
HOUSE BILL 1318

State of Washington 60th Legislature 2007 Regular Session

By Representatives Hunt, Wood, Conway, Williams, Chandler, Green,
Moeller and Morrell

Read first time 01/17/2007. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to licensing of soil scientists; adding a new
2 section to chapter 18.220 RCW; adding a new chapter to Title 18 RCW;
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in order to
6 protect life, property, and health, and to promote public welfare it is
7 in the public interest to regulate the practice of soil science to:
8 (1) Define the practice of soil science as a profession by establishing
9 minimum standards of ethical conduct and professional responsibility
10 and by establishing professional education and experience requirements;
11 and (2) prevent abuses in the practice of soil science by untrained or
12 unprincipled individuals.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.
15 (1) "Advisory committee" means a group of either certified
16 professional soil classifiers or certified professional soil scientists
17 or licensed soil scientists with broad knowledge and experience in

1 their profession, appointed under this chapter to offer recommendations
2 to the board and the director on the administration of the program
3 established under this chapter.

4 (2) "Board" means the geologist licensing board as defined in RCW
5 18.220.010.

6 (3) "Certified crop adviser" means an agronomist certified by and
7 under the rules set by the American society of agronomy's international
8 certified crop adviser program. A certified crop adviser practices
9 agronomic advising related to four areas: Nutrient management; soil
10 and water management; integrated pest management; and crop management.

11 (4) "Certified professional soil classifier" means a soil
12 classifier certified by, and under rules set by, the soil science
13 society of America.

14 (5) "Certified professional soil scientist" means a soil scientist
15 certified by, and under rules set by, the soil science society of
16 America.

17 (6) "Department" means the department of licensing.

18 (7) "Director" means the director of the department of licensing.

19 (8) "Practice of soil science" means performance of soil science
20 service or work including but not limited to the collection of soil
21 science data, consultation, investigation, evaluation, interpretation,
22 planning, soil mapping, or inspection relating to a service or work
23 that applies to soil science, and the responsible supervision of that
24 service or work, the performance of which is related to public welfare
25 or the safeguarding of life, health, property, and the environment,
26 except as otherwise exempted by this chapter. The practice of soil
27 science does not include work, such as would be carried out by either
28 engineers as defined in RCW 18.43.020, or architects as defined in RCW
29 18.08.320.

30 (9) "Practice of soil science for others" includes, but is not
31 limited to:

32 (a) The preparation of soil science reports, documents, or exhibits
33 by any commission, board, department, district, or division of the
34 state or any political subdivision or of any county, city, or other
35 public body, or by the employees or staff members of the commission,
36 board, department, district, or division of the state or any political
37 subdivision or of any county, city, or other public body when the

1 reports, documents, or exhibits are disseminated or made available to
2 the public in such a manner that the public may reasonably be expected
3 to rely upon or be affected by them; and

4 (b) The performance of soil science services by an individual,
5 firm, partnership, corporation, or other association or by their
6 employees or staff members, whether or not the principal business of
7 the organization is the practice of soil science, which the soil
8 science reports, documents, or exhibits constituting the practice of
9 soil science are disseminated or made available to the public or an
10 individual or organization in such a manner that the public or
11 individual or combination of individuals may reasonably be expected to
12 rely upon or be affected by them. However, soil science reports,
13 documents, or exhibits that are prepared by the employees or staff
14 members of an individual, firm, partnership, corporation, or other
15 association or commission, board, department, district, or division of
16 the state or political subdivision or a county, city, or other public
17 body that are for use solely within the organizations are considered
18 in-house reports, documents, or exhibits and are not the practice of
19 soil science for others unless or until the reports are disseminated or
20 made available as set forth in this subsection.

21 (10) "Responsible charge" means the exercise of fully independent
22 control and direction of soil science work or the supervision of such
23 work, and being fully responsible, answerable, accountable, or liable
24 for the results.

25 (11) "Soil" means a complex living system that develops over time
26 in the upper portion of the regolith at the surface of the earth. Soil
27 is composed of living and once-living organic materials combined with
28 inorganic mineral materials derived from the break-down and weathering
29 of rocks at the earth's surface. Soil, in its undisturbed form, is a
30 highly structured ecosystem that develops over time, forming a vertical
31 soil profile with distinct chemical and physical attributes that change
32 with depth from the soil surface. The changes, on both a micro and
33 macro scale, are the result of weathering processes that reflect
34 effects of climate, topography, and biology acting on the original
35 parent material over time. Soil extends from the surface of the earth
36 down to undifferentiated or unweathered parent material.

37 (12) "Soil science" means the science that:

1 (a) Involves the study of various aspects of the living soil
2 ecosystem and includes the following focused subject areas: (i) Soil
3 physics, which is the study of water and heat transfer through soil;
4 (ii) soil chemistry and mineralogy; (iii) soil biochemistry; (iv) soil
5 fertility; (v) soil genesis, morphology, and classification; and (vi)
6 land use management;

7 (b) Is distinguished from geology, as defined in RCW 18.220.010, by
8 the fact that the living soil ecosystem that is the primary study
9 target of a soil scientist forms a thin skin on the geologist's focus
10 which is the greater earth's crust. Geology deals with relatively
11 undisturbed materials formed at the earth surface or within the earth's
12 crust by large-scale tectonic or depositional processes. Soil
13 scientists study how the surface of that material changes over time in
14 response to weather, biology, and topography on a comparative
15 microscale;

16 (c) Is distinguished from engineering, as defined in RCW 18.43.020,
17 by the fact that engineering generally considers soil as a medium to
18 support infrastructure or as an inanimate unstructured material, while
19 a soil scientist considers soil as a complex, highly structured living
20 ecosystem; and

21 (d) Is distinguished from agronomy, forestry, and horticulture by
22 the fact that those disciplines apply aspects of soil science, but are
23 focused almost exclusively on the efficiencies or deficiencies of soil
24 in relation to plant growth.

25 (13) "Soil scientist" means a person who, by reason of the person's
26 knowledge of soil science, mathematics, the environment, and the
27 supporting physical and life sciences, acquired by education and
28 practical experience, has met the qualifications established under this
29 chapter, and has been issued a license as a soil scientist by the
30 board.

31 (14) "Subordinate" means a person who assists in the practice of
32 soil science by a licensed soil scientist without assuming the
33 responsible charge of the work.

34 NEW SECTION. **Sec. 3.** The following activities do not require a
35 certificate of licensing under this chapter:

36 (1) Soil science work performed by an employee or a subordinate of
37 a soil scientist licensed under this chapter, provided that the work

1 does not include responsible charge of soil science work as covered by
2 this section, and is performed under the direct supervision of a soil
3 scientist licensed under this chapter, who shall be and remains
4 responsible for such work;

5 (2) Soil science work performed by officers and employees of the
6 United States practicing solely as such officers and employees;

7 (3) Soil science research conducted through academic institutions
8 by agencies of the federal or state governments, nonprofit research
9 institutions, or for-profit organizations, including submission of
10 reports of research to public agencies;

11 (4) Teaching soil science or related physical or natural sciences;

12 (5) The practice of engineering or other licensed or registered
13 professions: (a) The acquisition of engineering data involving soil,
14 rock, groundwater, and other earth materials; evaluation of the
15 physical and chemical properties of soil, rock, groundwater, and other
16 earth materials; and the utilization of these data in analysis, design,
17 and construction by professional engineers appropriately registered or
18 licensed in this state; and (b) similar work performed by persons or
19 organizations licensed or registered in any other profession or
20 occupation related to soil science such as licensed on-site wastewater
21 treatment designers, certified crop advisers, certified professional
22 agronomists, or individuals who hold any pesticide license administered
23 through the Washington state department of agriculture, provided that
24 such work is permitted under the applicable licensing or registration
25 law, and is incidental to the practice or the profession or occupation
26 for which licensing or registration is required. Nothing in this
27 section shall be construed to permit the use of the title soil
28 scientist, or any other specialty as defined by the director, by an
29 engineer or other licensed professional except as licensed under this
30 chapter;

31 (6) General scientific work customarily performed by such physical
32 or natural scientists as chemists, archaeologists, geologists,
33 geographers, hydrologists, oceanographers, wetland scientists,
34 agronomists, crop scientists, horticulturists, and foresters, providing
35 such work does not include the design and execution of soil science
36 investigations, being in responsible charge of soil science, and the
37 drawing of soil science conclusions and making recommendations in a way

1 that can be shown to negatively impact the public health, safety, or
2 welfare; or

3 (7) The giving of testimony or preparation and presentation of
4 exhibits or documents for the sole purpose of being placed in evidence
5 before any administrative or judicial tribunal or hearing, providing
6 such testimony, exhibits, or documents do not imply that the person is
7 licensed under the provisions of this chapter.

8 NEW SECTION. **Sec. 4.** (1) It is unlawful for a person to practice
9 or offer to practice soil science for others in this state, or to use
10 in connection with the person's name or otherwise assume or advertise
11 any title or description tending to convey the impression that the
12 person is a licensed soil scientist, unless the person has been
13 licensed under the provisions of this chapter.

14 (2) A person shall be construed to practice or offer to practice
15 soil science within the meaning and intent of this chapter, if the
16 person:

- 17 (a) Practices any branch of the profession of soil science;
- 18 (b) Represents by verbal claim, sign, advertisement, letterhead,
19 card, or in any other way himself or herself to be a soil scientist;
- 20 (c) Implies through the use of some other title that he or she is
21 a soil scientist or that he or she is licensed under this chapter; or
- 22 (d) Holds himself or herself out as able to perform or does perform
23 any soil science services or work recognized by the board as the
24 practice of soil science for others.

25 NEW SECTION. **Sec. 5.** (1) An advisory committee is created to
26 provide recommendations to the board and the director concerning the
27 administration of this chapter. The advisory committee consists of
28 five members who are conversant with and experienced in the soil
29 science profession, and who are otherwise eligible for licensure under
30 this chapter. Subsequent to the initial appointments, all members must
31 be licensed under this chapter. All advisory committee members must be
32 soil science society of America certified professional soil scientists
33 or certified professional soil classifiers. Each member of the
34 advisory committee must be a resident of the state.

35 (2) The director shall appoint to the advisory committee
36 individuals from across the state, utilizing geographic and

1 experiential diversity as much as possible. The terms of the members
2 of the advisory committee are a maximum of three years, except that the
3 initial appointees to the advisory committee serve the following terms:
4 Two members for two years and three members for three years. No member
5 of the advisory committee is eligible for reappointment to a third
6 consecutive term, but any member is eligible for reappointment after an
7 absence of at least one year from the advisory committee. Any member
8 who is reappointed following an absence of at least one year from the
9 advisory committee is eligible for reappointment to a second
10 consecutive term and is again eligible for reappointment after an
11 absence of at least one year from the advisory committee.

12 (3) Members of the advisory committee serve until replaced by a
13 subsequent appointment even if their appointment exceeds the length of
14 their term, but may resign prior to completing the term of appointment.
15 The director may for just cause remove an advisory committee member.
16 The director shall appoint a new member to fill any vacancy on the
17 advisory committee for the remainder of the unexpired term. Members of
18 the advisory committee may not be compensated, but shall be reimbursed
19 for expenses incurred in accordance with RCW 43.03.050 and 43.03.060.
20 Three members constitute a quorum.

21 (4) At the request of the advisory committee, the director may
22 appoint additional temporary members to the advisory committee for
23 assistance with rule development, examination development, and
24 technical advice on complaints. Temporary members must meet the same
25 minimum qualifications as regular members of the advisory committee.
26 Temporary members have all the powers, duties, and immunities of
27 regular members of the advisory committee and shall be reimbursed for
28 expenses incurred in accordance with RCW 43.03.050 and 43.03.060. The
29 director shall limit the term of temporary members to one year, but may
30 extend the original appointment up to one additional year.

31 NEW SECTION. **Sec. 6.** The advisory committee shall make
32 recommendations to the board regarding:

33 (1) Developing and adopting rules to administer this chapter
34 including, but not limited to, evaluating the experience, scope, and
35 standards of practice of soil science;

36 (2) Reviewing complaints and investigations pertaining to the
37 practice of soil science; and

1 (3) Performing other duties deemed necessary by the director or the
2 board.

3 NEW SECTION. **Sec. 7.** The director has the following authority in
4 administering this chapter:

5 (1) To adopt, amend, and rescind rules approved by the board as
6 deemed necessary to carry out this chapter;

7 (2) To adopt fees as provided in RCW 43.24.086;

8 (3) To administer licensing examinations approved by the board and
9 to adopt or recognize examinations prepared by other organizations as
10 approved by the board;

11 (4) To adopt standards of professional conduct and practice as
12 approved by the board; and

13 (5) To enter into an assurance of discontinuance in lieu of issuing
14 a statement of charges or conducting a hearing. The assurance must
15 consist of a statement of the law in question and an agreement to not
16 violate the stated provision. Violation of an assurance under this
17 subsection is grounds for disciplinary action.

18 NEW SECTION. **Sec. 8.** In order to become a licensed soil
19 scientist, an applicant must meet the following requirements:

20 (1) An applicant who applies for soil scientist licensing before
21 July 1, 2008, is considered qualified for licensing, without further
22 written examination, if the applicant possesses the specific record of
23 being a current soil science society of America certified professional
24 soil scientist or certified professional soil classifier in good
25 standing.

26 (2) On or after July 1, 2008, in order to become a licensed soil
27 scientist, an applicant must:

28 (a) Be of good moral and ethical character as attested to by
29 letters of reference submitted by the applicant or as otherwise
30 determined by the board;

31 (b) Have graduated from a course of study in soil science
32 satisfactory to the board or satisfy educational equivalents determined
33 by the board;

34 (c) Have a documented record of a minimum of five years of
35 experience obtained after the completion of the academic requirements
36 specified in this section, in soil science work of a character

1 satisfactory to the board, demonstrating that the applicant is
2 qualified to assume responsible charge of such work upon licensing as
3 a soil scientist. The board requires that three years of the
4 experience be gained under the supervision of a soil scientist licensed
5 in this or any other state, or under the supervision of others who, in
6 the opinion of the board, are qualified to have responsible charge of
7 soil science work;

8 (d) Pass an examination covering the fundamentals and practice of
9 soil science prescribed or accepted by the board; and

10 (e) Meet other general or individual requirements established by
11 the board under its authority under this chapter.

12 NEW SECTION. **Sec. 9.** (1) Experience in professional practice as
13 required under section 8(2)(c) of this act, of a character acceptable
14 to the board and acquired prior to July 1, 2008, is acceptable if the
15 experience: (a) Was acquired under the direct supervision of a soil
16 scientist who meets the educational and experience requirements for
17 licensing under this chapter, or who is licensed in another state that
18 has licensing requirements that are substantially similar to this
19 chapter; or (b) would constitute responsible charge of professional
20 soil science work, as determined by the board;

21 (2) Each year of full-time graduate study in soil science qualifies
22 as one year of professional experience, up to a maximum of two years.
23 The board may accept soil science research or teaching of soil science
24 at the college or university level as qualifying experience, provided
25 that such research or teaching, in the judgment of the board, is
26 comparable to experience obtained in the practice of soil science.

27 NEW SECTION. **Sec. 10.** An application for licensing shall be filed
28 with the director on a form provided by the director and must contain
29 statements made under oath demonstrating the applicant's education and
30 practical experience. The director may require any information and
31 documentation that reasonably relates to the need to determine whether
32 the applicant meets the criteria for licensing. The application fee
33 for initial licensing shall be determined by the director as provided
34 in RCW 43.24.086. The application, together with the fee, must be
35 submitted to the department prior to the application deadline
36 established by the director. Fees for initial licensing shall include

1 the examination and issuance of a certificate. If the director finds
2 an applicant ineligible for licensing, the fee is retained as an
3 application fee.

4 NEW SECTION. **Sec. 11.** Examinations of applicants for licensing,
5 when required, shall be held at such times and places as determined by
6 the board with the director's approval. The scope of the examination
7 must be directed to an applicant's ability to practice soil science in
8 a manner that ensures the safety of life, health, and property. A
9 candidate failing an examination may apply for reexamination.
10 Subsequent examinations will be granted upon payment of a fee to be
11 determined by the director as provided in RCW 43.24.086.

12 NEW SECTION. **Sec. 12.** (1) The director shall issue a license to
13 any applicant who has satisfactorily met all of the requirements of
14 this chapter for licensing as a soil scientist. The license must show
15 the full name of the license holder, have a number, and be signed by
16 the director. The issuance by the director of a license to an
17 individual is prima facie evidence that the person is entitled to all
18 the rights and privileges of a licensed soil scientist while the
19 license remains unrevoked or unexpired.

20 (2) Each license holder must obtain a seal of the design authorized
21 by the director, bearing the licensee's name, number, and the legend
22 "licensed soil scientist." Soil science reports, plans, and other
23 technical documents prepared by or under the responsible charge of the
24 license holder must be signed, dated, and stamped with the seal or
25 facsimile of the seal. Each signature and stamping constitutes a
26 certification by the license holder that the document was prepared by
27 or under the license holder's responsible charge and that to the
28 license holder's knowledge and belief the document was prepared in
29 accordance with the requirements of this chapter.

30 NEW SECTION. **Sec. 13.** The director may, upon application and
31 payment of a fee determined by the director as provided in RCW
32 43.24.086, issue a license without further examination as a soil
33 scientist to any person who holds a valid license or certificate of
34 qualification issued by the proper authority of any state, territory,
35 or possession of the United States, District of Columbia, or any

1 foreign country, if the applicant's qualifications, as evaluated by the
2 board, meet the requirements of this chapter and the rules adopted by
3 the director.

4 NEW SECTION. **Sec. 14.** Licenses issued under this chapter shall be
5 renewed periodically on a date to be set by the director in conformance
6 with RCW 43.24.140. A license holder who fails to pay the prescribed
7 fee within ninety days after expiration of his or her license shall
8 have his or her license classified as invalid until the license holder
9 pays a renewal fee equal to the current fee plus an amount equal to one
10 year's renewal fee. Any license that has been expired or suspended for
11 five years or more may be reinstated in conformance with rules adopted
12 by the director. Reinstatement conditions may include demonstration of
13 continued practice or competency in the practice of soil science.

14 NEW SECTION. **Sec. 15.** All receipts from fees and fines collected
15 under this chapter must be deposited into the geologists' account
16 created in RCW 18.220.120. Expenditures from the account may be used
17 only for the purposes described in the geologist account.

18 NEW SECTION. **Sec. 16.** In addition to the unprofessional conduct
19 described in RCW 18.235.130, the following conduct, acts, and
20 conditions constitute unprofessional conduct:

21 (1) Violating any of the provisions of this chapter or the rules
22 adopted under this chapter;

23 (2) Committing any other act, or failing to act, which act or
24 failure are customarily regarded as being contrary to the accepted
25 professional conduct or standard generally expected of those practicing
26 soil science;

27 (3) Aiding or abetting the unlicensed or unsupervised practice of
28 soil science in the state by a person or firm that is not registered in
29 accordance with this chapter or aiding or abetting an unlicensed person
30 to practice or operate a soil science business or profession when a
31 license is required;

32 (4) The practice of soil science by a licensee when that person's
33 license is expired, suspended, or revoked;

34 (5) Failing to comply with the terms and conditions of an order
35 issued by the board;

1 (6) Failing to respond to inquiries from clients or other
2 professionals regarding conflicts with the licensee's work, opinions,
3 or procedures, in a manner that would be expected from a prudent
4 practitioner;

5 (7) Modifying another licensee's work without notifying that
6 licensee and clearly describing the modifications in writing and
7 signing the report describing the modifications. However, this
8 subsection (7) does not apply when the plans, maps, or documents are
9 modified by the owner to reflect changes over time for their own
10 purposes and are not used for submittals or bid documents;

11 (8) Offering or accepting money, goods, or other favors as
12 inducement to receive favorable consideration for a professional
13 assignment or as an inducement to approve, authorize, or influence the
14 granting of a professional assignment;

15 (9) Soliciting or accepting gratuities, directly or indirectly,
16 from contractors, their agents, or other parties dealing with clients
17 or employers in connection with work for which the licensee is
18 responsible;

19 (10) Using privileged information coming to the licensee in the
20 course of his or her assignments as a means of making personal profit
21 beyond their professional compensation

22 (11) Requesting, proposing, or accepting professional commissions
23 on a contingent basis under circumstances in which the registrant's
24 integrity may be compromised;

25 (12) Willfully attempting to interfere with a board investigation
26 by falsifying records, making false statements and intimidating or
27 influencing witnesses; or

28 (13) Willfully attempting to suborn another person to violate the
29 law, public policy, or their code of professional ethics.

30 NEW SECTION. **Sec. 17.** A person, including but not limited to
31 consumers, licensees, corporations, organizations, and state and local
32 governments or agencies, may submit a written complaint to the
33 department charging a license holder or applicant with unprofessional
34 conduct and specifying the grounds for the charge. If the director
35 determines that the complaint merits investigation, or if the director
36 has reason to believe, without a formal complaint, that a license
37 holder or applicant may have engaged in unprofessional conduct, the

1 director may investigate to determine if there has been unprofessional
2 conduct. A person who files a complaint under this section in good
3 faith is immune from suit in any civil action related to the filing or
4 contents of the complaint.

5 NEW SECTION. **Sec. 18.** The board shall immediately suspend the
6 license of a person who has been certified pursuant to RCW 74.20A.320
7 by the department of social and health services as a person who is not
8 in compliance with a child support order. If the person has continued
9 to meet all other requirements for a license under this chapter during
10 the suspension, reissuance of the license shall be automatic upon the
11 board's receipt of a release issued by the department of social and
12 health services stating that the licensee is in compliance with the
13 child support order. The procedure in RCW 74.20A.320 is the exclusive
14 administrative remedy for contesting the establishment of noncompliance
15 with a child support order, and suspension of a license under this
16 subsection, and satisfies the requirements of RCW 34.05.422.

17 NEW SECTION. **Sec. 19.** The uniform regulation of business and
18 professions act, chapter 18.235 RCW, governs unlicensed practice, the
19 issuance and denial of licenses, and the discipline of licensees under
20 this chapter.

21 NEW SECTION. **Sec. 20.** A new section is added to chapter 18.220
22 RCW to read as follows:

23 The board has the following authority in administering chapter
24 18.-- RCW (sections 1 through 19, 21, and 23 of this act):

25 (1) To establish rules, including committee organization and
26 assignment of terms, and meeting frequency and timing, for adoption by
27 the director;

28 (2) To establish the minimum qualifications for applicants for
29 licensure as provided by chapter 18.-- RCW (sections 1 through 19, 21,
30 and 23 of this act);

31 (3) To approve the method of administration for examinations
32 required by chapter 18.-- RCW (sections 1 through 19, 21, and 23 of
33 this act) or by rule as established by the director. To approve the
34 adoption or recognition of examinations prepared by other organizations

1 for adoption by the director. To set the time and place of
2 examinations with the approval of the director; and

3 (4) To establish and review standards of professional conduct and
4 practice for adoption by the director.

5 NEW SECTION. **Sec. 21.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 22.** Sections 1 through 19, 21, and 23 of this
10 act constitute a new chapter in Title 18 RCW.

11 NEW SECTION. **Sec. 23.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 July 1, 2007.

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