

Section 1. Section 3, chapter 5, Laws of 1965 as amended by section 1, chapter 74, Laws of 1969 ex. sess. and RCW 43.99.030 are each amended to read as follows:

From time to time, but at least once each four years, the director of motor vehicles shall determine the amount or proportion of moneys paid to him as motor vehicle fuel tax which is tax on marine fuel. The director shall make or authorize the making of studies, surveys, or investigations to assist him in making such determination, and shall hold one or more public hearings on the findings of such studies, surveys, or investigations prior to making his determination. The studies, surveys, or investigations conducted pursuant to this section shall encompass a period of twelve consecutive months each time. The final determination by the director shall be implemented as of the first day of the calendar month, which date falls closest to the mid-point of the time period for which the study data were collected. The director may delegate his duties and authority under this section to one or more persons of the department of motor vehicles if he finds such delegation necessary and proper to the efficient performance of these duties. ~~((Except as provided in RCW 43.99.160,))~~ Costs of carrying out the provisions of this section shall be paid from the marine fuel tax refund account created in RCW 43.99.040, upon legislative appropriation.

**NEW SECTION.** Sec. 2. Section 9, chapter 5, Laws of 1965, section 2, chapter 140, Laws of 1971 ex. sess. and RCW 43.99.090 are each hereby repealed.

**NEW SECTION.** Sec. 3. This 1976 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 17, 1976.

Passed the Senate February 13, 1976.

Approved by the Governor February 21, 1976.

Filed in Office of Secretary of State February 21, 1976.

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## CHAPTER 51

[Substitute House Bill No. 676]

### SHORELINES MANAGEMENT—DEVELOPMENT PERMITS—REVIEW AND APPEALS

AN ACT Relating to shoreline management; amending section 14, chapter 286, Laws of 1971 ex. sess. as last amended by section 3, chapter 182, Laws of 1975 1st ex. sess. and RCW 90.58.140; and amending section 18, chapter 286, Laws of 1971 ex. sess. as last amended by section 4, chapter 182, Laws of 1975 1st ex. sess. and RCW 90.58.180.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 14, chapter 286, Laws of 1971 ex. sess. as last amended by section 3, chapter 182, Laws of 1975 1st ex. sess. and RCW 90.58.140 are each amended to read as follows:

(1) No development shall be undertaken on the shorelines of the state except those which are consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations or master program.

(2) No substantial development shall be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971 until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and regulations of the department; and (iii) so far as can be ascertained, the master program being developed for the area ~~((In the event the department is of the opinion that any permit granted under this subsection is inconsistent with the policy declared in RCW 90.58.020 or is otherwise not authorized by this section, the department may appeal the issuance of such permit within thirty days to the hearings board upon written notice to the local government and the permittee))~~;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the ~~((policy of RCW 90.58.020))~~ provisions of chapter 90.58 RCW.

(3) Local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. ~~((Any such system shall include a requirement that all applications and permits shall be subject to the same public notice procedures as provided for applications for waste disposal permits for new operations under RCW 90.48.170.))~~ The administration of the system so established shall be performed exclusively by local government.

(4) Local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that:

(a) A notice of such an application is published at least once a week on the same day of the week for two consecutive weeks in a legal newspaper of general circulation within the area in which the development is proposed; and

(b) Additional notice of such an application is given by at least one of the following methods:

(i) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(iii) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

Such notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive a copy of the final order concerning an application as expeditiously as possible after the issuance of the order, may submit such comments or such requests for orders to the local government within thirty days of the last date the notice is to be published pursuant to subsection (a) of this subsection. Local government shall forward, in a timely manner following the issuance of an order, a copy of the order to each person who submits a request for such order.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at such hearing.

(5) Such system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until ~~((forty-five))~~ thirty days from the date ~~((of final approval by the local government))~~ the final order was filed as provided in subsection (6) of this section; or ~~((, except in the case of any permit issued to the state of Washington, department of highways, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington,))~~ until all review proceedings are terminated if such proceedings were initiated within ~~((forty-five))~~ thirty days from the date of ~~((final approval by the local government))~~ filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of highways, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington, such construction may begin after thirty days from the date of filing;

(b) If a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within thirty days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to the provisions of chapter 34.04 RCW, the permittee may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction may begin pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would not involve a significant, irreversible damaging of the environment, the court may allow the permittee to begin such construction pursuant to the approved or revised permit as the court deems appropriate. The court may require the permittee to post bonds, in the name of the local government that issued the permit, sufficient to remove the substantial development or to restore the environment if the permit is ultimately disapproved by the courts, or to alter the substantial development if such alteration is ultimately ordered by the courts: PROVIDED, That construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether such construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate shall be on the appellant;

(c) If a permit is granted by the local government and the granting of the permit is appealed directly to the superior court for judicial review pursuant to the proviso in RCW 90.58.180(1) as now or hereafter amended, the permittee may request the court to remand the appeal to the shorelines hearings board, in which case the appeal shall be so remanded and construction pursuant to such a permit

shall be governed by the provisions of subsection (b) of this subsection or may otherwise begin after review proceedings before the hearings board are terminated if judicial review is not thereafter requested pursuant to the provisions of chapter 34.04 RCW;

If a permittee begins construction pursuant to subsections (a), (b) or (c) of this subsection, such construction shall begin at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee shall be barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

~~((5))~~ (6) Any ruling on an application for a permit under authority of this section, whether it be an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. "Date of filing" as used herein shall mean the date of actual receipt by the department. The department shall notify in writing the local government and the applicant of the date of filing.

~~((6))~~ (7) Applicants for permits under this section shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2) as now or hereafter amended, the person requesting the review shall have the burden of proof.

~~((7))~~ (8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. In the event the department is of the opinion that such noncompliance exists, the department (~~may appeal within thirty days to the hearings board for a rescission of such permit upon~~) shall provide written notice to the local government and the permittee. If the department is of the opinion that such noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of such permit upon written notice of such petition to the local government and the permittee: PROVIDED, That the request by the department is made to the hearings board within fifteen days of the termination of the thirty day notice to the local government.

~~((8))~~ (9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

~~((9))~~ (10) No permit shall be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government prior to April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969~~(:);~~ or

(b) (i) Sales of lots to purchasers with reference to the plat, or substantial development incident to platting or required by the plat, occurred prior to April 1, 1971, and

~~((c))~~ (ii) The development to be made without a permit meets all requirements of the applicable state agency or local government, other than requirements imposed pursuant to this chapter, and

~~((d))~~ (iii) The development does not involve construction of buildings, or involves construction on wetlands of buildings to serve only as community social or recreational facilities for the use of owners of platted lots and the buildings do not exceed a height of thirty-five feet above average grade level, and

~~((e))~~ (iv) The development is completed within two years after the effective date of this chapter.

~~((f))~~ (11) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and prior to April 1, 1971: PROVIDED, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection ~~((9))~~ (10) of this section, or does not require a permit because of substantial development occurred prior to June 1, 1971.

~~((g))~~ (12) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

Sec. 2. Section 18, chapter 286, Laws of 1971 ex. sess. as last amended by section 4, chapter 182, Laws of 1975 1st ex. sess. and RCW 90.58.180 are each amended to read as follows:

(1) Any person aggrieved by the granting ~~((or)),~~ denying, or rescinding of a permit on shorelines of the state ~~((, or rescinding a permit))~~ pursuant to RCW 90.58.140 as now or hereafter amended may seek review from the shorelines hearings board by filing a request for the same within thirty days of ~~((receipt of the final order))~~ the date of filing as defined in RCW 90.58.140(6) as now or hereafter amended.

Concurrently with the filing of any request for review with the board as provided in this section pertaining to a final order of a local government, the requestor shall file a copy of his request with the department and the attorney general. If it appears to the department or the attorney general that the requestor has valid reasons to seek review, either the department or the attorney general may certify the request within thirty days after its receipt to the shorelines hearings board following which the board shall then, but not otherwise, review the matter covered by the requestor: PROVIDED, That the failure to obtain such certification shall not preclude the requestor from obtaining a review in the superior court under any right to review otherwise available to the requestor. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within ~~((forty-five))~~ fifteen days from the date of the ~~((filing of said copies by the requestor))~~ receipt by the department or the attorney general of a copy of the request for review filed pursuant to this section. The shorelines hearings board shall initially schedule review proceedings on such requests for review without regard as to whether such requests have or have not been certified or as to whether the period for the department or the attorney general to intervene has or has not expired, unless such review is to begin within thirty days of such scheduling. If at the end of the thirty

day period for certification neither the department nor the attorney general has certified a request for review, the hearings board shall remove the request from its review schedule.

(2) The department or the attorney general may obtain review of any final order granting a permit, or granting or denying an application for a permit issued by a local government by filing a written request with the shorelines ~~((appeals))~~ hearings board and the appropriate local government within ~~((forty-five))~~ thirty days from the date the final order was filed as provided in ~~((subsection (5) of))~~ RCW 90.58.140(6) as now or hereafter amended.

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases. Judicial review of such proceedings of the shorelines hearings board may be had as provided in chapter 34.04 RCW.

(4) Local government may appeal to the shorelines hearings board any rules, regulations, guidelines, designations, or master programs for shorelines of the state adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(a) In an appeal relating to a master program for shorelines, the board, after full consideration of the positions of the local government and the department, shall determine the validity of the master program. If the board determines that said program:

(i) Is clearly erroneous in light of the policy of this chapter; or

(ii) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or

(iii) Is arbitrary and capricious; or

(iv) Was developed without fully considering and evaluating all proposed master programs submitted to the department by the local government; or

(v) Was not adopted in accordance with required procedures;

the board shall enter a final decision declaring the program invalid, remanding the master program to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government, a new master program. Unless the board makes one or more of the determinations as hereinbefore provided, the board shall find the master program to be valid and enter a final decision to that effect.

(b) In an appeal relating to a master program for shorelines of state-wide significance the board shall approve the master program adopted by the department unless a local government shall, by clear and convincing evidence and argument, persuade the board that the master program approved by the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to rules, regulations, guidelines, master programs of state-wide significance, and designations, the standard of review provided in RCW 34.04.070 shall apply.

(5) Rules, regulations, designations, master programs, and guidelines shall be subject to review in superior court, if authorized pursuant to RCW 34.04.070: PROVIDED, That no review shall be granted by a superior court on petition

from a local government unless the local government shall first have obtained review under subsection (4) of this section and the petition for court review is filed within three months after the date of final decision by the shorelines hearings board.

Passed the House January 30, 1976.  
Passed the Senate February 13, 1976.  
Approved by the Governor February 21, 1976.  
Filed in Office of Secretary of State February 21, 1976.

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CHAPTER 52

[House Bill No. 1237]

PUBLIC ASSISTANCE—ALTERNATE  
LIVING ARRANGEMENTS—LICENSING

AN ACT Relating to old age assistance; amending section 11, chapter 172, Laws of 1969 ex. sess. and RCW 74.08.044.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 11, chapter 172, Laws of 1969 ex. sess. and RCW 74.08.044 are each amended to read as follows:

The department is authorized to promulgate rules and regulations establishing eligibility for alternate living arrangements, and license the same, including minimum standards of care, based upon need for personal care and supervision beyond the level of board and room only, but less than the level of care required in a hospital or a skilled nursing home as defined in the federal social security act.

Passed the House January 20, 1976.  
Passed the Senate February 13, 1976.  
Approved by the Governor February 21, 1976.  
Filed in Office of Secretary of State February 21, 1976.

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CHAPTER 53

[House Bill No. 1291]

SCHOOL BUSES—LENGTH,  
OPERATION LIMITATIONS

AN ACT Relating to motor vehicles; and amending section 46.44.030, chapter 12, Laws of 1961 as last amended by section 2, chapter 76, Laws of 1974 ex. sess. and RCW 46.44.030.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 46.44.030, chapter 12, Laws of 1961 as last amended by section 2, chapter 76, Laws of 1974 ex. sess. and RCW 46.44.030 are each amended to read as follows:

It is unlawful for any person to operate upon the public highways of this state any vehicle other than a municipal transit vehicle having an overall length, with or without load, in excess of thirty-five feet(~~(-except)~~): PROVIDED, That an auto stage or school bus shall not exceed an overall length, inclusive of front and rear bumpers, of forty feet(~~(-but)~~): PROVIDED FURTHER, That any such school