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HOUSE BILL 2579

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State of Washington

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By Representatives Pettigrew and Van De Wege

Read first time 01/18/12. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to fire protection firms; adding a new chapter to  
2 Title 19 RCW; and prescribing penalties.

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

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

6 (1) "Certificate of competency holder" means any person who has  
7 satisfactorily met the qualifications and has received a certificate of  
8 competency for any of the three following disciplines from the director  
9 under this chapter:

10 (a) "Portable fire extinguisher technician" means any person who is  
11 engaged in the business of installing, servicing, maintaining,  
12 recharging, or hydrotesting fire extinguishers as defined in NFPA 10;

13 (b) "Preengineered industrial fire extinguishing system technician"  
14 means any person who is engaged in the business of installing,  
15 servicing, maintaining, recharging, or hydrotesting preengineered  
16 industrial fire extinguishing systems as defined in NFPA 17;

17 (c) "Preengineered kitchen fire extinguishing system technician"  
18 means any person who is engaged in the business of installing,

1 servicing, maintaining, recharging, or hydrotesting preengineered  
2 kitchen fire extinguishing systems as defined in NFPA 17A;

3 (2) "Director" means the state director of fire protection.

4 (3) "Fire extinguisher" or "appliance" means an assembly of  
5 components consisting of cylinder, valve, nozzle, and hose or fixed  
6 nozzle, extinguishing agent, and expelling agent. The appliance may be  
7 in a fixed position or location, movable on wheels, or hand portable.  
8 The fire extinguisher may be of the stored pressure type, pressurized  
9 for expelling the extinguishing agent by means of an external  
10 pressurized cartridge, or cylinder or as described in NFPA 10.

11 (4) "Fire protection firm" means a person or organization that  
12 offers to undertake the execution of contracts, verbal or written, for  
13 the installation, inspection, maintenance, or servicing of a fire  
14 extinguisher or preengineered fixed fire suppression system or any part  
15 of such an appliance or assembly.

16 (5) "Fire protection firm license" means the license issued by the  
17 director to a fire protection firm.

18 (6) "Firm" means a corporation, partnership, organization, or other  
19 business association, governmental entity, or any other legal or  
20 commercial entity.

21 (7) "Hydrostatic testing" means pressure testing of the cylinder or  
22 applicable attachment to verify its strength against unwanted rupture  
23 as prescribed by the most current version of NFPA 10, 17, or 17A and  
24 applicable United States department of transportation requirements.

25 (8) "ICC" means the international code council, inc.

26 (9) "Inspection" means a visual examination or "quick check" as  
27 defined by NFPA 10, 17, and 17A.

28 (10) "Maintenance" means a thorough examination as defined by NFPA  
29 10, 17, and 17A.

30 (11) "NAFED" means the national association of fire equipment  
31 distributors.

32 (12) "NFPA 10" means the standard, referenced by the international  
33 fire code, that is used by the national fire protection association for  
34 the installation, maintenance, and servicing of fire extinguishers.

35 (13) "NFPA 17" means the standard, referenced by the international  
36 fire code, that is used by the national fire protection association for  
37 the installation, maintenance, and servicing of dry chemical  
38 extinguishing systems.

1 (14) "NFPA 17A" means the standard, referenced by the international  
2 fire code, that is used by the national fire protection association for  
3 the installation, maintenance, and servicing of wet chemical  
4 extinguishing systems.

5 (15) "NFPA 96 chapter 11" means the standard, referenced by the  
6 international fire code, that is used by the national fire protection  
7 association for ventilation control and fire protection of commercial  
8 cooking operations.

9 (16) "Person" means a natural person, including an owner, manager,  
10 partner, officer, employee, or occupant.

11 (17) "Preengineered fixed fire suppression system" or "assembly"  
12 means any system as defined by NFPA standards 17, 17A, and 96 chapter  
13 11.

14 (18) "Servicing" means performing maintenance, recharging, or  
15 hydrostatic testing pursuant to NFPA 10, 17, and 17A.

16 NEW SECTION. **Sec. 2.** This chapter incorporates by reference the  
17 following codes, standards, and regulations: International fire code;  
18 international code council; international building code; international  
19 mechanical code; NFPA 10 for portable fire extinguishers; NFPA 17 for  
20 dry chemical extinguishing systems; NFPA 17A for wet chemical  
21 extinguishing systems; NFPA 96 chapter 11; and applicable United States  
22 department of transportation regulations as the minimum standard for  
23 installation, servicing, and maintenance for the fire extinguisher and  
24 preengineered fire suppression industry in the state of Washington. If  
25 a conflict exists between any of the codes, standards, or regulations  
26 listed in this section, the more stringent standard applies.

27 NEW SECTION. **Sec. 3.** (1) A county, city, or town may not enact an  
28 order, ordinance, rule, or regulation requiring a fire protection firm  
29 or certificate of competency holder to obtain a fire extinguisher or  
30 preengineered fire suppression system contractor license or certificate  
31 of competency from the county, city, or town. However, a county, city,  
32 or town may require a fire protection firm to obtain a business license  
33 and pay its permit fee to install or maintain fire extinguishers or  
34 preengineered fire suppression systems to conform to the building code  
35 or other construction requirements of the county, city, or town, but

1 may not impose financial responsibility requirements other than proof  
2 of a valid license.

3 (2) This chapter does not apply to:

4 (a) United States, state, and local government employees, building  
5 officials, fire marshals, fire inspectors, or insurance inspectors when  
6 acting in their official capacities;

7 (b) A business owner or representative performing a monthly "quick  
8 check" or inspection;

9 (c) A person or organization acting under court order;

10 (d) A person or organization that sells or supplies products or  
11 material to a licensed fire extinguisher service firm;

12 (e) An owner and occupier of a single-family residence performing  
13 his or her own installation in that residence; or

14 (f) An owner and occupier of any building where the owner and  
15 occupier must meet the certification requirements listed in this  
16 chapter when completing the work outlined in this chapter, but are not  
17 required to contract out these services to a private contractor.

18 NEW SECTION. **Sec. 4.** (1) The director shall administer the  
19 requirements of this chapter.

20 (2) The director shall:

21 (a) Adopt rules necessary to administrate this chapter, including:

22 (i) Setting fees for licenses, certificates, testing, and other  
23 aspects of the administration of this chapter;

24 (ii) Reviewing all aspects of applications for fire protection firm  
25 licenses and certificates of competency including, but not limited to,  
26 claims against the contractor's bond;

27 (iii) Adopting rules establishing a special category restricted to  
28 fire protection firms registered under this chapter that install fire  
29 extinguishers and preengineered fixed fire suppression systems; and

30 (iv) Adopting rules defining infractions under this chapter and  
31 fines to be assessed for those infractions in accordance with section  
32 13 of this act;

33 (b) Enforce this chapter;

34 (c) Conduct investigations of complaints to determine if any  
35 infractions of this chapter or the rules adopted under this chapter  
36 have occurred;

1 (d) Structure all initial investigations of complaints with intent  
2 to bring license and certificate holders into service compliance  
3 without being excessively punitive. Gross or fraudulent violations  
4 must be dealt with as deemed appropriate by the director;

5 (e) Assign a license number to each fire protection firm,  
6 referencing a number of a certificate of competency holder, and issue  
7 each license in the firm's business name;

8 (f) Assign a certificate number to each certificate of competency  
9 holder referencing the licensing number of the fire protection firm;

10 (g) Adopt a minimum standard for a certification tag to be used  
11 throughout the state of Washington that includes the fire protection  
12 firm's license number and the certificate of competency holder's name  
13 and number; and

14 (h) Amend the licensing and certification rules as codes,  
15 standards, and certification tests evolve.

16 NEW SECTION. **Sec. 5.** (1) To become a portable fire extinguisher  
17 technician certificate of competency holder under this chapter, an  
18 applicant must have satisfactorily passed an examination acceptable to  
19 the director that as a minimum is based on the chapters and annex  
20 sections of NFPA 10, standards for portable fire extinguishers.

21 (2)(a) To become a preengineered kitchen fire extinguishing system  
22 installation technician certificate of competency holder under this  
23 chapter, an applicant must have satisfactorily passed an examination  
24 for preengineered kitchen fire extinguishing systems offered by a  
25 preengineered system manufacturer, an agent of a preengineered system  
26 manufacturer, or an organization that is acceptable to the director.

27 (b) To become a preengineered kitchen fire extinguishing system  
28 maintenance technician certificate of competency holder under this  
29 chapter, an applicant must have satisfactorily passed a written or  
30 online examination for preengineered kitchen fire extinguishing system  
31 maintenance that is acceptable to the director and the applicant's  
32 employer shall certify that the applicant is trained in the maintenance  
33 of preengineered kitchen fire extinguishing systems.

34 (3)(a) To become a preengineered industrial fire extinguishing  
35 system installation technician certificate of competency holder under  
36 this chapter, an applicant must have satisfactorily passed an  
37 examination for preengineered industrial fire extinguishing systems

1 offered by a preengineered system manufacturer, an agent of a  
2 preengineered system manufacturer, or an organization that is  
3 acceptable to the director.

4 (b) To become a preengineered industrial fire extinguishing system  
5 maintenance technician certificate of competency holder under this  
6 chapter, an applicant must have satisfactorily passed a written or  
7 online examination for preengineered industrial fire extinguishing  
8 system maintenance that is acceptable to the director and the  
9 applicant's employer shall certify that the applicant is trained in the  
10 maintenance of preengineered industrial fire extinguishing systems.

11 (4) Every applicant for a certificate of competency shall fulfill  
12 the requirements established by the director under section 4 of this  
13 act.

14 (5) Every applicant for a certificate of competency shall apply to  
15 the director and pay the fees required.

16 (6) Every certificate of competency holder must be employed by a  
17 licensed fire protection firm in order to perform service, maintenance,  
18 or installation of an appliance or assembly unless the person is an  
19 owner and occupier of a building where the owner and occupier is  
20 responsible for the business or operations of the building.

21 (7) The director may issue a training certificate of competency in  
22 any particular discipline to an individual who has applied for a  
23 certificate and paid the required fees. An individual issued a  
24 training certificate must perform work under direct visual supervision  
25 of a certificate of competency holder. The training certificate of  
26 competency is valid for a period of up to one year. The training  
27 certificate holder shall, within the one-year period, complete the  
28 requirements for a certificate of competency specified in this section.  
29 There is no examination exemption for an individual issued a training  
30 certificate. Prior to the expiration of the one-year period, the  
31 training certificate holder shall apply for a regular certificate of  
32 competency. The procedures and qualifications for issuance of a  
33 regular certificate of competency are applicable to the training  
34 certificate holder. When a training certificate expires, the holder  
35 may apply for an extension, not to exceed six months. When that  
36 extension expires, the holder may not perform any activities associated  
37 with the holding of a training certificate of competency and is subject  
38 to the penalties contained in this chapter.

1 (8) To become a licensed fire protection firm under this chapter,  
2 a person or firm must:

3 (a) Obtain a certificate of competency or have in their full-time  
4 employ at least one holder of a valid certificate of competency before  
5 performing service, maintenance, or installation on an appliance or  
6 assembly;

7 (b) Maintain a minimum two million dollars aggregate sum of  
8 insurance and current posting with the Washington state department of  
9 labor and industries;

10 (c) Be a contractor registered with the department of labor and  
11 industries; and

12 (d) Have or be contracted to a company with a department of  
13 transportation retesters identification number for both low and high-  
14 pressure cylinders and applicable attachments.

15 (9) Each license and certificate of competency issued under this  
16 chapter must be posted in a conspicuous place in the fire protection  
17 firm's primary Washington state place of business.

18 (10) All bids, advertisements, proposals, offers, and drawings for  
19 fire extinguisher and preengineered fixed fire suppression system  
20 installation, service, and maintenance must prominently display the  
21 fire protection firm's license number and contractor registration  
22 number, if applicable.

23 (11) A certificate of competency or license issued under this  
24 chapter is not transferable.

25 (12) In no case may a certificate of competency holder be employed  
26 full time, as defined by the department of labor and industries, by  
27 more than one licensed fire protection firm at the same time. If the  
28 certificate of competency holder should leave the employment of the  
29 fire protection firm, that firm must notify the director within fifteen  
30 days.

31 (13) A certificate of competency holder who is terminated or  
32 resigns from a fire protection firm must have his or her certificate of  
33 competency placed in inactive status until again employed by a fire  
34 protection firm.

35 (14) A certificate of competency holder employed full time under  
36 this chapter for reasons of education, long-term disability, or  
37 military obligation may upon application to the director have his or

1 her certificate of competency placed on inactive status until the  
2 holder can return to the full-time place of employment.

3 (15) A fire protection firm must have at the minimum a physical  
4 address, and at least one published telephone number attached to the  
5 physical address. A fire protection firm must possess the proper tools  
6 and equipment to service and maintain either fire extinguishers or  
7 preengineered fixed fire suppression systems, or both, in accordance  
8 with applicable NFPA standards, United States department of  
9 transportation regulations, applicable equipment manufacturers'  
10 manuals, and the director.

11 NEW SECTION. **Sec. 6.** (1) Every three years all certificate of  
12 competency holders who desire to retain their certificate in a  
13 particular discipline shall secure from the director a renewal  
14 certificate of competency upon payment of the renewal fee adopted by  
15 the director. Application for renewal must be upon a notarized form  
16 prescribed by the director and the certificate holder shall furnish the  
17 information required by the director.

18 (a) The director may suspend the certificate of competency of any  
19 certificate of competency holder who fails to secure his or her renewal  
20 certificate of competency within sixty days after the due date.

21 (b) The director may, upon the receipt of payment of all delinquent  
22 fees including a late charge, restore a certificate of competency that  
23 has been suspended for failure to pay the renewal fee.

24 (c) A certificate of competency holder may voluntarily surrender  
25 his or her certificate of competency to the director. After  
26 surrendering the certificate of competency, he or she is not subject to  
27 a renewal fee, may not use the term certificate of competency holder,  
28 and may not perform the services of a certificate holder. Within two  
29 years from the time of surrender of the certificate of competency, he  
30 or she may again qualify for a certificate of competency, without  
31 examination, by the payment of the required fee. If two or more years  
32 have elapsed, he or she must apply as a new applicant.

33 (2) All licensed fire protection firms desiring to continue to be  
34 licensed shall annually secure from the director a renewal license upon  
35 payment of the fee adopted by the director. Application for renewal  
36 must be upon a form adopted by the director and the license holder  
37 shall furnish the information required by the director.



1 (a) Failure of any license holder to secure his or her renewal  
2 license within sixty days after the due date constitutes sufficient  
3 cause for the director to suspend the license.

4 (b) The director may, upon the receipt of payment of all delinquent  
5 fees including a late charge, restore a license that has been suspended  
6 for failure to pay the renewal fee.

7 (3) The initial certificate of competency or license fee must be  
8 prorated based upon the portion of the licensing period in which the  
9 certificate of competency or license is in effect.

10 (4) All fire protection firms based in the state of Washington or  
11 other states providing fire protection services to accounts with  
12 locations in the state of Washington either by direct service or by  
13 contracting with Washington state-based fire protection firms must  
14 comply with this chapter.

15 NEW SECTION. **Sec. 7.** (1) The fire protection firm licensing  
16 account is created in the custody of the state treasurer.

17 (2) All receipts from licenses, testing, and certification fees and  
18 money generated due to enforcement of this chapter must be deposited  
19 into the account. All money from this account must be used only for  
20 the purposes of education for the public, licensed fire protection  
21 firms and their certificate of competency holders, and in administering  
22 and enforcing this chapter. Only the director or the director's  
23 designee may authorize expenditures from the account. The account is  
24 subject to allotment procedures under chapter 43.88 RCW, but no  
25 appropriation is required for expenditures.

26 NEW SECTION. **Sec. 8.** (1) Nothing in this chapter limits the power  
27 of a city, town, county, or the state to regulate the quality and  
28 character of work performed by contractors, through a system of  
29 permits, fees, and inspections which are designed to assure compliance  
30 with and aid in the implementation of state and local building laws or  
31 to enforce other local laws for the protection of the public health and  
32 safety. Nothing in this chapter limits the power of the city, town,  
33 county, or the state to adopt any system of permits requiring  
34 submission to and approval by the city, town, county, or the state, of  
35 technical drawings and specifications for work to be performed by  
36 contractors before commencement of the work. The official authorized

1 to issue building or other related permits shall ascertain that the  
2 fire protection firm is duly licensed by requiring evidence of a valid  
3 fire protection firm license.

4 (2) This chapter applies to any fire protection firm performing  
5 work for any city, town, county, or the state. Officials of any city,  
6 town, county, or the state are required to determine compliance with  
7 this chapter before awarding any contracts for the installation,  
8 repair, service, alteration, fabrication, addition, or maintenance of  
9 a fire protection appliance or assembly.

10 (3) A city, town, county, state agency, or public or private entity  
11 performing fire appliance or assembly servicing for their own use or  
12 public use must comply with the level of licensing and certification  
13 intended for fire protection firms in the public sector under this  
14 chapter.

15 NEW SECTION. **Sec. 9.** (1) The director may impose penalties under  
16 this chapter or refuse to issue or renew a license or may suspend or  
17 revoke the license of a fire protection firm or the certificate of a  
18 certificate of competency holder to engage in the fire extinguisher or  
19 preengineered fixed fire system service business for any of the  
20 following reasons:

21 (a) Gross incompetence or gross negligence in the preparation of  
22 technical drawings, installation, repair, alteration, maintenance,  
23 service, addition, or removal of any fire protection appliance or  
24 assembly;

25 (b) Conviction of a class A or B felony or any conviction that  
26 classifies the licensee or certificate holder as a registered sex  
27 offender. The director shall adopt rules for verifying that no class  
28 A or B felony has been committed or that the applicant is a registered  
29 sex offender;

30 (c) Fraudulent or dishonest practices while working as a fire  
31 protection firm or certificate of competency holder;

32 (d) Use of false evidence or misrepresentation in an application  
33 for a license or certificate of competency;

34 (e) Permitting his or her license to be used in connection with the  
35 preparation of any technical drawings which have not been prepared by  
36 him or her personally or under his or her immediate supervision; or

1 (f) Knowingly violating any provisions of this chapter or the rules  
2 adopted under this chapter.

3 (2) The director shall revoke the license of a licensed fire  
4 protection firm or the certificate of a certificate of competency  
5 holder who engages in any of the three disciplines listed in section  
6 1(1) of this act while the license or certificate of competency is  
7 suspended.

8 (3) The director shall immediately suspend any license or  
9 certificate issued under this chapter if the holder has been certified  
10 pursuant to RCW 74.20A.320 by the department of social and health  
11 services as a person who is not in compliance with a support order or  
12 a residential or visitation order. If the person has continued to meet  
13 all other requirements for issuance or reinstatement during the  
14 suspension, issuance, or reissuance of the license or certificate is  
15 automatic upon the director's receipt of a release issued by the  
16 department of social and health services stating that the person is in  
17 compliance with the order.

18 (4) Any licensed fire protection firm or certificate of competency  
19 holder who is aggrieved by an order of the director may, within thirty  
20 days after notice of such action, file an informal appeal to the  
21 director and if still aggrieved by the outcome of the informal appeal,  
22 may appeal under chapter 34.05 RCW.

23 NEW SECTION. **Sec. 10.** The director shall suspend the certificate  
24 of any person who has been certified by a lending agency and reported  
25 to the director for nonpayment or default on a federally or state-  
26 guaranteed educational loan or service-conditional scholarship. Prior  
27 to the suspension, the agency must provide the person an opportunity  
28 for a brief adjudicative proceeding under RCW 34.05.485 through  
29 34.05.494 and issue a finding of nonpayment or default on a federally  
30 or state-guaranteed educational loan or service-conditional  
31 scholarship. The person's certificate may not be reissued until the  
32 person provides the director a written release issued by the lending  
33 agency stating that the person is making payments on the loan in  
34 accordance with a repayment agreement approved by the lending agency.  
35 If the person has continued to meet all other requirements for  
36 certification during the suspension, reinstatement shall be automatic

1 upon receipt of the notice and payment of any reinstatement fee the  
2 director may impose.

3 NEW SECTION. **Sec. 11.** Any fire protection firm that constructs,  
4 installs, or maintains a fire protection appliance or assembly in any  
5 occupancy, except an owner-occupied single-family dwelling, without  
6 first obtaining a fire protection firm's license from the state of  
7 Washington is guilty of a gross misdemeanor. This section may not be  
8 construed to create any criminal liability for a prime contractor or an  
9 owner or his or her agent of occupancy unless it is proved that the  
10 prime contractor or owner or his or her agent had actual knowledge of  
11 an illegal construction, installation, or maintenance of a fire  
12 protection appliance or assembly by a fire protection firm.

13 NEW SECTION. **Sec. 12.** Civil proceedings to enforce this chapter  
14 may be brought by the attorney general or the prosecuting attorney of  
15 any county where a violation occurs on his or her own motion or at the  
16 request of the director.

17 NEW SECTION. **Sec. 13.** (1) A fire protection firm that performs  
18 service maintenance or installation of an appliance or assembly without  
19 obtaining a valid certificate of competency under section 5 of this act  
20 must be assessed a fine of not less than five hundred dollars and not  
21 more than one thousand dollars per infraction, to be determined by the  
22 director.

23 (2) A certificate of competency holder who performs work as a valid  
24 certificate of competency holder while not employed by a licensed fire  
25 protection firm or while his or her certificate is inactive must be  
26 assessed a fine of not less than two hundred fifty dollars and not more  
27 than five hundred dollars.

28 (3) All fines collected under this section must be deposited into  
29 the fire protection firm licensing account.

30 NEW SECTION. **Sec. 14.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 15.**    Any fire protection firm or certificate of  
2 competency holder who willfully and maliciously constructs, installs,  
3 alters, services, or maintains a fire protection appliance or assembly  
4 so as to threaten the safety of any user of the structure, occupant,  
5 appliance, or assembly in the event of a fire is guilty of a class C  
6 felony.    This section may not be construed to create any criminal  
7 liability for a prime contractor or an owner of a structure or their  
8 agent unless it is proved that the prime contractor or owner or their  
9 agent had actual knowledge of an illegal construction, installation,  
10 alteration, service, or maintenance of a fire protection appliance or  
11 assembly by a fire protection firm or a certificate of competency  
12 holder.

13        NEW SECTION.    **Sec. 16.**    Sections 1 through 15 of this act  
14 constitute a new chapter in Title 19 RCW.

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