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HOUSE BILL 2400

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Constantine, Esser, Lantz, Barlean, Cairnes and Pflug; by request of Office of the Code Reviser

Read first time 01/12/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to technical corrections to various business and  
2 professions laws; amending RCW 18.04.295, 18.20.010, 18.22.040,  
3 18.25.0151, 18.25.0196, 18.25.0197, 18.25.190, 18.27.270, 18.39.010,  
4 18.39.510, 18.44.241, 18.44.261, 18.44.271, 18.44.281, 18.44.291,  
5 18.44.450, 18.48.060, 18.53.040, 18.57.174, 18.57A.060, 18.64.430,  
6 18.71.017, 18.74.012, 18.88A.140, 18.104.020, 18.106.180, 18.106.250,  
7 18.130.172, 18.135.060, 18.145.010, 18.155.010, 18.155.020, 18.155.030,  
8 18.160.030, 18.160.040, 18.165.020, 18.165.130, 18.170.110, 18.185.010,  
9 18.205.030, 18.205.100, 19.02.110, 19.02.800, 19.27A.050, 19.28.015,  
10 19.28.370, 19.30.200, 19.32.150, 19.34.020, 19.34.250, 19.34.901,  
11 19.36.100, 19.40.071, 19.56.010, 19.60.085, 19.68.040, 19.72.040,  
12 19.80.065, 19.85.030, 19.94.258, 19.94.2584, 19.94.310, 19.94.390,  
13 19.94.505, 19.98.020, 19.98.110, 19.105.330, 19.105.470, 19.116.030,  
14 19.116.050, 19.120.080, 19.138.021, 19.146.260, 19.166.090, and  
15 19.174.020; and repealing RCW 18.08.150, 18.08.190, 18.08.220,  
16 18.25.050, 18.32.326, 18.45.010, 18.45.020, 18.45.440, 18.45.450,  
17 18.45.470, and 18.90.010.

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

1       **Sec. 1.** RCW 18.04.295 and 1992 c 103 s 11 are each amended to read  
2 as follows:

3       The board of accountancy shall have the power to revoke, suspend,  
4 (~~for~~) or refuse to renew a certificate or license, and may impose a  
5 fine in an amount not to exceed one thousand dollars plus the board's  
6 investigative and legal costs in bringing charges against a certified  
7 public accountant, or impose conditions precedent to renewal of the  
8 certificate or license of any certified public accountant for any of  
9 the following causes:

10       (1) Fraud or deceit in obtaining a certificate as a certified  
11 public accountant, or in obtaining a license;

12       (2) Dishonesty, fraud, or negligence while representing oneself as  
13 a CPA;

14       (3) A violation of any provision of this chapter;

15       (4) A violation of a rule of professional conduct promulgated by  
16 the board under the authority granted by this chapter;

17       (5) Conviction of a crime or an act constituting a crime under:

18       (a) The laws of this state;

19       (b) The laws of another state, and which, if committed within this  
20 state, would have constituted a crime under the laws of this state; or

21       (c) Federal law;

22       (6) Cancellation, revocation, suspension, or refusal to renew the  
23 authority to practice as a certified public accountant by any other  
24 state for any cause other than failure to pay a fee or to meet the  
25 requirements of continuing education in the other state;

26       (7) Suspension or revocation of the right to practice matters  
27 relating to public accounting before any state or federal agency;

28       For purposes of subsections (6) and (7) of this section, a  
29 certified copy of such revocation, suspension, or refusal to renew  
30 shall be prima facie evidence;

31       (8) Failure to maintain compliance with the requirements for  
32 issuance, renewal, or reinstatement of the certificate or license, or  
33 to report changes to the board;

34       (9) Failure to cooperate with the board by:

35       (a) Failure to furnish any papers or documents requested or ordered  
36 by the board;

37       (b) Failure to furnish in writing a full and complete explanation  
38 covering the matter contained in the complaint filed with the board or  
39 the inquiry of the board;

1 (c) Failure to respond to subpoenas issued by the board, whether or  
2 not the recipient of the subpoena is the accused in the proceeding.

3 EXPLANATORY NOTE

4 Corrects a manifest grammatical error.

5 **Sec. 2.** RCW 18.20.010 and 1985 c 297 s 1 are each amended to read  
6 as follows:

7 The purpose of this chapter is to provide for the development,  
8 establishment, and enforcement of standards for the maintenance and  
9 operation of boarding homes, which, in the light of advancing  
10 knowledge, will promote safe and adequate care of the individuals  
11 therein. It is further the intent of the legislature that boarding  
12 homes be available to meet the needs of those for whom they care by  
13 recognizing the capabilities of individuals to direct their self-  
14 medication or to use supervised self-medication techniques when ordered  
15 and approved by a physician licensed under chapter 18.57 or 18.71 RCW  
16 or a (~~podiatrist~~) podiatric physician and surgeon licensed under  
17 chapter 18.22 RCW.

18 EXPLANATORY NOTE

19 The term "podiatrist" was changed to "podiatric physician and  
20 surgeon" by 1990 c 147.

21 **Sec. 3.** RCW 18.22.040 and 1993 c 29 s 2 are each amended to read  
22 as follows:

23 Before any person may take an examination for the issuance of a  
24 podiatric physician and surgeon license, the applicant shall submit a  
25 completed application and a fee determined by the secretary as provided  
26 in RCW 43.70.250. The applicant shall also furnish the secretary and  
27 the board with satisfactory proof that:

28 (1) The applicant has not engaged in unprofessional conduct as  
29 defined in chapter 18.130 RCW and is not unable to practice with  
30 reasonable skill and safety as a result of a physical or mental  
31 impairment;

32 (2) The applicant has satisfactorily completed a course in an  
33 approved school of podiatric medicine and surgery;

34 (3) The applicant has completed one year (~~{of}~~) of postgraduate  
35 podiatric medical training in a program approved by the board, provided

1 that applicants graduating before July 1, 1993, shall be exempt from  
2 the postgraduate training requirement.

3 EXPLANATORY NOTE

4 Corrects a manifest grammatical error.

5 **Sec. 4.** RCW 18.25.0151 and 1994 sp.s. c 9 s 104 are each amended  
6 to read as follows:

7 The Washington state chiropractic quality assurance commission is  
8 established, consisting of fourteen members appointed by the governor  
9 to four-year terms, and including eleven practicing chiropractors and  
10 three public members. No member may serve more than two consecutive  
11 full terms. In appointing the initial members of the commission, it is  
12 the intent of the legislature that, to the extent possible, the  
13 governor appoint members of the previous boards and committees  
14 regulating this profession to the commission. Members of the  
15 commission hold office until their successors are appointed. The  
16 governor may appoint the members of the initial ~~((commissions~~  
17 ~~{commission}))~~ commission to staggered terms of from one to four years.  
18 Thereafter, all members shall be appointed to full four-year terms.  
19 The governor may consider persons who are recommended for appointment  
20 by chiropractic associations of this state.

21 EXPLANATORY NOTE

22 Corrects a manifest grammatical error.

23 **Sec. 5.** RCW 18.25.0196 and 1974 ex.s. c 97 s 5 are each amended to  
24 read as follows:

25 Notwithstanding any other provision of law, for the purpose of RCW  
26 ~~((8.25.120 through 18.25.150 and 18.25.170))~~ 18.25.0192 through  
27 18.25.0195 and 18.25.0197 it is immaterial whether the cost of any  
28 policy, plan, agreement, or contract be deemed additional compensation  
29 for services, or otherwise.

30 EXPLANATORY NOTE

31 RCW 18.25.120 through 18.25.150 and 18.25.170 were recodified  
32 as RCW 18.25.0192 through 18.25.0195 and 18.25.0197 by 1994  
33 sp.s. c 9 s 120, effective July 1, 1994.

34 **Sec. 6.** RCW 18.25.0197 and 1974 ex.s. c 97 s 6 are each amended to  
35 read as follows:

1 RCW ((~~18.25.120 through 18.25.160~~)) 18.25.0192 through 18.25.0196  
2 shall apply to all agreements, renewals, or contracts issued on or  
3 after July 24, 1974.

4 EXPLANATORY NOTE

5 RCW 18.25.120 through 18.25.160 were recodified as RCW  
6 18.25.0192 through 18.25.0196 by 1994 sp.s. c 9 s 120,  
7 effective July 1, 1994.

8 **Sec. 7.** RCW 18.25.190 and 1994 sp.s. c 9 s 118 are each amended to  
9 read as follows:

10 Nothing in this chapter shall be construed to prohibit:

11 (1) The temporary practice in this state of chiropractic by any  
12 chiropractor licensed by another state, territory, or country in which  
13 he or she resides. However, the chiropractor shall not establish a  
14 practice open to the general public and shall not engage in temporary  
15 practice under this section for a period longer than thirty days. The  
16 chiropractor shall register his or her intention to engage in the  
17 temporary practice of chiropractic in this state with the commission  
18 before engaging in the practice of chiropractic, and shall agree to be  
19 bound by such conditions as may be prescribed by rule by the  
20 commission.

21 (2) The practice of chiropractic, except the administration of a  
22 chiropractic adjustment, by a person who is a regular senior student in  
23 an accredited school of chiropractic approved by the commission if the  
24 practice is part of a regular course of instruction offered by the  
25 school and the student is under the direct supervision and control of  
26 a chiropractor duly licensed pursuant to this chapter and approved by  
27 the commission.

28 (3) The practice of chiropractic by a person serving a period of  
29 postgraduate chiropractic training in a program of clinical  
30 chiropractic training sponsored by a school of chiropractic accredited  
31 in this state if the practice is part of his or her duties as a  
32 clinical postgraduate trainee and the trainee is under the direct  
33 supervision and control of a chiropractor duly licensed pursuant to  
34 this chapter and approved by the commission.

35 (4) The practice of chiropractic by a person who is eligible and  
36 has applied to take the next available examination for licensing  
37 offered by the commission, except that the unlicensed chiropractor must  
38 provide all services under the direct control and supervision of a

1 licensed chiropractor approved by the commission. The unlicensed  
2 chiropractor may continue to practice as provided by this subsection  
3 until the results of the next available examination are published, but  
4 in no case for a period longer than six months. The commission shall  
5 adopt rules necessary to effectuate the intent of this subsection.

6 Any provision of chiropractic services by any individual under  
7 subsection (1), (2), (3), or (4) of this section shall be subject to  
8 the jurisdiction of the commission as provided in chapter(~~s~~~~18.26~~  
9 ~~and~~) 18.130 RCW.

10 EXPLANATORY NOTE

11 Chapter 18.26 RCW was repealed by 1994 sp.s. c 9 s 121,  
12 effective July 1, 1994.

13 **Sec. 8.** RCW 18.27.270 and 1997 c 314 s 16 are each amended to read  
14 as follows:

15 (1) A contractor who is issued a notice of infraction shall respond  
16 within twenty days of the date of issuance of the notice of infraction.

17 (2) If the contractor named in the notice of infraction does not  
18 elect to contest the notice of infraction, then the contractor shall  
19 pay to the department, by check or money order, the amount of the  
20 penalty prescribed for the infraction. When a response which does not  
21 contest the notice of infraction is received by the department with the  
22 appropriate penalty, the department shall make the appropriate entry in  
23 its records.

24 (3) If the contractor named in the notice of infraction elects to  
25 contest the notice of infraction, the contractor shall respond by  
26 filing an answer of protest with the department specifying the grounds  
27 of protest.

28 (4) If any contractor issued a notice of infraction fails to  
29 respond within the prescribed response period, the contractor shall be  
30 guilty of a misdemeanor and prosecuted in the county where the  
31 infraction occurred.

32 (5) After final determination by an administrative law judge that  
33 an infraction has been committed, a contractor who fails to pay a  
34 monetary penalty within thirty days, that is not waived(~~(, reduced, or~~  
35 ~~suspended~~)) pursuant to RCW 18.27.340(2), and who fails to file an  
36 appeal pursuant to RCW 18.27.310(4), shall be guilty of a misdemeanor  
37 and be prosecuted in the county where the infraction occurred.

1 (6) A contractor who fails to pay a monetary penalty within thirty  
2 days after exhausting appellate remedies pursuant to RCW 18.27.310(4),  
3 shall be guilty of a misdemeanor and be prosecuted in the county where  
4 the infraction occurred.

5 (7) If a contractor who is issued a notice of infraction is a  
6 contractor who has failed to register as a contractor under this  
7 chapter, the contractor is subject to a monetary penalty per infraction  
8 as provided in the schedule of penalties established by the department,  
9 and each day the person works without becoming registered is a separate  
10 infraction.

11 EXPLANATORY NOTE

12 RCW 18.27.340(2) was amended by 1997 c 314 s 17, removing the  
13 reference to a reduced or suspended monetary penalty.

14 **Sec. 9.** RCW 18.39.010 and 1989 c 390 s 1 are each amended to read  
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

18 (1) "Funeral director" means a person engaged in the profession or  
19 business of conducting funerals and supervising or directing the burial  
20 and disposal of dead human bodies.

21 (2) "Embalmer" means a person engaged in the profession or business  
22 of disinfecting, preserving or preparing for disposal or transportation  
23 of dead human bodies.

24 (3) "Two-year college course" means the completion of sixty  
25 semester hours or ninety quarter hours of college credit, including the  
26 satisfactory completion of certain college courses, as set forth in  
27 this chapter.

28 (4) "Funeral establishment" means a place of business licensed in  
29 accordance with RCW 18.39.145, conducted at a specific street address  
30 or location, and devoted to the care and preparation for burial or  
31 disposal of dead human bodies and includes all areas of such business  
32 premises and all tools, instruments, and supplies used in preparation  
33 and embalming of dead human bodies for burial or disposal.

34 (5) "Director" means the director of licensing.

35 (6) "Board" means the state board of funeral directors and  
36 embalmers created pursuant to RCW 18.39.173.

37 (7) "Prearrangement funeral service contract" means any contract  
38 under which, for a specified consideration, a funeral establishment

1 promises, upon the death of the person named or implied in the  
2 contract, to furnish funeral merchandise or services.

3 (8) "Funeral merchandise or services" means those services normally  
4 performed and merchandise normally provided by funeral establishments,  
5 including the sale of burial supplies and equipment, but excluding the  
6 sale by a cemetery of lands or interests therein, services incidental  
7 thereto, markers, memorials, monuments, equipment, crypts, niches, or  
8 vaults.

9 (9) "Qualified public depository" means a public depository defined  
10 by RCW 39.58.010, a credit union as governed by chapter 31.12 RCW, a  
11 mutual savings bank as governed by Title 32 RCW, a savings and loan  
12 association as governed by Title 33 RCW, or a federal credit union or  
13 a federal savings and loan association organized, operated, and  
14 governed by any act of congress, in which prearrangement funeral  
15 service contract funds are deposited by any funeral establishment.

16 Words used in this chapter importing the singular may be applied to  
17 the plural of the person or thing, words importing the plural may be  
18 applied to the singular, and words importing the masculine gender may  
19 be applied to the female.

20 EXPLANATORY NOTE

21 The term "depository" was redefined as "public depository" by  
22 1996 c 256 s 1.

23 **Sec. 10.** RCW 18.39.510 and 1994 c 17 s 13 are each amended to read  
24 as follows:

25 (1) Prior to serving a statement of charges, the board may furnish  
26 a statement of allegations to the licensee, registrant, endorsement or  
27 permit holder, or applicant along with a detailed summary of the  
28 evidence relied upon to establish the allegations and a proposed  
29 stipulation for informal resolution of the allegations. These  
30 documents shall be exempt from public disclosure until such time as the  
31 allegations are resolved either by stipulation or otherwise.

32 (2) The board and the licensee, registrant, endorsement or permit  
33 holder, or applicant may stipulate that the allegations may be disposed  
34 of informally in accordance with this subsection. The stipulation  
35 shall contain a statement of the facts leading to the filing of the  
36 complaint; the act or acts of unprofessional conduct alleged to have  
37 been committed or the alleged basis for determining that the licensee,  
38 registrant, endorsement or permit holder, or applicant is unable to

1 practice with reasonable skill and safety; a statement that the  
2 stipulation is not to be construed as a finding of either  
3 unprofessional conduct or inability to practice; an acknowledgement  
4 that a finding of unprofessional conduct or inability to practice, if  
5 proven, constitutes grounds for discipline under this chapter; an  
6 agreement on the part of the licensee, registrant, endorsement or  
7 permit holder, or applicant that the sanctions set forth in this  
8 chapter, except for revocation, suspension, censure, or reprimand of a  
9 licensee, registrant, endorsement (~~(of {or})~~) or permit holder, or  
10 applicant may be imposed as part of the stipulation, except that no  
11 fine may be imposed but the licensee, registrant, endorsement or permit  
12 holder, or applicant may agree to reimburse the board the costs of  
13 investigation and processing the complaint up to an amount not  
14 exceeding one thousand dollars per allegation; and an agreement on the  
15 part of the board to forego further disciplinary proceedings concerning  
16 the allegations. A stipulation entered into pursuant to this  
17 subsection shall not be considered formal disciplinary action.

18 (3) If the licensee, registrant, endorsement or permit holder, or  
19 applicant declines to agree to disposition of the charges by means of  
20 a stipulation pursuant to subsection (2) of this section, the board may  
21 proceed to formal disciplinary action pursuant to this chapter.

22 (4) Upon execution of a stipulation under subsection (2) of this  
23 section by both the licensee, registrant, endorsement or permit holder,  
24 or applicant and the board, the complaint is deemed disposed of and  
25 shall become subject to public disclosure on the same basis and to the  
26 same extent as other records of the board. Should the licensee,  
27 registrant, endorsement or permit (~~(holder {holder})~~) holder, or  
28 applicant fail to pay any agreed reimbursement within thirty days of  
29 the date specified in the stipulation for payment, the board may seek  
30 collection of the amount agreed to be paid in the same manner as  
31 enforcement of a fine under this chapter.

32 EXPLANATORY NOTE

33 Corrects manifest drafting errors.

34 **Sec. 11.** RCW 18.44.241 and 1987 c 471 s 5 are each amended to read  
35 as follows:

36 The following criteria will be considered by the director when  
37 deciding whether to grant a licensed escrow agent a waiver from the

1 errors and omissions policy requirement under RCW (~~18.44.050~~)  
2 18.44.201:

3 (1) Whether the director has determined pursuant to RCW  
4 (~~18.44.360~~) 18.44.221 that an errors and omissions policy is not  
5 reasonably available to a substantial number of licensed escrow agents;

6 (2) Whether purchasing an errors and omissions policy would be  
7 cost-prohibitive for the licensed escrow agent requesting the  
8 exemption;

9 (3) Whether a licensed escrow agent has wilfully violated the  
10 provisions of chapter 18.44 RCW, which violation thereby resulted in  
11 the termination of the agent's certificate, or engaged in any other  
12 conduct resulting in the termination of the escrow certificate;

13 (4) Whether a licensed escrow agent has paid claims directly or  
14 through an errors and omissions carrier, exclusive of costs and  
15 attorney fees, in excess of ten thousand dollars in the calendar year  
16 preceding the year for which the waiver is requested;

17 (5) Whether a licensed escrow agent has paid claims directly or  
18 through an errors or omissions insurance carrier, exclusive of costs  
19 and attorney fees, totaling in excess of twenty thousand dollars in the  
20 three calendar years preceding the calendar year for which the  
21 exemption is requested; and

22 (6) Whether the licensed escrow agent has been convicted of a crime  
23 involving honesty or moral turpitude.

24 These criteria are not intended to be a wholly inclusive list of  
25 factors to be applied by the director when considering the merits of a  
26 licensed escrow agent's request for a waiver of the required errors and  
27 omissions policy.

28 EXPLANATORY NOTE

29 RCW 18.44.050 and 18.44.360 were recodified as RCW 18.44.201  
30 and 18.44.221 pursuant to 1999 c 30 s 37.

31 **Sec. 12.** RCW 18.44.261 and 1987 c 471 s 6 are each amended to read  
32 as follows:

33 The director shall, within thirty days following submission of a  
34 written petition for waiver of the insurance requirements found in RCW  
35 (~~18.44.050~~) 18.44.201, issue a written determination granting or  
36 rejecting an applicant's request for waiver.

37 EXPLANATORY NOTE

1 RCW 18.44.050 was recodified as RCW 18.44.201 pursuant to 1999  
2 c 30 s 37.

3 **Sec. 13.** RCW 18.44.271 and 1987 c 471 s 7 are each amended to read  
4 as follows:

5 Upon granting a waiver of insurance requirements found in RCW  
6 (~~18.44.050~~) 18.44.201, the director shall issue a certificate of  
7 waiver, which certificate shall be mailed to the escrow agent who  
8 requested the waiver.

9 EXPLANATORY NOTE

10 RCW 18.44.050 was recodified as RCW 18.44.201 pursuant to 1999  
11 c 30 s 37.

12 **Sec. 14.** RCW 18.44.281 and 1987 c 471 s 8 are each amended to read  
13 as follows:

14 Upon determining that a licensed escrow agent is to be denied a  
15 waiver of the errors and omissions policy requirements of RCW  
16 (~~18.44.050~~) 18.44.201, the director shall within thirty days of the  
17 denial of an escrow agent's request for same, provide to the escrow  
18 agent a written explanation of the reasons for the director's decision  
19 to deny the requested waiver.

20 EXPLANATORY NOTE

21 RCW 18.44.050 was recodified as RCW 18.44.201 pursuant to 1999  
22 c 30 s 37.

23 **Sec. 15.** RCW 18.44.291 and 1987 c 471 s 9 are each amended to read  
24 as follows:

25 Nothing in RCW (~~18.44.050 and 18.44.375 through 18.44.395~~)  
26 18.44.201, 18.44.241 through 18.44.261, 18.44.271, and 18.44.281 shall  
27 be construed as prohibiting a person applying for an escrow license  
28 from applying for a certificate of waiver of the errors and omissions  
29 policy requirement when seeking an escrow license.

30 EXPLANATORY NOTE

31 RCW 18.44.050 and 18.44.375 through 18.44.395 were recodified  
32 as RCW 18.44.201, 18.44.241 through 18.44.261, 18.44.271, and  
33 18.44.281, respectively, pursuant to 1999 c 30 s 37.



1 have at least two years' experience as licensees. The membership must  
2 generally reflect urban and rural areas and western and eastern parts  
3 of the state. A member may not serve more than two consecutive terms.

4 (2) The secretary may remove a member of the advisory committee for  
5 cause as specified by rule adopted by the department. If there is a  
6 vacancy, the secretary shall appoint a member to serve for the  
7 remainder of the unexpired term.

8 (3) The advisory committee shall meet at the times and places  
9 designated by the secretary and shall hold meetings during the year as  
10 necessary to provide advice to the secretary on matters relating to the  
11 regulation of adult family homes. A majority of the members may  
12 request a meeting of the committee for any express purpose directly  
13 related to the regulation of adult family homes. A majority of members  
14 currently serving shall constitute a quorum.

15 (4) Establishment of the advisory committee shall not prohibit the  
16 department of health from utilizing other advisory activities that the  
17 department of health deems necessary for program development.

18 (5) Each member of the advisory committee shall serve without  
19 compensation but may be reimbursed for travel expenses as authorized in  
20 RCW 43.03.060.

21 (6) The secretary, members of the advisory committee, or  
22 individuals acting on their behalf are immune from civil liability for  
23 official acts performed in the course of their duties.

24 EXPLANATORY NOTE

25 Corrects a manifest error in punctuation.

26 **Sec. 18.** RCW 18.53.040 and 1975 1st ex.s. c 69 s 15 are each  
27 amended to read as follows:

28 Nothing in this chapter shall be construed to pertain in any manner  
29 to the practice of any regularly qualified oculist or physician, who is  
30 regularly licensed to practice medicine in the state of Washington, or  
31 to any person who is regularly licensed to practice as a dispensing  
32 optician in the state of Washington, nor to any person who in the  
33 regular course of trade, sells or offers for sale, spectacles or  
34 eyeglasses as regular merchandise without pretense of adapting them to  
35 the eyes of the purchaser, and not in evasion of this chapter:  
36 PROVIDED, That any such regularly qualified oculist or physician or  
37 other person shall be subject to the provisions of (~~subdivisions (10)~~  
38 ~~through (15) of~~) RCW 18.53.140 (9) through (14), in connection with

1 the performance of any function coming within the definition of the  
2 practice of optometry as defined in this chapter: PROVIDED FURTHER,  
3 HOWEVER, That in no way shall this section be construed to permit a  
4 dispensing optician to practice optometry as defined in this 1975  
5 amendatory act.

6 EXPLANATORY NOTE

7 RCW 18.53.140 was amended by 1986 c 259 s 82, changing  
8 subsections (10) through (15) to subsections (9) through (14),  
9 respectively.

10 **Sec. 19.** RCW 18.57.174 and 1986 c 300 s 9 are each amended to read  
11 as follows:

12 ((~~{(1)}~~)) (1) A health care professional licensed under chapter  
13 18.57 RCW shall report to the board when he or she has personal  
14 knowledge that a practicing osteopathic physician has either committed  
15 an act or acts which may constitute statutorily defined unprofessional  
16 conduct or that a practicing osteopathic physician may be unable to  
17 practice osteopathic medicine with reasonable skill and safety to  
18 patients by reason of illness, drunkenness, excessive use of drugs,  
19 narcotics, chemicals, or any other type of material, or as a result of  
20 any impairing mental or physical conditions.

21 (2) Reporting under this section is not required by:

22 (a) An appropriately appointed peer review committee member of a  
23 licensed hospital or by an appropriately designated professional review  
24 committee member of an osteopathic medical society during the  
25 investigative phase of their respective operations if these  
26 investigations are completed in a timely manner; or

27 (b) A treating licensed health care professional of an osteopathic  
28 physician currently involved in a treatment program as long as the  
29 physician patient actively participates in the treatment program and  
30 the physician patient's impairment does not constitute a clear and  
31 present danger to the public health, safety, or welfare.

32 (3) The board may impose disciplinary sanctions, including license  
33 suspension or revocation, on any health care professional subject to  
34 the jurisdiction of the board who has failed to comply with this  
35 section.

36 EXPLANATORY NOTE

37 Corrects a manifest clerical error.



1 prescribing physician for all patients rather than as individually  
2 itemized reports. All efforts should be made to utilize the existing  
3 computerized records and software to provide this information in the  
4 least costly format.

5 EXPLANATORY NOTE

6 Corrects a grammatical deficiency.

7 **Sec. 22.** RCW 18.71.017 and 1994 sp.s. c 9 s 304 are each amended  
8 to read as follows:

9 The ((~~board~~ [commission])) commission may adopt such rules as are  
10 not inconsistent with the laws of this state as may be determined  
11 necessary or proper to carry out the purposes of this chapter. The  
12 commission is the successor in interest of the board of medical  
13 examiners and the medical disciplinary board. All contracts,  
14 undertakings, agreements, rules, regulations, and policies continue in  
15 full force and effect on July 1, 1994, unless otherwise repealed or  
16 rejected by this chapter or by the commission.

17 EXPLANATORY NOTE

18 Corrects the reference to the Washington state medical quality  
19 assurance commission.

20 **Sec. 23.** RCW 18.74.012 and 1991 c 12 s 2 are each amended to read  
21 as follows:

22 Notwithstanding the provisions of RCW 18.74.010(((+4))) (3), a  
23 consultation and periodic review by an authorized health care  
24 practitioner is not required for treatment of neuromuscular or  
25 musculoskeletal conditions: PROVIDED, That a physical therapist may  
26 only provide treatment utilizing orthoses that support, align, prevent,  
27 or correct any structural problems intrinsic to the foot or ankle by  
28 referral or consultation from an authorized health care practitioner.

29 EXPLANATORY NOTE

30 RCW 18.74.010 was amended by 1991 c 12 s 1 and subsection (4)  
31 was renumbered as subsection (3).

32 **Sec. 24.** RCW 18.88A.140 and 1991 c 16 s 5 are each amended to read  
33 as follows:

34 Nothing in this chapter may be construed to prohibit or restrict:

1 (1) The practice by an individual licensed, certified, or  
2 registered under the laws of this state and performing services within  
3 their authorized scope of practice;

4 (2) The practice by an individual employed by the government of the  
5 United States while engaged in the performance of duties prescribed by  
6 the laws of the United States;

7 (3) The practice by a person who is a regular student in an  
8 educational program approved by the secretary, and whose performance of  
9 services (~~([is])~~) is pursuant to a regular course of instruction or  
10 assignments from an instructor and under the general supervision of the  
11 instructor.

12 EXPLANATORY NOTE

13 Corrects a manifest grammatical error.

14 **Sec. 25.** RCW 18.104.020 and 1993 c 387 s 2 are each amended to  
15 read as follows:

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

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

20 (2) "Constructing a well" or "construct a well" means:

21 (a) Boring, digging, drilling, or excavating a well;

22 (b) Installing casing, sheeting, lining, or well screens, in a  
23 well; or

24 (c) Drilling a geotechnical soil boring.

25 "Constructing a well" or "construct a well" includes the alteration  
26 of an existing well.

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

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

31 (5) "Dewatering well" means a cased or lined excavation or boring  
32 that is intended to withdraw or divert ground water for the purpose of  
33 facilitating construction, stabilizing a landslide, or protecting an  
34 aquifer.

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

36 (7) "Geotechnical soil boring" or "boring" means an uncased well  
37 drilled for purpose of obtaining soil samples to ascertain structural  
38 properties of the subsurface. Geotechnical soil boring includes auger

1 borings, rotary borings, cone penetrometer probes and vane shear  
2 probes, or any other uncased ground penetration for geotechnical  
3 information.

4 (8) "Ground water" means and includes ground waters as defined in  
5 RCW 90.44.035.

6 (9) "Instrumentation well" means a well in which pneumatic or  
7 electric geotechnical or hydrological instrumentation is permanently or  
8 periodically installed to measure or monitor subsurface strength and  
9 movement. Instrumentation well includes borehole extensometers, slope  
10 indicators, pneumatic or electric pore pressure transducers, and load  
11 cells.

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

15 (11) "Observation well" means a well designed to measure the depth  
16 to the water level elevation in either clean or contaminated water or  
17 soil.

18 (12) "Operator" means a person who (a) is employed by a well  
19 contractor; (b) is licensed under this chapter; or (c) who controls,  
20 supervises, or oversees the construction of a well or who operates well  
21 construction equipment.

22 (13) "Owner" or "well owner" means the person, firm, partnership,  
23 copartnership, corporation, association, or other entity who  
24 owns the property on which the well is or will be constructed.

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

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

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

36 (17) "Water well" means any excavation that is constructed when the  
37 intended use of the well is for the location, diversion, artificial  
38 recharge, observation, monitoring, dewatering, or withdrawal of ground  
39 water.

1 (18) "Water well contractor" means any person, firm, partnership,  
2 copartnership, corporation, association, or other entity, licensed and  
3 bonded under chapter 18.27 RCW, engaged in the business of constructing  
4 water wells.

5 (19) "Well" means water wells, resource protection wells,  
6 instrumentation wells, dewatering wells, and geotechnical soil borings.  
7 Well does not mean an excavation made for the purpose of obtaining or  
8 prospecting for oil, natural gas, geothermal resources, minerals, or  
9 products of mining, or quarrying, or for inserting media to repressure  
10 oil or natural gas bearing formations, or for storing petroleum,  
11 natural gas, or other products.

12 (20) "Well contractor" means a resource protection well contractor  
13 and a water well contractor.

14 EXPLANATORY NOTE

15 Corrects a manifest error in punctuation.

16 **Sec. 26.** RCW 18.106.180 and 1996 c 147 s 4 are each amended to  
17 read as follows:

18 An authorized representative of the department may issue a notice  
19 of infraction as specified in RCW 18.106.020(~~(+3)~~) (4) if a person who  
20 is doing plumbing work or who is offering to do plumbing work fails to  
21 produce evidence of having a certificate or permit issued by the  
22 department in accordance with this chapter or of being supervised by a  
23 person who has such a certificate or permit. A notice of infraction  
24 issued under this section shall be personally served on the person  
25 named in the notice by an authorized representative of the department  
26 or sent by certified mail to the last known address provided to the  
27 department of the person named in the notice.

28 EXPLANATORY NOTE

29 RCW 18.106.020 was amended by 1997 c 326 s 3, changing  
30 subsection (3) to subsection (4).

31 **Sec. 27.** RCW 18.106.250 and 1994 c 174 s 7 are each amended to  
32 read as follows:

33 (1) The administrative law judge shall conduct notice of infraction  
34 cases under this chapter pursuant to chapter 34.05 RCW.

35 (2) The burden of proof is on the department to establish the  
36 commission of the infraction by a preponderance of the evidence. The

1 notice of infraction shall be dismissed if the defendant establishes  
2 that, at the time the notice was issued:

3 (a) The defendant who was issued a notice of infraction authorized  
4 by RCW 18.106.020(~~(+3)(a)~~) (4)(a) had a certificate or permit issued  
5 by the department in accordance with this chapter, was supervised by a  
6 person who has such a certificate or permit, or was exempt from this  
7 chapter under RCW 18.106.150; or

8 (b) For the defendant who was issued a notice of infraction  
9 authorized by RCW 18.106.020(~~(+3)~~) (4) (b) or (c), the person employed  
10 or supervised by the defendant has a certificate or permit issued by  
11 the department in accordance with this chapter, was supervised by a  
12 person who had such a certificate or permit, or was exempt from this  
13 chapter under RCW 18.106.150.

14 (3) After consideration of the evidence and argument, the  
15 administrative law judge shall determine whether the infraction was  
16 committed. If it has not been established that the infraction was  
17 committed, an order dismissing the notice shall be entered in the  
18 record of the proceedings. If it has been established that the  
19 infraction was committed, the administrative law judge shall issue  
20 findings of fact and conclusions of law in its decision and order  
21 determining whether the infraction was committed.

22 (4) An appeal from the administrative law judge's determination or  
23 order shall be to the superior court. The decision of the superior  
24 court is subject only to discretionary review pursuant to Rule 2.3 of  
25 the Rules of Appellate Procedure.

26 EXPLANATORY NOTE

27 RCW 18.106.020 was amended by 1997 c 326 s 3, changing  
28 subsection (3) to subsection (4).

29 **Sec. 28.** RCW 18.130.172 and 1993 c 367 s 7 are each amended to  
30 read as follows:

31 (1) Prior to serving a statement of charges under RCW 18.130.090 or  
32 18.130.170, the disciplinary authority may furnish a statement of  
33 allegations to the licensee or applicant along with a detailed summary  
34 of the evidence relied upon to establish the allegations and a proposed  
35 stipulation for informal resolution of the allegations. These  
36 documents shall be exempt from public disclosure until such time as the  
37 allegations are resolved either by stipulation or otherwise.

1 (2) The disciplinary authority and the applicant or licensee may  
2 stipulate that the allegations may be disposed of informally in  
3 accordance with this subsection. The stipulation shall contain a  
4 statement of the facts leading to the filing of the complaint; the act  
5 or acts of unprofessional (~~conducted~~ ~~[conduct]~~) conduct alleged to  
6 have been committed or the alleged basis for determining that the  
7 applicant or licensee is unable to practice with reasonable skill and  
8 safety; a statement that the stipulation is not to be construed as a  
9 finding of either unprofessional conduct or inability to practice; an  
10 acknowledgement that a finding of unprofessional conduct or inability  
11 to practice, if proven, constitutes grounds for discipline under this  
12 chapter; and an agreement on the part of the licensee or applicant that  
13 the sanctions set forth in RCW 18.130.160, except RCW 18.130.160 (1),  
14 (2), (6), and (8), may be imposed as part of the stipulation, except  
15 that no fine may be imposed but the licensee or applicant may agree to  
16 reimburse the disciplinary authority the costs of investigation and  
17 processing the complaint up to an amount not exceeding one thousand  
18 dollars per allegation; and an agreement on the part of the  
19 disciplinary authority to forego further disciplinary proceedings  
20 concerning the allegations. A stipulation entered into pursuant to  
21 this subsection shall not be considered formal disciplinary action.

22 (3) If the licensee or applicant declines to agree to disposition  
23 of the charges by means of a stipulation pursuant to subsection (2) of  
24 this section, the disciplinary authority may proceed to formal  
25 disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

26 (4) Upon execution of a stipulation under subsection (2) of this  
27 section by both the licensee or applicant and the disciplinary  
28 authority, the complaint is deemed disposed of and shall become subject  
29 to public disclosure on the same basis and to the same extent as other  
30 records of the disciplinary authority. Should the licensee or  
31 applicant fail to pay any agreed reimbursement within thirty days of  
32 the date specified in the stipulation for payment, the disciplinary  
33 authority may seek collection of the amount agreed to be paid in the  
34 same manner as enforcement of a fine under RCW 18.130.165.

35 EXPLANATORY NOTE

36 Corrects a manifest grammatical error.

37 **Sec. 29.** RCW 18.135.060 and 1993 c 13 s 1 are each amended to read  
38 as follows:

1 (1) Except as provided in subsection (2) of this section:

2 (a) Any health care assistant certified pursuant to this chapter  
3 shall perform the functions authorized in this chapter only by  
4 delegation of authority from the health care practitioner and under the  
5 supervision of a health care practitioner acting within the scope of  
6 his or her license. In the case of subcutaneous, intradermal and  
7 intramuscular and intravenous injections, a health care assistant may  
8 perform such functions only under the supervision of a health care  
9 practitioner having authority, within the scope of his or her license,  
10 to order such procedures.

11 (b) The health care practitioner who ordered the procedure or a  
12 health care practitioner who could order the procedure under his or her  
13 license shall be physically present in the immediate area of a hospital  
14 or nursing home where the injection is administered. Sensitivity  
15 agents being administered intradermally or by the scratch method are  
16 excluded from this requirement.

17 (2) A health care assistant trained by a federally approved end-  
18 stage renal disease facility may perform venipuncture for blood  
19 withdrawal, administration of oxygen as necessary by cannula or mask,  
20 venipuncture for placement of fistula needles, intravenous  
21 administration of heparin and sodium chloride solutions as an integral  
22 part of dialysis treatment, and intradermal, subcutaneous, or topical  
23 administration of local anesthetics in conjunction with placement of  
24 fistula needles, and intraperitoneal administration of sterile  
25 electrolyte solutions and heparin for peritoneal dialysis: (a) In the  
26 center or health care facility if a registered nurse licensed under  
27 chapter ~~((18.88))~~ 18.79 RCW is physically present and immediately  
28 available in such center or health care facility; or (b) in the  
29 patient's home if a physician and a registered nurse are available for  
30 consultation during the dialysis.

31 EXPLANATORY NOTE

32 Chapter 18.88 RCW was repealed by 1994 sp.s. c 9 s 433,  
33 effective July 1, 1994, and replaced by chapter 18.79 RCW.

34 **Sec. 30.** RCW 18.145.010 and 1989 c 382 s 2 are each amended to  
35 read as follows:

36 (1) No person may represent himself or herself as a ~~((shorthand~~  
37 ~~reporter or a))~~ court reporter without first obtaining a certificate as  
38 required by this chapter.

1 (2) A person represents himself or herself to be a (~~shorthand~~  
2 ~~reporter or~~) court reporter when the person adopts or uses any title  
3 or description of services that incorporates one or more of the  
4 following terms: "Shorthand reporter," "court reporter," "certified  
5 shorthand reporter," or "certified court reporter."

6 EXPLANATORY NOTE

7 "Shorthand reporter" or "court reporter" now just "court  
8 reporter" pursuant to 1995 c 27.

9 **Sec. 31.** RCW 18.155.010 and 1990 c 3 s 801 are each amended to  
10 read as follows:

11 The legislature finds that sex offender therapists who examine and  
12 treat sex offenders pursuant to the special sexual offender sentencing  
13 alternative under RCW 9.94A.120(~~((7)(a))~~) (8)(a) and who may treat  
14 juvenile sex offenders pursuant to RCW 13.40.160, play a vital role in  
15 protecting the public from sex offenders who remain in the community  
16 following conviction. The legislature finds that the qualifications,  
17 practices, techniques, and effectiveness of sex offender treatment  
18 providers vary widely and that the court's ability to effectively  
19 determine the appropriateness of granting the sentencing alternative  
20 and monitoring the offender to ensure continued protection of the  
21 community is undermined by a lack of regulated practices. The  
22 legislature recognizes the right of sex offender therapists to  
23 practice, consistent with the paramount requirements of public safety.  
24 Public safety is best served by regulating sex offender therapists  
25 whose clients are being evaluated and being treated pursuant to RCW  
26 9.94A.120(~~((7)(a))~~) (8)(a) and 13.40.160. This chapter shall be  
27 construed to require only those sex offender therapists who examine and  
28 treat sex offenders pursuant to RCW 9.94A.120(~~((7)(a))~~) (8)(a) and  
29 13.40.160 to obtain a sexual offender treatment certification as  
30 provided in this chapter.

31 EXPLANATORY NOTE

32 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing  
33 subsection (7) to subsection (8).

34 **Sec. 32.** RCW 18.155.020 and 1990 c 3 s 802 are each amended to  
35 read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter:

3 (1) "Certified sex offender treatment provider" means a licensed,  
4 certified, or registered health professional who is certified to  
5 examine and treat sex offenders pursuant to RCW 9.94A.120(~~((7))(a))~~)  
6 (8)(a) and 13.40.160.

7 (2) "Department" means the department of health.

8 (3) "Secretary" means the secretary of health.

9 (4) "Sex offender treatment provider" means a person who counsels  
10 or treats sex offenders accused of or convicted of a sex offense as  
11 defined by RCW 9.94A.030.

12 EXPLANATORY NOTE

13 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing  
14 subsection (7) to subsection (8).

15 **Sec. 33.** RCW 18.155.030 and 1990 c 3 s 803 are each amended to  
16 read as follows:

17 (1) No person shall represent himself or herself as a certified sex  
18 offender treatment provider without first applying for and receiving a  
19 certificate pursuant to this chapter.

20 (2) Only a certified sex offender treatment provider may perform or  
21 provide the following services:

22 (a) Evaluations conducted for the purposes of and pursuant to RCW  
23 9.94A.120(~~((7))(a))~~) (8)(a) and 13.40.160;

24 (b) Treatment of convicted sex offenders who are sentenced and  
25 ordered into treatment pursuant to RCW 9.94A.120(~~((7))(a))~~) (8)(a) and  
26 adjudicated juvenile sex offenders who are ordered into treatment  
27 pursuant to RCW 13.40.160.

28 EXPLANATORY NOTE

29 RCW 9.94A.120 was amended by 1995 c 108 s 3, changing  
30 subsection (7) to subsection (8).

31 **Sec. 34.** RCW 18.160.030 and 1992 c 116 s 2 are each amended to  
32 read as follows:

33 (1) This chapter shall be administered by the state director of  
34 fire protection.

35 (2) The state director of fire protection shall have the authority,  
36 and it shall be his or her duty to:

1 (a) Issue such administrative regulations as necessary for the  
2 administration of this chapter;

3 (b)(i) Set reasonable fees for licenses, certificates, testing, and  
4 other aspects of the administration of this chapter. However, the  
5 license fee for fire protection sprinkler system contractors engaged  
6 solely in the installation, inspection, maintenance, or servicing of  
7 NFPA 13-D fire protection sprinkler systems shall not exceed one  
8 hundred dollars, and the license fee for fire protection sprinkler  
9 system contractors engaged solely in the installation, inspection,  
10 maintenance, or servicing of NFPA 13-R fire protection sprinkler  
11 systems shall not exceed three hundred dollars;

12 (ii) Adopt rules establishing a special category restricted to  
13 contractors registered under chapter 18.27 RCW who install underground  
14 systems that service fire protection sprinkler systems. The rules  
15 shall be adopted within ninety days of March 31, 1992;

16 (c) Enforce the provisions of this chapter;

17 (d) Conduct investigations of complaints to determine if any  
18 infractions of this chapter or the regulations developed under this  
19 chapter have occurred;

20 ~~(e) ((Work with the fire sprinkler advisory committee consisting of  
21 fire protection sprinkler system contractors and other related  
22 officials;~~

23 ~~(f))~~ Assign a certificate number to each certificate of competency  
24 holder; and

25 ~~((g))~~ (f) Adopt rules necessary to implement and administer a  
26 program which requires the affixation of a seal any time a fire  
27 protection sprinkler system is installed, which seal shall include the  
28 certificate number of any certificate of competency holder who  
29 installs, in whole or in part, the fire protection sprinkler system.

30 EXPLANATORY NOTE

31 The section creating the fire sprinkler advisory committee,  
32 1990 c 177 s 9, was vetoed by the governor.

33 **Sec. 35.** RCW 18.160.040 and 1990 c 177 s 5 are each amended to  
34 read as follows:

35 (1) To become a certificate of competency holder under this  
36 chapter, an applicant must have satisfactorily passed an examination  
37 administered by the state director of fire protection. A certificate  
38 of competency holder can satisfy this examination requirement by

1 presenting a copy of a current certificate of competency from the  
2 national institute for certification in engineering technologies  
3 showing that the applicant has achieved the classification of  
4 engineering technician level 3 or senior engineering technician level  
5 4 in the field of fire protection, automatic sprinkler system layout.  
6 The state director of fire protection may accept equivalent proof of  
7 qualification in lieu of examination(~~(, as recommended by the fire~~  
8 ~~sprinkler advisory committee)~~). This examination requirement is  
9 mandatory except as otherwise provided in this chapter.

10 (2) Every applicant for a certificate of competency shall fulfill  
11 the requirements established by the state director of fire protection  
12 (~~(and the fire protection sprinkler system technical advisory~~  
13 ~~committee)~~) under chapter 34.05 RCW.

14 (3) Every applicant for a certificate of competency shall make  
15 application to the state director of fire protection and pay the fees  
16 required.

17 (4) Provided the application for the certificate of competency is  
18 made prior to ninety days after May 1, 1991, the state director of fire  
19 protection, in lieu of the examination requirements of the applicant  
20 for a certificate of competency, may accept as satisfactory evidence of  
21 competency and qualification, affidavits attesting that the applicant  
22 has had a minimum of three years' experience.

23 (5) The state director of fire protection may(~~(, after consultation~~  
24 ~~with the fire sprinkler advisory committee,)~~) issue a temporary  
25 certificate of competency to an applicant who, in his or her judgment,  
26 will satisfactorily perform as a certificate of competency holder under  
27 the provisions of this chapter. The temporary certificate of  
28 competency shall remain in effect for a period of up to three years.  
29 The temporary certificate of competency holder shall, within the three-  
30 year period, complete the examination requirements specified in  
31 subsection (1) of this section. There shall be no examination  
32 exemption for an individual issued a temporary certificate of  
33 competency. Prior to the expiration of the three-year period, the  
34 temporary certificate of competency holder shall make application for  
35 a regular certificate of competency. The procedures and qualifications  
36 for issuance of a regular certificate of competency shall be applicable  
37 to the temporary certificate of competency holder. When a temporary  
38 certificate of competency expires, the holder shall cease all

1 activities associated with the holding of a temporary certificate of  
2 competency, subject to the penalties contained in this chapter.

3 (6) To become a licensed fire protection sprinkler system  
4 contractor under this chapter, a person or firm must comply with the  
5 following:

6 (a) Must be or have in his or her full-time employ a holder of a  
7 valid certificate of competency;

8 (b) Comply with the minimum insurance requirements of this chapter;  
9 and

10 (c) Make application to the state director of fire protection for  
11 a license and pay the fees required.

12 (7) Each license and certificate of competency issued under this  
13 chapter must be posted in a conspicuous place in the fire protection  
14 sprinkler system contractor's place of business.

15 (8) All bids, advertisements, proposals, offers, and installation  
16 drawings for fire protection sprinkler systems must prominently display  
17 the fire protection sprinkler system contractor's license number.

18 (9) A certificate of competency or license issued under this  
19 chapter is not transferable.

20 (10) In no case shall a certificate of competency holder be  
21 employed full time by more than one fire protection sprinkler system  
22 contractor at the same time. If the certificate of competency holder  
23 should leave the employment of the fire protection sprinkler system  
24 contractor, he or she must notify the state director of fire protection  
25 within thirty days. If the certificate of competency holder should  
26 leave the employment of the fire protection sprinkler system  
27 contractor, the contractor shall have six months or until the  
28 expiration of the current license, whichever occurs last, to submit a  
29 new application identifying another certificate of competency holder  
30 who is at the time of application an owner of the fire protection  
31 sprinkler system business or a full-time employee of the fire  
32 protection sprinkler system contractor, in order to be issued a new  
33 license. If such application is not received and a new license issued  
34 within the allotted time, the state director of fire protection shall  
35 revoke the license of the fire protection sprinkler system contractor.

36 EXPLANATORY NOTE

37 The section creating the fire sprinkler advisory committee,  
38 1990 c 177 s 9, was vetoed by the governor.



1 transferred to the department of financial institutions by 1993  
2 c 472, effective October 1, 1993. See chapter 43.320 RCW.

3 **Sec. 37.** RCW 18.165.130 and 1995 c 277 s 31 are each amended to  
4 read as follows:

5 (1) A private investigator agency shall notify the director within  
6 thirty days after the death or termination of employment of any  
7 employee who is a licensed private investigator or armed private  
8 investigator by returning the license to the department with the word  
9 (~~terminated~~) "terminated" written across the face of the  
10 license, the date of termination, and the signature of the principal of  
11 the private investigator company.

12 (2) A private investigator agency shall notify the director within  
13 seventy-two hours and the chief law enforcement officer of the county,  
14 city, or town in which the agency is located immediately upon receipt  
15 of information affecting a licensed private investigator's or armed  
16 private investigator's continuing eligibility to hold a license under  
17 the provisions of this chapter.

18 (3) A private investigator company shall notify the local law  
19 enforcement agency whenever an employee who is an armed private  
20 investigator discharges his or her firearm while on duty other than on  
21 a supervised firearm range. The notification shall be made within ten  
22 business days of the date the firearm is discharged.

23 EXPLANATORY NOTE

24 Corrects a manifest grammatical error.

25 **Sec. 38.** RCW 18.170.110 and 1995 c 277 s 8 are each amended to  
26 read as follows:

27 (1) A private security company shall notify the director within  
28 thirty days after the death or termination of employment of any  
29 employee who is a licensed private security guard or armed private  
30 security guard by returning the license to the department with the word  
31 (~~terminated~~) "terminated" written across the face of the  
32 license, the date of termination, and the signature of the principal or  
33 the principal's designee of the private security guard company.

34 (2) A private security company shall notify the department within  
35 seventy-two hours and the chief law enforcement officer of the county,  
36 city, or town in which the private security guard or armed private  
37 security guard was last employed immediately upon receipt of

1 information affecting his or her continuing eligibility to hold a  
2 license under the provisions of this chapter.

3 (3) A private security guard company shall notify the local law  
4 enforcement agency whenever an employee who is an armed private  
5 security guard discharges his or her firearm while on duty other than  
6 on a supervised firearm range. The notification shall be made within  
7 ten business days of the date the firearm is discharged.

8 EXPLANATORY NOTE

9 Corrects a manifest grammatical error.

10 **Sec. 39.** RCW 18.185.010 and 1996 c 242 s 1 are each amended to  
11 read as follows:

12 Unless the context clearly requires otherwise, the definitions in  
13 this section apply throughout this chapter.

14 (1) "Department" means the department of licensing.

15 (2) "Director" means the director of licensing.

16 (3) "Collateral or security" means property of any kind given as  
17 security to obtain a bail bond.

18 (4) "Bail bond agency" means a business that sells and issues  
19 corporate surety bail bonds or that provides security in the form of  
20 personal or real property to insure the appearance of a criminal  
21 defendant before the courts of this state or the United States.

22 (5) "Qualified agent" means an owner, sole proprietor, partner,  
23 manager, officer, or chief operating officer of a corporation who meets  
24 the requirements set forth in this chapter for obtaining a bail bond  
25 agency license.

26 (6) "Bail bond agent" means a person who is employed by a bail bond  
27 agency and engages in the sale or issuance of bail bonds, but does not  
28 mean a clerical, secretarial, or other support person who does not  
29 participate in the sale or issuance of bail bonds.

30 (7) "Licensee" means a bail bond agency or a bail bond agent or  
31 both.

32 (8) "Branch office" means any office physically separated from the  
33 principal place of business of the licensee from which the licensee or  
34 an employee or agents conduct any activity meeting the criteria of  
35 ((~~fa~~)) a bail bond agency.

36 EXPLANATORY NOTE

37 Corrects a manifest grammatical error.





1 in which the city or town is located shall choose a fifth person. A  
2 decision of the arbitration panel may be appealed to the superior court  
3 of the county in which the city or town is located within thirty days  
4 after the date the panel issues its final decision.

5 EXPLANATORY NOTE

6 RCW 19.28.010 was reenacted and amended by 1992 c 79 s 2,  
7 changing subsection (2) to subsection (3).

8 **Sec. 46.** RCW 19.28.370 and 1980 c 30 s 17 are each amended to read  
9 as follows:

10 The provisions of RCW 19.28.010 through (~~19.28.380~~) 19.28.360  
11 shall not apply to the work of installing, maintaining or repairing any  
12 and all electrical wires, apparatus, installations or equipment used or  
13 to be used by a telegraph company or a telephone company in the  
14 exercise of its functions and located outdoors or in a building or  
15 buildings used exclusively for that purpose.

16 EXPLANATORY NOTE

17 RCW 19.28.380 was repealed by 1986 c 156 s 18.

18 **Sec. 47.** RCW 19.30.200 and 1985 c 280 s 14 are each amended to  
19 read as follows:

20 Any person who knowingly uses the services of an unlicensed farm  
21 labor contractor shall be personally, jointly, and severally liable  
22 with the person acting as a farm labor contractor to the same extent  
23 and in the same manner as provided in this chapter. In making  
24 determinations under this (~~subsection~~ ~~[section]~~) section, any user  
25 may rely upon either the license issued by the director to the farm  
26 labor contractor under RCW 19.30.030 or the director's representation  
27 that such contractor is licensed as required by this chapter.

28 EXPLANATORY NOTE

29 Corrects an inaccurate reference.

30 **Sec. 48.** RCW 19.32.150 and 1943 c 117 s 8 are each amended to read  
31 as follows:

32 The director of agriculture shall cause to be made periodically a  
33 thorough inspection of each establishment licensed under this chapter  
34 to determine whether or not the premises are constructed, equipped and  
35 operated in accordance with the requirements of this chapter and of all

1 other laws of this state applicable to the operation either of  
2 refrigerated lockers or of the handling of human food in connection  
3 therewith, and of all regulations effective under this chapter relative  
4 to such operation. Such inspection shall also be made of each vehicle  
5 used by (~~an~~) an operator of refrigerated lockers or of an  
6 establishment handling human food in connection therewith, when such  
7 vehicle is used in transporting or distributing human food products to  
8 or from refrigerated lockers within this state.

9 EXPLANATORY NOTE

10 Corrects a manifest grammatical error.

11 **Sec. 49.** RCW 19.34.020 and 1999 c 287 s 2 are each amended to read  
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter:

15 (1) "Accept a certificate" means to manifest approval of a  
16 certificate, while knowing or having notice of its contents. Such  
17 approval may be manifested by the use of the certificate.

18 (2) "Accept a digital signature" means to verify a digital  
19 signature or take an action in reliance on a digital signature.

20 (3) "Asymmetric cryptosystem" means an algorithm or series of  
21 algorithms that provide a secure key pair.

22 (4) "Certificate" means a computer-based record that:

23 (a) Identifies the certification authority issuing it;

24 (b) Names or identifies its subscriber;

25 (c) Contains the subscriber's public key; and

26 (d) Is digitally signed by the certification authority issuing it.

27 (5) "Certification authority" means a person who issues a  
28 certificate.

29 (6) "Certification authority disclosure record" means an on-line,  
30 publicly accessible record that concerns a licensed certification  
31 authority and is kept by the secretary.

32 (7) "Certification practice statement" means a declaration of the  
33 practices that a certification authority employs in issuing  
34 certificates.

35 (8) "Certify" means to declare with reference to a certificate,  
36 with ample opportunity to reflect, and with a duty to apprise oneself  
37 of all material facts.

1 (9) "Confirm" means to ascertain through appropriate inquiry and  
2 investigation.

3 (10) "Correspond," with reference to keys, means to belong to the  
4 same key pair.

5 (11) "Digital signature" means an electronic signature that is a  
6 transformation of a message using an asymmetric cryptosystem such that  
7 a person having the initial message and the signer's public key can  
8 accurately determine:

9 (a) Whether the transformation was created using the private key  
10 that corresponds to the signer's public key; and

11 (b) Whether the initial message has been altered since the  
12 transformation was made.

13 (12) "Electronic" means electrical, digital, magnetic, optical,  
14 electromagnetic, or any other form of technology that entails  
15 capabilities similar to these technologies.

16 (13) "Electronic record" means a record generated, communicated,  
17 received, or stored by electronic means for use in an information  
18 system or for transmission from one information system to another.

19 (14) "Electronic signature" means a signature in electronic form  
20 attached to or logically associated with an electronic record,  
21 including but not limited to a digital signature.

22 (15) "Financial institution" means a national or state-chartered  
23 commercial bank or trust company, savings bank, savings association, or  
24 credit union authorized to do business in the state of Washington and  
25 the deposits of which are federally insured.

26 (16) "Forge a digital signature" means either:

27 (a) To create a digital signature without the authorization of the  
28 rightful holder of the private key; or

29 (b) To create a digital signature verifiable by a certificate  
30 listing as subscriber a person who either:

31 (i) Does not exist; or

32 (ii) Does not hold the private key corresponding to the public key  
33 listed in the certificate.

34 (17) "Hold a private key" means to be authorized to utilize a  
35 private key.

36 (18) "Incorporate by reference" means to make one message a part of  
37 another message by identifying the message to be incorporated and  
38 expressing the intention that it be incorporated.

1 (19) "Issue a certificate" means the acts of a certification  
2 authority in creating a certificate and notifying the subscriber listed  
3 in the certificate of the contents of the certificate.

4 (20) "Key pair" means a private key and its corresponding public  
5 key in an asymmetric cryptosystem, keys which have the property that  
6 the public key can verify a digital signature that the private key  
7 creates.

8 (21) "Licensed certification authority" means a certification  
9 authority to whom a license has been issued by the secretary and whose  
10 license is in effect.

11 (22) "Message" means a digital representation of information.

12 (23) "Notify" means to communicate a fact to another person in a  
13 manner reasonably likely under the circumstances to impart knowledge of  
14 the information to the other person.

15 (24) "Official public business" means any legally authorized  
16 transaction or communication among state agencies, tribes, and local  
17 governments, or between a state agency, tribe, or local government and  
18 a private person or entity.

19 (25) "Operative personnel" means one or more natural persons acting  
20 as a certification authority or its agent, or in the employment of, or  
21 under contract with, a certification authority, and who have:

22 (a) Duties directly involving the issuance of certificates,  
23 (~~{or}~~) or creation of private keys;

24 (b) Responsibility for the secure operation of the trustworthy  
25 system used by the certification authority or any recognized  
26 repository;

27 (c) Direct responsibility, beyond general supervisory authority,  
28 for establishing or adopting policies regarding the operation and  
29 security of the certification authority; or

30 (d) Such other responsibilities or duties as the secretary may  
31 establish by rule.

32 (26) "Person" means a human being or an organization capable of  
33 signing a document, either legally or as a matter of fact.

34 (27) "Private key" means the key of a key pair used to create a  
35 digital signature.

36 (28) "Public key" means the key of a key pair used to verify a  
37 digital signature.

38 (29) "Publish" means to make information publicly available.

1 (30) "Qualified right to payment" means an award of damages against  
2 a licensed certification authority by a court having jurisdiction over  
3 the certification authority in a civil action for violation of this  
4 chapter.

5 (31) "Recipient" means a person who has received a certificate and  
6 a digital signature verifiable with reference to a public key listed in  
7 the certificate and is in a position to rely on it.

8 (32) "Recognized repository" means a repository recognized by the  
9 secretary under RCW 19.34.400.

10 (33) "Recommended reliance limit" means the monetary amount  
11 recommended for reliance on a certificate under RCW 19.34.280(1).

12 (34) "Repository" means a system for storing and retrieving  
13 certificates and other information relevant to digital signatures.

14 (35) "Revoke a certificate" means to make a certificate ineffective  
15 permanently from a specified time forward. Revocation is effected by  
16 notation or inclusion in a set of revoked certificates, and does not  
17 imply that a revoked certificate is destroyed or made illegible.

18 (36) "Rightfully hold a private key" means the authority to utilize  
19 a private key:

20 (a) That the holder or the holder's agents have not disclosed to a  
21 person in violation of RCW 19.34.240(1); and

22 (b) That the holder has not obtained through theft, deceit,  
23 eavesdropping, or other unlawful means.

24 (37) "Secretary" means the secretary of state.

25 (38) "Subscriber" means a person who:

26 (a) Is the subject listed in a certificate;

27 (b) Applies for or accepts the certificate; and

28 (c) Holds a private key that corresponds to a public key listed in  
29 that certificate.

30 (39) "Suitable guaranty" means either a surety bond executed by a  
31 surety authorized by the insurance commissioner to do business in this  
32 state, or an irrevocable letter of credit issued by a financial  
33 institution authorized to do business in this state, which, in either  
34 event, satisfies all of the following requirements:

35 (a) It is issued payable to the secretary for the benefit of  
36 persons holding qualified rights of payment against the licensed  
37 certification authority named as the principal of the bond or customer  
38 of the letter of credit;

1 (b) It is in an amount specified by rule by the secretary under RCW  
2 19.34.030;

3 (c) It states that it is issued for filing under this chapter;

4 (d) It specifies a term of effectiveness extending at least as long  
5 as the term of the license to be issued to the certification authority;  
6 and

7 (e) It is in a form prescribed or approved by rule by the  
8 secretary.

9 A suitable guaranty may also provide that the total annual  
10 liability on the guaranty to all persons making claims based on it may  
11 not exceed the face amount of the guaranty.

12 (40) "Suspend a certificate" means to make a certificate  
13 ineffective temporarily for a specified time forward.

14 (41) "Time stamp" means either:

15 (a) To append or attach a digitally signed notation indicating at  
16 least the date, time, and identity of the person appending or attaching  
17 the notation to a message, digital signature, or certificate; or

18 (b) The notation thus appended or attached.

19 (42) "Transactional certificate" means a valid certificate  
20 incorporating by reference one or more digital signatures.

21 (43) "Trustworthy system" means computer hardware and software  
22 that:

23 (a) Are reasonably secure from intrusion and misuse; and

24 (b) Conform with the requirements established by the secretary by  
25 rule.

26 (44) "Valid certificate" means a certificate that:

27 (a) A licensed certification authority has issued;

28 (b) The subscriber listed in it has accepted;

29 (c) Has not been revoked or suspended; and

30 (d) Has not expired.

31 However, a transactional certificate is a valid certificate only in  
32 relation to the digital signature incorporated in it by reference.

33 (45) "Verify a digital signature" means, in relation to a given  
34 digital signature, message, and public key, to determine accurately  
35 that:

36 (a) The digital signature was created by the private key  
37 corresponding to the public key; and

38 (b) The message has not been altered since its digital signature  
39 was created.

EXPLANATORY NOTE

Corrects a manifest grammatical error.

**Sec. 50.** RCW 19.34.250 and 1999 c 287 s 13 are each amended to read as follows:

(1) Unless the certification authority provides otherwise in the certificate or its certification practice statement, the licensed certification authority that issued a certificate that is not a transactional certificate must suspend the certificate for a period not to exceed five business days:

(a) Upon request by a person whom the certification authority reasonably believes to be: (i) The subscriber named in the certificate; (ii) a person duly authorized to act for that subscriber; or (iii) a person acting on behalf of the unavailable subscriber; or

(b) By order of the secretary under RCW 19.34.210(~~(+5)~~) (7).

The certification authority need not confirm the identity or agency of the person requesting suspension. The certification authority may require the person requesting suspension to provide evidence, including a statement under oath or affirmation, regarding the requestor's identity, authorization, or the unavailability of the subscriber. Law enforcement agencies may investigate suspensions for possible wrongdoing by persons requesting suspension.

(2) Unless the certification authority provides otherwise in the certificate or its certification practice statement, the secretary may suspend a certificate issued by a licensed certification authority for a period not to exceed five business days, if:

(a) A person identifying himself or herself as the subscriber named in the certificate, a person authorized to act for that subscriber, or a person acting on behalf of that unavailable subscriber (~~{requests suspension}~~) requests suspension; and

(b) The requester represents that the certification authority that issued the certificate is unavailable.

The secretary may require the person requesting suspension to provide evidence, including a statement under oath or affirmation, regarding his or her identity, authorization, or the unavailability of the issuing certification authority, and may decline to suspend the certificate in its discretion. Law enforcement agencies may investigate suspensions by the secretary for possible wrongdoing by persons requesting suspension.

1 (3) Immediately upon suspension of a certificate by a licensed  
2 certification authority, the licensed certification authority must give  
3 notice of the suspension according to the specification in the  
4 certificate. If one or more repositories are specified, then the  
5 licensed certification authority must publish a signed notice of the  
6 suspension in all the repositories. If a repository no longer exists  
7 or refuses to accept publication, or if no repository is recognized  
8 under RCW 19.34.400, the licensed certification authority must also  
9 publish the notice in a recognized repository. If a certificate is  
10 suspended by the secretary, the secretary must give notice as required  
11 in this subsection for a licensed certification authority, provided  
12 that the person requesting suspension pays in advance any fee required  
13 by a repository for publication of the notice of suspension.

14 (4) A certification authority must terminate a suspension initiated  
15 by request only:

16 (a) If the subscriber named in the suspended certificate requests  
17 termination of the suspension, the certification authority has  
18 confirmed that the person requesting suspension is the subscriber or an  
19 agent of the subscriber authorized to terminate the suspension; or

20 (b) When the certification authority discovers and confirms that  
21 the request for the suspension was made without authorization by the  
22 subscriber. However, this subsection (4)(b) does not require the  
23 certification authority to confirm a request for suspension.

24 (5) The contract between a subscriber and a licensed certification  
25 authority may limit or preclude requested suspension by the  
26 certification authority, or may provide otherwise for termination of a  
27 requested suspension. However, if the contract limits or precludes  
28 suspension by the secretary when the issuing certification authority is  
29 unavailable, the limitation or preclusion is effective only if notice  
30 of it is published in the certificate.

31 (6) No person may knowingly or intentionally misrepresent to a  
32 certification authority his or her identity or authorization in  
33 requesting suspension of a certificate. Violation of this subsection  
34 is a gross misdemeanor.

35 (7) The secretary may authorize other state or local governmental  
36 agencies to perform any of the functions of the secretary under this  
37 section upon a regional basis. The authorization must be formalized by  
38 an agreement under chapter 39.34 RCW. The secretary may provide by  
39 rule the terms and conditions of the regional services.

1 (8) A suspension under this section must be completed within  
2 twenty-four hours of receipt of all information required in this  
3 section.

4 EXPLANATORY NOTE

5 RCW 19.34.210 was amended by 1999 c 287 s 11, changing  
6 subsection (5) to subsection (7). Also corrects an apparent  
7 drafting error.

8 **Sec. 51.** RCW 19.34.901 and 1997 c 27 s 28 are each amended to read  
9 as follows:

10 (1) Sections (~~(1-101)~~) 101 through 601, 604, and 605, chapter  
11 250, Laws of 1996 take effect January 1, 1998.

12 (2) Sections 602 and 603, chapter 250, Laws of 1996 take effect  
13 July 27, 1997.

14 EXPLANATORY NOTE

15 Corrects a manifest drafting error.

16 **Sec. 52.** RCW 19.36.100 and 1990 c 211 s 1 are each amended to read  
17 as follows:

18 "Credit agreement" means an agreement, promise, or commitment to  
19 lend money, to otherwise extend credit, to forbear with respect to the  
20 repayment of any debt or the exercise of any remedy, to modify or amend  
21 the terms under which the creditor has lent money or otherwise extended  
22 credit, to release any guarantor or (~~(consigner [cosigner])~~) cosigner,  
23 or to make any other financial accommodation pertaining to a debt or  
24 other extension of credit.

25 EXPLANATORY NOTE

26 Corrects an apparent typographical error.

27 **Sec. 53.** RCW 19.40.071 and 1987 c 444 s 7 are each amended to read  
28 as follows:

29 (a) In an action for relief against a transfer or obligation under  
30 this chapter, a creditor, subject to the limitations in RCW 19.40.081,  
31 may obtain:

32 (1) Avoidance of the transfer or obligation to the extent necessary  
33 to satisfy the creditor's claim;

1 (2) An attachment or other provisional remedy against the asset  
2 transferred or other property of the transferee in accordance with the  
3 procedure prescribed by chapter ((7.12)) 6.25 RCW;

4 (3) Subject to applicable principles of equity and in accordance  
5 with applicable rules of civil procedure:

6 (i) An injunction against further disposition by the debtor or a  
7 transferee, or both, of the asset transferred or of other property;

8 (ii) Appointment of a receiver to take charge of the asset  
9 transferred or of other property of the transferee; or

10 (iii) Any other relief the circumstances may require.

11 (b) If a creditor has obtained a judgment on a claim against the  
12 debtor, the creditor, if the court so orders, may levy execution on the  
13 asset transferred or its proceeds.

14 EXPLANATORY NOTE

15 Chapter 7.12 RCW was recodified by 1987 c 442 s 1121. Of the  
16 thirty-two sections that previously comprised chapter 7.12 RCW,  
17 twenty-four sections were recodified in chapter 6.25 RCW, seven  
18 sections were repealed, and one section was recodified in  
19 chapter 6.17 RCW.

20 **Sec. 54.** RCW 19.56.010 and 1890 p 460 s 1 are each amended to read  
21 as follows:

22 Whenever any person, company or corporation owning or controlling  
23 any newspaper or periodical of any kind, or whenever any editor or  
24 proprietor of any such newspaper or periodical shall mail or send any  
25 such newspaper or periodical to any person or persons in this state  
26 without first receiving an order for said newspaper or periodical from  
27 such person or persons to whom said newspaper or periodical is mailed  
28 or sent, ((~~it~~)) it shall be deemed to be a gift, and no debt or  
29 obligation shall accrue against such person or persons, whether said  
30 newspaper or periodical is received by the person or persons to whom it  
31 is sent or not.

32 EXPLANATORY NOTE

33 Corrects a manifest grammatical error.

34 **Sec. 55.** RCW 19.60.085 and 1985 c 70 s 2 are each amended to read  
35 as follows:

1 The provisions of this chapter do not apply to transactions  
2 conducted by the following:

3 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;

4 (2) (~~Motor~~) Vehicle wreckers or hulk haulers licensed under  
5 chapter 46.79 or 46.80 RCW;

6 (3) Persons giving an allowance for the trade-in or exchange of  
7 second-hand property on the purchase of other merchandise of the same  
8 kind of greater value; and

9 (4) Persons in the business of buying or selling empty food and  
10 beverage containers or metal or nonmetal junk.

11 EXPLANATORY NOTE

12 "Motor vehicle wrecker" redesignated "vehicle wrecker" by 1995  
13 c 256.

14 **Sec. 56.** RCW 19.68.040 and 1949 c 204 s 4 are each amended to read  
15 as follows:

16 It is the intent of this (~~(article [chapter])~~) chapter, and this  
17 (~~(article [chapter])~~) chapter shall be so construed, that persons so  
18 licensed shall only be authorized by law to charge or receive  
19 compensation for professional services rendered if such services are  
20 actually rendered by the licensee and not otherwise: PROVIDED,  
21 HOWEVER, That it is not intended to prohibit two or more licensees who  
22 practice their profession as copartners to charge or collect  
23 compensation for any professional services by any member of the firm,  
24 or to prohibit a licensee who employs another licensee to charge or  
25 collect compensation for professional services rendered by the employee  
26 licensee.

27 EXPLANATORY NOTE

28 Corrects an inaccurate reference.

29 **Sec. 57.** RCW 19.72.040 and 1987 c 202 s 186 are each amended to  
30 read as follows:

31 In case such bond or recognizance is given in any action or  
32 proceeding commenced or pending in any court, the judge or clerk of any  
33 court of record or district court, or any party to the action or  
34 proceeding for the security or protection of which such bond or  
35 recognizance is made may, upon notice, require any of such sureties to  
36 attend before the judge at a time and place specified and to be

1 examined under oath touching the surety's qualifications both as to  
2 residence and property as such surety, in such manner as the judge, in  
3 the judge's discretion, may think proper. If the party demanding the  
4 examination require it, the examination shall be reduced to writing and  
5 subscribed by the surety. If the judge (~~(find{s})~~) finds the surety  
6 possesses the requisite qualifications and property, the judge shall  
7 endorse the allowance thereof on the bond or recognizance, and cause it  
8 to be filed as provided by law, otherwise it shall be of no effect.

9 EXPLANATORY NOTE

10 Corrects a manifest grammatical error.

11 **Sec. 58.** RCW 19.80.065 and 1984 c 130 s 8 are each amended to read  
12 as follows:

13 RCW 42.17.260(~~(+5)~~) (9) does not apply to registrations made under  
14 this chapter.

15 EXPLANATORY NOTE

16 RCW 42.17.260 was amended by 1989 c 175 s 36, changing  
17 subsection (5) to subsection (6). RCW 42.17.260 was  
18 subsequently amended by 1992 c 139 s 3, changing subsection (6)  
19 to subsection (7). RCW 42.17.260 was subsequently amended by  
20 1995 c 341 s 1, changing subsection (7) to subsection (9).

21 **Sec. 59.** RCW 19.85.030 and 1995 c 403 s 402 are each amended to  
22 read as follows:

23 (1) In the adoption of a rule under chapter 34.05 RCW, an agency  
24 shall prepare a small business economic impact statement: (a) If the  
25 proposed rule will impose more than minor costs on businesses in an  
26 industry; or (b) if requested to do so by a majority vote of the joint  
27 administrative rules review committee within forty-five days of  
28 receiving the notice of proposed rule making under RCW 34.05.320.  
29 However, if the agency has completed the pilot rule process as defined  
30 by RCW 34.05.313 before filing the notice of a proposed rule, the  
31 agency is not required to prepare a small business economic impact  
32 statement.

33 An agency shall prepare the small business economic impact  
34 statement in accordance with RCW 19.85.040, and file it with the code  
35 reviser along with the notice required under RCW 34.05.320. An agency  
36 shall file a statement prepared at the request of the joint

1 administrative rules review committee with the code reviser upon its  
2 completion before the adoption of the rule. An agency shall provide a  
3 copy of the small business economic impact statement to any person  
4 requesting it.

5 ~~((An agency may request assistance from the business assistance  
6 center in the preparation of the small business economic impact  
7 statement.))~~

8 ~~(2) ((The business assistance center shall develop guidelines to  
9 assist agencies in determining whether a proposed rule will impose more  
10 than minor costs on businesses in an industry and therefore require  
11 preparation of a small business economic impact statement. The  
12 business assistance center may review an agency determination that a  
13 proposed rule will not impose such costs, and shall advise the joint  
14 administrative rules review committee on disputes involving agency  
15 determinations under this section.~~

16 ~~(3))~~ Based upon the extent of disproportionate impact on small  
17 business identified in the statement prepared under RCW 19.85.040, the  
18 agency shall, where legal and feasible in meeting the stated objectives  
19 of the statutes upon which the rule is based, reduce the costs imposed  
20 by the rule on small businesses. Methods to reduce the costs on small  
21 businesses may include:

22 (a) Reducing, modifying, or eliminating substantive regulatory  
23 requirements;

24 (b) Simplifying, reducing, or eliminating recordkeeping and  
25 reporting requirements;

26 (c) Reducing the frequency of inspections;

27 (d) Delaying compliance timetables;

28 (e) Reducing or modifying fine schedules for noncompliance; or

29 (f) Any other mitigation techniques.

30 EXPLANATORY NOTE

31 The business assistance center and its powers and duties were  
32 terminated June 30, 1995. See 1993 c 280 ss 80 and 81.

33 **Sec. 60.** RCW 19.94.258 and 1995 c 355 s 15 are each amended to  
34 read as follows:

35 (1) Except as authorized by the department, a service agent who  
36 intends to provide the examination that permits a weighing or measuring  
37 instrument or device to be placed back into commercial service under  
38 RCW 19.94.255(3) shall receive an official registration certificate

1 from the director prior to performing such a service. This  
2 registration requirement does not apply to the department or a city  
3 sealer.

4 (2) Except as provided in RCW ((19.94.035)) 19.94.2584, a  
5 registration certificate is valid for one year. It may be renewed by  
6 submitting a request for renewal to the department.

7 EXPLANATORY NOTE

8 RCW 19.94.035 was recodified as RCW 19.94.2584 pursuant to RCW  
9 1.08.015(2)(k), September 1996.

10 **Sec. 61.** RCW 19.94.2584 and 1995 c 355 s 17 are each amended to  
11 read as follows:

12 (1) The department shall have the power to revoke, suspend, or  
13 refuse to renew the official registration certificate of any service  
14 agent for any of the following reasons:

15 (a) Fraud or deceit in obtaining an official registration  
16 certificate under this chapter;

17 (b) A finding by the department of a pattern of intentional  
18 fraudulent or negligent activities in the installation, inspection,  
19 testing, checking, adjusting, or systematically standardizing and  
20 approving the graduations of any weighing or measuring instrument or  
21 device;

22 (c) Knowingly placing back into commercial service any weighing or  
23 measuring instrument or device that is incorrect;

24 (d) A violation of any provision of this chapter; or

25 (e) Conviction of a crime or an act constituting a crime under the  
26 laws of this state, the laws of another state, or federal law.

27 (2) Upon the department's revocation of, suspension of, or refusal  
28 to ((~~renewal~~{renew})) renew an official registration certificate, an  
29 individual shall have the right to appeal this decision in accordance  
30 with the administrative procedure act, chapter 34.05 RCW.

31 EXPLANATORY NOTE

32 Corrects a manifest grammatical error.

33 **Sec. 62.** RCW 19.94.310 and 1992 c 237 s 21 are each amended to  
34 read as follows:

35 (1) The governing body of each city for which a city sealer has  
36 been appointed as provided for by RCW 19.94.280 shall:

1 (a) Procure at the expense of the city the official weights and  
2 measures standards and any field weights and measures standards  
3 necessary for the administration and enforcement of the provisions of  
4 this chapter or any rule that may be prescribed by the director;

5 (b) Provide a suitable office for the city sealer and any deputies  
6 that have been duly appointed; and

7 (c) Make provision for the necessary clerical services, supplies,  
8 transportation and for defraying contingent expenses incidental to the  
9 official activities of the city sealer and his or her deputies in  
10 carrying out the provisions of this chapter.

11 (2) When the acquisition of the official weights and measures  
12 standards required under subsection (1)(a) of this section has been  
13 made and such weights and measures standards have been examined and  
14 approved by the director, they shall be the certified weights and  
15 measures standards for such city.

16 (3) In order to maintain field weights and (~~measure[s]~~) measures  
17 standards in accurate condition, the city sealer shall, at least once  
18 every two years, compare the field weights and measures standards used  
19 within his or her city to the certified weights and measures standards  
20 of such city or to the official weights and measures standards of this  
21 state.

22 EXPLANATORY NOTE

23 Corrects a manifest typographical error.

24 **Sec. 63.** RCW 19.94.390 and 1995 c 355 s 20 are each amended to  
25 read as follows:

26 (1) Whenever any commodity or service is sold, or is offered,  
27 exposed, or advertised for sale, by weight, measure, or count, the  
28 price shall not be misrepresented, nor shall the price be represented  
29 in any manner calculated or tending to mislead or deceive an actual or  
30 prospective purchaser. Whenever an advertised, (~~poster~~[~~posted~~])  
31 posted or labeled price per unit of weight, measure, or count includes  
32 a fraction of a cent, all elements of the fraction shall be prominently  
33 displayed and the numeral or numerals expressing the fraction shall be  
34 immediately adjacent to, of the same general design and style as, and  
35 at least one-half the height and one-half the width of the numerals  
36 representing the whole cents.

37 (2) The examination procedure recommended for price verification by  
38 the price verification working group of the laws and regulations

1 committee of the national conference on weights and measures (as  
2 reflected in the fourth draft, dated November 1, 1994) for devices such  
3 as electronic scanners shall govern such examinations conducted under  
4 this chapter. The procedure shall be deemed to be adopted under this  
5 chapter. However, the department may revise the procedure as follows:  
6 The department shall provide notice of and conduct a public hearing  
7 pursuant to chapter 34.05 RCW to determine whether any revisions to  
8 this procedure made by the national institute of standards and  
9 technology or its successor organization for incorporating the  
10 examination procedure into an official handbook of the institute or its  
11 successor, or any subsequent revisions of the handbook regarding such  
12 procedures shall also be adopted under this chapter. If the department  
13 determines that the procedure should be so revised, it may adopt the  
14 revisions. Violations of this section regarding the use of devices  
15 such as electronic scanners may be found only as provided by the  
16 examination procedures adopted by or under this subsection.

17 (3) Electronic scanner screens installed after January 1, 1996, and  
18 used in retail establishments must be visible to the consumer at the  
19 checkout line.

20 EXPLANATORY NOTE

21 Corrects a manifest typographical error.

22 **Sec. 64.** RCW 19.94.505 and 1992 c 237 s 34 are each amended to  
23 read as follows:

24 (1) It is unlawful for any dealer (~~((or service station))~~), as (~~((both~~  
25 ~~are))~~) defined in RCW 82.36.010, to sell ethanol and/or methanol at one  
26 percent, by volume, or greater in gasoline for use as motor vehicle  
27 fuel unless the dispensing device has a label stating the type and  
28 maximum percentage of alcohol contained in the motor vehicle fuel.

29 (2) In any county, city, or other political subdivision designated  
30 as a carbon monoxide nonattainment area pursuant to the provisions of  
31 subchapter I of the clean air act amendments of 1990, P.L. 101-549, and  
32 in which the sale of oxygenated petroleum products is required by  
33 section 211(m) of the clean air act amendments of 1990, 42 U.S.C.  
34 7545(m), any dealer (~~((or service station))~~), as (~~((both are))~~) defined in  
35 RCW 82.36.010, who sells or dispenses a petroleum product that contains  
36 at least one percent, by volume, ethanol, methanol, or other oxygenate,  
37 shall post only such label or notice as may be required pursuant to 42  
38 U.S.C. 7545(m)(4) or any amendments thereto or any successor provision

1 thereof. This provision shall be applicable only during such portion  
2 of the year as oxygenated petroleum product sales are required pursuant  
3 to 42 U.S.C. 7545(m).

4 (3) Any person who violates this section is subject to a civil  
5 penalty of no more than five hundred dollars.

6 EXPLANATORY NOTE

7 RCW 82.36.010 was amended by 1998 c 176 s 6, deleting the  
8 definition of "service station."

9 **Sec. 65.** RCW 19.98.020 and 1975 1st ex.s. c 277 s 2 are each  
10 amended to read as follows:

11 All repurchase payments to retailers and sellers made pursuant to  
12 RCW 19.98.010 shall be less amounts owed on any lien or claim then  
13 outstanding upon such items covered by this section. Any wholesaler,  
14 manufacturer, or distributor making repurchase payments covered by this  
15 chapter to any retailer or seller shall satisfy such secured liens or  
16 claims pursuant to (~~chapter~~~~[article]~~) Article 62A.9 RCW less any  
17 interest owed to the lienholder arising from the financing of such  
18 items which shall be paid to any such secured lienholder by the  
19 retailer or seller. In no case shall the wholesaler, manufacturer, or  
20 distributor, in making payments covered by RCW 19.98.010, pay in excess  
21 of those amounts prescribed therein.

22 EXPLANATORY NOTE

23 Corrects an inaccurate reference.

24 **Sec. 66.** RCW 19.98.110 and 1990 c 124 s 2 are each amended to read  
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout RCW 19.98.100 through 19.98.150 and  
28 19.98.911:

29 (1) "Equipment" means machinery consisting of a framework, various  
30 fixed and moving parts, driven by an internal combustion engine, and  
31 all other implements associated with this machinery that are designed  
32 for or adapted and used for agriculture, horticulture, livestock, or  
33 grazing use.

34 (2) "Equipment dealer" or "equipment dealership" means any person,  
35 partnership, corporation, association, or other form of business  
36 enterprise, primarily engaged in retail sale or service of equipment in

1 this state, pursuant to any oral or written agreement for a definite or  
2 indefinite period of time in which there is a continuing commercial  
3 relationship in the marketing of the equipment or related services, but  
4 does not include dealers covered by chapter 46.70 or 46.94 RCW.

5 (3) "Supplier" means the manufacturer, wholesaler, or distributor  
6 of the equipment to be sold by the equipment dealer.

7 (4) "Dealer agreement" means a contract or agreement, either  
8 expressed or implied, whether oral or written, between a supplier and  
9 an equipment dealer, by which the equipment dealer is granted the right  
10 to sell, distribute, or service the supplier's equipment where there is  
11 a continuing commercial relationship between the supplier and the  
12 equipment dealer.

13 (5) "Continuing commercial relationship" means any relationship in  
14 which the equipment dealer has been granted the right to sell or  
15 service equipment manufactured by (~~{the}~~) the supplier.

16 (6) "Good cause" means failure by an equipment dealer to  
17 substantially comply with essential and reasonable requirements imposed  
18 upon the equipment dealer by the dealer agreement, provided such  
19 requirements are not different from those requirements imposed on other  
20 similarly situated equipment dealers in the state either by their terms  
21 or in the manner of their enforcement.

22 EXPLANATORY NOTE

23 Corrects a manifest grammatical error.

24 **Sec. 67.** RCW 19.105.330 and 1988 c 159 s 5 are each amended to  
25 read as follows:

26 (~~{(1)}~~) (1) Unless an order denying effectiveness under RCW  
27 19.105.380 is in effect, or unless declared effective by order of the  
28 director prior thereto, the application for registration shall  
29 automatically become effective upon the expiration of the twentieth  
30 full business day following a filing with the director in complete and  
31 proper form, but an applicant may consent to the delay of effectiveness  
32 until such time as the director may by order declare registration  
33 effective or issue a permit to market.

34 (2) An application for registration, renewal of registration, or  
35 amendment is not in completed form and shall not be deemed a statutory  
36 filing until such time as all required fees, completed application  
37 forms, and the information and documents required pursuant to RCW  
38 19.105.320(1) and departmental rules have been filed.

1 It is the operator's responsibility to see that required filing  
2 materials and fees arrive at the appropriate mailing address of the  
3 department. Within seven business days, excluding the date of receipt,  
4 of receiving an application or initial request for registration and the  
5 filing fees, the department shall notify the applicant of receipt of  
6 the application and whether or not the application is complete and in  
7 proper form. If the application is incomplete, the department shall at  
8 the same time inform the applicant what additional documents or  
9 information is required.

10 If the application is not in a completed form, the department shall  
11 give immediate notice to the applicant. On the date the application is  
12 complete and properly filed, the statutory period for an in-depth  
13 examination of the filing, prescribed in subsection (1) of this  
14 section, shall begin to run, unless the applicant and the department  
15 have agreed to a stay of effectiveness or the department has issued a  
16 denial of the application or a permit to market.

17 EXPLANATORY NOTE

18 Corrects a manifest clerical error.

19 **Sec. 68.** RCW 19.105.470 and 1988 c 159 s 23 are each amended to  
20 read as follows:

21 (1) Whenever it appears to the director that any person has engaged  
22 or is about to engage in any act or practice constituting a violation  
23 of any provision of this chapter, any withdrawal of a camping resort  
24 property in violation of RCW 19.105.380(~~((+1)-(j))~~) (1)(q), or any rule,  
25 order, or permit issued under this chapter, the director may in his or  
26 her discretion issue an order directing the person to cease and desist  
27 from continuing the act or practice. Reasonable notice of and  
28 opportunity for a hearing shall be given. However, the director may  
29 issue a temporary order pending the hearing which shall be effective  
30 immediately upon delivery to the person affected and which shall remain  
31 in effect until ten days after the hearing is held and which shall  
32 become final if the person to whom notice is addressed does not request  
33 a hearing within fifteen days after receipt of notice.

34 (2) If it appears necessary in order to protect the interests of  
35 members and purchasers, whether or not the director has issued a cease  
36 and desist order, the attorney general in the name of the state, the  
37 director, the proper prosecuting attorney, an affiliated members'  
38 common-interest association, or a group of members as a class, may

1 bring an action in any court of competent jurisdiction to enjoin any  
2 such acts or practices and to enforce compliance with this chapter or  
3 any rule, order, or permit under this chapter. Upon a proper showing,  
4 a permanent or temporary injunction, restraining order, or writ of  
5 mandamus shall be granted and a receiver or conservator may be  
6 appointed for the defendant, for the defendant's assets, or to protect  
7 the interests or assets of a members' common-interest association or  
8 the members of a camping resort as a class. The state, the director,  
9 a members' common-interest association, or members as a class shall not  
10 be required to post a bond in such proceedings.

11 EXPLANATORY NOTE

12 The reference to RCW 19.105.380(1)(j) appears to be erroneous.  
13 Before March 20, 1988, the reference was to RCW 19.105.380(9).  
14 Chapter 159, Laws of 1988 placed the text of RCW 19.105.380(9)  
15 in RCW 19.105.380(1)(q), effective March 20, 1988.

16 **Sec. 69.** RCW 19.116.030 and 1990 c 44 s 4 are each amended to read  
17 as follows:

18 Unlawful subleasing or unlawful transfer of an ownership interest  
19 in motor vehicles (~~(are-[is])~~) is not reasonable in relation to the  
20 development and preservation of business. A violation of this chapter  
21 is an unfair or deceptive act in trade or commerce for the purpose of  
22 applying the consumer protection act, chapter 19.86 RCW.

23 EXPLANATORY NOTE

24 Corrects a manifest grammatical error.

25 **Sec. 70.** RCW 19.116.050 and 1990 c 44 s 6 are each amended to read  
26 as follows:

27 A dealer engages in an act of unlawful transfer of ownership  
28 interest in motor vehicles when all of the following circumstances are  
29 met:

30 (1) The dealer does not pay off any balance due to the secured  
31 party on a vehicle acquired by the dealer, no later than the close of  
32 the second business day after the acquisition date of the vehicle; and

33 (2) The dealer does not obtain a certificate of ownership under RCW  
34 (~~(46.12.140)~~) 46.70.124 for each used vehicle kept in his or her  
35 possession unless that certificate is in the possession of the person  
36 holding a security interest in the dealer's inventory; and

1 (3) The dealer does not transfer the certificate of ownership after  
2 the transferee has taken possession of the motor vehicle.

3 EXPLANATORY NOTE

4 RCW 46.12.140 was recodified as RCW 46.70.124 pursuant to 1993  
5 c 307 s 18.

6 **Sec. 71.** RCW 19.120.080 and 1986 c 320 s 9 are each amended to  
7 read as follows:

8 Without limiting the other provisions of this chapter, the  
9 following specific rights and prohibitions shall govern the relation  
10 between the motor fuel refiner-supplier and the motor fuel retailers:

11 (1) The parties shall deal with each other in good faith.

12 (2) For the purposes of this chapter and without limiting its  
13 general application, it shall be an unfair or deceptive act or practice  
14 or an unfair method of competition and therefore unlawful and a  
15 violation of this chapter for any person to:

16 (a) Require a motor fuel retailer to purchase or lease goods or  
17 services of the motor fuel refiner-supplier or from approved sources of  
18 supply unless and to the extent that the motor fuel refiner-supplier  
19 satisfies the burden of proving that such restrictive purchasing  
20 agreements are reasonably necessary for a lawful purpose justified on  
21 business grounds, and do not substantially affect competition:  
22 PROVIDED, That this provision shall not apply to the initial inventory  
23 of the motor fuel franchise. In determining whether a requirement to  
24 purchase or lease goods or services constitutes an unfair or deceptive  
25 act or practice or an unfair method of competition the courts shall be  
26 guided by the decisions of the courts of the United States interpreting  
27 and applying the anti-trust laws of the United States.

28 (b) Discriminate between motor fuel retailers in the charges  
29 offered or made for royalties, goods, services, equipment, rentals,  
30 advertising services, or in any other business dealing, unless and to  
31 the extent that the motor fuel refiner-supplier satisfies the burden of  
32 proving that any classification of or discrimination between motor fuel  
33 retailers is reasonable, is based on motor fuel franchises granted at  
34 materially different times and such discrimination is reasonably  
35 related to such difference in time or on other proper and justifiable  
36 distinctions considering the purposes of this chapter, and is not  
37 arbitrary.

1 (c) Sell, rent, or offer to sell to a motor fuel retailer any  
2 product or service for more than a fair and reasonable price.

3 (d) Require (({a})) a motor fuel retailer to assent to a release,  
4 assignment, novation, or waiver which would relieve any person from  
5 liability imposed by this chapter.

6 EXPLANATORY NOTE

7 Corrects a manifest grammatical error.

8 **Sec. 72.** RCW 19.138.021 and 1996 c 180 s 1 are each amended to  
9 read as follows:

10 Unless the context clearly requires otherwise, the definitions in  
11 this section apply throughout this chapter.

12 (1) "Department" means the department of licensing.

13 (2) "Director" means the director of licensing or the director's  
14 designee.

15 (3) "Seller of travel" means a person, firm, or corporation both  
16 inside and outside the state of Washington, who transacts business with  
17 Washington consumers for travel services.

18 (a) "Seller of travel" includes a travel agent and any person who  
19 is an independent contractor or outside agent for a travel agency or  
20 other seller of travel whose principal duties include consulting with  
21 and advising persons concerning travel arrangements or accommodations  
22 in the conduct or administration of its business. If a seller of  
23 travel is employed by a seller of travel who is registered under this  
24 chapter, the employee need not also be registered.

25 (b) "Seller of travel" does not include:

26 (i) An air carrier;

27 (ii) An owner or operator of a vessel, including an ocean common  
28 carrier as defined in 46 U.S.C. App. 1702(18), an owner or charterer of  
29 a vessel that is required to establish its financial responsibility in  
30 accordance with the requirements of the federal maritime commission, 46  
31 U.S.C. App. 817 (e), and a steamboat company ((as defined in RCW  
32 84.12.200)) whether or not operating over and upon the waters of this  
33 state;

34 (iii) A motor carrier;

35 (iv) A rail carrier;

36 (v) A charter party carrier of passengers as defined in RCW  
37 81.70.020;

38 (vi) An auto transportation company as defined in RCW 81.68.010;

1 (vii) A hotel or other lodging accommodation;  
2 (viii) An affiliate of any person or entity described in (i)  
3 through (vii) of this subsection (3)(b) that is primarily engaged in  
4 the sale of travel services provided by the person or entity. For  
5 purposes of this subsection (3)(b)(viii), an "affiliate" means a person  
6 or entity owning, owned by, or under common ownership, with "owning,"  
7 "owned," and "ownership" referring to equity holdings of at least  
8 eighty percent;

9 (ix) Direct providers of transportation by air, sea, or ground, or  
10 hotel or other lodging accommodations who do not book or arrange any  
11 other travel services.

12 (4) "Travel services" includes transportation by air, sea, or  
13 ground, hotel or any lodging accommodations, package tours, or vouchers  
14 or coupons to be redeemed for future travel or accommodations for a  
15 fee, commission, or other valuable consideration.

16 (5) "Advertisement" includes, but is not limited to, a written or  
17 graphic representation in a card, brochure, newspaper, magazine,  
18 directory listing, or display, and oral, written, or graphic  
19 representations made by radio, television, or cable transmission that  
20 relates to travel services.

21 (6) "Transacts business with Washington consumers" means to  
22 directly offer or sell travel services to Washington consumers,  
23 including the placement of advertising in media based in the state of  
24 Washington or that is primarily directed to Washington residents.  
25 Advertising placed in national print or electronic media alone does not  
26 constitute "transacting business with Washington consumers." Those  
27 entities who only wholesale travel services are not "transacting  
28 business with Washington consumers" for the purposes of this chapter.

29 EXPLANATORY NOTE

30 RCW 84.12.200 was amended by 1998 c 335 s 1, removing the  
31 definition of steamboat company.

32 **Sec. 73.** RCW 19.146.260 and 1997 c 106 s 18 are each amended to  
33 read as follows:

34 Every licensed mortgage broker that does not maintain a physical  
35 office within the state must maintain a registered agent within the  
36 state to receive service of any lawful process in any judicial or  
37 administrative noncriminal suit, action, or proceeding against the  
38 licensed mortgage broker which arises under this chapter or any rule or

1 order under this chapter, with the same force and validity as if served  
2 personally on the licensed mortgage broker. Service upon the  
3 registered agent shall not be effective unless the plaintiff, who may  
4 be the director in a suit, action, or proceeding instituted by him or  
5 her, no later than the next business day sends notice of the service  
6 and a copy of the process by registered mail to the defendant or  
7 respondent at the last address of the respondent or defendant on file  
8 with the director. In any judicial action, suit, or proceeding arising  
9 under this chapter or any rule or order adopted under this chapter  
10 between the department or director and a licensed mortgage broker who  
11 does not maintain a physical office in this state, venue shall be  
12 exclusively in the superior court of (~~the~~) Thurston county.

13 EXPLANATORY NOTE

14 Corrects a manifest grammatical error.

15 **Sec. 74.** RCW 19.166.090 and 1991 c 128 s 9 are each amended to  
16 read as follows:

17 Any person who violates any provision of this chapter or who  
18 willfully and knowingly gives false or incorrect information to the  
19 secretary (~~of state~~) of state, attorney general, or county  
20 prosecuting attorney in filing statements required by this chapter,  
21 whether or not such statement or report is verified, is guilty of a  
22 misdemeanor punishable under chapter 9A.20 RCW.

23 EXPLANATORY NOTE

24 Clarifies that the reference is to the secretary of state.

25 **Sec. 75.** RCW 19.174.020 and 1993 c 324 s 1 are each amended to  
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

29 (1) "Access area" means a paved walkway or sidewalk that is within  
30 fifty feet of an automated teller machine or night deposit facility.  
31 "Access area" does not include publicly maintained sidewalks or roads.

32 (2) "Access device" means:

33 (a) "Access device" as defined in federal reserve board Regulation  
34 E, 12 C.F.R. Part 205, promulgated under the Electronic Fund Transfer  
35 Act, 15 U.S.C. Sec. 1601, et seq.; or

1 (b) A key or other mechanism issued by a banking institution to its  
2 customer to give the customer access to the banking institution's night  
3 deposit facility.

4 (3) "Automated teller machine" means an electronic information  
5 processing device located in this state that accepts or dispenses cash  
6 in connection with a credit, deposit, or convenience account.  
7 (~~"Automatic [automated]"~~) "Automated teller machine" does not include  
8 a device used primarily to facilitate check guarantees or check  
9 authorizations, used in connection with the acceptance or dispensing of  
10 cash on a person-to-person basis such as by a store cashier, or used  
11 for payment of goods and services.

12 (4) "Banking institution" means a state or federally chartered  
13 bank, trust company, savings bank, savings and loan association, and  
14 credit union.

15 (5) "Candle-foot power" means a light intensity of candles on a  
16 horizontal plane at thirty-six inches above ground level and five feet  
17 in front of the area to be measured.

18 (6) "Control of an access area or defined parking area" means to  
19 have the present authority to determine how, when, and by whom it is to  
20 be used, and how it is to be maintained, lighted, and landscaped.

21 (7) "Defined parking area" means that portion of a parking area  
22 open for customer parking that is:

23 (a) Contiguous to an access area with respect to an automated  
24 teller machine or night deposit facility;

25 (b) Regularly, principally, and lawfully used for parking by users  
26 of the automated teller machine or night deposit facility while  
27 conducting transactions during hours of darkness; and

28 (c) Owned or leased by the operator of the automated teller machine  
29 or night deposit facility or owned or controlled by the party leasing  
30 the automated teller machine or night deposit facility site to the  
31 operator. "Defined parking area" does not include a parking area that  
32 is not open or regularly used for parking by users of the automated  
33 teller machine or night deposit facility who are conducting  
34 transactions during hours of darkness. A parking area is not open if  
35 it is physically closed to access or if conspicuous signs indicate that  
36 it is closed. If a multiple level parking area satisfies the  
37 conditions of this subsection (7)(c) and would therefore otherwise be  
38 a defined parking area, only the single parking level deemed by the  
39 operator of the automated teller machine and night deposit facility to

1 be the most directly accessible to the users of the automated teller  
2 machine and night deposit facility is a defined parking area.

3 (8) "Hours of darkness" means the period that commences thirty  
4 minutes after sunset and ends thirty minutes before sunrise.

5 (9) "Night deposit facility" means a receptacle that is provided by  
6 a banking institution for the use of its customers in delivering cash,  
7 checks, and other items to the banking institution.

8 (10) "Operator" means a banking institution or other business  
9 entity or a person who operates an automated teller machine or night  
10 deposit facility.

11 EXPLANATORY NOTE

12 Corrects a manifest drafting error.

13 NEW SECTION. **Sec. 76.** The following acts or parts of acts are  
14 each repealed:

15 (1) RCW 18.08.150 (Application for examination--Fee) and 1985 c 7  
16 s 5;

17 (2) RCW 18.08.190 (Expiration of certificate--Renewal--Fee--  
18 Withdrawal of registrant) and 1985 c 7 s 6;

19 (3) RCW 18.08.220 (Reinstatement of certificate--Replacement of  
20 lost or destroyed certificate, charge) and 1985 c 7 s 7;

21 (4) RCW 18.25.050 (Revocation or refusal of licenses--Hearing--  
22 Restoration) and 1985 c 7 s 16;

23 (5) RCW 18.32.326 (Identification of dental prostheses--Technical  
24 assistance);

25 (6) RCW 18.45.010 (Definitions) and 1979 c 141 s 27;

26 (7) RCW 18.45.020 (Administration of chapter) and 1979 c 141 s 28;

27 (8) RCW 18.45.440 (Inspection of premises, records, materials--  
28 Powers of secretary) and 1979 c 141 s 29;

29 (9) RCW 18.45.450 (Condemnation of articles, materials--Grounds--  
30 Disposition) and 1979 c 141 s 30;

31 (10) RCW 18.45.470 (Condemned articles--Failure to relinquish--  
32 Penalty) and 1979 c 141 s 31; and

33 (11) RCW 18.90.010 (Definitions) and 1979 c 158 s 70.

34 EXPLANATORY NOTE

35 RCW 18.08.150 was amended by 1985 c 7 s 5 without reference to  
36 its repeal by 1985 c 37 s 18. Repealing this section removes  
37 the decodified section from the code.

1 RCW 18.08.190 was amended by 1985 c 7 s 6 without reference to  
2 its repeal by 1985 c 37 s 18. Repealing this section removes  
3 the decodified section from the code.

4 RCW 18.08.220 was amended by 1985 c 7 s 7 without reference to  
5 its repeal by 1985 c 37 s 18. Repealing this section removes  
6 the decodified section from the code.

7 RCW 18.25.050 was amended by 1985 c 7 s 16 without reference to  
8 its repeal by 1986 c 259 s 27. Repealing this section removes  
9 the decodified section from the code.

10 RCW 18.32.326 was both recodified and repealed during the 1989  
11 legislative sessions, each without reference to the other.  
12 Repealing this section removes the decodified section from the  
13 code.

14 RCW 18.45.010 was amended by 1979 c 141 s 27 without reference  
15 to its repeal by 1979 c 99 s 1, effective June 30, 1982.  
16 Repealing this section removes the decodified section from the  
17 code.

18 RCW 18.45.020 was amended by 1979 c 141 s 28 without reference  
19 to its repeal by 1979 c 99 s 51, effective June 30, 1982.  
20 Repealing this section removes the decodified section from the  
21 code.

22 RCW 18.45.440 was amended by 1979 c 141 s 29 without reference  
23 to its repeal by 1979 c 99 s 51, effective June 30, 1982.  
24 Repealing this section removes the decodified section from the  
25 code.

26 RCW 18.45.450 was amended by 1979 c 141 s 30 without reference  
27 to its repeal by 1979 c 99 s 51, effective June 30, 1982.  
28 Repealing this section removes the decodified section from the  
29 code.

30 RCW 18.45.470 was amended by 1979 c 141 s 31 without reference  
31 to its repeal by 1979 c 99 s 51, effective June 30, 1982.  
32 Repealing this section removes the decodified section from the  
33 code.

34 RCW 18.90.010 was amended by 1979 c 158 s 70 without reference  
35 to its repeal by 1979 c 99 s 60, effective June 30, 1982.

1 Repealing this section removes the decodified section from the  
2 code.

--- END ---