

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5199

Chapter 367, Laws of 2009

(partial veto)

61st Legislature
2009 Regular Session

PUBLIC WATER SUPPLY SYSTEM OPERATORS

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 14, 2009
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 6, 2009, 2:09 p.m., with
the exception of Sections 1 through 7
which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SUBSTITUTE SENATE
BILL 5199** as passed by the Senate
and the House of Representatives
on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 8, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5199

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Fraser, Morton, Rockefeller, and Shin; by request of Department of Health)

READ FIRST TIME 01/28/09.

1 AN ACT Relating to public water supply system operators; amending
2 RCW 70.119.020, 70.119.030, 70.119.110, 70.119.130, and 70.119.160;
3 adding new sections to chapter 70.119 RCW; and adding a new section to
4 chapter 70.119A RCW.

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

6 **Sec. 1. RCW 70.119.020 and 1999 c 153 s 67 are each amended to*
7 *read as follows:*

8 *((As used)) The definitions in this section apply throughout this*
9 *chapter unless the context clearly requires ((another-meaning:))*
10 *otherwise.*

11 *(1) "Backflow assembly tester" means a person in charge of*
12 *inspecting, testing, maintaining, and repairing backflow assemblies,*
13 *devices, or air gaps that protect the public water system.*

14 *(2) "Certificate" means a certificate of competency issued by the*
15 *secretary stating that the operator has met the requirements for the*
16 *specified operator classification of the certification program.*

17 *((+2)) (3) "Certified operator" means an individual holding a*
18 *valid certificate and employed or appointed by any county, water-sewer*
19 *district, municipality, public or private corporation, company,*

1 institution, person, federal agency, or the state of Washington and who
2 is designated by the employing or appointing officials as the person
3 responsible for active daily technical operation.

4 ~~((+3))~~ (4) "Cross-connection control specialist" means a person in
5 charge of developing and implementing cross-connection control
6 programs.

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

8 ~~((+4))~~ (6) "Distribution system" means that portion of a public
9 water system which stores, transmits, pumps and distributes water to
10 consumers.

11 ~~((+5))~~ (7) "Groundwater under the direct influence of surface
12 water" means any water beneath the surface of the ground with:

13 (a) Significant occurrence of insects or other macroorganisms,
14 algae, or large diameter pathogens such as giardia lamblia; or

15 (b) Significant and relatively rapid shifts in water
16 characteristics such as turbidity, temperature, conductivity, or pH
17 which closely correlate to climatological or surface water conditions.

18 ~~((+6))~~ (8) "Group A water system" means a system with fifteen or
19 more service connections, regardless of the number of people; or a
20 system serving an average of twenty-five or more people per day for
21 sixty or more days within a calendar year, regardless of the number of
22 service connections. ~~((Group A water system does not include a system~~
23 ~~servng fewer than fifteen single-family residences, regardless of the~~
24 ~~number of people.~~

25 ~~(+7))~~ (9) "Nationally recognized association of certification
26 authorities" shall mean an organization which serves as an information
27 center for certification activities, recommends minimum standards and
28 guidelines for classification of potable water treatment plants, water
29 distribution systems and waste water facilities and certification of
30 operators, facilitates reciprocity between state programs and assists
31 authorities in establishing new certification programs and updating
32 existing ones.

33 ~~((+8))~~ (10) "Operator" includes backflow assembly tester,
34 certified operator, and cross-connection control specialist as these
35 terms are defined in this section.

36 (11) "Public water system" means any system, excluding a system
37 serving only one single-family residence and a system with four or
38 fewer connections all of which serve residences on the same farm,

1 providing piped water for human consumption, including any collection,
2 treatment, storage, or distribution facilities under control of the
3 purveyor and used primarily in connection with the system; and
4 collection or pretreatment storage facilities not under control of the
5 purveyor but primarily used in connection with the system.

6 ~~((9))~~ (12) "Purification plant" means that portion of a public
7 water system which treats or improves the physical, chemical or
8 bacteriological quality of the system's water to bring the water into
9 compliance with state board of health standards.

10 ~~((10))~~ (13) "Secretary" means the secretary of the department of
11 health.

12 ~~((11))~~ (14) "Service" means a connection to a public water system
13 designed to serve a single-family residence, dwelling unit, or
14 equivalent use. If the facility has group home or barracks-type
15 accommodations, three persons will be considered equivalent to one
16 service.

17 ~~((12))~~ (15) "Surface water" means all water open to the
18 atmosphere and subject to surface runoff.

*Sec. 1 was vetoed. See message at end of chapter.

19 *Sec. 2. RCW 70.119.030 and 1997 c 218 s 2 are each amended to read
20 as follows:

21 (1) A public water system shall have a certified operator if:

22 (a) It is a group A water system; or

23 (b) It is a public water system using a surface water source or a
24 groundwater source under the direct influence of surface water.

25 (2) The certified operators shall be in charge of the technical
26 direction of a water system's operation, or an operating shift of such
27 a system, or a major segment of a system necessary for monitoring or
28 improving the quality of water. The operator shall be certified as
29 provided in RCW 70.119.050.

30 (3) A certified operator may provide required services to more than
31 one system or to a group of systems. The amount of time that a
32 certified operator shall be required to be present at any given system
33 shall be based upon the time required to properly operate and maintain
34 the public water system as designed and constructed in accordance with
35 RCW 43.20.050. The employing or appointing officials shall designate
36 the position or positions requiring mandatory certification within

1 their individual systems and shall assure that such certified operators
2 are responsible for the system's technical operation.

3 (4) The department shall, in establishing by rule or otherwise the
4 requirements for public water systems with fewer than one hundred
5 connections, phase in such requirements in order to assure that (a) an
6 adequate number of certified operators are available to serve the
7 additional systems, (b) the systems have adequate notice and time to
8 plan for securing the services of a certified operator, (c) the
9 department has the additional data and other administrative capacity,
10 (d) adequate training is available to certify additional operators as
11 necessary, and (e) any additional requirements under federal law are
12 satisfied. The department shall require certified operators for all
13 group A systems as necessary to conform to federal law or implementing
14 rules or guidelines. Unless necessary to conform to federal law,
15 rules, or guidelines, the department shall not require a certified
16 operator for a system with fewer than one hundred connections unless
17 that system is determined by the department to be in significant
18 noncompliance with operational, monitoring, or water quality standards
19 that would put the public health at risk, as defined by the department
20 by rule, or has, or is required to have, water treatment facilities
21 other than simple disinfection.

22 ~~((5) Any examination required by the department as a prerequisite
23 for the issuance of a certificate under this chapter shall be offered
24 in each region where the department has a regional office.~~

25 ~~(6) Operators not required to be certified by this chapter are
26 encouraged to become certified on a voluntary basis.)~~

*Sec. 2 was vetoed. See message at end of chapter.

27 ***NEW SECTION.** Sec. 3. A new section is added to chapter 70.119 RCW
28 to read as follows:

29 (1) Backflow assembly testers and cross-connection control
30 specialists must hold a valid certificate and must be certified as
31 provided by rule as adopted under the authority of RCW 70.119.050.

32 (2) Backflow assembly testers who maintain or repair backflow
33 assemblies, devices, or air gaps inside a building are subject to
34 certification under chapter 18.106 RCW.

*Sec. 3 was vetoed. See message at end of chapter.

35 ***NEW SECTION.** Sec. 4. A new section is added to chapter 70.119 RCW
36 to read as follows:

1 (1) Any examination required by the department as a prerequisite
2 for the issuance of certificate under this chapter must be offered in
3 both eastern and western Washington.

4 (2) Operators not required to be certified by this chapter are
5 encouraged to become certified on a voluntary basis.

**Sec. 4 was vetoed. See message at end of chapter.*

6 *Sec. 5. RCW 70.119.110 and 1995 c 269 s 2906 are each amended to
7 read as follows:

8 The secretary may ~~((after conducting a hearing))~~ revoke or suspend
9 a certificate: (1) Found to have been obtained by fraud or deceit;
10 ~~((or))~~ (2) for fraud, deceit, or gross negligence ((in)) involving the
11 operation or maintenance of a ((purification plant or distribution
12 system)) public water system; (3) for fraud, deceit, or gross
13 negligence in inspecting, testing, maintenance, or repair of backflow
14 assemblies, devices, or air gaps intended to protect a public water
15 system from contamination; or (4) for an intentional violation of the
16 requirements of this chapter or any lawful rules, order, or regulation
17 of the department. No person whose certificate is revoked under this
18 section shall be eligible to apply for a certificate ((for one year
19 from the effective date of the final order of)) until the completion of
20 the revocation period.

**Sec. 5 was vetoed. See message at end of chapter.*

21 *Sec. 6. RCW 70.119.130 and 1991 c 305 s 8 are each amended to read
22 as follows:

23 Any person, including any operator or any firm, association,
24 corporation, municipal corporation, or other governmental subdivision
25 or agency who, after thirty days' written notice, operates a public
26 water system which is not in compliance with RCW 70.119.030(1), shall
27 be guilty of a misdemeanor. Each month of such operation out of
28 compliance with RCW 70.119.030(1) shall constitute a separate offense.
29 Upon conviction, violators shall be fined an amount not exceeding one
30 hundred dollars for each offense. It shall be the duty of the
31 prosecuting attorney or the attorney general, as appropriate, to secure
32 injunctions of continuing violations of any provisions of this chapter
33 or the rules and regulations adopted ~~((hereunder: PROVIDED, That,~~
34 ~~except in the case of fraud, deceit, or gross negligence under RCW~~
35 ~~70.119.110, no revocation, citation or charge shall be made under RCW~~

1 ~~70.119.110 and 70.119.130 until a proper written notice of violation is~~
2 ~~received and a reasonable opportunity for correction has been given))~~
3 under this chapter.

**Sec. 6 was vetoed. See message at end of chapter.*

4 *Sec. 7. RCW 70.119.160 and 1993 c 306 s 4 are each amended to read
5 as follows:

6 The department of health certifies (~~individuals responsible for~~
7 ~~the active daily technical operation of~~) public water (~~supply~~
8 ~~systems~~) system operators and monitors public water (~~supply~~) systems
9 to ensure that such systems comply with the requirements of this
10 chapter and (~~regulations~~) rules implementing this chapter. The
11 secretary shall establish a schedule of fees for (~~certified~~) operator
12 applicants and renewal licenses and a separate schedule of fees for
13 public water systems to support the waterworks operator certification
14 program. The fees shall be set at a level sufficient for the
15 department to recover the costs of the waterworks operator
16 certification program and in accordance with the procedures established
17 under RCW 43.70.250.

**Sec. 7 was vetoed. See message at end of chapter.*

18 NEW SECTION. Sec. 8. A new section is added to chapter 70.119A
19 RCW to read as follows:

20 A group A water system serving fewer than one hundred connections
21 that purchases water from a water system approved by the department
22 shall measure chlorine residuals at the same time and location of
23 collection for a routine and repeat coliform sample.

Passed by the Senate April 20, 2009.

Passed by the House April 14, 2009.

Approved by the Governor May 6, 2009, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 8, 2009.

Note: Governor's explanation of partial veto is as follows:

"I have approved, except for Sections 1 through 7, Substitute Senate
Bill 5199 entitled:

"AN ACT Relating to public water supply system operators."

Sections 1 through 7 of Substitute Senate Bill 5199 are identical to
Substitute House Bill 1283 that I signed on April 25, 2009. For this
reason, I have vetoed Sections 1 through 7 of Substitute Senate Bill
5199. With the exception of sections 1 through 7 Substitute Senate
Bill 5199 is approved."