

ESSB 5831 - H AMD
By Representative

ADOPTED AND ENGROSSED 03/07/2008

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

3 "NEW SECTION. **Sec. 1.** (1)(a) A joint legislative task force on
4 heating, ventilating, air conditioning, and refrigeration is
5 established, with members as provided in this subsection.

6 (i) The chair and ranking minority member of the senate labor,
7 commerce, research and development committee;

8 (ii) The chair and ranking minority member of the house commerce
9 and labor committee;

10 (iii) Four members representing the heating, ventilating, air
11 conditioning, and refrigeration industry, selected from nominations
12 submitted by statewide business organizations representing a cross-
13 section of industries and appointed jointly by the president of the
14 senate and the speaker of the house of representatives. At least one
15 industry representative shall be from a county that has a contiguous
16 border with another state; and

17 (iv) Four members representing labor, selected from nominations
18 submitted by statewide labor organizations representing a cross-section
19 of industries and appointed jointly by the president of the senate and
20 the speaker of the house of representatives. At least one labor
21 representative shall be from a county that has a contiguous border with
22 another state.

23 (b) In addition, the department of labor and industries shall
24 cooperate with the joint legislative task force and maintain a liaison
25 representative, who shall be a nonvoting member. The department shall
26 cooperate with the joint legislative task force and provide information
27 as the joint legislative task force may reasonably request.

28 (c) The joint legislative task force shall choose its chair from
29 among its membership.

30 (2) The joint legislative task force shall review the following:

1 (a) Requirements for registering, certifying, and licensing
2 heating, ventilating, air conditioning, and refrigeration mechanics;

3 (b) Methods of registering or licensing contractors who qualify for
4 two or more registrations or licenses;

5 (c) Levels of mechanic certification and types of mechanic
6 specialties;

7 (d) On-the-job experience requirements for levels of mechanic
8 certification;

9 (e) Methods by which apprentices and other persons learning to
10 perform heating, ventilating, air conditioning, and refrigeration work
11 obtain trainee certificates;

12 (f) Exemptions to registration, certification, and licensing
13 requirements;

14 (g) Implementation of chapter 18.-- RCW (the new chapter created in
15 section 40 of this act); and

16 (h) Such other factors the joint legislative task force deems
17 necessary.

18 (3) Legislative members of the joint legislative task force shall
19 be reimbursed for travel expenses in accordance with RCW 44.04.120.
20 Nonlegislative members, except those representing an employer or
21 organization, are entitled to be reimbursed for travel expenses in
22 accordance with RCW 43.03.050 and 43.03.060.

23 (4) The expenses of the joint legislative task force shall be paid
24 jointly by the senate and the house of representatives.

25 (5) The joint legislative task force shall report its findings and
26 recommendations to the legislature by January 1, 2009.

27 (6) This section expires July 1, 2009.

28 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
29 section apply throughout this chapter unless the context clearly
30 requires otherwise.

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

35 (2) "Board" means the HVAC/R board established in section 28 of
36 this act.

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

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

8 (5) "Certified HVAC/R mechanic" means a person who has been issued
9 a valid HVAC/R mechanic certificate under section 17 of this act.

10 (6) "Certified specialty mechanic" means a person who has been
11 issued one or more valid specialty mechanic certificates under section
12 17 of this act.

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

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

15 (9) "Director" means the director of the department or the
16 director's designee.

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

18 (11) "Gas company service piping" means gas piping that is owned by
19 or under the control of a gas company and used for transmission or
20 distribution of fuel to the point of contact at the premises or
21 property supplied or to be supplied, including service connections,
22 meters, or other apparatus or appliance used in the measurement of the
23 consumption of fuel by the customer. For the purposes of this
24 subsection, "point of contact" means the outlet of the meter or the
25 connection to the customer's gas piping, whichever is farther
26 downstream.

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

32 (13) "Gas piping work" means to install, replace, or service gas
33 piping and venting related to gas piping. Solely for accruing hours of
34 HVAC/R work, "gas piping" also means to design, fabricate, and
35 construct gas piping and venting related to gas piping.

36 (14) "Hearth products" means any fuel gas or oil-fueled appliance
37 that has a visual presence in a living space of a residence or any

1 outdoor fuel gas barbecue or fireplace that is listed to the
2 appropriate underwriters laboratories, American national standards
3 institute, or ASTM international product safety standard.

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

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

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

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

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

12 (17)(a) "HVAC equipment and systems" means equipment necessary for
13 any system that heats, cools, conditions, ventilates, filters,
14 humidifies, or dehumidifies environmental air for residential,
15 industrial, or commercial use, including all related ventilation and
16 ducting systems.

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

21 (18) "HVAC work" means to install, replace, service, test, or
22 adjust and balance HVAC equipment and systems. Solely for accruing
23 hours of HVAC/R work, "HVAC work" also means to design, fabricate, and
24 construct HVAC equipment and systems.

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

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

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

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

33 (c) Is registered under section 3(1)(b) of this act.

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

36 (22) "HVAC/R mechanic certificate" means any of the certificates
37 identified under section 8 of this act.

1 (23) "HVAC/R operator certificate" means the certificate identified
2 under section 11 of this act.

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

5 (25) "Person" or "company," used interchangeably throughout this
6 chapter, means any individual, corporation, partnership, limited
7 partnership, organization, or any other entity whatsoever, whether
8 public or private.

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

12 (27) "Refrigeration system" means a combination of interconnected
13 refrigerant-containing parts constituting one closed refrigerant
14 circuit in which a refrigerant is circulated for the purpose of
15 extracting heat and includes systems in which a secondary coolant,
16 cooled or heated by the refrigeration system, is circulated to the air
17 or other substance to be cooled or heated.

18 (28) "Refrigeration work" means to design, fabricate, construct,
19 install, replace, or service refrigeration systems. Solely for
20 accruing hours of HVAC/R work, "refrigeration work" also means to
21 design, fabricate, and construct refrigeration systems.

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

25 (30) "Specialty certificate" means any of the certificates
26 identified under section 7 of this act.

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

31 (32) "Temporary certificate" means any of the certificates issued
32 under section 9 of this act.

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

35 (34) "Trainee certificate" means any certificate issued under
36 section 10 of this act.

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

1 NEW SECTION. **Sec. 3.** CONTRACTOR REGISTRATION--CONCURRENT
2 REGISTRATION--REQUIREMENTS. (1) Except as provided in this chapter, it
3 is unlawful for:

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

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

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

15 (2) The department shall prescribe an application form to be used
16 to apply for an HVAC/R contractor registration under this chapter, and
17 shall ensure that the person applying for an HVAC/R contractor
18 registration is also a registered general or specialty contractor under
19 chapter 18.27 RCW before it issues that person an HVAC/R contractor
20 registration.

21 (3) For a person who may be issued two or more registrations or
22 licenses provided for in chapter 18.27 RCW, chapter 19.28 RCW, or this
23 chapter, the department shall establish on or before July 1, 2011, a
24 single registration/licensing document. The document shall list all of
25 the person's registrations and licenses.

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

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

32 (6) This section does not apply to:

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

35 (b) A person whose employees perform only HVAC/R work exempted
36 under section 5 of this act; or

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

1 NEW SECTION. **Sec. 4.** CERTIFICATE REQUIRED--LOCAL PREEMPTION. (1)

2 Except as provided in this chapter, it is unlawful for any person, on
3 and after July 1, 2010, to perform or offer to perform HVAC/R work
4 without having been issued a valid HVAC/R mechanic certificate,
5 specialty certificate, temporary HVAC/R mechanic certificate, or
6 trainee certificate under this chapter.

7 (2) Except as provided in section 5(1)(o) of this act, no political
8 subdivision of the state shall require a person possessing a valid
9 HVAC/R certificate, specialty certificate, temporary HVAC/R mechanic
10 certificate, trainee certificate issued by the department under this
11 chapter, or any person who is exempted under this chapter to
12 demonstrate any additional proof of competency in, obtain any license
13 for, or pay any fee to perform HVAC/R work in that political
14 subdivision.

15 NEW SECTION. **Sec. 5.** EXEMPTIONS FROM CERTIFICATION. (1) The
16 provisions of section 4(1) of this act do not apply to a person:

17 (a) Cleaning or replacing air filters, lubricating bearings,
18 replacing fan belts, cleaning evaporators or condensers, cleaning
19 cooling towers, or equipment logging on any HVAC/R equipment or
20 systems;

21 (b) Performing HVAC/R work on HVAC/R equipment or systems that:
22 (i) Contain six pounds or less of any refrigerant and is actuated by a
23 motor or engine having a standard rating of one-quarter horsepower or
24 less; or (ii) are an absorption system that has a rating of one-quarter
25 ton or less refrigeration effect;

26 (c) Setting oil tanks and related piping to a furnace;

27 (d) Setting propane tanks and related piping outside a building;

28 (e) Performing gas piping work on a fuel burning appliance with a
29 maximum capacity of five hundred thousand BTUH while holding a valid
30 journeyman plumber certificate issued under chapter 18.106 RCW or a
31 valid specialty plumber certificate issued under chapter 18.106 RCW for
32 performing services in RCW 18.106.010(10)(a);

33 (f) Performing HVAC/R work at his or her residence, farm, place of
34 business, or on other property owned by him or her, unless the HVAC/R
35 work is performed in the construction of a new building intended for
36 rent, sale, or lease;

1 (g) Performing HVAC/R work on his or her own property or to
2 regularly employed persons working on the premises of their employer,
3 unless the HVAC/R work is performed in the construction of a new
4 building intended for rent, sale, or lease. However, in a city with a
5 population of five hundred thousand or more, it is unlawful for any
6 person to perform or offer to perform the scope of work described in
7 section 11(3) of this act without having been issued a valid HVAC/R
8 operator certificate under this chapter;

9 (h) Performing HVAC/R work for or on behalf of a gas company when
10 such work is (i) incidental to the business of delivering fuel gas to
11 the premises or (ii) performed pursuant to any tariff on file with the
12 state utilities and transportation commission;

13 (i) Licensed under chapter 18.08 or 18.43 RCW who is designing
14 HVAC/R equipment or systems, but who is not otherwise performing HVAC/R
15 work;

16 (j) Making a like-in-kind replacement of a household appliance;

17 (k) Installing wood or pellet stoves, including directly related
18 venting such as a chimney or flue;

19 (l) Performing minor flexible ducting repairs in a single-family
20 residential structure;

21 (m) Performing cleaning, repair, or replacement of fuel oil filters
22 and nozzles of an oil heat burner assembly;

23 (n) Making like-in-kind replacement of an oil heat furnace in a
24 single-family residential structure and the associated fittings
25 necessary to connect the replacement oil heat furnace to existing
26 ductwork in a single-family residential structure; or

27 (o) Installing, replacing, and servicing hearth products. As used
28 in this subsection, "installing and replacing" means removing and
29 setting the hearth product pursuant to manufacturer instructions and
30 specifications, connecting a hearth product with or disconnecting the
31 hearth product from an approved flexible gas supply line not to exceed
32 thirty-six inches in length, and installing or uninstalling venting
33 that is directly related to the hearth product and that has been
34 provided in the same packaging of the hearth product by the
35 manufacturer.

36 (2) Nothing in this section precludes any person who is exempted
37 under this section from obtaining an HVAC/R mechanic certificate,

1 specialty certificate, temporary HVAC/R mechanic certificate, trainee
2 certificate, or HVAC/R operator certificate if they otherwise meet the
3 requirements of this chapter.

4 NEW SECTION. **Sec. 6.** TEMPORARY EXEMPTION FROM CERTIFICATION. (1)

5 Except for persons performing refrigeration work in a city with a
6 population of five hundred thousand or more, the provisions of section
7 4(1) of this act do not apply to a person performing refrigeration work
8 on a refrigeration system:

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

13 (2) Nothing in this section precludes any person exempted under
14 this section from obtaining any of the certificates provided for in
15 this chapter if he or she otherwise meets the requirements of this
16 chapter.

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

18 NEW SECTION. **Sec. 7.** SPECIALTY CERTIFICATES--SCOPE OF WORK. The

19 department may issue the following specialty certificates to an
20 applicant who has successfully met the requirements under this chapter
21 for a specialty certificate, and the scope of work that may be
22 performed by a person under each of the specialty certificates is as
23 follows:

24 (1) Gas piping specialty mechanic I/II. A person issued a gas
25 piping specialty mechanic I/II certificate may perform gas piping work
26 on a fuel burning appliance with a maximum capacity of five hundred
27 thousand BTUH.

28 (2) Refrigeration specialty mechanic I. A person issued a
29 refrigeration specialty mechanic I certificate may perform
30 refrigeration work on a refrigeration system that contains less than
31 thirty pounds of class A1 refrigerants.

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

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

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

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

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

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

14 (7) Refrigeration specialty mechanic III. A person issued a
15 refrigeration specialty mechanic III certificate may perform
16 refrigeration work on any refrigeration system using any refrigerant.

17 (8) HVAC specialty mechanic III. A person issued an HVAC specialty
18 mechanic III certificate may perform all HVAC work on HVAC equipment
19 and systems.

20 NEW SECTION. **Sec. 8.** HVAC/R MECHANIC CERTIFICATES--SCOPE OF WORK.

21 The department may issue the following HVAC/R mechanic certificates to
22 an applicant who has successfully met the requirements under this
23 chapter for an HVAC/R certificate, and the scope of work that may be
24 performed by a person under each of the HVAC/R mechanic certificates is
25 as follows:

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

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

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

32 (c) HVAC work authorized to be performed by an HVAC specialty
33 mechanic I.

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

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

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

3 (c) HVAC work authorized to be performed by an HVAC specialty
4 mechanic II.

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

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

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

11 (c) HVAC work authorized to be performed by an HVAC specialty
12 mechanic III.

13 NEW SECTION. **Sec. 9.** TEMPORARY HVAC/R CERTIFICATE--APPLICATION--
14 EXAMINATION REQUIRED. (1) On and after July 1, 2010, a person who has
15 performed HVAC/R work in other states or countries may, in a form and
16 manner prescribed by the department, apply for a temporary HVAC/R
17 mechanic certificate to perform HVAC/R work in this state. The
18 application shall contain evidence of the person's hours of HVAC/R work
19 in the other states or countries that is verifiable by the department.

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

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

24 (b) If the applicant has accrued two thousand hours or more, but
25 less than four thousand hours of HVAC/R work, issue a temporary HVAC/R
26 mechanic I certificate;

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

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

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

35 (4) A person issued a temporary HVAC/R mechanic certificate shall
36 have that certificate in his or her possession when performing any

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

3 (5) A person issued a temporary HVAC/R mechanic certificate under
4 this section may only perform the scope of work authorized under
5 section 8 of this act for the equivalent HVAC/R mechanic certificate
6 and may not supervise any person with a trainee certificate issued
7 under this chapter.

8 (6) A temporary HVAC/R mechanic certificate issued under this
9 section shall be valid for ninety days from the date the department
10 issues a certificate or until the date the department furnishes to the
11 applicant the results of their examination for the equivalent HVAC/R
12 mechanic certificate, whichever is later. The applicant must take the
13 examination provided under this chapter for the equivalent HVAC/R
14 mechanic certificate within the ninety-day period granted under this
15 subsection.

16 NEW SECTION. **Sec. 10.** TRAINEE CERTIFICATE. (1) A person may, in
17 a form and manner prescribed by the department, apply for a trainee
18 certificate to perform HVAC/R work in the state.

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

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

- 23 (a) Within the scope of work authorized under that certificate;
- 24 (b) On the same job site and under the direction of an
25 appropriately certified HVAC/R mechanic or an appropriately certified
26 specialty mechanic; and
- 27 (c) Under the applicable supervision ratios required in section 18
28 of this act.

29 (4) A trainee shall have his or her certificate in his or her
30 possession when performing any HVAC/R work and shall show the
31 certificate to any authorized representative of the department upon
32 request.

33 (5) A trainee certificate shall be valid for a maximum of two years
34 from the date of issuance. The certificate shall include the
35 expiration date.

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

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

4 (b) Evidence that the trainee has met the continuing education
5 requirements in section 20 of this act.

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

10 (8) A trainee who has not successfully passed any portion of the
11 examinations provided for in section 14 of this act is prohibited from
12 performing HVAC/R work in excess of two thousand hours beyond the
13 amount of hours required to become eligible under the requirements of
14 section 15(2)(c) of this act to take the examination for an HVAC/R
15 mechanic III certificate.

16 NEW SECTION. **Sec. 11.** HVAC/R OPERATOR CERTIFICATION. (1) An
17 HVAC/R operating engineer may, in a form and manner prescribed by the
18 department, apply for an HVAC/R operator certificate. For the purposes
19 of this subsection, "HVAC/R operating engineer" means a full-time
20 employee who spends a substantial portion of time in the maintenance
21 and operation of HVAC/R equipment and systems in a building, or portion
22 thereof, used for occupant comfort, manufacturing, processing, or
23 storage of materials or products including, but not limited to,
24 chemicals, food, candy, and ice cream factories, ice-making plants,
25 meat packing plants, refineries, perishable food warehouses, hotels,
26 hospitals, restaurants, and similar occupancies and equipped with a
27 refrigeration system and whose duty it is to operate, maintain, and
28 keep safe and in serviceable condition all of the employer's HVAC/R
29 equipment and systems.

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

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

35 (a) Cleaning or replacing air filters, lubricating bearings,
36 replacing fan belts, cleaning evaporators or condensers, cleaning

1 cooling towers, or equipment logging on any HVAC/R equipment or
2 systems; or

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

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

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

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

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

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

26 (9) The hours accrued as an HVAC/R operating engineer under this
27 section may accrue towards the hours required to be eligible to take an
28 examination for an HVAC/R mechanic certificate under section 15 of this
29 act only if the HVAC/R operating engineer is supervised by an
30 appropriately certified HVAC/R mechanic or appropriately supervised
31 specialty mechanic and was issued a trainee certificate under section
32 10 of this act.

33 NEW SECTION. **Sec. 12.** HVAC/R MECHANIC CERTIFICATION WITHOUT
34 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who
35 has performed HVAC/R work may, in a form and manner prescribed by the
36 department, apply for an HVAC/R mechanic certificate without

1 examination. The application shall contain evidence of the person's
2 hours of HVAC/R work or other required information that is verifiable
3 by the department.

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

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

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 13.** SPECIALTY CERTIFICATION WITHOUT
28 EXAMINATION. (1) From July 1, 2009, until June 30, 2010, a person who
29 has performed HVAC/R work may, in a form and manner prescribed by the
30 department, apply for specialty certificates without examination. The
31 application shall contain evidence of the person's hours of HVAC/R work
32 or other required information that is verifiable by the department.

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

35 (a) If the applicant holds a valid journey refrigeration mechanic
36 license issued by the city of Seattle, issue a refrigeration specialty

1 mechanic III certificate and an HVAC specialty mechanic III
2 certificate;

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

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

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

13 (3) The specialty certificates provided for in subsection (2) of
14 this section shall be in addition to any HVAC/R mechanic certificate
15 issued by the department under section 12 of this act.

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

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

20 NEW SECTION. **Sec. 14. EXAMINATION.** (1) The department, with
21 advice from the board, shall prepare three separate examinations for
22 the assessment of each level of HVAC/R mechanic certification created
23 in section 8 of this act. Within each examination, there shall be a
24 distinct portion that assesses the competency of the applicant in the
25 appropriate level of gas piping work, refrigeration work, and HVAC
26 work. The department shall adopt rules necessary to implement this
27 section.

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

30 (a) Whether the applicant possesses general knowledge of the
31 technical information and practical procedures that are identified
32 within the relevant scope of work; and

33 (b) Whether the applicant is familiar with the applicable laws and
34 administrative rules of the department pertaining to the relevant scope
35 of work.

36 (3) The department, with advice from the board, may enter into a
37 contract with a professional testing agency to develop, administer, and

1 score the examinations provided for in this section. The department
2 may set the examination fee by contract with the professional testing
3 agency. However, the examination fee the department charges must
4 cover, but not exceed, the costs of preparing and administering the
5 examination.

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

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

13 (6) A person may be given the appropriate level of examination they
14 are eligible to take as many times as necessary without limit.
15 However, each time an examination is given, the applicant must first
16 pay the required examination fee.

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

21 NEW SECTION. **Sec. 15.** APPLICATION FOR EXAMINATION--ELIGIBILITY.

22 (1) A person with a valid temporary HVAC/R mechanic certificate or
23 trainee certificate may, in a form and manner prescribed by the
24 department, apply for any of the examinations provided for in section
25 14 of this act. The application shall contain evidence of the person's
26 hours of HVAC/R work or other required information that is verifiable
27 by the department.

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

32 (a) HVAC/R mechanic I certificate. To be eligible to take the
33 examination for an HVAC/R mechanic I certificate, the applicant must
34 have:

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

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

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

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

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

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

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

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

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

24 (iii) Successfully completed an appropriately related
25 apprenticeship program under chapter 49.04 RCW that meets the
26 requirements of this level of certification.

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

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

31 (b) The appropriate supervision ratios required in section 18 of
32 this act were followed.

33 (4) If any of an applicant's certificates issued prior to the
34 current application have been revoked, the department may deny the
35 current application for up to two years.

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

1 (6) Work hours being accrued by an applicant as hours of HVAC/R
2 work under this chapter or towards electrical certification under
3 chapter 19.28 RCW may be credited for both the hours of HVAC/R work
4 required under this chapter and the hours of work required under
5 chapter 19.28 RCW.

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

12 NEW SECTION. **Sec. 16.** ALTERNATIVES TO WORK EXPERIENCE. (1) A
13 person who has applied for an examination under section 15 of this act
14 and who has successfully completed a board-approved program in HVAC/R
15 work at a technical college, may substitute technical college program
16 hours for hours of HVAC/R work as follows:

	Type of Certificate	Substitution for Hours of HVAC/R Work	
17			
18	(a)	HVAC/R Mechanic I	Up to 1,000 hours of technical college program may be substituted for up to 1,000 hours of HVAC/R work.
19			
20	(b)	HVAC/R Mechanic II	Up to 2,000 hours of technical college program may be substituted for up to 2,000 hours of required HVAC/R work.
21			
22			
23	(c)	HVAC/R Mechanic III	Up to 4,000 hours of technical college program may be substituted for up to 4,000 hours of HVAC/R work.
24			

25 (2) A person who has applied for an examination under section 15 of
26 this act and who has received training in HVAC/R work in the United
27 States armed forces may substitute those training hours for hours of
28 HVAC/R work subject to approval of the department.

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

1 NEW SECTION. **Sec. 17.** ISSUANCE OF CERTIFICATES--RENEWAL. (1) If

2 an applicant passes all portions of the examination administered to him
3 or her under this chapter, that person:

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

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

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

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

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

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

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

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

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

28 (5) A person issued an HVAC/R mechanic certificate or specialty
29 certificate may only perform the scope of work authorized under
30 sections 7 and 8 of this act for the certificate.

31 (6) A person issued an HVAC/R mechanic certificate or specialty
32 certificate shall have the certificate in his or her possession when
33 performing any HVAC/R work and shall show the certificate to any
34 authorized representative of the department upon request.

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

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

1 (b) Has complied with the continuing education requirement in
2 section 20 of this act.

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

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

8 (10) The department shall, on or before July 1, 2011, create a
9 single document and establish a single expiration date for a person who
10 holds two or more certificates or specialty certificates under chapter
11 18.106 RCW, chapter 19.28 RCW, and this chapter. The document shall
12 list all of the person's certificates and specialty certificates.

13 NEW SECTION. **Sec. 18.** SUPERVISION RATIOS--SUPERVISION. (1) The
14 ratio of trainees to appropriately certified HVAC/R mechanics or
15 appropriately certified specialty mechanics on the same job site must
16 not be greater than:

17 (a) For trainees not in a technical college program, two trainees
18 to each appropriately certified HVAC/R mechanic or appropriately
19 certified specialty mechanic; or

20 (b) For trainees in a technical college program, four trainees to
21 each appropriately certified HVAC/R mechanic or appropriately certified
22 specialty mechanic.

23 (2) When the ratio of trainees to appropriately certified HVAC/R
24 mechanics or appropriately certified specialty mechanics on a job site
25 is one appropriately certified HVAC/R mechanic or appropriately
26 certified specialty mechanic to one or two trainees, the appropriately
27 certified HVAC/R mechanic or appropriately certified specialty mechanic
28 must be on the same job site as the trainees for a minimum of seventy-
29 five percent of each working day.

30 (3) When the ratio of trainees to appropriately certified HVAC/R
31 mechanics or appropriately certified specialty mechanics on a job site
32 is one appropriately certified HVAC/R mechanic or appropriately
33 certified specialty mechanic to three or four trainees, the
34 appropriately certified HVAC/R mechanic or appropriately certified
35 specialty mechanic must:

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

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

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

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

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

11 (b) Determined to be eligible for examination under section
12 15(2)(a)(i) of this act and who passes all portions of that
13 examination, may perform, unsupervised, the remaining one thousand
14 hours of HVAC/R work required under this chapter for an HVAC/R mechanic
15 I certificate. However, all HVAC/R work performed by this person must
16 be within the scope of work for an HVAC/R mechanic I certificate and
17 this person may not supervise other trainees until they have completed
18 the full two thousand hours of HVAC/R work required by this chapter;

19 (c) Determined to be eligible for examination under section
20 15(2)(c)(i) of this act and who passes all portions of that
21 examination, may perform, unsupervised, the remaining two thousand
22 hours of HVAC/R work required under this chapter for an HVAC/R mechanic
23 III certificate. However, all HVAC/R work performed by this person
24 must be within the scope of work for an HVAC/R mechanic III certificate
25 and this person may not supervise other trainees until they have
26 completed the full eight thousand hours of HVAC/R work required by this
27 chapter.

28 NEW SECTION. **Sec. 19.** CONTRACTOR REPORTING--AUDIT OF RECORDS.

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

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

34 (b) The names and certificate numbers of the appropriately
35 certified HVAC/R mechanics or appropriately certified specialty
36 mechanics who supervised the trainees identified in (a) of this
37 subsection.

1 (2) Every person who reported hours of HVAC/R work performed by
2 trainees under subsection (1) of this section shall attest that all of
3 the reported hours of HVAC/R work performed by trainees was in
4 compliance with the supervision ratio requirements in section 18 of
5 this act.

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

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

18 NEW SECTION. **Sec. 20.** CONTINUING EDUCATION. (1) A person issued
19 an HVAC/R mechanic certificate or any specialty certificates under this
20 chapter must, prior to the renewal date on their certificate,
21 demonstrate satisfactory completion of twenty-four hours of continuing
22 education.

23 (2) The department, with the advice of the board, shall determine
24 the contents of the continuing education courses required in subsection
25 (1) of this section and establish the requirements for satisfactory
26 completion of such courses. If the department determines that a
27 continuing education course offered in another state is comparable to
28 courses offered in Washington, the department shall accept proof of
29 satisfactory completion of the out-of-state course as meeting the
30 continuing education requirement in this section.

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

36 (4) The department, with the advice of the board, shall determine
37 the contents of the related supplemental instruction or equivalent

1 training courses, or courses taken as part of an appropriately related
2 apprenticeship program approved under chapter 49.04 RCW required under
3 subsection (3) of this section, and establish the requirements for
4 satisfactory completion of such courses.

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

8 (6) Hours of approved continuing education required under this
9 section and hours of approved continuing education required under
10 chapter 19.28 RCW may be accrued concurrently. However, nothing in
11 this subsection shall be construed to relieve any person from having to
12 complete any continuing education mandated by the department by rule
13 pursuant to this chapter or pursuant to chapter 19.28 RCW.

14 NEW SECTION. **Sec. 21.** RECIPROACITY. The department may enter into
15 a reciprocity agreement with another state whose certification
16 requirements are equal to the standards set under this chapter. The
17 reciprocity agreement shall provide for the acceptance of Washington
18 and the other state's certification program or its equivalent by
19 Washington and the other state.

20 NEW SECTION. **Sec. 22.** SUSPENSION AND REVOCATION. (1) The
21 department may revoke any certificate issued under this chapter if the
22 department determines that the recipient: (a) Obtained the certificate
23 through error or fraud; (b) is incompetent to perform HVAC/R work; or
24 (c) committed a violation of this chapter or rules adopted under this
25 chapter that presents imminent danger to the public.

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

34 NEW SECTION. **Sec. 23.** CIVIL PENALTIES. Any person found in
35 violation of this chapter shall be assessed a penalty not to exceed

1 five thousand dollars. The department shall set by rule a schedule of
2 penalties for violating this chapter. Each day that a person violates
3 this chapter is a separate violation. Any penalties collected by the
4 department under this chapter shall be deposited into the plumbing and
5 HVAC/R certificate fund.

6 NEW SECTION. **Sec. 24.** APPLICATION OF ADMINISTRATIVE PROCEDURE
7 ACT. The proceedings for denying applications, suspending or revoking
8 certificates, and imposing civil penalties or other remedies issued
9 pursuant to this chapter and any appeal from those proceedings or
10 review of those proceedings shall be governed by the provisions of the
11 administrative procedure act, chapter 34.05 RCW.

12 NEW SECTION. **Sec. 25.** FEES. (1) The department shall charge fees
13 for the issuance, renewal, and reinstatement of all certificates and
14 examinations required by this chapter. The department shall set the
15 fee amounts by rule.

16 (2) The fees collected under this section shall cover the full
17 costs of issuing the registrations and the certificates required by
18 this chapter, devising and administering the examinations required by
19 this chapter, and administering and enforcing this chapter and chapter
20 18.106 RCW.

21 NEW SECTION. **Sec. 26.** DEPOSITS. All moneys received by the
22 department from certificates, examinations, or any other sources under
23 this chapter shall be paid to the state treasurer as ex officio
24 custodian thereof and placed in a special fund designated as the
25 "plumbing and HVAC/R certificate fund." The treasurer shall pay out
26 upon vouchers duly and regularly issued therefor and approved by the
27 director. The treasurer shall keep an accurate record of payments into
28 the fund, and of all disbursements from the fund. The fund shall be
29 charged with its pro rata share of the cost of administering the fund.

30 NEW SECTION. **Sec. 27.** LIABILITY. (1) This chapter may not be
31 construed to relieve from or lessen the responsibility or liability of
32 any person for injury or damage to person or property caused by or
33 resulting from any HVAC/R work performed by the person.

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

4 NEW SECTION. **Sec. 28.** HVAC/R BOARD. (1) An HVAC/R board is
5 established.

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

8 (a) Except as provided in this subsection, four members shall be
9 certified HVAC/R mechanics, of which at least one, but not more than
10 two, shall be a certified HVAC/R mechanic performing HVAC/R work east
11 of the crest of the Cascade mountains, and of which at least one shall
12 be a certified HVAC/R mechanic from a county that has a contiguous
13 border with another state. Any members appointed before July 1, 2010,
14 shall be persons who are eligible to be certified without examination
15 under section 12 or 13 of this act or to take an examination for
16 certification under section 15 of this act.

17 (b) Except as provided in this subsection, four members shall be
18 HVAC/R contractors, of which at least one, but not more than two, shall
19 be an HVAC/R contractor doing business east of the crest of the Cascade
20 mountains, and of which at least one shall be an HVAC/R contractor from
21 a county that has a contiguous border with another state. Any members
22 appointed before July 1, 2009, shall be persons who are engaged in
23 business as HVAC/R contractors and registered as contractors under
24 chapter 18.27 RCW.

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

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

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

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

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

34 (3) Except as provided in this subsection, the term of each member
35 shall be three years. The term of each initial member shall expire as
36 follows: (a) The terms of the first certified HVAC/R mechanic and the
37 first HVAC/R contractor shall expire July 1, 2009; (b) the terms of the

1 second certified HVAC/R mechanic, the second HVAC/R contractor, and the
2 public member shall expire July 1, 2010; and (c) the terms of the third
3 certified HVAC/R mechanic and the third certified HVAC/R contractor
4 shall expire July 1, 2011. To ensure that the board may continue to
5 act, a member whose term expires shall continue to serve until his or
6 her replacement is appointed. In the case of any vacancy on the board
7 for any reason, the governor shall appoint a new member to serve out
8 the term of the person whose position has become vacant.

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

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

13 (6) The board shall:

14 (a) Conduct proceedings for denying applications, suspending or
15 revoking certificates, and imposing civil penalties or other remedies.
16 Such proceedings shall be conducted in accordance with chapter 34.05
17 RCW;

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

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

26 (d) Approve expenditures from the plumbing and HVAC/R certificate
27 fund; and

28 (e) Advise the department on all other matters relative to this
29 chapter.

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

32 NEW SECTION. **Sec. 29.** ADMINISTRATION. (1) The director may adopt
33 rules necessary for the administration of this chapter.

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

36 (3) In the administration of this chapter, the department shall not

1 enter any controversy arising over work assignments with respect to the
2 trades involved in the construction industry.

3 NEW SECTION. **Sec. 30.** EFFECT ON OTHER LAWS. With the exception
4 of sections 3(3), 10(7), 15 (6) and (7), 17(10), and 20(6) of this act,
5 nothing in this chapter shall be construed to:

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

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

10 (3) Regulate or include plumbing work defined in chapter 18.106 RCW
11 and its applicable rules or electrical work defined in chapter 19.28
12 RCW and its applicable rules.

13 NEW SECTION. **Sec. 31.** COMPLIANCE AGENTS. (1) The director shall
14 appoint compliance agents to investigate alleged or apparent violations
15 of this chapter. The director, or authorized compliance agent, upon
16 presentation of appropriate credentials, may inspect and investigate
17 job sites at which an HVAC/R contractor had bid or presently is working
18 to determine whether the HVAC/R contractor is registered and their
19 employees are certified and working in accordance with this chapter or
20 the rules adopted under this chapter or whether there is a violation of
21 this chapter. Upon request of the compliance agent, an HVAC/R
22 contractor or an employee of the HVAC/R contractor shall provide
23 information identifying the HVAC/R contractor and those employees
24 working on-site.

25 (2) If the employee of an unregistered HVAC/R contractor is cited
26 by a compliance agent, that employee is cited as the agent of the
27 employer, and issuance of the infraction to the employee is notice to
28 the unregistered HVAC/R contractor that the contractor is in violation
29 of this chapter. An employee who is cited by a compliance agent shall
30 not be liable for any of the alleged violations contained in the
31 citation unless the employee is also the unregistered HVAC/R contractor
32 or the employee is performing HVAC/R work that requires a certification
33 under this chapter without proper proof of the certification.

34 NEW SECTION. **Sec. 32.** NOTICE OF INFRACTION. The department may
35 issue a notice of infraction if the department reasonably believes that

1 a person has committed an infraction under this chapter. A notice of
2 infraction issued under this section shall be personally served on the
3 person named in the notice by the department's compliance agents or
4 service can be made by certified mail directed to the person named in
5 the notice of infraction at the last known address as provided to the
6 department.

7 NEW SECTION. **Sec. 33.** NOTICE OF INFRACTION FORM. The form of the
8 notice of infraction issued under this chapter shall include the
9 following:

10 (1) A statement that the notice represents a determination that the
11 infraction has been committed by the person named in the notice and
12 that the determination shall be final unless contested as provided in
13 this chapter;

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

16 (3) A statement of the violation that necessitated issuance of the
17 infraction;

18 (4) A statement of penalty involved if the infraction is
19 established;

20 (5) A statement of the options provided in this chapter for
21 responding to the notice and the procedures necessary to exercise these
22 options;

23 (6) A statement that at any hearing to contest the notice of
24 infraction the state has the burden of proving, by a preponderance of
25 the evidence, that the infraction was committed; and that the person
26 may subpoena witnesses, including the compliance agent of the
27 department who issued and served the notice of infraction;

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

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

35 (9) A statement that the person's failure to timely select one of
36 the options for responding to the notice of infraction after receiving
37 a statement of the options provided in this chapter for responding to

1 the notice of infraction and the procedures necessary to exercise these
2 options is guilty of a gross misdemeanor and may be punished by a fine
3 or imprisonment in jail.

4 NEW SECTION. **Sec. 34.** VIOLATIONS. A violation designated as an
5 infraction under this chapter shall be heard and determined by an
6 administrative law judge of the office of administrative hearings. If
7 a person desires to contest the notice of infraction, the person shall
8 file a notice of appeal with the department specifying the grounds of
9 the appeal within twenty days of service of the infraction in a manner
10 provided by this chapter. The appeal must be accompanied by a
11 certified check for two hundred dollars, which shall be returned to the
12 assessed person if the decision of the department is not sustained
13 following the final decision in the appeal. If the final decision
14 sustains the decision of the department, the department must apply the
15 two hundred dollars to the payment of the expenses of the appeal,
16 including costs charged by the office of administrative hearings. The
17 administrative law judge shall conduct hearings in these cases at
18 locations in the county where the infraction occurred.

19 NEW SECTION. **Sec. 35.** 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 **Sec. 36.** RCW 18.106.125 and 1983 c 124 s 17 are each amended to
17 read as follows:

18 The department shall charge fees for issuance, renewal, and
19 reinstatement of all certificates and permits and for examinations
20 required by this chapter. The department shall set the fees by rule.

21 The fees collected under this chapter and chapter 18.-- RCW (the
22 new chapter created in section 40 of this act) shall cover the full
23 cost of issuing the certificates and permits, devising and
24 administering the examinations, and administering and enforcing this
25 chapter and chapter 18.-- RCW (the new chapter created in section 40 of
26 this act). The costs shall include travel, per diem, and
27 administrative support costs.

28 **Sec. 37.** RCW 18.106.130 and 1973 1st ex.s. c 175 s 13 are each
29 amended to read as follows:

30 All moneys received from certificates, permits, or other
31 sources((τ)) shall be paid to the state treasurer as ex officio
32 custodian thereof and ((~~by him~~)) placed in a special fund designated as
33 the ((π))plumbing and HVAC/R certificate fund((π)). ((~~He~~)) The
34 treasurer shall pay out upon vouchers duly and regularly issued
35 therefor and approved by the director. The treasurer shall keep an
36 accurate record of payments into ((~~said~~)) the fund((τ)) and of all

1 disbursement (~~therefrom~~) from the fund. (~~Said~~) The fund shall be
2 charged with its pro rata share of the cost of administering (~~said~~)
3 the fund.

4 **Sec. 38.** RCW 43.84.092 and 2007 c 514 s 3 and 2007 c 356 s 9 are
5 each reenacted and amended to read as follows:

6 (1) All earnings of investments of surplus balances in the state
7 treasury shall be deposited to the treasury income account, which
8 account is hereby established in the state treasury.

9 (2) The treasury income account shall be utilized to pay or receive
10 funds associated with federal programs as required by the federal cash
11 management improvement act of 1990. The treasury income account is
12 subject in all respects to chapter 43.88 RCW, but no appropriation is
13 required for refunds or allocations of interest earnings required by
14 the cash management improvement act. Refunds of interest to the
15 federal treasury required under the cash management improvement act
16 fall under RCW 43.88.180 and shall not require appropriation. The
17 office of financial management shall determine the amounts due to or
18 from the federal government pursuant to the cash management improvement
19 act. The office of financial management may direct transfers of funds
20 between accounts as deemed necessary to implement the provisions of the
21 cash management improvement act, and this subsection. Refunds or
22 allocations shall occur prior to the distributions of earnings set
23 forth in subsection (4) of this section.

24 (3) Except for the provisions of RCW 43.84.160, the treasury income
25 account may be utilized for the payment of purchased banking services
26 on behalf of treasury funds including, but not limited to, depository,
27 safekeeping, and disbursement functions for the state treasury and
28 affected state agencies. The treasury income account is subject in all
29 respects to chapter 43.88 RCW, but no appropriation is required for
30 payments to financial institutions. Payments shall occur prior to
31 distribution of earnings set forth in subsection (4) of this section.

32 (4) Monthly, the state treasurer shall distribute the earnings
33 credited to the treasury income account. The state treasurer shall
34 credit the general fund with all the earnings credited to the treasury
35 income account except:

36 (a) The following accounts and funds shall receive their
37 proportionate share of earnings based upon each account's and fund's

1 average daily balance for the period: The capitol building
2 construction account, the Cedar River channel construction and
3 operation account, the Central Washington University capital projects
4 account, the charitable, educational, penal and reformatory
5 institutions account, the Columbia river basin water supply development
6 account, the common school construction fund, the county criminal
7 justice assistance account, the county sales and use tax equalization
8 account, the data processing building construction account, the
9 deferred compensation administrative account, the deferred compensation
10 principal account, the department of retirement systems expense
11 account, the developmental disabilities community trust account, the
12 drinking water assistance account, the drinking water assistance
13 administrative account, the drinking water assistance repayment
14 account, the Eastern Washington University capital projects account,
15 the education construction fund, the education legacy trust account,
16 the election account, the emergency reserve fund, the energy freedom
17 account, The Evergreen State College capital projects account, the
18 federal forest revolving account, the freight congestion relief
19 account, the freight mobility investment account, the freight mobility
20 multimodal account, the health services account, the public health
21 services account, the health system capacity account, the personal
22 health services account, the state higher education construction
23 account, the higher education construction account, the highway
24 infrastructure account, the high-occupancy toll lanes operations
25 account, the plumbing and HVAC/R certificate fund, the industrial
26 insurance premium refund account, the judges' retirement account, the
27 judicial retirement administrative account, the judicial retirement
28 principal account, the local leasehold excise tax account, the local
29 real estate excise tax account, the local sales and use tax account,
30 the medical aid account, the mobile home park relocation fund, the
31 multimodal transportation account, the municipal criminal justice
32 assistance account, the municipal sales and use tax equalization
33 account, the natural resources deposit account, the oyster reserve land
34 account, the pension funding stabilization account, the perpetual
35 surveillance and maintenance account, the public employees' retirement
36 system plan 1 account, the public employees' retirement system combined
37 plan 2 and plan 3 account, the public facilities construction loan
38 revolving account beginning July 1, 2004, the public health

1 supplemental account, the public works assistance account, the Puyallup
2 tribal settlement account, the real estate appraiser commission
3 account, the regional mobility grant program account, the resource
4 management cost account, the rural Washington loan fund, the site
5 closure account, the small city pavement and sidewalk account, the
6 special wildlife account, the state employees' insurance account, the
7 state employees' insurance reserve account, the state investment board
8 expense account, the state investment board commingled trust fund
9 accounts, the supplemental pension account, the Tacoma Narrows toll
10 bridge account, the teachers' retirement system plan 1 account, the
11 teachers' retirement system combined plan 2 and plan 3 account, the
12 tobacco prevention and control account, the tobacco settlement account,
13 the transportation infrastructure account, the transportation
14 partnership account, the traumatic brain injury account, the tuition
15 recovery trust fund, the University of Washington bond retirement fund,
16 the University of Washington building account, the volunteer
17 firefighters' and reserve officers' relief and pension principal fund,
18 the volunteer firefighters' and reserve officers' administrative fund,
19 the Washington fruit express account, the Washington judicial
20 retirement system account, the Washington law enforcement officers' and
21 firefighters' system plan 1 retirement account, the Washington law
22 enforcement officers' and firefighters' system plan 2 retirement
23 account, the Washington public safety employees' plan 2 retirement
24 account, the Washington school employees' retirement system combined
25 plan 2 and 3 account, the Washington state health insurance pool
26 account, the Washington state patrol retirement account, the Washington
27 State University building account, the Washington State University bond
28 retirement fund, the water pollution control revolving fund, and the
29 Western Washington University capital projects account. Earnings
30 derived from investing balances of the agricultural permanent fund, the
31 normal school permanent fund, the permanent common school fund, the
32 scientific permanent fund, and the state university permanent fund
33 shall be allocated to their respective beneficiary accounts. All
34 earnings to be distributed under this subsection (4)(a) shall first be
35 reduced by the allocation to the state treasurer's service fund
36 pursuant to RCW 43.08.190.

37 (b) The following accounts and funds shall receive eighty percent
38 of their proportionate share of earnings based upon each account's or

1 fund's average daily balance for the period: The aeronautics account,
2 the aircraft search and rescue account, the county arterial
3 preservation account, the department of licensing services account, the
4 essential rail assistance account, the ferry bond retirement fund, the
5 grade crossing protective fund, the high capacity transportation
6 account, the highway bond retirement fund, the highway safety account,
7 the motor vehicle fund, the motorcycle safety education account, the
8 pilotage account, the public transportation systems account, the Puget
9 Sound capital construction account, the Puget Sound ferry operations
10 account, the recreational vehicle account, the rural arterial trust
11 account, the safety and education account, the special category C
12 account, the state patrol highway account, the transportation 2003
13 account (nickel account), the transportation equipment fund, the
14 transportation fund, the transportation improvement account, the
15 transportation improvement board bond retirement account, and the urban
16 arterial trust account.

17 (5) In conformance with Article II, section 37 of the state
18 Constitution, no treasury accounts or funds shall be allocated earnings
19 without the specific affirmative directive of this section.

20 **Sec. 39.** RCW 43.84.092 and 2007 c 514 s 3, 2007 c 513 s 1, and
21 2007 c 356 s 9 are each reenacted and amended to read as follows:

22 (1) All earnings of investments of surplus balances in the state
23 treasury shall be deposited to the treasury income account, which
24 account is hereby established in the state treasury.

25 (2) The treasury income account shall be utilized to pay or receive
26 funds associated with federal programs as required by the federal cash
27 management improvement act of 1990. The treasury income account is
28 subject in all respects to chapter 43.88 RCW, but no appropriation is
29 required for refunds or allocations of interest earnings required by
30 the cash management improvement act. Refunds of interest to the
31 federal treasury required under the cash management improvement act
32 fall under RCW 43.88.180 and shall not require appropriation. The
33 office of financial management shall determine the amounts due to or
34 from the federal government pursuant to the cash management improvement
35 act. The office of financial management may direct transfers of funds
36 between accounts as deemed necessary to implement the provisions of the

1 cash management improvement act, and this subsection. Refunds or
2 allocations shall occur prior to the distributions of earnings set
3 forth in subsection (4) of this section.

4 (3) Except for the provisions of RCW 43.84.160, the treasury income
5 account may be utilized for the payment of purchased banking services
6 on behalf of treasury funds including, but not limited to, depository,
7 safekeeping, and disbursement functions for the state treasury and
8 affected state agencies. The treasury income account is subject in all
9 respects to chapter 43.88 RCW, but no appropriation is required for
10 payments to financial institutions. Payments shall occur prior to
11 distribution of earnings set forth in subsection (4) of this section.

12 (4) Monthly, the state treasurer shall distribute the earnings
13 credited to the treasury income account. The state treasurer shall
14 credit the general fund with all the earnings credited to the treasury
15 income account except:

16 The following accounts and funds shall receive their proportionate
17 share of earnings based upon each account's and fund's average daily
18 balance for the period: The aeronautics account, the aircraft search
19 and rescue account, the capitol building construction account, the
20 Cedar River channel construction and operation account, the Central
21 Washington University capital projects account, the charitable,
22 educational, penal and reformatory institutions account, the Columbia
23 river basin water supply development account, the common school
24 construction fund, the county arterial preservation account, the county
25 criminal justice assistance account, the county sales and use tax
26 equalization account, the data processing building construction
27 account, the deferred compensation administrative account, the deferred
28 compensation principal account, the department of licensing services
29 account, the department of retirement systems expense account, the
30 developmental disabilities community trust account, the drinking water
31 assistance account, the drinking water assistance administrative
32 account, the drinking water assistance repayment account, the Eastern
33 Washington University capital projects account, the education
34 construction fund, the education legacy trust account, the election
35 account, the emergency reserve fund, the energy freedom account, the
36 essential rail assistance account, The Evergreen State College capital
37 projects account, the federal forest revolving account, the ferry bond
38 retirement fund, the freight congestion relief account, the freight

1 mobility investment account, the freight mobility multimodal account,
2 the grade crossing protective fund, the health services account, the
3 public health services account, the health system capacity account, the
4 personal health services account, the high capacity transportation
5 account, the state higher education construction account, the higher
6 education construction account, the highway bond retirement fund, the
7 highway infrastructure account, the highway safety account, the high-
8 occupancy toll lanes operations account, the plumbing and HVAC/R
9 certificate fund, the industrial insurance premium refund account, the
10 judges' retirement account, the judicial retirement administrative
11 account, the judicial retirement principal account, the local leasehold
12 excise tax account, the local real estate excise tax account, the local
13 sales and use tax account, the medical aid account, the mobile home
14 park relocation fund, the motor vehicle fund, the motorcycle safety
15 education account, the multimodal transportation account, the municipal
16 criminal justice assistance account, the municipal sales and use tax
17 equalization account, the natural resources deposit account, the oyster
18 reserve land account, the pension funding stabilization account, the
19 perpetual surveillance and maintenance account, the pilotage account,
20 the public employees' retirement system plan 1 account, the public
21 employees' retirement system combined plan 2 and plan 3 account, the
22 public facilities construction loan revolving account beginning July 1,
23 2004, the public health supplemental account, the public transportation
24 systems account, the public works assistance account, the Puget Sound
25 capital construction account, the Puget Sound ferry operations account,
26 the Puyallup tribal settlement account, the real estate appraiser
27 commission account, the recreational vehicle account, the regional
28 mobility grant program account, the resource management cost account,
29 the rural arterial trust account, the rural Washington loan fund, the
30 safety and education account, the site closure account, the small city
31 pavement and sidewalk account, the special category C account, the
32 special wildlife account, the state employees' insurance account, the
33 state employees' insurance reserve account, the state investment board
34 expense account, the state investment board commingled trust fund
35 accounts, the state patrol highway account, the supplemental pension
36 account, the Tacoma Narrows toll bridge account, the teachers'
37 retirement system plan 1 account, the teachers' retirement system
38 combined plan 2 and plan 3 account, the tobacco prevention and control

1 account, the tobacco settlement account, the transportation 2003
2 account (nickel account), the transportation equipment fund, the
3 transportation fund, the transportation improvement account, the
4 transportation improvement board bond retirement account, the
5 transportation infrastructure account, the transportation partnership
6 account, the traumatic brain injury account, the tuition recovery trust
7 fund, the University of Washington bond retirement fund, the University
8 of Washington building account, the urban arterial trust account, the
9 volunteer firefighters' and reserve officers' relief and pension
10 principal fund, the volunteer firefighters' and reserve officers'
11 administrative fund, the Washington fruit express account, the
12 Washington judicial retirement system account, the Washington law
13 enforcement officers' and firefighters' system plan 1 retirement
14 account, the Washington law enforcement officers' and firefighters'
15 system plan 2 retirement account, the Washington public safety
16 employees' plan 2 retirement account, the Washington school employees'
17 retirement system combined plan 2 and 3 account, the Washington state
18 health insurance pool account, the Washington state patrol retirement
19 account, the Washington State University building account, the
20 Washington State University bond retirement fund, the water pollution
21 control revolving fund, and the Western Washington University capital
22 projects account. Earnings derived from investing balances of the
23 agricultural permanent fund, the normal school permanent fund, the
24 permanent common school fund, the scientific permanent fund, and the
25 state university permanent fund shall be allocated to their respective
26 beneficiary accounts. All earnings to be distributed under this
27 subsection (4)(a) shall first be reduced by the allocation to the state
28 treasurer's service fund pursuant to RCW 43.08.190.

29 (5) In conformance with Article II, section 37 of the state
30 Constitution, no treasury accounts or funds shall be allocated earnings
31 without the specific affirmative directive of this section.

32 NEW SECTION. **Sec. 40.** CODIFICATION. Sections 2 through 35 of
33 this act constitute a new chapter in Title 18 RCW.

34 NEW SECTION. **Sec. 41.** CAPTIONS. Captions used in this act are
35 not any part of the law.

1 NEW SECTION. **Sec. 42.** SEVERABILITY. If any provision of this act
2 or its application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 43.** EFFECTIVE DATE. Except for section 39 of
6 this act, this act takes effect July 1, 2008.

7 NEW SECTION. **Sec. 44.** Section 38 of this act expires July 1,
8 2009.

9 NEW SECTION. **Sec. 45.** Section 39 of this act takes effect July 1,
10 2009.

11 NEW SECTION. **Sec. 46.** If specific funding for the purposes of
12 this act, referencing this act by bill or chapter number, is not
13 provided by June 30, 2008, in the omnibus appropriations act, this act
14 is null and void."

15 Correct the title.

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