

ESSB 5831 - H COMM AMD
By Committee on Appropriations

NOT ADOPTED 03/07/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Applicant" means a person who has submitted the appropriate
7 form or forms to be considered for an HVAC/R mechanic certificate, a
8 temporary HVAC/R mechanic certificate, a trainee certificate, or an
9 HVAC/R operator certificate, as required by the department.

10 (2) "Board" means the HVAC/R board established in section 24 of
11 this act.

12 (3) "Boiler" means a closed vessel in which water is heated, steam
13 is generated, steam is superheated, or a combination thereof, under
14 pressure or vacuum by the application of heat, electricity, or nuclear
15 energy. "Boiler" also includes fired units for heating or vaporizing
16 liquids other than water where these systems are complete within
17 themselves.

18 (4) "BTUH" means British thermal units per hour.

19 (5) "Certified HVAC/R mechanic" means a person who has been issued
20 a valid HVAC/R mechanic certificate under section 16 of this act.

21 (6) "Certified specialty mechanic" means a person who has been
22 issued one or more valid specialty mechanic certificates under section
23 16 of this act.

24 (7) "CFM" means cubic feet per minute.

25 (8) "Department" means the department of labor and industries.

26 (9) "Director" means the director of the department or the
27 director's designee.

28 (10) "Gas company" has the same meaning as in RCW 80.04.010.

29 (11) "Gas company service piping" means gas piping that is owned by
30 or under the control of a gas company and used for transmission or

1 distribution of fuel to the point of contact at the premises or
2 property supplied or to be supplied, including service connections,
3 meters, or other apparatus or appliance used in the measurement of the
4 consumption of fuel by the customer. For the purposes of this
5 subsection, "point of contact" means the outlet of the meter or the
6 connection to the customer's gas piping, whichever is farther
7 downstream.

8 (12) "Gas piping" means pipes, valves, or fittings used to convey
9 fuel gas installed on a premise or in a building. "Gas piping" does
10 not include gas company service piping or any gas piping used directly
11 in the generation of electricity by an electric utility or a
12 commercial-scale nonutility generator of electricity.

13 (13) "Gas piping work" means to design, fabricate, construct,
14 install, replace, or service gas piping and venting related to gas
15 piping.

16 (14) "Hearth products" means any fuel gas or oil-fueled appliance
17 that has a visual presence in a living space of a residence or any
18 outdoor fuel gas barbecue or fireplace that is listed to the
19 appropriate underwriters laboratories, American national standards
20 institute, or ASTM international product safety standard.

21 (15) "Hours of HVAC/R work" means any combination of accrued hours
22 of HVAC/R work performed while:

23 (a) Employed by an HVAC/R contractor or a person exempt from the
24 requirements of chapter 18.27 RCW, chapter 19.28 RCW, or this chapter;

25 (b) Employed by a registered or licensed general or specialty
26 contractor, or the equivalent, in another state or country; or

27 (c) Serving in the United States armed forces.

28 (16) "HVAC" means heating, ventilating, and air conditioning.

29 (17)(a) "HVAC equipment and systems" means equipment necessary for
30 any system that heats, cools, conditions, ventilates, filters,
31 humidifies, or dehumidifies environmental air for residential,
32 industrial, or commercial use, including all related ventilation and
33 ducting systems.

34 (b) "HVAC equipment and systems" does not include: (i) Solid fuel
35 burning devices, such as wood stoves and coal stoves; (ii) gas company
36 service piping; (iii) gas piping other than that necessary to deliver
37 fuel; or (iv) boilers.

1 (18) "HVAC work" means to design, fabricate, construct, install,
2 replace, service, test, or adjust and balance HVAC equipment and
3 systems.

4 (19) "HVAC/R" means heating, ventilating, air conditioning, and
5 refrigeration.

6 (20) "HVAC/R contractor" means any person who:

7 (a) Advertises for, offers to perform, submits a bid for, or
8 performs any HVAC/R work covered by the provisions of this chapter;

9 (b) Employs anyone, or offers or advertises to employ anyone, to
10 perform any HVAC/R work that is subject to the provisions of this
11 chapter; or

12 (c) Is registered under section 2(1)(b) of this act.

13 (21) "HVAC/R equipment and systems" means HVAC equipment and
14 systems, refrigeration systems, and gas piping.

15 (22) "HVAC/R mechanic certificate" means any of the certificates
16 identified under section 7 of this act.

17 (23) "HVAC/R operator certificate" means the certificate identified
18 under section 10 of this act.

19 (24) "HVAC/R work" means all HVAC work, refrigeration work, and gas
20 piping work not otherwise exempted by this chapter.

21 (25) "Person" or "company," used interchangeably throughout this
22 chapter, means any individual, corporation, partnership, limited
23 partnership, organization, or any other entity whatsoever, whether
24 public or private.

25 (26) "Property management company" means a company that is
26 operating in compliance with state real estate licensing rules and is
27 under contract with a property owner to manage the buildings.

28 (27) "Refrigeration system" means a combination of interconnected
29 refrigerant-containing parts constituting one closed refrigerant
30 circuit in which a refrigerant is circulated for the purpose of
31 extracting heat and includes systems in which a secondary coolant,
32 cooled or heated by the refrigeration system, is circulated to the air
33 or other substance to be cooled or heated.

34 (28) "Refrigeration work" means to design, fabricate, construct,
35 install, replace, or service refrigeration systems.

36 (29) "Service" means to repair, modify, or perform other work
37 required for the normal continued performance of HVAC/R equipment and
38 systems.

1 (30) "Specialty certificate" means any of the certificates
2 identified under section 6 of this act.

3 (31) "Technical college" means a public community or technical
4 college, or a not-for-profit nationally accredited technical or trade
5 school licensed by the workforce training and education coordinating
6 board under chapter 28C.10 RCW.

7 (32) "Temporary certificate" means any of the certificates issued
8 under section 8 of this act.

9 (33) "Trainee" means a person who has been issued a trainee
10 certificate by the department under section 9 of this act.

11 (34) "Trainee certificate" means any certificate issued under
12 section 9 of this act.

13 (35) "Valid" means not expired, revoked, or suspended.

14 NEW SECTION. **Sec. 2.** CONTRACTOR REGISTRATION--CONCURRENT
15 REGISTRATION--REQUIREMENTS. (1) Except as provided in this chapter, it
16 is unlawful for:

17 (a) Any person to engage in business as an HVAC/R contractor,
18 within the state, without having been issued a valid registration as a
19 contractor under chapter 18.27 RCW;

20 (b) Any person, on or after July 1, 2009, to engage in business as
21 an HVAC/R contractor, within the state, without having been issued a
22 valid registration as an HVAC/R contractor from the department; and

23 (c) Any person, on and after July 1, 2010, to employ a person to
24 perform or offer to perform HVAC/R work who has not been issued a valid
25 HVAC/R mechanic certificate, specialty certificate, temporary HVAC/R
26 mechanic certificate, trainee certificate, or HVAC/R operator
27 certificate issued by the department under this chapter.

28 (2) The department shall prescribe an application form to be used
29 to apply for an HVAC/R contractor registration under this chapter, and
30 shall ensure that the person applying for an HVAC/R contractor
31 registration is also a registered general or specialty contractor under
32 chapter 18.27 RCW before it issues that person an HVAC/R contractor
33 registration.

34 (3) For a person who may be issued two or more registrations or
35 licenses provided for in chapter 18.27 RCW, chapter 19.28 RCW, or this
36 chapter, the department shall establish on or before July 1, 2011, a

1 single registration/licensing document. The document shall list all of
2 the person's registrations and licenses.

3 (4) Regardless of when the HVAC/R contractor registration is
4 issued, it shall become suspended, revoked, expired, or renewed at the
5 same time as the registration issued under chapter 18.27 RCW.

6 (5) No bond or security in addition to that required of
7 contractors under chapter 18.27 RCW shall be required of an HVAC/R
8 contractor under this chapter.

9 (6) This section does not apply to:

10 (a) A person who is contracting for HVAC/R work on his or her own
11 residence;

12 (b) A person whose employees perform only HVAC/R work exempted
13 under section 4 of this act; or

14 (c) A person who is specifically exempted under RCW 18.27.090 from
15 contractor registration requirements.

16 NEW SECTION. **Sec. 3.** CERTIFICATE REQUIRED--LOCAL PREEMPTION. (1)
17 Except as provided in this chapter, it is unlawful for any person, on
18 and after July 1, 2010, to perform or offer to perform HVAC/R work
19 without having been issued a valid HVAC/R mechanic certificate,
20 specialty certificate, temporary HVAC/R mechanic certificate, or
21 trainee certificate under this chapter.

22 (2) Except as provided in section 4(1)(o) of this act, no political
23 subdivision of the state shall require a person possessing a valid
24 HVAC/R certificate, specialty certificate, temporary HVAC/R mechanic
25 certificate, trainee certificate issued by the department under this
26 chapter, or any person who is exempted under this chapter to
27 demonstrate any additional proof of competency in, obtain any license
28 for, or pay any fee to perform HVAC/R work in that political
29 subdivision.

30 NEW SECTION. **Sec. 4.** EXEMPTIONS FROM CERTIFICATION. (1) The
31 provisions of section 3(1) of this act do not apply to a person:

32 (a) Cleaning or replacing air filters, lubricating bearings,
33 replacing fan belts, cleaning evaporators or condensers, cleaning
34 cooling towers, or equipment logging on any HVAC/R equipment or
35 systems;

- 1 (b) Performing HVAC/R work on HVAC/R equipment or systems that:
2 (i) Contain six pounds or less of any refrigerant and is actuated by a
3 motor or engine having a standard rating of one-quarter horsepower or
4 less; or (ii) are an absorption system that has a rating of one-quarter
5 ton or less refrigeration effect;
- 6 (c) Setting oil tanks and related piping to a furnace;
- 7 (d) Setting propane tanks and related piping outside a building;
- 8 (e) Performing gas piping work on a fuel burning appliance with a
9 maximum capacity of five hundred thousand BTUH while holding a valid
10 journeyman plumber certificate issued under chapter 18.106 RCW or a
11 valid specialty plumber certificate issued under chapter 18.106 RCW for
12 performing services in RCW 18.106.010(10)(a);
- 13 (f) Performing HVAC/R work at his or her residence, farm, place of
14 business, or on other property owned by him or her, unless the HVAC/R
15 work is performed in the construction of a new building intended for
16 rent, sale, or lease;
- 17 (g) Performing HVAC/R work on his or her own property or to
18 regularly employed persons working on the premises of their employer,
19 unless the HVAC/R work is performed in the construction of a new
20 building intended for rent, sale, or lease;
- 21 (h) Performing HVAC/R work for or on behalf of a gas company when
22 such work is (i) incidental to the business of delivering fuel gas to
23 the premises or (ii) performed pursuant to any tariff on file with the
24 state utilities and transportation commission;
- 25 (i) Licensed under chapter 18.08 or 18.43 RCW who is designing
26 HVAC/R equipment or systems, but who is not otherwise performing HVAC/R
27 work;
- 28 (j) Making a like-in-kind replacement of a household appliance;
- 29 (k) Installing wood or pellet stoves, including directly related
30 venting such as a chimney or flue;
- 31 (l) Performing minor flexible ducting repairs in a single-family
32 residential structure;
- 33 (m) Performing cleaning, repair, or replacement of fuel oil filters
34 and nozzles of an oil heat burner assembly;
- 35 (n) Making like-in-kind replacement of an oil heat furnace in a
36 single-family residential structure and the associated fittings
37 necessary to connect the replacement oil heat furnace to existing
38 ductwork in a single-family residential structure; or

1 (o) Installing, replacing, and servicing hearth products. As used
2 in this subsection, "installing and replacing" means removing and
3 setting the hearth product pursuant to manufacturer instructions and
4 specifications, connecting a hearth product with or disconnecting the
5 hearth product from an approved flexible gas supply line not to exceed
6 thirty-six inches in length, and installing or uninstalling venting
7 that is directly related to the hearth product and that has been
8 provided in the same packaging of the hearth product by the
9 manufacturer.

10 (2) Nothing in this section precludes any person who is exempted
11 under this section from obtaining an HVAC/R mechanic certificate,
12 specialty certificate, temporary HVAC/R mechanic certificate, trainee
13 certificate, or HVAC/R operator certificate if they otherwise meet the
14 requirements of this chapter.

15 NEW SECTION. **Sec. 5.** TEMPORARY EXEMPTION FROM CERTIFICATION. (1)
16 Except for persons performing refrigeration work in a city with a
17 population of five hundred thousand or more, the provisions of section
18 3(1) of this act do not apply to a person performing refrigeration work
19 on a refrigeration system:

- 20 (a) Using only class A1 refrigerants;
- 21 (b) Used primarily for the refrigeration of food products; and
- 22 (c) Physically located in an establishment whose North American
23 industry classification system code is within "445."

24 (2) Nothing in this section precludes any person exempted under
25 this section from obtaining any of the certificates provided for in
26 this chapter if he or she otherwise meets the requirements of this
27 chapter.

28 (3) This section expires June 30, 2013.

29 NEW SECTION. **Sec. 6.** SPECIALTY CERTIFICATES--SCOPE OF WORK. The
30 department may issue the following specialty certificates to an
31 applicant who has successfully met the requirements under this chapter
32 for a specialty certificate, and the scope of work that may be
33 performed by a person under each of the specialty certificates is as
34 follows:

- 35 (1) Gas piping specialty mechanic I/II. A person issued a gas

1 piping specialty mechanic I/II certificate may perform gas piping work
2 on a fuel burning appliance with a maximum capacity of five hundred
3 thousand BTUH.

4 (2) Refrigeration specialty mechanic I. A person issued a
5 refrigeration specialty mechanic I certificate may perform
6 refrigeration work on a refrigeration system that contains less than
7 thirty pounds of class A1 refrigerants.

8 (3) HVAC specialty mechanic I. A person issued an HVAC specialty
9 mechanic I certificate may perform HVAC work on HVAC equipment and
10 systems of seven and one-half tons or less or HVAC equipment and
11 systems of three thousand three hundred seventy-five CFM or less.

12 (4) Refrigeration specialty mechanic II. A person issued a
13 refrigeration specialty mechanic II certificate may perform
14 refrigeration work on a refrigeration system that contains less than
15 seventy pounds of class A1 refrigerants.

16 (5) HVAC specialty mechanic II. A person issued an HVAC specialty
17 mechanic II certificate may perform:

18 (a) HVAC work authorized to be performed by an HVAC specialty
19 mechanic I; and

20 (b) HVAC work on HVAC equipment and systems of twenty tons or less
21 or HVAC equipment and systems of nine thousand CFM or less.

22 (6) Gas piping specialty mechanic III. A person issued a gas
23 piping specialty mechanic III certificate may perform all gas piping
24 work on any fuel burning appliance.

25 (7) Refrigeration specialty mechanic III. A person issued a
26 refrigeration specialty mechanic III certificate may perform
27 refrigeration work on any refrigeration system using any refrigerant.

28 (8) HVAC specialty mechanic III. A person issued an HVAC specialty
29 mechanic III certificate may perform all HVAC work on HVAC equipment
30 and systems.

31 NEW SECTION. **Sec. 7.** HVAC/R MECHANIC CERTIFICATES--SCOPE OF WORK.
32 The department may issue the following HVAC/R mechanic certificates to
33 an applicant who has successfully met the requirements under this
34 chapter for an HVAC/R certificate, and the scope of work that may be
35 performed by a person under each of the HVAC/R mechanic certificates is
36 as follows:

1 (1) HVAC/R mechanic I. A person issued an HVAC/R mechanic I
2 certificate may perform:

3 (a) Gas piping work authorized to be performed by a gas piping
4 specialty mechanic I/II;

5 (b) Refrigeration work authorized to be performed by a
6 refrigeration specialty mechanic I; and

7 (c) HVAC work authorized to be performed by an HVAC specialty
8 mechanic I.

9 (2) HVAC/R mechanic II. A person issued an HVAC/R mechanic II
10 certificate may perform:

11 (a) Gas piping work authorized to be performed by a gas piping
12 specialty mechanic I/II;

13 (b) Refrigeration work authorized to be performed by a
14 refrigeration specialty mechanic II; and

15 (c) HVAC work authorized to be performed by an HVAC specialty
16 mechanic II.

17 (3) HVAC/R mechanic III. A person issued an HVAC/R mechanic III
18 certificate may perform:

19 (a) Gas piping work authorized to be performed by a gas piping
20 specialty mechanic III;

21 (b) Refrigeration work authorized to be performed by a
22 refrigeration specialty mechanic III; and

23 (c) HVAC work authorized to be performed by an HVAC specialty
24 mechanic III.

25 NEW SECTION. **Sec. 8.** TEMPORARY HVAC/R CERTIFICATE--APPLICATION--
26 EXAMINATION REQUIRED. (1) On and after July 1, 2010, a person who has
27 performed HVAC/R work in other states or countries may, in a form and
28 manner prescribed by the department, apply for a temporary HVAC/R
29 mechanic certificate to perform HVAC/R work in this state. The
30 application shall contain evidence of the person's hours of HVAC/R work
31 in the other states or countries that is verifiable by the department.

32 (2) Upon review of the application provided in subsection (1) of
33 this section, the department may:

34 (a) If the applicant has accrued less than two thousand hours of
35 HVAC/R work, not issue a temporary HVAC/R mechanic certificate;

36 (b) If the applicant has accrued two thousand hours or more, but

1 less than four thousand hours of HVAC/R work, issue a temporary HVAC/R
2 mechanic I certificate;

3 (c) If the applicant has accrued four thousand hours or more, but
4 less than eight thousand hours of HVAC/R work, issue a temporary HVAC/R
5 mechanic II certificate; or

6 (d) If the applicant has accrued eight thousand hours or more of
7 HVAC/R work, issue a temporary HVAC/R mechanic III certificate.

8 (3) The temporary HVAC/R mechanic certificate issued under this
9 section shall clearly indicate on the document that it is temporary in
10 nature and contain the period for which it is valid.

11 (4) A person issued a temporary HVAC/R mechanic certificate shall
12 have that certificate in his or her possession when performing any
13 HVAC/R work and shall show the certificate to any authorized
14 representative of the department upon request.

15 (5) A person issued a temporary HVAC/R mechanic certificate under
16 this section may only perform the scope of work authorized under
17 section 7 of this act for the equivalent HVAC/R mechanic certificate
18 and may not supervise any person with a trainee certificate issued
19 under this chapter.

20 (6) A temporary HVAC/R mechanic certificate issued under this
21 section shall be valid for ninety days from the date the department
22 issues a certificate or until the date the department furnishes to the
23 applicant the results of their examination for the equivalent HVAC/R
24 mechanic certificate, whichever is later. The applicant must take the
25 examination provided under this chapter for the equivalent HVAC/R
26 mechanic certificate within the ninety-day period granted under this
27 subsection.

28 NEW SECTION. **Sec. 9.** TRAINEE CERTIFICATE. (1) A person may, in
29 a form and manner prescribed by the department, apply for a trainee
30 certificate to perform HVAC/R work in the state.

31 (2) Upon receipt of the application, the department shall issue a
32 trainee certificate to the applicant.

33 (3) The HVAC/R work performed under a trainee certificate issued
34 pursuant to this section must be:

- 35 (a) Within the scope of work authorized under that certificate;
- 36 (b) On the same job site and under the direction of an

1 appropriately certified HVAC/R mechanic or an appropriately certified
2 specialty mechanic; and

3 (c) Under the applicable supervision ratios required in section 17
4 of this act.

5 (4) A trainee shall have his or her certificate in his or her
6 possession when performing any HVAC/R work and shall show the
7 certificate to any authorized representative of the department upon
8 request.

9 (5) A trainee certificate shall be valid for a maximum of two years
10 from the date of issuance. The certificate shall include the
11 expiration date.

12 (6) The department may only renew a training certificate when the
13 trainee provides the department with:

14 (a) An accurate list of the persons who employed the trainee in
15 HVAC/R work for the previous two-year period and the number of hours of
16 HVAC/R work performed under each employer; and

17 (b) Evidence that the trainee has met the continuing education
18 requirements in section 19 of this act.

19 (7) If a person applies for a trainee certificate under this
20 section and electrical trainee status under chapter 19.28 RCW, the
21 department shall create, on or before July 1, 2011, a single document
22 for that person that represents this concurrent trainee status.

23 (8) A trainee who has not successfully passed any portion of the
24 examinations provided for in section 13 of this act is prohibited from
25 performing HVAC/R work in excess of two thousand hours beyond the
26 amount of hours required to become eligible under the requirements of
27 section 14(2)(c) of this act to take the examination for an HVAC/R
28 mechanic III certificate.

29 NEW SECTION. **Sec. 10.** HVAC/R OPERATOR CERTIFICATION. (1) An
30 HVAC/R operating engineer may, in a form and manner prescribed by the
31 department, apply for an HVAC/R operator certificate. For the purposes
32 of this subsection, "HVAC/R operating engineer" means a full-time
33 employee who spends a substantial portion of time in the maintenance
34 and operation of HVAC/R equipment and systems in a building, or portion
35 thereof, used for occupant comfort, manufacturing, processing, or
36 storage of materials or products including, but not limited to,
37 chemicals, food, candy, and ice cream factories, ice-making plants,

1 meat packing plants, refineries, perishable food warehouses, hotels,
2 hospitals, restaurants, and similar occupancies and equipped with a
3 refrigeration system and whose duty it is to operate, maintain, and
4 keep safe and in serviceable condition all of the employer's HVAC/R
5 equipment and systems.

6 (2) The department may issue an HVAC/R operator certificate to an
7 applicant who has successfully passed the examination provided for in
8 subsection (8) of this section.

9 (3) The scope of work that may be performed by a person under an
10 HVAC/R operator certificate is as follows:

11 (a) Cleaning or replacing air filters, lubricating bearings,
12 replacing fan belts, cleaning evaporators or condensers, cleaning
13 cooling towers, or equipment logging on any HVAC/R equipment or
14 systems; or

15 (b) Performing minor HVAC/R equipment and systems repair and HVAC/R
16 work on sealed HVAC/R equipment and systems.

17 (4) A person who performs HVAC/R work on HVAC/R equipment or
18 systems that: (a) Contain six pounds or less of any refrigerant and is
19 actuated by a motor or engine having a standard rating of one-quarter
20 horsepower or less; or (b) are an absorption system that has a rating
21 of one-quarter ton or less refrigeration effect, is not required to
22 obtain a certificate under this section.

23 (5) Any person issued a valid refrigeration operating engineer
24 license by the city of Seattle shall be issued an HVAC/R operator
25 certificate without meeting any additional requirements.

26 (6) A person issued a valid HVAC/R operator certificate under this
27 section shall have his or her certificate in his or her possession when
28 performing any HVAC/R work and shall show the certificate to any
29 authorized representative of the department upon request.

30 (7) An HVAC/R operator certificate issued under this section shall
31 be valid for a maximum of three years and shall expire on the holder's
32 birthdate. The certificate shall include the expiration date.

33 (8) The department shall develop an examination that an applicant
34 must pass before they can be issued an HVAC/R operator certificate
35 under this section. The exam shall be comparable to the current
36 refrigeration operating engineer license test used by the city of
37 Seattle.

1 (9) The hours accrued as an HVAC/R operating engineer under this
2 section may accrue towards the hours required to be eligible to take an
3 examination for an HVAC/R mechanic certificate under section 14 of this
4 act only if the HVAC/R operating engineer is supervised by an
5 appropriately certified HVAC/R mechanic or appropriately supervised
6 specialty mechanic and was issued a trainee certificate under section
7 9 of this act.

8 NEW SECTION. **Sec. 11.** HVAC/R MECHANIC CERTIFICATION WITHOUT
9 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who
10 has performed HVAC/R work may, in a form and manner prescribed by the
11 department, apply for an HVAC/R mechanic certificate without
12 examination. The application shall contain evidence of the person's
13 hours of HVAC/R work or other required information that is verifiable
14 by the department.

15 (2) Upon review of the application provided in subsection (1) of
16 this section, the department shall:

17 (a) If the applicant has, since January 1, 1988, accrued less than
18 two thousand hours of HVAC/R work, not issue any HVAC/R mechanic
19 certificate;

20 (b) If the applicant has, since January 1, 1988, accrued two
21 thousand hours or more, but less than four thousand hours of HVAC/R
22 work, issue an HVAC/R mechanic I certificate;

23 (c) If the applicant has, since January 1, 1988, accrued four
24 thousand hours or more, but less than eight thousand hours of HVAC/R
25 work, issue an HVAC/R mechanic II certificate; or

26 (d) If the applicant has, since January 1, 1988:

27 (i) Accrued eight thousand hours or more of HVAC/R work;

28 (ii) Completed an appropriately related apprenticeship program
29 approved under chapter 49.04 RCW; or

30 (iii) Completed an appropriately related apprenticeship program in
31 another state or country equivalent to that provided in chapter 49.04
32 RCW, issue an HVAC/R mechanic III certificate.

33 (3) Once the appropriate level of HVAC/R mechanic certificate is
34 issued to a person under this section, that person shall become subject
35 to the other provisions of this chapter for any additional
36 certifications.

37 (4) This section expires July 1, 2010.

1 NEW SECTION. **Sec. 12.** SPECIALTY CERTIFICATION WITHOUT
2 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who
3 has performed HVAC/R work may, in a form and manner prescribed by the
4 department, apply for specialty certificates without examination. The
5 application shall contain evidence of the person's hours of HVAC/R work
6 or other required information that is verifiable by the department.

7 (2) Upon review of the application provided in subsection (1) of
8 this section, the department shall:

9 (a) If the applicant holds a valid journey refrigeration mechanic
10 license issued by the city of Seattle, issue a refrigeration specialty
11 mechanic III certificate and an HVAC specialty mechanic III
12 certificate;

13 (b) If the applicant has, since January 1, 1988, accrued one
14 thousand hours of gas piping work, issue a gas piping specialty
15 mechanic I/II certificate;

16 (c) If the applicant was licensed in any local jurisdiction to
17 perform gas piping work on a fuel burning appliance with a maximum
18 capacity of five hundred thousand BTUH or less, issue a gas piping
19 specialty mechanic I/II certificate; and

20 (d) If the applicant was licensed in any local jurisdiction to
21 perform all gas piping work on any fuel burning appliance, issue a gas
22 piping specialty mechanic III certificate.

23 (3) The specialty certificates provided for in subsection (2) of
24 this section shall be in addition to any HVAC/R mechanic certificate
25 issued by the department under section 11 of this act.

26 (4) Once the appropriate level of specialty certificate is issued
27 to a person under this section, that person shall become subject to the
28 other provisions of this chapter for any additional certifications.

29 (5) This section expires July 1, 2010.

30 NEW SECTION. **Sec. 13.** EXAMINATION. (1) The department, with
31 advice from the board, shall prepare three separate examinations for
32 the assessment of each level of HVAC/R mechanic certification created
33 in section 7 of this act. Within each examination, there shall be a
34 distinct portion that assesses the competency of the applicant in the
35 appropriate level of gas piping work, refrigeration work, and HVAC
36 work. The department shall adopt rules necessary to implement this
37 section.

1 (2) The examinations provided for under this section shall be
2 constructed to determine:

3 (a) Whether the applicant possesses general knowledge of the
4 technical information and practical procedures that are identified
5 within the relevant scope of work; and

6 (b) Whether the applicant is familiar with the applicable laws and
7 administrative rules of the department pertaining to the relevant scope
8 of work.

9 (3) The department, with advice from the board, may enter into a
10 contract with a professional testing agency to develop, administer, and
11 score the examinations provided for in this section.

12 (4) The department must administer, at least four times annually,
13 each examination provided under this section to applicants who are
14 eligible for examination under this chapter.

15 (5) The department must certify the results of each examination
16 administered under this section upon the terms and after such a period
17 of time as the department, with the advice of the board, deems
18 necessary and proper.

19 (6) A person may be given the appropriate level of examination they
20 are eligible to take as many times as necessary without limit.

21 (7) The department, with the advice of the board, may adopt
22 policies and procedures to make examinations available in alternative
23 languages or formats to accommodate all applicants who are eligible for
24 examination under this chapter.

25 NEW SECTION. **Sec. 14.** APPLICATION FOR EXAMINATION--ELIGIBILITY.

26 (1) A person with a valid temporary HVAC/R mechanic certificate or
27 trainee certificate may, in a form and manner prescribed by the
28 department, apply for any of the examinations provided for in section
29 13 of this act. The application shall contain evidence of the person's
30 hours of HVAC/R work or other required information that is verifiable
31 by the department.

32 (2) Upon receipt of an application for examination under this
33 section, the department shall review the application and determine
34 whether the applicant is eligible to take an examination for an HVAC/R
35 mechanic certificate using the following criteria:

36 (a) HVAC/R mechanic I certificate. To be eligible to take the

1 examination for an HVAC/R mechanic I certificate, the applicant must
2 have:

3 (i) Performed a minimum of one thousand hours of HVAC/R work and
4 the entire amount of those hours must be supervised;

5 (ii) Performed two thousand hours of HVAC/R work and seventy-five
6 percent of those hours must be supervised; or

7 (iii) Successfully completed an appropriately related
8 apprenticeship program approved under chapter 49.04 RCW that meets the
9 requirements of this level of certification.

10 (b) HVAC/R mechanic II certificate. To be eligible to take the
11 examination for an HVAC/R mechanic II certificate, the applicant must
12 have:

13 (i) Performed a minimum of four thousand hours of HVAC/R work and
14 seventy-five percent of those hours must be supervised; or

15 (ii) Successfully completed an appropriately related apprenticeship
16 program approved under chapter 49.04 RCW that meets the requirements of
17 this level of certification.

18 (c) HVAC/R mechanic III certificate. To be eligible to take the
19 examination for an HVAC/R mechanic III certificate, the applicant must
20 have:

21 (i) Performed under appropriate supervision levels the amount of
22 HVAC/R work required for an HVAC/R mechanic II certificate under (b)(i)
23 of this subsection plus an additional two thousand hours and the entire
24 amount of the additional hours required under this subsection must be
25 supervised;

26 (ii) Performed HVAC/R work for a minimum of eight thousand hours
27 and seventy-five percent of those hours must be supervised; or

28 (iii) Successfully completed an appropriately related
29 apprenticeship program under chapter 49.04 RCW that meets the
30 requirements of this level of certification.

31 (3) For the purposes of this section, "supervised" means:

32 (a) A person has performed HVAC/R work on the same job site and
33 under the direction of an appropriately certified HVAC/R mechanic or an
34 appropriately certified specialty mechanic; and

35 (b) The appropriate supervision ratios required in section 17 of
36 this act were followed.

37 (4) If any of an applicant's certificates issued prior to the

1 current application have been revoked, the department may deny the
2 current application for up to two years.

3 (5) Upon determining that the applicant is eligible to take an
4 examination under this section, the department shall so notify the
5 applicant, indicating the time and place for taking the examination.

6 (6) Work hours being accrued by an applicant as hours of HVAC/R
7 work under this chapter or towards electrical certification under
8 chapter 19.28 RCW may be credited for both the hours of HVAC/R work
9 required under this chapter and the hours of work required under
10 chapter 19.28 RCW.

11 (7) If an applicant is eligible for an examination under this
12 section and an examination under chapter 19.28 RCW, the department may
13 administer all such examinations at the same examination session.
14 However, upon request of the applicant, the department may administer
15 each examination at the time required in statute or rule for each
16 examination.

17 NEW SECTION. **Sec. 15.** ALTERNATIVES TO WORK EXPERIENCE. (1) A
18 person who has applied for an examination under section 14 of this act
19 and who has successfully completed a board-approved program in HVAC/R
20 work at a technical college, may substitute technical college program
21 hours for hours of HVAC/R work as follows:

| | Type of Certificate | Substitution for Hours of HVAC/R Work |
|----|---------------------|--|
| 22 | | |
| 23 | (a) | HVAC/R Mechanic I |
| 24 | | Up to 1,000 hours of technical college program may be substituted for up to 1,000 hours of HVAC/R work. |
| 25 | (b) | HVAC/R Mechanic II |
| 26 | | Up to 2,000 hours of technical college program may be substituted for up to 2,000 hours of required HVAC/R work. |
| 27 | | |
| 28 | (c) | HVAC/R Mechanic III |
| 29 | | Up to 4,000 hours of technical college program may be substituted for up to 4,000 hours of HVAC/R work. |

30 (2) A person who has applied for an examination under section 14 of
31 this act and who has received training in HVAC/R work in the United
32 States armed forces may substitute those training hours for hours of
33 HVAC/R work subject to approval of the department.

1 (3) The department shall determine whether program hours accrued
2 under subsection (1) of this section or the training hours accrued
3 under subsection (2) of this section are in HVAC/R work and are
4 appropriate as a substitute for hours of HVAC/R work.

5 NEW SECTION. **Sec. 16.** ISSUANCE OF CERTIFICATES--RENEWAL. (1) If
6 an applicant passes all portions of the examination administered to him
7 or her under this chapter, that person:

8 (a) Is entitled to be issued the appropriate level of HVAC/R
9 mechanic certificate; and

10 (b) Is subject to the other provisions of this chapter for
11 additional certifications.

12 (2) If an applicant fails to pass one or more portions of an
13 examination administered to him or her under this chapter, that person:

14 (a) Is still entitled to be issued the appropriate specialty
15 certificate for each portion of the examination that was passed; and

16 (b) Is subject to the other provisions of this chapter for
17 additional certifications.

18 (3)(a) If an applicant demonstrates that he or she has passed
19 required modules of a national certification program and, as a result,
20 has been issued an equivalent level of certification by the national
21 propane gas association, that person is entitled to be issued a gas
22 piping specialty mechanic I/II certificate.

23 (b) A person certified as a gas piping specialty mechanic I/II
24 under (a) of this subsection is subject to the requirements of this
25 chapter to obtain any additional certificates.

26 (c) Nothing in this subsection (3) shall be construed to prohibit
27 a person from obtaining any of the other certificates provided for in
28 this chapter if they otherwise meet the requirements of this chapter.

29 (4) An HVAC/R mechanic certificate or specialty certificates shall
30 be valid for a maximum of three years and shall expire on the holder's
31 birthdate. All certificates shall include the expiration date.

32 (5) A person issued an HVAC/R mechanic certificate or specialty
33 certificate may only perform the scope of work authorized under
34 sections 6 and 7 of this act for the certificate.

35 (6) A person issued an HVAC/R mechanic certificate or specialty
36 certificate shall have the certificate in his or her possession when

1 performing any HVAC/R work and shall show the certificate to any
2 authorized representative of the department upon request.

3 (7) The department shall renew an HVAC/R mechanic certificate or
4 specialty certificate if the person issued the certificate:

5 (a) Applies for renewal of his or her certificate not more than
6 ninety days after the certificate expires; and

7 (b) Has complied with the continuing education requirement in
8 section 19 of this act.

9 (8) The department may not renew a certificate that has been
10 revoked or suspended.

11 (9) The department may deny renewal of a certificate if the person
12 seeking renewal owes outstanding penalties for a final judgment under
13 this chapter.

14 (10) The department shall, on or before July 1, 2011, create a
15 single document and establish a single expiration date for a person who
16 holds two or more certificates or specialty certificates under chapter
17 18.106 RCW, chapter 19.28 RCW, and this chapter. The document shall
18 list all of the person's certificates and specialty certificates.

19 NEW SECTION. **Sec. 17.** SUPERVISION RATIOS--SUPERVISION. (1) The
20 ratio of trainees to appropriately certified HVAC/R mechanics or
21 appropriately certified specialty mechanics on the same job site must
22 not be greater than:

23 (a) For trainees not in a technical college program, two trainees
24 to each appropriately certified HVAC/R mechanic or appropriately
25 certified specialty mechanic; or

26 (b) For trainees in a technical college program, four trainees to
27 each appropriately certified HVAC/R mechanic or appropriately certified
28 specialty mechanic.

29 (2) When the ratio of trainees to appropriately certified HVAC/R
30 mechanics or appropriately certified specialty mechanics on a job site
31 is one appropriately certified HVAC/R mechanic or appropriately
32 certified specialty mechanic to one or two trainees, the appropriately
33 certified HVAC/R mechanic or appropriately certified specialty mechanic
34 must be on the same job site as the trainees for a minimum of seventy-
35 five percent of each working day.

36 (3) When the ratio of trainees to appropriately certified HVAC/R
37 mechanics or appropriately certified specialty mechanics on a job site

1 is one appropriately certified HVAC/R mechanic or appropriately
2 certified specialty mechanic to three or four trainees, the
3 appropriately certified HVAC/R mechanic or appropriately certified
4 specialty mechanic must:

5 (a) Directly supervise and instruct the trainees and may not
6 directly make or engage in HVAC/R work; and

7 (b) Be on the same job site as the trainees for one hundred percent
8 of each working day.

9 (4) Hours of HVAC/R work that are performed when the supervision
10 ratios are not in compliance with this section do not qualify as
11 supervised hours when accruing hours of HVAC/R work under this chapter.

12 (5) Notwithstanding any other provision of this chapter, a person:

13 (a) Who has successfully completed, or is currently enrolled in, an
14 approved appropriately related apprenticeship program or an HVAC/R
15 program at a technical college may perform, unsupervised, the remaining
16 six months of the experience requirements of this chapter;

17 (b) Determined to be eligible for examination under section
18 14(2)(a)(i) of this act and who passes all portions of that
19 examination, may perform, unsupervised, the remaining one thousand
20 hours of HVAC/R work required under this chapter for an HVAC/R mechanic
21 I certificate. However, all HVAC/R work performed by this person must
22 be within the scope of work for an HVAC/R mechanic I certificate and
23 this person may not supervise other trainees until they have completed
24 the full two thousand hours of HVAC/R work required by this chapter;

25 (c) Determined to be eligible for examination under section
26 14(2)(c)(i) of this act and who passes all portions of that
27 examination, may perform, unsupervised, the remaining two thousand
28 hours of HVAC/R work required under this chapter for an HVAC/R mechanic
29 III certificate. However, all HVAC/R work performed by this person
30 must be within the scope of work for an HVAC/R mechanic III certificate
31 and this person may not supervise other trainees until they have
32 completed the full eight thousand hours of HVAC/R work required by this
33 chapter.

34 NEW SECTION. **Sec. 18.** CONTRACTOR REPORTING--AUDIT OF RECORDS.

35 (1) Every person who employs a trainee performing HVAC/R work shall
36 report to the department:

1 (a) The names and certificate numbers of any trainee who performed
2 HVAC/R work for them and the hours of HVAC/R work performed by each
3 trainee; and

4 (b) The names and certificate numbers of the appropriately
5 certified HVAC/R mechanics or appropriately certified specialty
6 mechanics who supervised the trainees identified in (a) of this
7 subsection.

8 (2) Every person who reported hours of HVAC/R work performed by
9 trainees under subsection (1) of this section shall attest that all of
10 the reported hours of HVAC/R work performed by trainees was in
11 compliance with the supervision ratio requirements in section 17 of
12 this act.

13 (3) The department may audit the records of a person who reported
14 hours of HVAC/R work performed by trainees under subsection (1) of this
15 section in the following circumstances: (a) Excessive hours were
16 reported; (b) hours were reported outside the normal course of the
17 HVAC/R contractor's business; (c) the type of hours reported do not
18 reasonably match the type of permits purchased; or (d) for other
19 similar circumstances in which the department demonstrates a likelihood
20 of excessive hours being reported. The department shall limit the audit
21 to records necessary to verify hours.

22 (4) Information obtained by the department from any person under
23 this section is confidential and exempt from public disclosure under
24 chapter 42.56 RCW.

25 NEW SECTION. **Sec. 19.** CONTINUING EDUCATION. (1) A person issued
26 an HVAC/R mechanic certificate or any specialty certificates under this
27 chapter must, prior to the renewal date on their certificate,
28 demonstrate satisfactory completion of twenty-four hours of continuing
29 education.

30 (2) The department, with the advice of the board, shall determine
31 the contents of the continuing education courses required in subsection
32 (1) of this section and establish the requirements for satisfactory
33 completion of such courses. If the department determines that a
34 continuing education course offered in another state is comparable to
35 courses offered in Washington, the department shall accept proof of
36 satisfactory completion of the out-of-state course as meeting the
37 continuing education requirement in this section.

1 (3) A trainee must, prior to the renewal date on their certificate,
2 demonstrate satisfactory completion of sixty hours of related
3 supplemental instruction or equivalent training courses, or courses
4 taken as part of an appropriately related apprenticeship program
5 approved under chapter 49.04 RCW.

6 (4) The department, with the advice of the board, shall determine
7 the contents of the related supplemental instruction or equivalent
8 training courses, or courses taken as part of an appropriately related
9 apprenticeship program approved under chapter 49.04 RCW required under
10 subsection (3) of this section, and establish the requirements for
11 satisfactory completion of such courses.

12 (5) All hours required under this section shall be accrued
13 concurrently and shall not exceed sixty hours for any person in any
14 certificate renewal period.

15 (6) Hours of approved continuing education required under this
16 section and hours of approved continuing education required under
17 chapter 19.28 RCW may be accrued concurrently. However, nothing in
18 this subsection shall be construed to relieve any person from having to
19 complete any continuing education mandated by the department by rule
20 pursuant to this chapter or pursuant to chapter 19.28 RCW.

21 NEW SECTION. **Sec. 20.** RECIPROCITY. The department may enter into
22 a reciprocity agreement with another state whose certification
23 requirements are equal to the standards set under this chapter. The
24 reciprocity agreement shall provide for the acceptance of Washington
25 and the other state's certification program or its equivalent by
26 Washington and the other state.

27 NEW SECTION. **Sec. 21.** SUSPENSION AND REVOCATION. (1) The
28 department may revoke any certificate issued under this chapter if the
29 department determines that the recipient: (a) Obtained the certificate
30 through error or fraud; (b) is incompetent to perform HVAC/R work; or
31 (c) committed a violation of this chapter or rules adopted under this
32 chapter that presents imminent danger to the public.

33 (2) The department shall immediately suspend the certificates of
34 any person who has been certified pursuant to RCW 74.20A.320 by the
35 department of social and health services as a person who is not in
36 compliance with a support order. If the person has continued to meet

1 all other requirements for reinstatement during the suspension,
2 reissuance of the certificate shall be automatic upon the department's
3 receipt of a release issued by the department of social and health
4 services stating that the person is in compliance with the order.

5 NEW SECTION. **Sec. 22.** APPLICATION OF ADMINISTRATIVE PROCEDURE
6 ACT. The proceedings for denying applications, suspending or revoking
7 certificates, and imposing civil penalties or other remedies issued
8 pursuant to this chapter and any appeal from those proceedings or
9 review of those proceedings shall be governed by the provisions of the
10 administrative procedure act, chapter 34.05 RCW.

11 NEW SECTION. **Sec. 23.** LIABILITY. (1) This chapter may not be
12 construed to relieve from or lessen the responsibility or liability of
13 any person for injury or damage to person or property caused by or
14 resulting from any HVAC/R work performed by the person.

15 (2) The state of Washington and its officers, agents, and
16 employees may not be held liable for any acts performed pursuant to
17 this chapter.

18 NEW SECTION. **Sec. 24.** HVAC/R BOARD. (1) An HVAC/R board is
19 established.

20 (2) The board shall consist of thirteen members to be appointed by
21 the governor with the advice of the director.

22 (a) Four members shall be certified HVAC/R mechanics, of which at
23 least one, but not more than two, shall be a certified HVAC/R mechanic
24 performing HVAC/R work east of the crest of the Cascade mountains.

25 (b) Four members shall be HVAC/R contractors, of which at least
26 one, but not more than two, shall be an HVAC/R contractor doing
27 business east of the crest of the Cascade mountains.

28 (c) One member shall be from the general public and be familiar
29 with HVAC/R work.

30 (d) One member shall be a building operator representing the
31 commercial property management industry.

32 (e) One member shall be from the stationary operating engineers.

33 (f) One member shall be from a technical college or an approved
34 apprenticeship training program.

1 (g) One member shall be a building official familiar with
2 enforcement of HVAC/R work.

3 (3) Except as provided in this subsection, the term of each member
4 shall be three years. The term of each initial member shall expire as
5 follows: (a) The terms of the first certified HVAC/R mechanic and the
6 first HVAC/R contractor shall expire July 1, 2009; (b) the terms of the
7 second certified HVAC/R mechanic, the second HVAC/R contractor, and the
8 public member shall expire July 1, 2010; and (c) the terms of the third
9 certified HVAC/R mechanic and the third certified HVAC/R contractor
10 shall expire July 1, 2011. To ensure that the board may continue to
11 act, a member whose term expires shall continue to serve until his or
12 her replacement is appointed. In the case of any vacancy on the board
13 for any reason, the governor shall appoint a new member to serve out
14 the term of the person whose position has become vacant.

15 (4) The board shall, at its first meeting, elect one of its members
16 to serve as chair.

17 (5) The board shall meet at least quarterly in accordance with a
18 schedule established by the board.

19 (6) The board shall:

20 (a) Conduct proceedings for denying applications, suspending or
21 revoking certificates, and imposing civil penalties or other remedies.
22 Such proceedings shall be conducted in accordance with chapter 34.05
23 RCW;

24 (b) Review and make recommendations to adopt, amend, or repeal any
25 rules under this chapter. The director may not adopt, amend, or repeal
26 any rules until the board has conducted its review and made its
27 recommendations;

28 (c) Establish an alternative method or methods for persons to
29 attest for hours of HVAC/R work when applying for certificates under
30 this chapter, but only when all traditional methods allowing for
31 verification of hours of HVAC/R work have been exhausted;

32 (d) Approve expenditures from the plumbing and HVAC/R certificate
33 fund; and

34 (e) Advise the department on all other matters relative to this
35 chapter.

36 (7) The members of the board are entitled to be reimbursed for
37 travel expenses in accordance with RCW 43.03.050 and 43.03.060.

1 NEW SECTION. **Sec. 25.** ADMINISTRATION. (1) The director may adopt
2 rules necessary for the administration of this chapter.

3 (2) The department shall administer this chapter in conjunction
4 with its administration of chapter 18.106 RCW.

5 (3) In the administration of this chapter, the department shall not
6 enter any controversy arising over work assignments with respect to the
7 trades involved in the construction industry.

8 NEW SECTION. **Sec. 26.** EFFECT ON OTHER LAWS. With the exception
9 of sections 2(3), 9(7), 14 (6) and (7), 16(10), and 19(6) of this act,
10 nothing in this chapter shall be construed to:

11 (1) Modify, amend, or supersede chapter 18.106 or 19.28 RCW;

12 (2) Prohibit or restrict an individual who is certified under
13 chapter 18.106 or 19.28 RCW from engaging in the trade in which he or
14 she is certified; or

15 (3) Regulate or include plumbing work defined in chapter 18.106 RCW
16 and its applicable rules or electrical work defined in chapter 19.28
17 RCW and its applicable rules.

18 NEW SECTION. **Sec. 27.** COMPLIANCE AGENTS. (1) The director shall
19 appoint compliance agents to investigate alleged or apparent violations
20 of this chapter. The director, or authorized compliance agent, upon
21 presentation of appropriate credentials, may inspect and investigate
22 job sites at which an HVAC/R contractor had bid or presently is working
23 to determine whether the HVAC/R contractor is registered and their
24 employees are certified and working in accordance with this chapter or
25 the rules adopted under this chapter or whether there is a violation of
26 this chapter. Upon request of the compliance agent, an HVAC/R
27 contractor or an employee of the HVAC/R contractor shall provide
28 information identifying the HVAC/R contractor and those employees
29 working on-site.

30 (2) If the employee of an unregistered HVAC/R contractor is cited
31 by a compliance agent, that employee is cited as the agent of the
32 employer, and issuance of the infraction to the employee is notice to
33 the unregistered HVAC/R contractor that the contractor is in violation
34 of this chapter. An employee who is cited by a compliance agent shall
35 not be liable for any of the alleged violations contained in the

1 citation unless the employee is also the unregistered HVAC/R contractor
2 or the employee is performing HVAC/R work that requires a certification
3 under this chapter without proper proof of the certification.

4 NEW SECTION. **Sec. 28.** NOTICE OF INFRACTION. The department may
5 issue a notice of infraction if the department reasonably believes that
6 a person has committed an infraction under this chapter. A notice of
7 infraction issued under this section shall be personally served on the
8 person named in the notice by the department's compliance agents or
9 service can be made by certified mail directed to the person named in
10 the notice of infraction at the last known address as provided to the
11 department.

12 NEW SECTION. **Sec. 29.** NOTICE OF INFRACTION FORM. The form of the
13 notice of infraction issued under this chapter shall include the
14 following:

15 (1) A statement that the notice represents a determination that the
16 infraction has been committed by the person named in the notice and
17 that the determination shall be final unless contested as provided in
18 this chapter;

19 (2) A statement that the infraction is a noncriminal offense for
20 which imprisonment shall not be imposed as a sanction;

21 (3) A statement of the violation that necessitated issuance of the
22 infraction;

23 (4) A statement of penalty involved if the infraction is
24 established;

25 (5) A statement of the options provided in this chapter for
26 responding to the notice and the procedures necessary to exercise these
27 options;

28 (6) A statement that at any hearing to contest the notice of
29 infraction the state has the burden of proving, by a preponderance of
30 the evidence, that the infraction was committed; and that the person
31 may subpoena witnesses, including the compliance agent of the
32 department who issued and served the notice of infraction;

33 (7) A statement that, at any hearing to contest the notice of
34 infraction against a person who is not properly registered or certified
35 as required under this chapter, the person given the infraction has the
36 burden of proving that the infraction did not occur;

1 (8) A statement that the person named on the notice of infraction
2 must respond to the notice in one of the ways provided in this chapter;
3 and

4 (9) A statement that the person's failure to timely select one of
5 the options for responding to the notice of infraction after receiving
6 a statement of the options provided in this chapter for responding to
7 the notice of infraction and the procedures necessary to exercise these
8 options is guilty of a gross misdemeanor and may be punished by a fine
9 or imprisonment in jail.

10 NEW SECTION. **Sec. 30.** VIOLATIONS. A violation designated as an
11 infraction under this chapter shall be heard and determined by an
12 administrative law judge of the office of administrative hearings. If
13 a person desires to contest the notice of infraction, the person shall
14 file a notice of appeal with the department specifying the grounds of
15 the appeal within twenty days of service of the infraction in a manner
16 provided by this chapter. The administrative law judge shall conduct
17 hearings in these cases at locations in the county where the infraction
18 occurred.

19 NEW SECTION. **Sec. 31.** RESPONSE TO NOTICE OF INFRACTION. (1) A
20 person who is issued a notice of infraction shall respond within twenty
21 days of the date of issuance of the notice of infraction.

22 (2) If the person named in the notice of infraction does not elect
23 to contest the notice of infraction, then the person shall pay to the
24 department, by check or money order, the amount of the penalty
25 prescribed for the infraction. When a response that does not contest
26 the notice of infraction is received by the department with the
27 appropriate penalty, the department shall make the appropriate entry in
28 its records.

29 (3) If the person named in the notice of infraction elects to
30 contest the notice of infraction, the person shall respond by filing
31 with the department specifying the appeal to the department in the
32 manner specified in this chapter.

33 (4) If any person issued a notice of infraction fails to respond
34 within the prescribed response period, the person shall be guilty of a
35 misdemeanor and prosecuted in the county where the infraction occurred.

1 (5) After final determination by an administrative law judge that
2 an infraction has been committed, a person who fails to pay a monetary
3 penalty within thirty days, that is not waived pursuant to this
4 chapter, and who fails to file an appeal shall be guilty of a
5 misdemeanor and be prosecuted in the county where the infraction
6 occurred.

7 (6) A person who fails to pay a monetary penalty within thirty days
8 after exhausting appellate remedies shall be guilty of a misdemeanor
9 and be prosecuted in the county where the infraction occurred.

10 (7) If a person who is issued a notice of infraction is a person
11 who has failed to register or be certified as required under this
12 chapter, the person is subject to a monetary penalty per infraction as
13 provided in the schedule of penalties established by the department,
14 and each day the person works without becoming registered or certified
15 is a separate infraction.

16 NEW SECTION. **Sec. 32.** CODIFICATION. Sections 1 through 31 of
17 this act constitute a new chapter in Title 18 RCW.

18 NEW SECTION. **Sec. 33.** CAPTIONS. Captions used in this act are
19 not any part of the law.

20 NEW SECTION. **Sec. 34.** SEVERABILITY. If any provision of this act
21 or its application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 35.** EFFECTIVE DATE. This act takes effect July
25 1, 2008.

26 NEW SECTION. **Sec. 36.** If specific funding for the purposes of
27 this act, referencing this act by bill or chapter number, is not
28 provided by June 30, 2008, in the omnibus appropriations act, this act
29 is null and void."

30 Correct the title.

--- END ---