

(2) Section 16, chapter 26, Laws of 1963 and RCW 70.87.160.

**NEW SECTION.** Sec. 26. Sections 10, 15, 18, 19, 20, and 23 of this act are each added to chapter 70.87 RCW.

Passed the Senate March 2, 1983.

Passed the House April 16, 1983.

Approved by the Governor April 23, 1983.

Filed in Office of Secretary of State April 23, 1983.

## CHAPTER 124

[Substitute Senate Bill No. 3054]

### PLUMBERS—LICENSING—VIOLATIONS—PROCEDURES

AN ACT Relating to certification of plumbers; amending section 1, chapter 175, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.010; amending section 5, chapter 175, Laws of 1973 1st ex. sess. as amended by section 5, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.050; amending section 7, chapter 175, Laws of 1973 1st ex. sess. as amended by section 7, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.070; amending section 2, chapter 175, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.020; adding new sections to chapter 18.106 RCW; repealing section 6, chapter 175, Laws of 1973 1st ex. sess., section 6, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.060; repealing section 16, chapter 175, Laws of 1973 1st ex. sess., section 10, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.160; prescribing penalties; and providing an effective date.

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

Sec. 1. Section 1, chapter 175, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.010 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

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

(2) "Department" means the department of labor and industries;

(3) "Director" means the director of department of labor and industries;

(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to installation, maintenance, and repair of the plumbing of single family dwellings, duplexes, and apartment buildings which do not exceed three stories;

(6) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems and liquid waste systems within a building: PROVIDED, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter(;

~~(7) "Local enforcement agency" shall mean any local governmental agency involved in the enforcement of plumbing codes and the issuance and enforcement of journeyman plumbers' licenses licensing).~~

Sec. 2. Section 5, chapter 175, Laws of 1973 1st ex. sess. as amended by section 5, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.050 are each amended to read as follows:

The department, ~~((in coordination))~~ with the advice of the advisory board, shall prepare a written examination to be administered to applicants for certificates of competency for journeyman plumber and specialty plumber. The examination shall be ~~((so))~~ constructed to determine:

(1) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that ~~((is))~~ are identified with the ((status)) trade of journeyman plumber or specialty plumber; and

(2) Whether the applicant is ~~((sufficiently))~~ familiar with the applicable plumbing codes and the administrative rules ~~((and regulations))~~ of the department pertaining to plumbing and plumbers.

The department shall administer the examination to eligible persons ~~((eligible to take the same under the provisions of RCW 18.106.040)).~~ All applicants shall, before taking ~~((such))~~ the examination, pay to the department a ~~((twenty-five dollar))~~ fee ~~((:PROVIDED, That any applicant taking said examination shall pay only such additional fee as is necessary to cover the costs of administering such additional examination as determined by the advisory board)).~~

The department shall certify the results of ~~((said))~~ the examination, and shall notify the applicant in writing whether he or she has passed or failed. Any applicant who has failed the examination may ~~((petition the department to))~~ retake the examination, upon ~~((such))~~ the terms and after ~~((such))~~ a period of time ~~((as))~~ that the director ~~((:in cooperation with the advisory board;))~~ shall ~~((deem necessary and proper))~~ set by rule. The director may not limit the number of times that a person may take the examination.

Sec. 3. Section 7, chapter 175, Laws of 1973 1st ex. sess. as amended by section 7, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.070 are each amended to read as follows:

The department shall issue a certificate of competency to all applicants who have passed the examination ~~((provided in RCW 18.106.050 and 18.106.060 as now or hereafter amended, and who have otherwise complied with the provisions of this chapter and the rules and regulations promulgated thereto))~~ and have paid the fee for the certificate. The certificate shall bear the date of issuance, and shall expire on the ~~((first of July))~~ birthdate of the holder immediately following the date of issuance. The certificate shall be renewable ~~((annually))~~ every other year, upon application, on or before the ~~((first of July. An annual))~~ birthdate of the holder. A renewal fee ~~((of twenty-five dollars))~~ shall be assessed for each certificate. If a person

fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The certificate~~((s))~~ of competency ~~((or))~~ and the temporary permit~~((s))~~ provided for in this chapter ~~((shall))~~ grant the holder the right to engage in the work of plumbing as a journeyman plumber or specialty plumber in accordance with ~~((its))~~ their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in ~~((such))~~ the work~~((:-PROVIDED, HOWEVER, That)).~~ This ~~((shall))~~ section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

Sec. 4. Section 2, chapter 175, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.020 are each amended to read as follows:

~~((No person shall engage in the trade of plumbing as a journeyman or as a specialty plumber without having a current certificate of competency issued by the department in accordance with the provisions of this chapter.))~~ (1) No person may engage in the trade of plumbing without having a journeyman certificate, specialty certificate, temporary permit or without being supervised by a person who has a journeyman certificate, specialty certificate, or temporary permit.

(2) Violation of subsection (1) of this section is an infraction.

NEW SECTION. Sec. 5. Each day in which a person engages in the trade of plumbing in violation of RCW 18.106.020 is a separate infraction. Each work site at which a person engages in the trade of plumbing in violation of RCW 18.106.020 is a separate infraction.

NEW SECTION. Sec. 6. An authorized representative of the department may investigate alleged or apparent violations of this chapter. An authorized representative of the department upon presentation of credentials may inspect sites at which a person is doing plumbing work for the purpose of determining whether that person has a certificate or permit issued by the department in accordance with this chapter or is supervised by a person who has such a certificate or permit. Upon request of the authorized representative of the department, a person doing plumbing work shall produce evidence that the person has a certificate or permit issued by the department in accordance with this chapter or is supervised by a person who has such a certificate or permit.

NEW SECTION. Sec. 7. An authorized representative of the department may issue a notice of infraction if a person who is doing plumbing work fails to produce evidence of having a certificate or permit issued by the department in accordance with this chapter or of being supervised by a

person who has such a certificate or permit. A notice of infraction issued under this section shall be personally served on the person named in the notice by an authorized representative of the department.

**NEW SECTION.** Sec. 8. A violation designated as an infraction under this chapter shall be heard and determined by a district court. A notice of infraction shall be filed in the district court district in which the infraction is alleged to have occurred. If a notice of infraction is filed in a court which is not the proper venue, the notice shall be dismissed without prejudice on motion of either party.

**NEW SECTION.** Sec. 9. (1) The form of the notice of infraction issued under this chapter shall be prescribed by the supreme court following consultation with the department. To the extent practicable, the notice of infraction issued under this chapter shall conform to the notice of traffic infraction prescribed by the supreme court pursuant to RCW 46.63.060.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement that a one hundred dollar monetary penalty has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses, including the authorized representative of the department who issued and served the notice of infraction;

(g) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(h) A statement that refusal to sign the infraction as directed in subsection (2)(g) of this section is a misdemeanor; and

(i) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail.

**NEW SECTION.** Sec. 10. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.

**NEW SECTION.** Sec. 11. (1) A person who receives a notice of infraction shall respond to the notice as provided in this section within fourteen days of the date the notice was served.

(2) If the person named in the notice of infraction does not wish to contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department.

(3) If the person named in the notice of infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than fourteen days from the date of the notice, except by agreement of the parties.

(4) If any person issued a notice of infraction:

(a) Fails to respond to the notice of infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and shall notify the department of the failure to respond to the notice of infraction or to appear at a requested hearing.

(5) An order entered by the court under subsection (4)(b) of this section may, for good cause shown and upon such terms as the court deems just, be set aside for the same grounds a default judgment may be set aside in civil actions in courts of limited jurisdiction.

**NEW SECTION.** Sec. 12. A person subject to proceedings under this chapter may appear or be represented by counsel. The department shall be represented by the attorney general in any proceeding under this chapter.

**NEW SECTION.** Sec. 13. (1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of infraction and any other written report made under oath submitted by the department's authorized representative who issued and served the notice in lieu of his or her personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the authorized representative who issued and served the notice, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is on the department to establish the commission of the infraction by a preponderance of the evidence. The notice of infraction shall be dismissed if the defendant establishes that, at the time the notice was issued, the defendant was registered by the department or was exempt from registration.

(4) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. If it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. If it has been established that the infraction was committed, an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department.

(5) An appeal from the court's determination or order shall be to the superior court. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

NEW SECTION. Sec. 14. It is a misdemeanor for any person who has been personally served with a notice of infraction:

(1) To refuse to sign a written promise to respond to the notice; or

(2) To wilfully violate the written promise to respond to a notice of infraction as provided in this chapter, regardless of the ultimate disposition of the infraction.

NEW SECTION. Sec. 15. The court shall, within thirty days after entry of an order under this chapter, forward a record of the court's order to the department on a form prescribed by the department.

NEW SECTION. Sec. 16. (1) A person found to have committed an infraction under RCW 18.106.020 shall be assessed a monetary penalty of one hundred dollars.

(2) The court may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be remitted as provided in chapter 3.62 RCW.

NEW SECTION. Sec. 17. The department shall charge fees for issuance, renewal, and reinstatement of all certificates and permits and for examinations required by this chapter. The department shall set the fees by rule.

The fees shall cover the full cost of issuing the certificates and permits, devising and administering the examinations, and administering and enforcing this chapter. The costs shall include travel, per diem, and administrative support costs.

NEW SECTION. Sec. 18. Sections 5 through 17 of this act are added to chapter 18.106 RCW.

NEW SECTION. Sec. 19. Section 6, chapter 175, Laws of 1973 1st ex. sess., section 6, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.060 are each repealed.

NEW SECTION. Sec. 20. Section 16, chapter 175, Laws of 1973 1st ex. sess., section 10, chapter 149, Laws of 1977 ex. sess. and RCW 18.106.160 are each repealed.

NEW SECTION. Sec. 21. Sections 4 through 16 of this act shall take effect on January 1, 1984.

Passed the Senate March 24, 1983.

Passed the House April 16, 1983.

Approved by the Governor April 23, 1983.

Filed in Office of Secretary of State April 23, 1983.

CHAPTER 125

[Senate Bill No. 3089]

SCHOOLS—JOINT PURCHASES BY PUBLIC AND PRIVATE—SURETY BOND

AN ACT Relating to education; and amending section 28A.58.107, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 308, Laws of 1981 and RCW 28A.58.107.

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

Sec. 1. Section 28A.58.107, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 308, Laws of 1981 and RCW 28A.58.107 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW 28A.21.086(3), as now or hereafter amended, or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: PROVIDED, HOWEVER, That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: PROVIDED FURTHER,