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SENATE BILL 6476

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Kohl-Welles, Conway, Nelson, Keiser, and Chase

Read first time 01/25/12. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to plumbing contractors; amending RCW 18.106.010,  
2 18.106.020, 18.106.100, 18.106.150, 18.106.180, 18.106.220, 18.106.270,  
3 and 18.106.320; adding new sections to chapter 18.106 RCW; and  
4 prescribing penalties.

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

6 **Sec. 1.** RCW 18.106.010 and 2006 c 185 s 1 are each amended to read  
7 as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Advisory board" means the state advisory board of plumbers.

11 (2) "Plumbing contractor" means any person, corporate or otherwise,  
12 who engages in, or offers or advertises to engage in, any work covered  
13 by the provisions of this chapter by way of trade or business, or any  
14 person, corporate or otherwise, who employs anyone, or offers or  
15 advertises to employ anyone, to engage in any work covered by the  
16 provisions of this chapter.

17 (3) "Department" means the department of labor and industries.

18 (4) "Director" means the director of department of labor and  
19 industries.

1 (5) "Journeyman plumber" means any person who has been issued a  
2 certificate of competency by the department of labor and industries as  
3 provided in this chapter.

4 (6) "Like-in-kind" means having similar characteristics such as  
5 plumbing size, type, and function, and being in the same location.

6 (7) "Medical gas piping" means oxygen, nitrous oxide, high pressure  
7 nitrogen, medical compressed air, and medical vacuum systems.

8 (8) "Medical gas piping installer" means a journeyman plumber who  
9 has been issued a medical gas piping installer endorsement.

10 (9) "Plumbing" means that craft involved in installing, altering,  
11 repairing and renovating potable water systems, liquid waste systems,  
12 and medical gas piping systems within a building. Installation in a  
13 water system of water softening or water treatment equipment is not  
14 within the meaning of plumbing as used in this chapter.

15 (10) "Specialty plumber" means anyone who has been issued a  
16 specialty certificate of competency limited to:

17 (a) Installation, maintenance, and repair of the plumbing of  
18 single-family dwellings, duplexes, and apartment buildings that do not  
19 exceed three stories;

20 (b) Maintenance and repair of backflow prevention assemblies; or

21 (c) A domestic water pumping system consisting of the installation,  
22 maintenance, and repair of the pressurization, treatment, and  
23 filtration components of a domestic water system consisting of: One or  
24 more pumps; pressure, storage, and other tanks; filtration and  
25 treatment equipment; if appropriate, a pitless adapter; along with  
26 valves, transducers, and other plumbing components that:

27 (i) Are used to acquire, treat, store, or move water suitable for  
28 either drinking or other domestic purposes, including irrigation, to:

29 (A) A single-family dwelling, duplex, or other similar place of  
30 residence; (B) a public water system, as defined in RCW 70.119.020 and  
31 as limited under RCW 70.119.040; or (C) a farm owned and operated by a  
32 person whose primary residence is located within thirty miles of any  
33 part of the farm;

34 (ii) Are located within the interior space, including but not  
35 limited to an attic, basement, crawl space, or garage, of a residential  
36 structure, which space is separated from the living area of the  
37 residence by a lockable entrance and fixed walls, ceiling, or floor;

1 (iii) If located within the interior space of a residential  
2 structure, are connected to a plumbing distribution system supplied and  
3 installed into the interior space by either: (A) A person who,  
4 pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary  
5 permit or certificate of competency as a journeyman plumber, specialty  
6 plumber, or trainee, as defined in this chapter; or (B) a person exempt  
7 from the requirement to obtain a certified plumber to do such plumbing  
8 work under RCW 18.106.150.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.106 RCW  
10 to read as follows:

11 (1) Except as provided otherwise in this chapter, it is unlawful  
12 for:

13 (a) Any person to engage in business as a plumbing contractor,  
14 within the state, without having been issued a valid registration as a  
15 contractor under chapter 18.27 RCW; and

16 (b) Any person, on or after June 30, 2013, to engage in business as  
17 a plumbing contractor, within the state, without having been issued a  
18 valid registration as a plumbing contractor from the department.

19 (2) The department shall prescribe an application form to be used  
20 to apply for a plumbing contractor registration under this chapter, and  
21 shall ensure that the person applying for a plumbing contractor  
22 registration is also a registered general or specialty contractor under  
23 chapter 18.27 RCW before it issues that person a plumbing contractor  
24 registration.

25 (3) To obtain a plumbing contractor registration, the applicant  
26 must employ a full-time individual who currently possess a valid  
27 plumber's certificate of competency. The plumbing contractor may not  
28 engage in work exceeding the scope of the full-time individual who  
29 possesses a valid certificate of competency.

30 (4) Regardless of when the plumbing contractor registration is  
31 issued, it becomes suspended, revoked, expired, or renewed at the same  
32 time as the registration issued under chapter 18.27 RCW.

33 (5) No bond or security, in addition to that required of  
34 contractors under chapter 18.27 RCW, is required of a plumbing  
35 contractor under this chapter.

36 (6) This section does not apply to:

1 (a) A person who is contracting for plumbing work on his or her own  
2 residence, unless the plumbing work is on a building that is for rent,  
3 sale, or lease; or

4 (b) A person who is specifically exempted under RCW 18.27.090 from  
5 contractor registration requirements.

6 (7) The director shall establish an application fee by rule to  
7 implement this section.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.106 RCW  
9 to read as follows:

10 (1) A certificate, license, endorsement, or registration issued  
11 under this chapter may be suspended, revoked, or subject to civil  
12 penalty by the department upon verification that any one or more of the  
13 following reasons exist:

14 (a) Any false statement as to a material matter in the application;

15 (b) Fraud, misrepresentation, or bribery in securing the  
16 certificate, license, endorsement, or registration;

17 (c) A violation of any provision of this chapter; or

18 (d) If the plumbing contractor does not employ a full-time  
19 individual who currently possess a valid plumber's certificate of  
20 competency.

21 (2) If the department has suspended or revoked a certificate,  
22 license, endorsement, or registration because of fraud or error, and a  
23 hearing is requested, the suspension or revocation is stayed until the  
24 hearing is concluded and a decision is issued.

25 (3) The department must remove a suspension or reinstate a revoked  
26 certificate, license, endorsement, or registration if the licensee pays  
27 all the assessed civil penalties and is able to demonstrate to the  
28 department that the licensee has met all the qualifications established  
29 under this chapter.

30 **Sec. 4.** RCW 18.106.020 and 2009 c 36 s 2 are each amended to read  
31 as follows:

32 (1) No person may engage in or offer to engage in the trade of  
33 plumbing without having a journeyman certificate, specialty  
34 certificate, temporary permit, or trainee certificate and photo  
35 identification in his or her possession. The department may establish  
36 by rule a requirement that the person also wear and visibly display his

1 or her certificate or permit. A trainee must be supervised by a person  
2 who has a journeyman certificate, specialty certificate, or temporary  
3 permit, as specified in RCW 18.106.070. No contractor may employ a  
4 person to engage in or offer to engage in the trade of plumbing unless  
5 the ~~((person employed))~~ contractor is a registered plumbing contractor  
6 under this chapter, has at least one full-time individual who possesses  
7 a valid certificate of competency, and the person performing the  
8 plumbing work has a journeyman certificate, specialty certificate,  
9 temporary permit, or trainee certificate. This section does not apply  
10 to a contractor who is contracting for work on his or her own  
11 residence. ~~((Until July 1, 2007, the department shall issue a written~~  
12 ~~warning to any specialty plumber defined by RCW 18.106.010(10)(c) not~~  
13 ~~having a valid plumber certification. The warning will state that the~~  
14 ~~individual must apply for a plumber training certificate or be~~  
15 ~~qualified for and apply for plumber certification under the~~  
16 ~~requirements in RCW 18.106.040 within thirty calendar days of the~~  
17 ~~warning. Only one warning will be issued to any individual. If the~~  
18 ~~individual fails to comply with this section, the department shall~~  
19 ~~issue a penalty or penalties as authorized by this chapter.))~~

20 (2) No person may engage in or offer to engage in medical gas  
21 piping installation without having a certificate of competency as a  
22 journeyman plumber and a medical gas piping installer endorsement and  
23 photo identification in his or her possession. The department may  
24 establish by rule a requirement that the person also wear and visibly  
25 display his or her endorsement. A trainee may engage in medical gas  
26 piping installation if he or she has a training certificate and is  
27 supervised by a person with a medical gas piping installer endorsement.  
28 No plumbing contractor may employ a person to engage in or offer to  
29 engage in medical gas piping installation unless the person employed  
30 has a certificate of competency as a journeyman plumber and a medical  
31 gas piping installer endorsement.

32 (3) No contractor may advertise, offer to do work, submit a bid, or  
33 perform any work under this chapter without being registered as a  
34 plumbing contractor under this chapter and chapter 18.27 RCW.

35 (4) A violation of this ~~((section))~~ chapter is an infraction. Each  
36 day in which a person engages in the trade of plumbing in violation of  
37 this ~~((section))~~ chapter or employs a person in violation of this  
38 ~~((section))~~ chapter is a separate infraction. Each worksite at which

1 a person engages in the trade of plumbing in violation of this  
2 (~~section~~) chapter or at which a person is employed in violation of  
3 this (~~section~~) chapter is a separate infraction.

4 (5) Notices of infractions for violations of this (~~section~~)  
5 chapter may be issued to:

6 (a) The person engaging in or offering to engage in the trade of  
7 plumbing in violation of this (~~section~~) chapter;

8 (b) The plumbing contractor in violation of this (~~section~~)  
9 chapter; (~~and~~)

10 (c) The plumbing contractor's employee who authorized the work  
11 assignment of the person employed in violation of this (~~section~~)  
12 chapter;

13 (d) The plumbing contractor or person performing plumbing work on  
14 a building for rent, sale, or lease; and

15 (e) The plumbing contractor or person installing, altering,  
16 repairing, and renovating medical gas piping systems.

17 NEW SECTION. Sec. 5. A new section is added to chapter 18.106 RCW  
18 to read as follows:

19 (1) Individuals or corporations advertising plumbing services to  
20 the public that have multiple violations of this chapter in a thirty-  
21 six month period are guilty of false advertising under RCW 9.04.010 and  
22 may be subject to criminal prosecution by the local prosecuting  
23 attorney or the attorney general for a violation of RCW 9.04.010.  
24 Costs of the prosecution must be borne by the individual or corporation  
25 in violation of RCW 9.04.010 if found to be noncompliant.

26 (2) Advertisements in print, on the internet, or elsewhere offering  
27 plumbing services lacking a current contractor registration number, or  
28 otherwise not in compliance with this chapter, must be removed by the  
29 publisher or web site host upon notice from the licensing authority,  
30 the attorney general, or a local district attorney. Costs of  
31 enforcement must be borne by the noncompliant advertiser.

32 (3) Plumbing contractors may not file lawsuits or liens for  
33 residential plumbing work performed by unlicensed plumbers.

34 (4) Plumbing contractors advertising and providing residential  
35 consumer services must provide to the consumer a written invoice  
36 describing the services rendered. The invoice must include the  
37 plumbing contractor's business name, plumbing contractor registration

1 number, the plumber's first and last name, and type of license  
2 (journeyman plumber, residential plumber, or plumber trainee) including  
3 plumber license number. Trainee work must be clearly stated on the  
4 invoice. Each failure to comply with this subsection is a separate  
5 violation.

6 (5) Citations for violations of this chapter by individuals or  
7 plumbing contractors must be published monthly on the department's web  
8 site to be made easily accessible to the public.

9 (6) Any individual or plumbing contractor with multiple violations  
10 of this chapter for residential plumbing services is subject to audit  
11 of payroll, invoicing, and work dispatch records for the purpose of  
12 determining compliance with this chapter for a period of two years from  
13 the date of last citation.

14 (7) Plumbing contractors shall not use unmarked vehicles. All  
15 service vehicles must show the company name and plumbing contractor  
16 registration number.

17 **Sec. 6.** RCW 18.106.100 and 2011 c 301 s 4 are each amended to read  
18 as follows:

19 (1) The department may revoke or suspend a certificate of  
20 competency for any of the following reasons:

21 (a) The certificate of competency or plumbing contractor  
22 registration was obtained through error or fraud;

23 (b) The certificate holder is judged to be incompetent to carry on  
24 the trade of plumbing as a journeyman plumber or specialty plumber;

25 (c) The certificate holder or plumbing contractor has violated any  
26 provision of this chapter or any rule adopted under this chapter.

27 (2) Before a certificate of competency or plumbing contractor  
28 registration is revoked or suspended, the department shall send written  
29 notice using a method by which the mailing can be tracked or the  
30 delivery can be confirmed to the certificate holder's or plumbing  
31 contractor's last known address. The notice must list the allegations  
32 against the certificate holder or plumbing contractor and give him or  
33 her the opportunity to request a hearing before the advisory board. At  
34 the hearing, the department and the certificate holder or plumbing  
35 contractor have opportunity to produce witnesses and give testimony.  
36 The hearing must be conducted in accordance with chapter 34.05 RCW.  
37 The board shall render its decision based upon the testimony and

1 evidence presented and shall notify the parties immediately upon  
2 reaching its decision. A majority of the board is necessary to render  
3 a decision.

4 (3) The department may deny renewal of a certificate of competency  
5 or plumbing contractor registration issued under this chapter if the  
6 applicant owes outstanding penalties for a final judgment under this  
7 chapter. The department shall notify the applicant of the denial using  
8 a method by which the mailing can be tracked or the delivery can be  
9 confirmed to the address on the application. The applicant may appeal  
10 the denial within twenty days by filing a notice of appeal with the  
11 department accompanied by a certified check for two hundred dollars  
12 which shall be returned to the applicant if the decision of the  
13 department is not upheld by the hearings officer. The office of  
14 administrative hearings shall conduct the hearing under chapter 34.05  
15 RCW. If the hearings officer sustains the decision of the department,  
16 the two hundred dollars must be applied to the cost of the hearing.

17 **Sec. 7.** RCW 18.106.150 and 2003 c 399 s 402 are each amended to  
18 read as follows:

19 (1) Nothing in this chapter shall be construed to require that a  
20 person obtain a license or a certified plumber in order to do plumbing  
21 work at his or her residence or farm or place of business or on other  
22 property owned by him or her.

23 (2) A current certificate of competency or apprentice permit is not  
24 required for:

- 25 (a) Persons performing plumbing work on a farm; or
- 26 (b) Certified journeyman electricians, certified residential  
27 specialty electricians, or electrical trainees working for an  
28 electrical contractor and performing exempt work under RCW  
29 18.27.090(18).

30 (3) Nothing in this chapter shall be intended to derogate from or  
31 dispense with the requirements of any valid plumbing code enacted by a  
32 political subdivision of the state, except that no code shall require  
33 the holder of a certificate of competency to demonstrate any additional  
34 proof of competency or obtain any other license or pay any fee in order  
35 to engage in the trade of plumbing.

36 (4) This chapter shall not apply to common carriers subject to Part  
37 I of the Interstate Commerce Act, nor to their officers and employees.

1 (5) Nothing in this chapter shall be construed to apply to any  
2 farm, business, industrial plant, or corporation doing plumbing work on  
3 premises it owns or operates.

4 (6) Nothing in this chapter shall be construed to restrict the  
5 right of any householder to assist or receive assistance from a friend,  
6 neighbor, relative or other person when none of the individuals doing  
7 such plumbing hold themselves out as engaged in the trade or business  
8 of plumbing.

9 (7) This section does not apply to anyone performing plumbing work  
10 on a building for rent, sale, or lease, or for installing, altering,  
11 repairing, and renovating medical gas piping systems.

12 **Sec. 8.** RCW 18.106.180 and 2011 c 301 s 5 are each amended to read  
13 as follows:

14 (1) An authorized representative of the department may issue a  
15 notice of infraction as specified in RCW 18.106.020 if:

16 (a) A person who is doing plumbing work or who is offering to do  
17 plumbing work fails to produce evidence of:

18 (i) Having a certificate or permit issued by the department in  
19 accordance with this chapter, or being supervised by a person who has  
20 such a certificate or permit; and

21 (ii) Being registered as a contractor as required under chapter  
22 18.27 RCW ~~((or))~~ and registered as a plumbing contractor as required  
23 under this chapter, or being employed by a person who is registered as  
24 a contractor as required under chapter 18.27 RCW and registered as a  
25 plumbing contractor as required under this chapter;

26 (b) A person who employs anyone, or offers or advertises to employ  
27 anyone, to do plumbing work fails to produce evidence of being  
28 registered as a contractor as required under chapter 18.27 RCW ~~((or))~~  
29 and registered as a plumbing contractor as required under this chapter;  
30 ~~((or))~~

31 (c) A plumbing contractor is unable to provide the department with  
32 payroll records demonstrating that a full-time individual possessed a  
33 valid plumber's certificate of competency when the work was performed;  
34 or

35 (d) A plumbing contractor violates RCW 18.106.320.

36 (2) A notice of infraction issued under this section shall be  
37 personally served on the person named in the notice by an authorized

1 representative of the department or sent using a method by which the  
2 mailing can be tracked or the delivery can be confirmed to the last  
3 known address provided to the department of the person named in the  
4 notice.

5 **Sec. 9.** RCW 18.106.220 and 1994 c 174 s 6 are each amended to read  
6 as follows:

7 ~~(1) ((A person who receives a notice of infraction shall respond to~~  
8 ~~the notice as provided in this section within fourteen days of the date~~  
9 ~~the notice was served.~~

10 ~~(2))~~ If the person named in the notice of infraction does not wish  
11 to contest the notice of infraction, the person shall pay to the  
12 department, by check or money order, the amount of the penalty  
13 prescribed for the infraction. When a response which does not contest  
14 the determination is received by the department with the appropriate  
15 payment, the department shall make the appropriate entry in its  
16 records.

17 ~~((3))~~ (2) If the person named in the notice of infraction wishes  
18 to contest the notice of infraction, the person shall respond by filing  
19 an answer of protest with the department specifying the grounds of  
20 protest.

21 ~~((4))~~ (3) If any person issued a notice of infraction: (a) Fails  
22 to respond to the notice of infraction as provided in subsection  
23 ~~((2))~~ (1) of this section; or (b) fails to appear at a hearing  
24 requested pursuant to subsection ~~((3))~~ (2) of this section~~((7))~~,  
25 the administrative law judge shall enter an appropriate order assessing the  
26 monetary penalty prescribed for the infraction and shall notify the  
27 department of the failure to respond to the notice of infraction or to  
28 appear at a requested hearing.

29 **Sec. 10.** RCW 18.106.270 and 1994 c 174 s 8 are each amended to  
30 read as follows:

31 (1) A person found to have committed an infraction under RCW  
32 18.106.020 ~~((shall))~~ must be assessed a monetary penalty of two hundred  
33 fifty dollars for the first infraction, and not more than one thousand  
34 dollars for a second or subsequent infraction. A contractor or the  
35 contractor's representative found to have committed an infraction under  
36 RCW 18.106.020 must be assessed a minimum monetary penalty of five

1 hundred dollars for the first infraction, and not more than five  
2 thousand dollars for a second or subsequent infraction. The department  
3 shall set by rule a schedule of penalties for infractions imposed under  
4 this chapter.

5 (2) The administrative law judge may not waive, reduce, or suspend  
6 the monetary penalty imposed for the infraction (~~for good cause~~  
7 ~~shown~~)).

8 (3) The director may waive or reduce collection of payment for good  
9 cause shown.

10 (4) Any individual or plumbing contractor who acquires three  
11 infractions within a thirty-six month period may have his or her  
12 certificate, license, endorsement, or registration suspended for a  
13 period of up to two years upon recommendation of the advisory board.  
14 For the purposes of this chapter, multiple violations created by a  
15 single inspection or audit is counted as one violation.

16 (5) Monetary penalties collected under this chapter shall be  
17 deposited in the plumbing certificate fund.

18 **Sec. 11.** RCW 18.106.320 and 2005 c 274 s 229 are each amended to  
19 read as follows:

20 (1) Plumbing contractors shall accurately verify and attest to the  
21 trainee hours worked by plumbing trainees on behalf of the contractor  
22 and that all training hours were under the supervision of a certified  
23 plumber and within the proper ratio, and shall provide the supervising  
24 plumbers' names and certificate numbers. However, plumbing contractors  
25 are not required to identify which hours a trainee works with a  
26 specific certified plumber.

27 (2) The department may audit the records of a plumbing contractor  
28 that has verified the hours of experience submitted by a plumbing  
29 trainee to the department under RCW 18.106.030 in the following  
30 circumstances: Excessive hours were reported; hours were reported  
31 outside the normal course of the plumbing contractor's business; or for  
32 other similar circumstances in which the department demonstrates a  
33 likelihood of excessive or improper hours being reported. The  
34 department shall limit the audit to records necessary to verify hours.  
35 Failure to have or maintain payroll and other records for each employee  
36 performing plumbing work for the plumbing contractor is a violation of  
37 this chapter and an infraction may be issued. The department may

1 assess a penalty of up to five thousand dollars for the failure to  
2 maintain adequate records. Records used to document plumbing work must  
3 be maintained for a minimum of three years. The department shall adopt  
4 rules implementing audit procedures. Information obtained from a  
5 plumbing contractor under the provisions of this section is  
6 confidential and is not open to public inspection under chapter 42.56  
7 RCW.

8 (3) Violation of this section by a plumbing contractor is an  
9 infraction.

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