and give testimony.

(5) A denial, suspension, or revocation order may be appealed to the board of industrial insurance appeals within fifteen working days after the denial, suspension, or revocation order is entered. The notice of appeal may be filed with the department or the board of industrial insurance appeals. The board of industrial insurance appeals shall hold the hearing in accordance with procedures established in RCW 49.17.140. Any party aggrieved by an order of the board of industrial insurance appeals may obtain superior court review in the manner provided in RCW 49.17.150.

(6) Each person certified under this chapter shall display, upon the request of an authorized representative of the department, valid identification issued by the department.

Sec. 15. RCW 49.40.060 and 2010 c 8 s 12035 are each amended to read as follows:

The director of labor and industries, or his or her deputy holding the hearing shall, after such hearing, determine the amount due from the employer to the employee, and shall make findings of fact and an
award in accordance therewith, which findings and award shall be filed in the office of the director and a copy thereof served upon the employer and upon the employee (by registered mail) using a method by which the mailing can be tracked or the delivery can be confirmed directed to their last known post office address.

Sec. 16. RCW 49.48.083 and 2010 c 42 s 2 are each amended to read as follows:

(1) If an employee files a wage complaint with the department, the department shall investigate the wage complaint. Unless otherwise resolved, the department shall issue either a citation and notice of assessment or a determination of compliance no later than sixty days after the date on which the department received the wage complaint. The department may extend the time period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the time period and specifying the duration of the extension. The department may not investigate any alleged violation of a wage payment requirement that occurred more than three years before the date that the employee filed the wage complaint. The department shall send the citation and notice of assessment or the determination of compliance to both the employer and the employee by service of process or (certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department determines that an employer has violated a wage payment requirement and issues to the employer a citation and notice of assessment, the department may order the employer to pay employees all wages owed, including interest of one percent per month on all wages owed, to the employee. The wages and interest owed must be calculated from the first date wages were owed to the employee, except that the department may not order the employer to pay any wages and interest that were owed more than three years before the date the wage complaint was filed with the department.

(3) If the department determines that the violation of the wage payment requirement was a willful violation, the department also may order the employer to pay the department a civil penalty as specified in (a) of this subsection.
(a) A civil penalty for a willful violation of a wage payment requirement shall be not less than one thousand dollars or an amount equal to ten percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation of a wage payment requirement shall be twenty thousand dollars.

(b) The department may not assess a civil penalty if the employer reasonably relied on: (i) A rule related to any wage payment requirement; (ii) a written order, ruling, approval, opinion, advice, determination, or interpretation of the director; or (iii) an interpretive or administrative policy issued by the department and filed with the office of the code reviser. In accordance with the department's retention schedule obligations under chapter 40.14 RCW, the department shall maintain a complete and accurate record of all written orders, rulings, approvals, opinions, advice, determinations, and interpretations for purposes of determining whether an employer is immune from civil penalties under (b)(ii) of this subsection.

(c) The department shall waive any civil penalty assessed against an employer under this section if the employer is not a repeat willful violator, and the director determines that the employer has provided payment to the employee of all wages that the department determined that the employer owed to the employee, including interest, within ten business days of the employer's receipt of the citation and notice of assessment from the department.

(d) The department may waive or reduce at any time a civil penalty assessed under this section if the director determines that the employer paid all wages and interest owed to an employee.

(e) The department shall deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

(4) Upon payment by an employer, and acceptance by an employee, of all wages and interest assessed by the department in a citation and notice of assessment issued to the employer, the fact of such payment by the employer, and of such acceptance by the employee, shall: (a) Constitute a full and complete satisfaction by the employer of all specific wage payment requirements addressed in the citation and notice of assessment; and (b) bar the employee from initiating or pursuing any court action or other judicial or administrative proceeding based on the specific wage payment requirements addressed in the citation and
notice of assessment. The citation and notice of assessment shall include a notification and summary of the specific requirements of this subsection.

(5) The applicable statute of limitations for civil actions is tolled during the department's investigation of an employee's wage complaint against an employer. For the purposes of this subsection, the department's investigation begins on the date the employee files the wage complaint with the department and ends when: (a) The wage complaint is finally determined through a final and binding citation and notice of assessment or determination of compliance; or (b) the department notifies the employer and the employee in writing that the wage complaint has been otherwise resolved or that the employee has elected to terminate the department's administrative action under RCW 49.48.085.

Sec. 17. RCW 50.20.190 and 2007 c 327 s 1 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and
good conscience: PROVIDED, HOWEVER, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days notice ((by certified mail return receipt requested to the individual's last known address of the intended action)), using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s)
mentioned in the warrant (by certified mail to the person's last known address within five days of its filing with the clerk) using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay
award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

Sec. 18. RCW 50.24.070 and 1987 c 111 s 4 are each amended to read as follows:

At any time after the commissioner shall find that any contributions, interest, or penalties have become delinquent, the commissioner may issue an order and notice of assessment specifying the amount due, which order and notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of a summons in a civil action, or ((by certified mail to the last known address of the employer as shown by the records of the department)) using a method by which the mailing can be tracked or the delivery can be confirmed. Failure of the employer to receive such notice or order
whether served or mailed shall not release the employer from any tax, or any interest or penalties thereon.

Sec. 19. RCW 50.24.110 and 1990 c 245 s 6 are each amended to read as follows:

The commissioner is hereby authorized to issue to any person, firm, corporation, political subdivision, or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when the commissioner has reason to believe that there is in the possession of such person, firm, corporation, political subdivision, or department, property which is due, owing, or belonging to any person, firm, or corporation upon whom the department has served a benefit overpayment assessment or a notice and order of assessment for unemployment compensation contributions, interest, or penalties. The effect of a notice to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability is satisfied or becomes unenforceable because of a lapse of time.

The notice and order to withhold and deliver shall be served by the sheriff or the sheriff's deputy of the county wherein the service is made, (by certified mail, return receipt requested) using a method by which the mailing can be tracked or the delivery can be confirmed, or by any duly authorized representative of the commissioner. Any person, firm, corporation, political subdivision, or department upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person, firm, corporation, political subdivision, or department, any property which may be subject to the claim of the employment security department of the state, such property shall be delivered forthwith to the commissioner or the commissioner's duly authorized representative upon demand to be held in trust by the commissioner for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the commissioner conditioned upon final determination of liability.
Should any person, firm, or corporation fail to make answer to an
order to withhold and deliver within the time prescribed herein, it
shall be lawful for the court, after the time to answer such order has
expired, to render judgment by default against such person, firm, or
corporation for the full amount claimed by the commissioner in the
notice to withhold and deliver, together with costs.

Sec. 20. RCW 50.24.115 and 2010 c 8 s 13032 are each amended to
read as follows:

Whenever any order and notice of assessment or jeopardy assessment
shall have become final in accordance with the provisions of this title
the commissioner may file with the clerk of any county within the state
a warrant in the amount of the notice of assessment plus interest,
penalties, and a filing fee under RCW 36.18.012(10). The clerk of the
county wherein the warrant is filed shall immediately designate a
superior court cause number for such warrant, and the clerk shall cause
to be entered in the judgment docket under the superior court cause
number assigned to the warrant, the name of the employer mentioned in
the warrant, the amount of the tax, interest, penalties, and filing fee
and the date when such warrant was filed. The aggregate amount of such
warrant as docketed shall become a lien upon the title to, and interest
in all real and personal property of the employer against whom the
warrant is issued, the same as a judgment in a civil case duly docketed
in the office of such clerk. Such warrant so docketed shall be
sufficient to support the issuance of writs of execution and writs of
garnishment in favor of the state in the manner provided by law in the
case of civil judgment, wholly or partially unsatisfied. The clerk of
the court shall be entitled to a filing fee under RCW 36.18.012(10),
which shall be added to the amount of the warrant, and charged by the
commissioner to the employer or employing unit. A copy of the warrant
shall be mailed to the employer or employing unit ((by certified mail
to his or her last known address)) using a method by which the mailing
can be tracked or the delivery can be confirmed within five days of
filing with the clerk.

Sec. 21. RCW 70.79.320 and 2005 c 22 s 6 are each amended to read
as follows:

(1) It shall be unlawful for any person, firm, partnership, or
corporation to operate under pressure in this state a boiler or unfired pressure vessel, to which this chapter applies, without a valid inspection certificate as provided for in this chapter.

(2) The department may assess a penalty against a person violating a provision of this chapter. The penalty shall be not more than five hundred dollars. Each day that the violation continues is a separate violation and is subject to a separate penalty.

(3) The department may not assess a penalty until it adopts rules describing the method it will use to calculate penalties for various violations.

(4) The department shall notify the violator of its action, and the reasons for its action, in writing. The department shall send the notice (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed to the violator that a hearing may be requested under RCW 70.79.361. The hearing shall not stay the effect of the penalty.

Sec. 22.  RCW 70.87.125 and 2003 c 143 s 16 are each amended to read as follows:

(1) A license issued under this chapter may be suspended, revoked, or subject to civil penalty by the department upon verification that any one or more of the following reasons exist:

(a) Any false statement as to a material matter in the application;
(b) Fraud, misrepresentation, or bribery in securing a license;
(c) Failure to notify the department and the owner or lessee of a conveyance or related mechanisms of any condition not in compliance with this chapter;
(d) A violation of any provisions of this chapter; and
(e) If the elevator contractor does not employ an individual designated as the primary point of contact with the department and who has successfully completed the elevator contractor examination. In the case of a separation of employment, termination of this relationship or designation, or death of the designated individual, the elevator contractor must, within ninety days, designate a new individual who has successfully completed the elevator contractor examination.

(2) The department may suspend or revoke a permit if:

(a) The permit was obtained through fraud or by error if, in the absence of error, the department would not have issued the permit;
(b) The conveyance for which the permit was issued has not been worked on in accordance with this chapter; or

c (c) The conveyance has become unsafe.

(3) The department shall suspend any license issued under this chapter promptly after receiving notice from the department of social and health services that the holder of the license has been certified pursuant to RCW 74.20A.320 as a person who is not in compliance with a support order. If the person has continued to meet all other license requirements during the suspension, reissuance of the license shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(4) The department shall notify in writing the owner, licensee, or person performing conveyance work, of its action and the reason for the action. The department shall send the notice using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address of the owner or person. The notice shall inform the owner or person that a hearing may be requested pursuant to RCW 70.87.170.

(5)(a) If the department has suspended or revoked a permit or license because of fraud or error, and a hearing is requested, the suspension or revocation shall be stayed until the hearing is concluded and a decision is issued.

(b) If the department has revoked or suspended a license because the licensee performing the work covered by this chapter is working in a manner that does not effectively prevent injuries or deaths or protect employees and the public from unsafe conditions as is required by this chapter, the suspension or revocation is effective immediately and shall not be stayed by a request for a hearing.

(c) If the department has revoked or suspended a permit because the conveyance is unsafe or the conveyance work is not permitted and performed in accordance with this chapter, the suspension or revocation is effective immediately and shall not be stayed by a request for a hearing.

(6) The department must remove a suspension or reinstate a revoked license if the licensee pays all the assessed civil penalties and is able to demonstrate to the department that the licensee has met all the qualifications established by this chapter.
The department shall remove a suspension or reinstate a revoked permit if a conveyance is repaired or modified to bring it into compliance with this chapter.

Sec. 23. RCW 70.87.185 and 1983 c 123 s 18 are each amended to read as follows:

(1) The department may assess a penalty against a person violating a provision of this chapter. The penalty shall be not more than five hundred dollars. Each day that the violation continues is a separate violation and is subject to a separate penalty.

(2) The department may not assess a penalty until it adopts rules describing the method it will use to calculate penalties for various violations.

(3) The department shall notify the violator of its action, and the reasons for its action, in writing. The department shall send the notice (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed to the violator's last known address. The notice shall inform the violator that a hearing may be requested under RCW 70.87.170. The hearing shall not stay the effect of the penalty.

Sec. 24. RCW 70.87.205 and 2005 c 433 s 49 are each amended to read as follows:

(1) Disputes arising under RCW 70.87.200(2) shall be resolved by arbitration. The request shall be sent (by certified mail) using a method by which the mailing can be tracked or the delivery can be confirmed.

(2) The department shall appoint one arbitrator; the municipality shall appoint one arbitrator; and the arbitrators chosen by the department and the municipality shall appoint the third arbitrator. If the two arbitrators cannot agree on the third arbitrator, the presiding judge of the Thurston county superior court, or his or her designee, shall appoint the third arbitrator.

(3) The arbitration shall be held pursuant to the procedures in chapter 7.04A RCW, except that RCW 7.04A.280(1)(f) shall not apply. The decision of the arbitrators is final and binding on the parties. Neither party may appeal a decision to any court.
(4) A party may petition the Thurston county superior court to enforce a decision of the arbitrators.

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