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TITLE 68

CEMETERIES, MORGUES AND HUMAN REMAINS

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68.04.020 "Human remains", "remains" defined. "Human remains" or "remains" means the body of a deceased person, and includes the body in any stage of decomposition and cremated remains. [1943 c 247 § 2; Rem. Supp. 1943 § 3778–2.]

Short title—1943 c 247: "This act shall be known as the 'General Cemetery Act.'" [1943 c 247 § 1.]

Severability—1943 c 247: "If any section, subdivision, sentence or clause of this act shall be held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this act." [1943 c 247 § 147.]

The foregoing annotations apply to 1943 c 247, the general cemetery act, codified herein as follows: RCW 68.04.010 through 68.04.240, 68.08.010 through 68.08.030, 68.08.120 through 68.08.220, 68.08.240, 68.20.010 through 68.20.100, 68.24.010 through 68.24.180, 68.28.010 through 68.28.070, 68.32.010 through 68.32.170, 68.36.010 through 68.36.100, 68.40.010 through 68.40.090, 68.44.010 through 68.44.170, and 68.48.040 through 68.48.090.

68.04.030 "Cremated remains". "Cremated remains" means human remains after cremation in a crematory. [1943 c 247 § 3; Rem. Supp. 1943 § 3778–3.]

68.04.040 "Cemetery". "Cemetery" means any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:

- (1) A burial park, for earth interments.
- (2) A mausoleum, for crypt or vault interments.
- (3) A columbarium, for permanent cinerary interments. [1943 c 247 § 4; Rem. Supp. § 3778–4.]

68.04.050 "Burial park". "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes. [1943 c 247 § 5; Rem. Supp. 1943 § 3778–5.]

68.04.060 "Mausoleum". "Mausoleum" means a structure or building for the entombment of human remains in crypts or vaults in a place used, or intended to be used, and dedicated, for cemetery purposes. [1943 c 247 § 6; Rem. Supp. 1943 § 3778–6.]

68.04.070 "Crematory". "Crematory" means a building or structure containing one or more retorts for the reduction of bodies of deceased persons to cremated remains. [1943 c 247 § 7; Rem. Supp. 1943 § 3778-7.]

68.04.080 "Columbarium". "Columbarium" means a structure, room, or other space in a building or structure containing niches for permanent inurnment of cremated remains in a place used, or intended to be used, and dedicated, for cemetery purposes. [1943 c 247 § 8; Rem. Supp. 1943 § 3778-8.]

68.04.090 "Crematory and columbarium". "Crematory and columbarium" means a building or structure containing both a crematory and columbarium. [1943 c 247 § 9; Rem. Supp. 1943 § 3778-9.]

68.04.100 "Interment". "Interment" means the disposition of human remains by cremation and inurnment, entombment, or burial in a place used, or intended to be used, and dedicated, for cemetery purposes. [1943 c 247 § 10; Rem. Supp. 1943 § 3778-10.]

68.04.110 "Cremation". "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory. [1943 c 247 § 11; Rem. Supp. 1943 § 3778-11.]

68.04.120 "Inurnment". "Inurnment" means placing cremated remains in an urn or vault and placing it in a niche. [1943 c 247 § 12; Rem. Supp. 1943 § 3778-12.]

68.04.130 "Entombment". "Entombment" means the placement of human remains in a crypt or vault. [1943 c 247 § 13; Rem. Supp. 1943 § 3778-13.]

68.04.140 "Burial". "Burial" means the placement of human remains in a grave. [1943 c 247 § 14; Rem. Supp. 1943 § 3778-14.]

68.04.150 "Grave". "Grave" means a space of ground in a burial park, used or intended to be used, for burial. [1943 c 247 § 15; Rem. Supp. 1943 § 3778-15.]

68.04.160 "Crypt", "vault". "Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb uncremated human remains. [1943 c 247 § 16; Rem. Supp. 1943 § 3778-16.]

68.04.170 "Niche". "Niche" means a space in a columbarium or urn garden used, or intended to be used, for inurnment of cremated human remains. [1943 c 247 § 17; Rem. Supp. 1943 § 3778-17.]

68.04.180 "Temporary receiving vault". "Temporary receiving vault" means a vault used or intended to be used for the temporary placement of human remains. [1943 c 247 § 18; Rem. Supp. 1943 § 3778-18.]

68.04.190 "Cemetery authority". "Cemetery authority" includes cemetery corporation, association, corporation sole, or other person owning or controlling

cemetery lands or property. [1943 c 247 § 19; Rem. Supp. 1943 § 3778-19.]

68.04.200 "Cemetery corporation", "cemetery association". "Cemetery corporation", "cemetery association", or "cemetery corporation or association" mean any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more or all of the businesses of a cemetery, but do not mean or include a corporation sole. [1943 c 247 § 20; Rem. Supp. 1943 § 3778-20.]

68.04.210 "Cemetery business", etc. "Cemetery business", "cemetery businesses", and "cemetery purposes" are used interchangeably and mean any and all business and purposes requisite to, necessary for, or incident to, establishing, maintaining, operating, improving, or conducting a cemetery, interring human remains, and the care, preservation, and embellishment of cemetery property. [1943 c 247 § 21; Rem. Supp. 1943 § 3778-21.]

68.04.220 "Directors", "governing body". "Directors" or "governing body" means the board of directors, board of trustees, or other governing body of a cemetery association. [1943 c 247 § 22; Rem. Supp. 1943 § 3778-22.]

68.04.230 "Lot", "plot", etc. "Lot", "plot", or "interment plot" means space in a cemetery, used or intended to be used for the interment of human remains. Such terms include and apply to one or more than one adjoining graves, one or more than one adjoining crypts or vaults, or one or more than one adjoining niches. [1943 c 247 § 23; Rem. Supp. 1943 § 3778-23.]

68.04.240 "Plot owner", "owner", "lot proprietor". "Plot owner", "owner", or "lot proprietor" means any person in whose name an interment plot stands of record as owner, in the office of a cemetery authority. [1943 c 247 § 24; Rem. Supp. 1943 § 3778-24.]

Chapter 68.05 CEMETERY BOARD

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- 68.05.280 Exemptions from chapter.

68.05.010 Definitions. The definitions in chapter 68.04 RCW are applicable to this chapter and govern the meaning of terms used herein, except as otherwise provided expressly or by necessary implication. [1953 c 290 § 26.]

Codification—1953 c 290: "Sections 26 through 55 of this act shall constitute a new chapter under Title 68 RCW." [1953 c 290 § 25.]

Short title—1953 c 290: "This act shall be known as 'The Cemetery Act.'" [1953 c 290 § 55.] The foregoing annotations apply to RCW 68.05.010 through 68.05.280.

68.05.020 "Board" defined. The term "board" used in this chapter means the cemetery board. [1953 c 290 § 27.]

68.05.030 "Endowment care", "endowed care" defined. The terms "endowment care" or "endowed care" used in this chapter shall include both general and special care funds. [1953 c 290 § 28.]

68.05.040 Cemetery board created—Appointments—Terms. A cemetery board is created to consist of five members to be appointed by the governor within thirty days after June 11, 1953. The terms of the members first appointed shall expire: One, January 15, 1954; one, January 15, 1955; one, January 15, 1956; and two, January 15, 1957. Thereafter appointments shall be for a four year term. [1953 c 290 § 31.]

68.05.050 Qualifications of members. Members of the board shall be appointed only from persons who have had, immediately preceding their appointment, a minimum of five consecutive years experience in this state in the active administrative management of a cemetery corporation or as a member of the board of directors thereof for this period and shall at the time of their appointment, have the actual and full authority of a president, general manager, or executive vice president, but they shall hold office only so long as they continue in such active, actual, and authoritative capacity. The five year consecutive period shall be exclusive of time spent in the armed services. [1953 c 290 § 32.]

68.05.060 Compensation—Expenses. Each member of the board shall receive no compensation for his services, but shall receive his necessary traveling and other expenses. [1953 c 290 § 33.]

68.05.070 Officers—Administrative assistant—Employees. The board shall elect annually a chairman and vice chairman and such other officers as it shall determine from among its members. Subject to the provisions of law the board may employ, fix the salaries of and prescribe the duties of, one administrative assistant and such clerical, technical and other employees as are necessary in the carrying out of its duties. [1953 c 290 § 34.]

68.05.080 Meetings. The board shall meet at least twice a year in order to conduct its business and may meet at such other times as it may designate. The board may meet at any place within this state. [1953 c 290 § 35.]

68.05.090 Administration and enforcement of title. The board shall enforce and administer the provisions of chapters 68.04 through 68.44 RCW, subject to provisions of RCW 68.05.280. [1953 c 290 § 39.]

68.05.100 Rules and regulations. The board may establish necessary rules and regulations for the administration and enforcement of this title and the laws subject to its jurisdiction and prescribe the form of statements and reports provided for in this title: *Provided, however,* The board shall have no jurisdiction with regard to the provisions of chapter 68.48 RCW. [1953 c 290 § 36.]

68.05.110 Oaths—Examination. The board may administer oaths, and examine under oath, any person relative to the administration and enforcement of this title. [1953 c 290 § 37.]

68.05.120 Actions to enforce law—Attorney general. The board is authorized to bring actions to enforce the provisions of the law subject to its jurisdiction, in which actions it shall be represented by the attorney general. [1953 c 290 § 38.]

68.05.130 Examination of endowment funds and prearrangement trust funds—Expense. The board shall examine the endowment care and prearrangement trust fund or funds of a cemetery authority:

(1) Within one year after June 11, 1953 and whenever it deems necessary, but at least once every three years after the original examination;

(2) Whenever the cemetery authority in charge of endowment care or prearrangement trust fund or funds fails to file the reports required by this chapter; or

(3) Whenever it is requested by verified petition signed by twenty-five lot owners alleging that the endowment care funds are not in compliance with this title, or whenever it is requested by verified petition signed by twenty-five purchasers or beneficiaries of prearrangement merchandise or services alleging that the prearrangement trust funds are not in compliance

with *this 1973 amendatory act, in either of which cases, the examination shall be at the expense of the petitioners.

(4) The expense of the endowment care examination as provided in subdivisions (1) and (2), not to exceed fifty dollars per day for each examiner engaged in the examination whenever the examination requires more than two days, or the expense of the prearrangement trust examination as provided in subdivisions (1) and (2) of this section, not to exceed one hundred dollars per day for each examiner engaged in the examination shall be paid by the cemetery authority. Such examination shall be privately conducted in the principal office of the cemetery authority. [1973 1st ex.s. c 68 § 12; 1953 c 290 § 42.]

*Reviser's note: "this 1973 amendatory act" [1973 1st ex.s. c 68] consists of chapter 68.46 RCW and the amendments to RCW 68.05-130-68.05.160, 68.05.180 and 68.05.255 by 1973 1st ex.s. c 68.

68.05.140 Examination expense—Effect of refusal to pay—Disposition. If any cemetery authority refuses to pay any examination expenses in advance, the board shall refuse it a certificate of authority and shall revoke any existing certificate of authority. All examination expense moneys collected by the board shall be paid into the state treasury to the credit of the cemetery fund. [1973 1st ex.s. c 68 § 13; 1953 c 290 § 43.]

68.05.150 Powers, duties, concerning examination of funds. In making such examination the board:

(1) Shall have free access to the books and records relating to the endowment care funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the endowment care funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery authority has complied with all the laws applicable to endowment care funds.

(4) Shall have free access to all records required to be maintained pursuant to *this 1973 amendatory act with respect to prearrangement merchandise or services.

(5) Shall ascertain if the cemetery authority has complied with the laws applicable to prearrangement trust funds. [1973 1st ex.s. c 68 § 14; 1953 c 290 § 44.]

*Reviser's note: "this 1973 amendatory act", see note following RCW 68.05.130.

68.05.160 Action required when authority fails to deposit minimum endowment amount or comply with prearrangement contracts provisions. If any examination made by the board, or any report filed with it, shows that there has not been collected and deposited in the endowment care funds the minimum amounts required by this title, or if the board finds that the cemetery authority has failed to comply with the requirements of *this 1973 amendatory act with respect to prearrangement contracts, merchandise or services, and/or prearrangement trust funds, the board shall require such cemetery authority to comply with chapter 68.40 RCW

or with *this 1973 amendatory act as the case may be. [1973 1st ex.s. c 68 § 15; 1953 c 290 § 45.]

*Reviser's note: "this 1973 amendatory act", see note following RCW 68.05.130.

68.05.170 Order requiring reinvestment in compliance with title—Actions for preservation and protection. (1) Whenever the board finds, after notice and hearing, that any endowment care funds have been invested in violation of this title, it shall by written order mailed to the person or body in charge of the fund require the reinvestment of the funds in conformity with this title within the period specified by it which shall be not more than six months. Such period may be extended by the board in its discretion.

(2) The board may bring actions for the preservation and protection of endowment care funds in the superior court of the county in which the cemetery is located and the court shall appoint substitute trustees and make any other order which may be necessary for the preservation, protection and recovery of endowment care funds, whenever a cemetery authority or the trustees of its fund have:

(a) transferred or attempted to transfer any property to, or made any loan from, the endowment care funds for the benefit of the cemetery authority or any director, officer, agent or employee of the cemetery authority or trustee of any endowment care funds; or,

(b) failed to reinvest endowment care funds in accordance with a board order issued under subsection one of this section; or,

(c) invested endowment care funds in violation of this title; or,

(d) taken action or failed to take action to preserve and protect the endowment care funds, evidencing a lack of concern therefor; or,

(e) become financially irresponsible or transferred control of the cemetery authority to any person who, or business entity which, is financially irresponsible; or,

(f) is in danger of becoming insolvent or has gone into bankruptcy or receivership; or,

(g) taken any action in violation of Title 68 RCW or has failed to take action required by Title 68 RCW or has failed to comply with lawful rules, regulations and orders of the board.

(3) Whenever the board has reason to believe that endowment care funds are in danger of being lost or dissipated during the time required for notice and hearing, it may immediately apply to the superior court of the county in which the cemetery is located for any order which appears necessary for the preservation and protection of endowment care funds, including, but not limited to, immediate substitutions of trustees. [1969 ex.s. c 99 § 1; 1953 c 290 § 46.]

68.05.180 Annual report of authority—Contents—Verification—Certification. Each cemetery authority in charge of cemetery endowment care funds shall file with the board annually, on or before the thirtieth day of June, a written report in form prescribed by the board setting forth:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care:

(a) From June 12, 1943, to the first day of January of the year preceding the filing of this report.

(b) From the first day of January through the thirty-first day of December of the preceding year.

(2) The amount collected and deposited in both the general and special endowment care funds:

(a) Prior to June 12, 1943.

(b) From June 12, 1943, to the first day of January preceding the filing of this report.

(c) From the first day of January through the thirty-first day of December of the preceding year segregated as to the amounts deposited for crypts, niches, and grave space.

(3) A statement showing the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall show the actual financial condition of the funds.

(4) A statement showing the information required to be filed pursuant to RCW 68.46.090.

These reports shall be verified by the president or vice president and one other officer of the cemetery authority and shall be certified by the accountant or auditor preparing the same. [1973 1st ex.s. c 68 § 16; 1953 c 290 § 40.]

68.05.190 Examination of reports. The board shall examine the reports filed with it as to their compliance with the requirements of the law. [1953 c 290 § 41.]

68.05.200 Application for certificate of authority. Applications in writing for a certificate of authority shall be made by a cemetery authority to the board accompanied by the regulatory charge provided for in this title. Such application must show that the cemetery authority owns or is actively operating a cemetery which is subject to the provisions of this title. [1953 c 290 § 47.]

68.05.210 Proof of applicant's compliance with law, rules, etc., financial responsibility and reputation. The board may require such proof as it deems advisable concerning the compliance by such applicant to all the laws, rules, regulations, ordinances and orders applicable to it. The board shall also require proof that the applicant and its officers and directors are financially responsible, trustworthy and have good personal and business reputations, in order that only cemeteries of permanent benefit to the community in which they are located will be established in this state. [1969 ex.s. c 99 § 2; 1953 c 290 § 48.]

68.05.220 Certificates—Regulatory charges, when payable—Duration—Suspension, restoration—Transferability. The regulatory charges for cemetery certificates at all periods of the year are the same as provided in this chapter. All regulatory charges are payable at the time of the filing of the application and

in advance of the issuance of the certificates. All certificates shall be issued for the year and shall expire at midnight, the thirtieth day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority is transferred or sold. Cemetery certificates shall not be transferable. Failure to pay the regulatory charge fixed by the board prior to the first day of February for any year automatically shall suspend the certificate of authority. Such certificate may be restored upon payment to the board of the prescribed charges. [1969 ex.s. c 99 § 3; 1953 c 290 § 50.]

68.05.230 Regulatory charges—Rate. Every cemetery authority shall pay for each cemetery operated by it, an annual regulatory charge to be fixed by the board, based on the number of interments, entombments and inurnments made during the preceding full calendar year, but not exceeding twenty-five dollars for one hundred or less, fifty dollars for one hundred one to three hundred fifty, seventy-five dollars for three hundred fifty-one to seven hundred, one hundred dollars for seven hundred one or more; plus an additional charge of not more than fifty cents per interment, entombment and inurnment made during the preceding full calendar year, which charges shall be deposited in the cemetery account. Upon payment of said charges and compliance with the provisions of Title 68 RCW and the lawful orders, rules and regulations of the board, the board will issue a certificate of authority. [1969 ex.s. c 99 § 4; 1953 c 290 § 51.]

68.05.240 Interment, certificate of authority required—Penalty. It shall be a misdemeanor for any cemetery authority to make any interment without a valid, subsisting, and unsuspended certificate of authority. Each interment shall be a separate violation. [1953 c 290 § 52.]

68.05.250 Revocation, suspension of certificate. Upon violation of any of the provisions of this title, the board may revoke or suspend the certificate of authority of any cemetery authority. [1953 c 290 § 49.]

68.05.255 Sale or transfer of cemetery authority—Application for new certificate of authority—Compliance required—Penalty. Prior to the sale or transfer of ownership or control of any cemetery authority, any person, corporation or other legal entity desiring to acquire such ownership or control shall apply in writing for a new certificate of authority to operate a cemetery and shall comply with all provisions of Title 68 RCW relating to applications for, and the basis for granting, an original certificate of authority. The board shall, in addition, enter any order deemed necessary for the protection of all endowment care funds and/or prearrangement trust fund during such transfer. Persons and business entities selling and persons and business entities purchasing ownership or control of a cemetery authority shall each file an endowment care fund report and/or a prearrangement trust fund report showing the

status of such funds immediately before and immediately after such transfer on a written report form prescribed by the board. Failure to comply with this section shall be a gross misdemeanor and any sale or transfer in violation of this section shall be void. [1973 1st ex.s. c 68 § 17; 1969 ex.s. c 99 § 5.]

68.05.260 Unlawful to refuse burial to nonCaucasian. It shall be unlawful for any cemetery under this chapter to refuse burial to any person because such person may not be of the Caucasian race. [1953 c 290 § 53.]

Reviser's note: RCW 68.05.260 was declared unconstitutional in *Price v. Evergreen Cemetery Co. of Seattle* (1960) 157 Wash. Dec. 249.

68.05.270 "Cemetery fund". There shall be, in the office of the state treasurer, a fund to be known and designated as the "cemetery fund." All regulatory fees or other moneys to be paid under this chapter, unless provision be made otherwise, shall be paid at least once a month to the state treasurer to be credited to the cemetery fund. All moneys credited to the cemetery fund shall be used, when appropriated by the legislature, by the cemetery board to carry out the provisions of this chapter. [1953 c 290 § 29.]

Cemetery fund abolished and moneys transferred to cemetery account in state general fund: RCW 43.79.330 through 43.79.334.

68.05.280 Exemptions from chapter. The provisions of this chapter do not apply to any of the following: Any religious corporation, church, coroner, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them, any county, town, or city cemetery. [1961 c 133 § 1; 1953 c 290 § 30.]

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Burial and removal permits: RCW 70.58.230.

Coroner's to submit blood samples to state toxicologist—Analysis—Utilization of reports: RCW 46.52.065.

County commissioners to dispose of remains of indigents: RCW 36.39.030.

Disposal of remains prohibited unless accompanied by proper permit: RCW 70.58.260.

Fetal deaths: Chapter 70.58 RCW.

Taking property off corpse: RCW 9.54.090.

Undertaker must file death certificate: RCW 70.58.240.

Veterans and relatives: Chapter 73.24 RCW.

68.08.010 Coroner's jurisdiction over remains. The jurisdiction of bodies of all deceased persons who come to their death suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death; or where the circumstances of death indicate death was caused by unnatural or unlawful means; or where death occurs under suspicious circumstances; or where a coroner's autopsy or post mortem or coroner's inquest is to be held; or where death results from unknown or obscure causes, or where death occurs within one year following an accident; or where the death is caused by any violence whatsoever, or where death results from a known or suspected abortion; whether self-induced or otherwise; where death apparently results from drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation, radiation, exposure, alcoholism, narcotics or other addictions, tetanus, strangulations, suffocation or smothering; or where death is due to premature birth or still birth; or where death is due to a violent contagious disease or suspected contagious disease which may be a public health hazard; or where death results from alleged rape, carnal knowledge or sodomy, where death occurs in a jail or prison; where a body is found dead

or is not claimed by relatives or friends, is hereby vested in the county coroner, which bodies may be removed and placed in the morgue under such rules as are adopted by the coroner with the approval of the county commissioners, having jurisdiction, providing therein how the bodies shall be brought to and cared for at the morgue and held for the proper identification where necessary. [1963 c 178 § 1; 1953 c 188 § 1; 1917 c 90 § 3; RRS § 6042.]

68.08.020 Notice to coroner—Penalty. It shall be the duty of every person who knows of the existence and location of a dead body coming under the jurisdiction of the coroner as set forth in RCW 68.08.010, to notify the coroner thereof in the most expeditious manner possible, unless such person shall have good reason to believe that such notice has already been given. Any person knowing of the existence of such dead body and not having good reason to believe that the coroner has notice thereof and who shall fail to give notice to the coroner as aforesaid, shall be guilty of a misdemeanor. [1917 c 90 § 4; RRS § 6043.]

68.08.030 Free care and delivery of remains. No charge shall be made for the removal to or care of any body while in the morgue and upon the request of relatives or friends the body after investigation shall be delivered to the friends at any point in the city without charge. [1917 c 90 § 5; RRS § 6044.]

68.08.040 Deceased's effects to be listed. Duplicate lists of all jewelry, moneys, papers, and other personal property of the deceased shall be made immediately upon finding the same by the coroner or his assistants. The original of such lists shall be kept as a public record at the morgue and the duplicate thereof shall be forthwith duly certified to by the coroner and filed with the county auditor. [1917 c 90 § 6; RRS § 6045.]

68.08.050 Removal or concealment of body—Penalty. Any person, not authorized by the coroner or his deputies, who removes the body of a deceased person not claimed by a relative or friend, or who came to their death by reason of violence or from unnatural causes or where there shall exist reasonable grounds for the belief that such death has been caused by unlawful means at the hands of another, to any undertaking rooms or elsewhere, or any person who directs, aids or abets such taking, and any person who in any way conceals the body of a deceased person for the purpose of taking the same to any undertaking rooms or elsewhere, shall in each of said cases be guilty of a gross misdemeanor and upon conviction thereof shall be punished by fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year or by both fine and imprisonment in the discretion of the court. [1917 c 90 § 7; RRS § 6046.]

68.08.060 Bodies for instruction purposes. Any physician or surgeon of this state, or any medical student under the authority of any such physician or surgeon, may obtain, as hereinafter provided, and have in his

possession human dead bodies, or the parts thereof, for the purposes of anatomical inquiry or instruction. [1891 c 123 § 1; RRS § 10026.]

68.08.070 Bodies, when may be used for dissection. Any sheriff, coroner, keeper or superintendent of a county poorhouse, public hospital, county jail, or state institution shall surrender the dead bodies of persons required to be buried at the public expense, to any physician or surgeon, to be by him used for the advancement of anatomical science, preference being given to medical schools in this state, for their use in the instruction of medical students. If the deceased person during his last sickness requested to be buried, or if within thirty days after his death some person claiming to be a relative or a responsible officer of a church organization with which the deceased at the time of his death was affiliated requires the body to be buried, his body shall be buried. [1959 c 23 § 1; 1953 c 224 § 2; 1891 c 123 § 2; RRS § 10027.]

68.08.080 Certificate and bond before receiving bodies. Every physician or surgeon before receiving the dead body must give to the board or officer surrendering the same to him a certificate from the medical society of the county in which he resides, or if there is none, from the board of supervisors of the same, that he is a fit person to receive such dead body. He must also give a bond with two sureties, that each body so by him received will be used only for the promotion of anatomical science, and that it will be used for such purpose in this state only, and so as in no event to outrage the public feeling. [1891 c 123 § 3; RRS § 10028.]

68.08.090 Penalty. Any person violating any provision of RCW 68.08.060 through 68.08.080 shall upon conviction thereof be fined in any sum not exceeding five hundred dollars. [1891 c 123 § 4; RRS § 10029.]

68.08.100 Dissection, when permitted—Autopsy of person under the age of three years. The right to dissect a dead body shall be limited to cases specially provided by statute or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only as he may authorize dissection; and cases where the spouse or next of kin charged by law with the duty of burial shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized: *Provided*, That the coroner, in his discretion, may make or cause to be made by a competent pathologist, toxicologist, or physician, an autopsy or post mortem in any case in which the coroner has jurisdiction of a body: *Provided, further*, That the coroner may with the approval of the University of Washington and with the consent of a parent or guardian deliver any body of a deceased person under the age of three years over which he has jurisdiction to the University of Washington medical school for the purpose of having an autopsy made to determine the cause of death. Every person who shall make, cause, or procure to be

made any dissection of a body, except as above provided, shall be guilty of a gross misdemeanor. [1963 c 178 § 2; 1953 c 188 § 2; 1909 c 249 § 237; RRS § 2489.]

68.08.101 Autopsy, post mortem—Persons responsible for burial may authorize. Autopsy or post mortem may be performed in any case in which the deceased's spouse, parent, child, brother or sister, or any other kin or person having the responsibility for burial may authorize the autopsy or post mortem to be performed. [1953 c 188 § 11.]

68.08.102 Court petition for autopsy—Cost. Any party by showing just cause may petition the court to have autopsy made and results thereof made known to said party at his own expense. [1953 c 188 § 12.]

68.08.103 Autopsies in industrial deaths. In an industrial death where the cause of death is unknown, and where the department of labor and industries is concerned, said department in its discretion, may request the coroner in writing to perform an autopsy to determine the cause of death. The coroner shall be required to promptly perform such autopsy upon receipt of the written request from the department of labor and industries. [1953 c 188 § 6.]

68.08.104 Cost of autopsy. The cost of autopsy shall be borne by the county in which the autopsy is performed, except when requested by the department of labor and industries, in which case, the said department shall bear the cost of such autopsy; and except when performed on a body of an infant under the age of three years by the University of Washington medical school, in which case the medical school shall bear the cost of such autopsy. [1963 c 178 § 3; 1953 c 188 § 7.]

68.08.105 Autopsies, post mortems—Reports and records confidential—Exceptions. Reports and records of autopsies or post mortems shall be confidential, except to the prosecuting attorney or law enforcement agencies having jurisdiction, or to the department of labor and industries in cases in which it has requested the autopsy. [1953 c 188 § 9.]

68.08.106 Autopsies, post mortems—Analyses—Opinions—Evidence—Costs. In any case in which an autopsy or post mortem is performed, the coroner, upon his own authority or upon the request of the prosecuting attorney or other law enforcement agency having jurisdiction, may make or cause to be made an analysis of the stomach contents, blood, or organs, or tissues of a deceased person and secure professional opinions thereon and retain any specimens or organs of the deceased which in his discretion are desirable or needful for anatomic, bacteriological, chemical or toxicological examination or upon lawful request are needed or desired for evidence to be presented in court. Costs shall be borne by the county. [1953 c 188 § 10.]

68.08.107 State toxicological laboratory established—State toxicologist—State college police school. There shall be established at the University of

Washington Medical School a state toxicological laboratory under the direction of the state toxicologist whose duty it will be to perform all necessary toxicologic procedures requested by all coroners and prosecuting attorneys. Annually the president of the University of Washington shall appoint a competent toxicologist as state toxicologist who shall serve a one year term. The state toxicologist may be reappointed to as many additional one year terms as the president of the university in his discretion deems proper. The facilities of the police school of the Washington State University and the services of its professional staff shall be made available to the coroners and the prosecuting attorneys in their investigations under this chapter. This laboratory shall be deemed to be within the meaning of medical and biological research as defined in RCW 66.08.180, and funds for this purpose not to exceed twenty-five thousand dollars shall be provided for setting up such laboratory and an additional amount not to exceed one hundred thousand dollars per biennium may be provided for salaries and operations of said laboratory, and the funds so provided may take priority over disbursements of any other sums from said medical and biological research fund. [1970 ex.s. c 24 § 1; 1953 c 188 § 13.]

Liquor revolving fund distribution: "Of the sums derived from class H licenses or class H licensees which are to be distributed pursuant to RCW 66.08.180, eighty-five thousand dollars shall be provided for the operation of the state toxicological laboratory in the biennium ending June 30, 1971." [1970 ex.s. c 24 § 2.]

68.08.108 Autopsies, post mortems—Consent to embalm or cremate body—Time limitation. No dead body upon which the coroner, or prosecuting attorney, if there be no coroner in the county, may perform an autopsy or post mortem, shall be embalmed or cremated without the consent of the coroner having jurisdiction, and failure to obtain such consent shall be a misdemeanor: *Provided*, That such autopsy or post mortem must be performed within five days, unless the coroner shall obtain an order from the superior court extending such time. [1953 c 188 § 8.]

68.08.110 Burial or cremating. Except in cases of dissection provided for in RCW 68.08.100, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death. [1909 c 249 § 238; RRS § 2490.]

68.08.120 Holding body for debt—Penalty. Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, is guilty of a gross misdemeanor. [1943 c 247 § 27; Rem. Supp. 1943 § 3778–27.]

68.08.130 Unlawful disposal of remains. Every person who permanently deposits or disposes of any human remains, except as otherwise provided by law, in

any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. [1943 c 247 § 28; Rem. Supp. 1943 § 3778–28.]

68.08.140 Opening graves—Stealing body—Receiving same. Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, shall be punished by imprisonment in the state penitentiary for not more than three years, or by a fine of not more than one thousand dollars, or by both.

Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited while awaiting burial or cremation, with intent to remove said body or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the body, shall be punished by imprisonment in the state penitentiary for not more than three years, or by a fine of not more than one thousand dollars, or by both. [1909 c 249 § 239; RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW 68.08.145.]

68.08.145 Removing remains—Penalty. Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment, with intent to sell it, or to dissect it, without authority of law, or from malice or wantonness, shall be punished by imprisonment in the state penitentiary for not more than five years, or by a fine of not more than one thousand dollars, or by both. [1943 c 247 § 25; Rem. Supp. 1943 c 3778–25. Formerly RCW 68.08.140, part.]

68.08.150 Mutilating, disinterring human remains—Penalty. Every person who mutilates, disinters, or removes from the place of interment any human remains without authority of law, shall be punished by imprisonment in the state penitentiary for not more than three years, or by a fine of not more than one thousand dollars, or by both. [1943 c 247 § 26; Rem. Supp. 1943 § 3778–26.]

68.08.160 Liability for cost of disposing of remains. The right to control the disposition of the remains of a deceased person, unless other directions have been given by the decedent, vests in, and the duty of interment

and the liability for the reasonable cost of interment of such remains devolves upon the following in the order named:

- (1) The surviving spouse.
- (2) The surviving children of the decedent.
- (3) The surviving parents of the decedent.

The liability for the reasonable cost of interment devolves jointly and severally upon all kin of the decedent hereinbefore mentioned in the same degree of kindred and upon the estate of the decedent. [1943 c 247 § 29; Rem. Supp. 1943 § 3778–29.]

County burial of indigent deceased veterans: RCW 73.08.070.

Disposal of remains of indigent persons: RCW 36.39.030.

Order of payment of debts of estate: RCW 11.76.110.

Welfare and relief, funeral expenses: RCW 74.08.120.

68.08.170 Effect of authorization. Any person signing any authorization for the interment or cremation of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred or cremated, and his authority to order interments or cremation. He is personally liable for all damage occasioned by or resulting from breach of such warranty. [1943 c 247 § 30; Rem. Supp. 1943 § 3778–30.]

68.08.180 Right to rely on authorization. The cemetery authority may inter or cremate any remains upon the receipt of a written authorization of a person representing himself to be a person who has acquired the right to control the disposition of the remains. A cemetery authority is not liable for interring or cremating pursuant to such authorization, unless it has actual notice that such representation is untrue. [1943 c 247 § 31; Rem. Supp. 1943 § 3778–31.]

68.08.190 Liability for damages—Limitation. No action shall lie against any cemetery authority relating to the remains of any person which have been left in its possession for a period of two years, unless a written contract has been entered into with the cemetery authority for their care or unless permanent interment has been made. Nothing in this section shall be construed as an extension of the existing statute prescribing the period within which an action based upon a tort must be commenced. No licensed funeral director shall be liable in damages for any cremated human remains after the remains have been deposited with a cemetery in the state of Washington. [1943 c 247 § 32; Rem. Supp. 1943 § 3778–32.]

Limitation of actions: Chapter 4.16 RCW.

68.08.200 Permission to remove remains. The remains of a deceased person may be removed from a plot in a cemetery with the consent of the cemetery authority and the written consent of one of the following in the order named:

- (1) The surviving spouse.
- (2) The surviving children of the decedent.
- (3) The surviving parents of the decedent.
- (4) The surviving brothers or sisters of the decedent.

If the required consent cannot be obtained, permission by the superior court of the county where the cemetery is situated is sufficient: *Provided*, That the permission shall not violate the terms of a written contract or the rules and regulations of the cemetery authority. [1943 c 247 § 33; Rem. Supp. 1943 § 3778-33.]

68.08.210 Notice for order to remove remains. Notice of application to the court for such permission shall be given, at least ten days prior thereto, personally, or at least fifteen days prior thereto if by mail, to the cemetery authority and to the persons not consenting, and to every other person on whom service of notice may be required by the court. [1943 c 247 § 34; Rem. Supp. 1943 § 3778-34.]

68.08.220 Exceptions. RCW 68.08.200 and 68.08.210 do not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by a cemetery authority from a plot for which the purchase price is past due and unpaid, to some other suitable place; nor do they apply to the disinterment of remains upon order of court or coroner. [1943 c 247 § 35; Rem. Supp. 1943 § 3778-35.]

68.08.230 Undisposed of remains—Rules and regulations. Whenever any dead human body shall have been in the lawful possession of any person, firm, corporation or association for a period of one year or more, or whenever the incinerated remains of any dead human body have been in the lawful possession of any person, firm, corporation or association for a period of two years or more, and the relatives of, or persons interested in, the deceased person shall fail, neglect or refuse for such periods of time, respectively, to direct the disposition to be made of such body or remains, such body or remains may be disposed of by the person, firm, corporation or association having such lawful possession thereof, under and in accordance with such rules and regulations as may be made and promulgated by said director of licenses, not inconsistent with any statute of the state of Washington or rule or regulation prescribed by the state board of health. [1937 c 108 § 14; RRS § 8323-3.]

Reviser's note: The powers, duties and functions of the director and department of licenses were transferred to the director and department of motor vehicles by chapter 156, Laws of 1965 (Chapter 46.01 RCW). Section 41, chapter 170, Laws of 1965 ex.s. (RCW 43.24.022) vested the powers, duties and functions of the director of licenses pursuant to Title 18 RCW in the director of motor vehicles and section 42 of that act (RCW 43.24.024) provided for the delegation of such powers, duties and functions to the division of professional licensing of the department of motor vehicles.

These powers, duties and functions devolved to the business and professional licensing administration of the department of motor vehicles by 1969 ex.s. c 381 § 34 (RCW 46.01.050).

68.08.232 Undisposed of remains—Entrusting to funeral homes or mortuaries. See RCW 36.24.155.

68.08.240 Record of remains to be kept. The person in charge of any premises on which interments or cremations are made shall keep a record of all remains interred or cremated on the premises under his charge, in

each case stating the name of each deceased person, date of cremation or interment, and name and address of the funeral director. [1943 c 247 § 39; Rem. Supp. 1943 § 3778-39.]

68.08.290 Donation of remains for medical purposes—County coroner laws applicable. The provisions of RCW 68.08.250 through 68.08.290 shall be subject to the provisions of law with respect to the duties of county coroners. [1961 c 90 § 6.]

UNIFORM ANATOMICAL GIFT ACT

68.08.500 Definitions. (1) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Donor" means an individual who makes a gift of all or part of his body.

(4) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.

(5) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.

(6) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(7) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(8) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America. [1969 c 80 § 2.]

68.08.510 Gift of any part of body to take effect upon death authorized—Who may make—Priorities—Examination—Rights of donee paramount. (1) Any individual of sound mind and eighteen years of age or more may give all or any part of his body for any purpose specified in RCW 68.08.520, the gift to take effect upon death.

(2) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in RCW 68.08.520:

- (a) the spouse,
- (b) an adult son or daughter,
- (c) either parent,
- (d) an adult brother or sister,
- (e) a guardian of the person of the decedent at the time of his death,

(f) any other person authorized or under obligation to dispose of the body.

(3) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (2) may make the gift after death or during the terminal illness.

(4) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(5) The rights of the donee created by the gift are paramount to the rights of others except as provided by RCW 68.08.560(4). [1969 c 80 § 3.]

68.08.520 Eligible donees. The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

(1) Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(2) Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy;

(3) Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) Any specified individual for therapy or transplantation needed by him. [1969 c 80 § 4.]

68.08.530 Gift by will, card or document—Procedures. (1) A gift of all or part of the body under RCW 68.08.510(1), may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under RCW 68.08.510(1), may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(4) Notwithstanding RCW 68.08.560(2), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(5) Any gift by a person designated in RCW 68.08.510(2), shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message. [1969 c 80 § 5.]

68.08.540 Delivery of will, card or other document to specified donee. If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death. Delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination. [1969 c 80 § 6.]

68.08.550 Amendment or revocation of gift. (1) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(a) the execution and delivery to the donee of a signed statement;

(b) an oral statement made in the presence of two persons and communicated to the donee;

(c) a statement during a terminal illness or injury addressed to an attending physician and communicated to the donee;

(d) a signed card or document found on his person or in his effects.

(2) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (1) above, or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(3) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (1) above. [1969 c 80 § 7.]

68.08.560 Acceptance or rejection of gift—Time of death—Liability for damages. (1) The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(3) A person who acts in good faith in accord with the terms of RCW 68.08.500 through 68.08.610 or with the anatomical gift laws of another state (or a foreign country) is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(4) The provisions of RCW 68.08.500 through 68.08.610 are subject to the laws of this state prescribing powers and duties with respect to autopsies. [1969 c 80 § 8.]

68.08.600 Uniformity. RCW 68.08.500 through 68.08.610 shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1969 c 80 § 9.]

68.08.610 Short title. RCW 68.08.500 through 68.08.610 may be cited as the "Uniform Anatomical Gift Act". [1969 c 80 § 11.]

Chapter 68.12

PUBLIC CEMETERIES AND MORGUES

Sections

68.12.010	Morgues authorized in certain counties.
68.12.020	Coroner to control morgue—Expense.
68.12.030	Counties and cities may provide for burial, acquire cemeteries, etc.
68.12.040	Cities and towns may own, improve, etc., cemeteries.
68.12.045	Cities and towns may provide for a cemetery board.
68.12.050	Cemetery improvement fund.
68.12.060	Care and investment of fund.
68.12.065	Approval of investments.
68.12.070	Cemetery fund—Management.
68.12.080	Books of account—Audit.

Cemeteries, powers of cities, towns, townships: RCW 35.13.180, 35.22.280, 35.23.440, 35.24.300, 35.27.370(2), and 45.12.100.

Taxation, exemptions: RCW 84.36.020.

68.12.010 Morgues authorized in certain counties. In counties of the first class of more than two hundred and fifty thousand population, the county commissioners, within three months after the taking effect of this act and in counties which shall hereafter attain a population of more than two hundred and fifty thousand, within one year after attaining such population, may at their discretion provide and equip a public morgue together with suitable morgue wagon for the conveyance, receipt and proper disposition of the bodies of all deceased persons not claimed by relatives, and of all dead bodies which are by law subject to a post mortem or coroner's inquest: *Provided, however,* That only one public morgue may be established in any county. [1917 c 90 § 1; RRS § 6040.]

Effective date—1917 c 90: The effective date of this act is midnight June 6, 1917, see preface 1917 session laws.

68.12.020 Coroner to control morgue—Expense. Such morgue shall be under the control and management of the coroner who shall have power with the advice and consent of the county commissioners, to employ the necessary deputies and employees; and, with the advice and consent of the county commissioners, to fix their salaries and compensation, which, together with the expenses of operating such morgue, shall be paid monthly out of the county treasury. [1917 c 90 § 2; RRS § 6041.]

68.12.030 Counties and cities may provide for burial, acquire cemeteries, etc. Each and every county, town or city, shall have power to provide a hearse and pall for burial of the dead, and to procure and hold lands for burying grounds, and to make regulations and fence the same, and to preserve the monuments erected therein, and to levy and collect the necessary taxes for that purpose, in the same manner as other taxes are levied and collected. [1857 p 28 § 3; RRS § 3772.]

68.12.040 Cities and towns may own, improve, etc., cemeteries. Any city or town may acquire, hold, or improve land for cemetery purposes, and may sell lots therein, and may provide by ordinance that a specified percentage of the proceeds therefrom be set aside and invested, and the income from the investment be used in the care of the lots, and may take and hold any property devised, bequeathed or given upon trust, and apply the income thereof for the improvement or embellishment of the cemeteries or the erection or preservation of structures, fences, or walks therein, or for the repair, preservation, erection, or renewal of any tomb, monument, gravestone, fence, railing, or other erection at or around a cemetery, lot, or plat, or for planting and cultivating trees, shrubs, flowers, or plants in or around the lot or plot, or for improving or embellishing the cemetery in any other manner or form consistent with the design and purpose of the city, according to the terms of the grant, devise, or bequest. [1955 c 378 § 1; 1909 c 156 § 1; RRS § 3773.]

68.12.045 Cities and towns may provide for a cemetery board. The legislative body of any city or town may provide by ordinance for a cemetery board to be appointed by the mayor in cities and towns operating under the mayor-council form of government, by the city commission in cities operating under the commission form of government, and by the city manager in cities and towns operating under the council-manager form of government: *Provided further,* That no ordinance shall be enacted, pursuant to this section, in conflict with provisions contained in charters of cities of the first class. [1955 c 378 § 2.]

68.12.050 Cemetery improvement fund. All moneys received in the manner above provided shall be deposited with the city treasurer, and shall be kept apart in a fund known as the cemetery improvement fund, and shall be paid out only upon warrants drawn by the order of the cemetery board, if such a board exists, or by

order of the body, department, commission, or committee duly authorized by ordinance to issue such an order, or by the legislative body of a city or town, which order shall be approved by such legislative body if such order is not issued by the legislative body, and shall be indorsed by the mayor and attested by the city comptroller or other authorized officer. [1955 c 378 § 3; 1909 c 156 § 4; RRS § 3776.]

68.12.060 Care and investment of fund. It shall be the duty of the cemetery board and other body or commission having in charge the care and operation of cemeteries to invest all sums set aside from the sale of lots, and all sums of money received, and to care for the income of all money and property held in trust for the purposes designated herein: *Provided, however,* That all investments shall be made in municipal, county, school or state bonds, general obligation warrants of the city owning such cemetery, or in first mortgages on good and improved real estate. [1933 c 91 § 1; 1909 c 156 § 2; RRS § 3774. FORMER PART OF SECTION: 1909 c 156 § 3 now codified as RCW 68.12.065.]

68.12.065 Approval of investments. All investments shall be approved by the council or legislative body of the city. [1909 c 156 § 3; RRS § 3775. Formerly RCW 68.12.060, part.]

68.12.070 Cemetery fund—Management. The said city shall, by ordinance, make all necessary rules and regulations concerning the control and management of said fund to properly safeguard the same, but shall in nowise be liable for any of said funds except a misappropriation thereof, and shall not have power to bind the city or said fund for any further liability than whatever net interest may be actually realized from such investments, and shall not be liable to any particular person for more than the proportionate part of such net earnings. [1909 c 156 § 6; RRS § 3778.]

68.12.080 Books of account—Audit. Accurate books of account shall be kept of all transactions pertaining to said fund, which books shall be open to the public for inspection and shall be audited by the auditing committee of said city. [1909 c 156 § 5; RRS § 3777.]

Chapter 68.16 CEMETERY DISTRICTS

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68.16.010 Establishment authorized. Cemetery districts may be established in all counties and on any island in any county, as in this chapter provided. [1971 c 19 § 1; 1957 c 99 § 1; 1953 c 41 § 1; 1947 c 27 § 1; 1947 c 6 § 1; Rem. Supp. 1947 § 3778–150.]

68.16.020 Petition—Requisites—Examination. For the purpose of forming a cemetery district, a petition designating the boundaries of the proposed district by metes and bounds or describing the lands to be included in the proposed district by government townships, ranges and legal subdivisions, signed by not less than fifteen percent of the qualified registered electors, who are property owners or are purchasing property under contract and who are resident within the boundaries of the district, setting forth the object of the formation of such district and stating that the establishment thereof will be conducive to the public welfare and convenience, shall be filed with the county auditor of the county within which the proposed district is located, accompanied by an obligation signed by two or more petitioners agreeing to pay the cost of publishing the notice hereinafter provided for. The county auditor shall, within thirty days from the date of filing of such petition, examine the signatures and certify to the sufficiency or insufficiency thereof and for such purpose shall have access to registration books and records in possession of the registration officers of the election precincts included in whole or in part within the boundaries of the proposed district and to the tax rolls and other records in the offices of the county assessor and county treasurer. No person having signed a petition shall be allowed to withdraw his name therefrom after it has been filed with the county auditor. If the petition is found to contain a sufficient number of signatures of qualified persons, the county auditor shall transmit it, with his certificate of sufficiency attached, to the board of county commissioners which shall thereupon, by resolution entered upon its minutes, receive the same and fix a day and hour when it will publicly

hear said petition. [1947 c 6 § 2; Rem. Supp. 1947 § 3778-151.]

68.16.030 Hearing, place and date of. The hearing on such petition shall be at the office of the board of county commissioners and shall be held not less than twenty nor more than forty days from the date of receipt thereof from the county auditor. The hearing may be completed on the day set therefor or it may be adjourned from time to time as may be necessary, but such adjournment or adjournments shall not extend the time for determining said petition more than sixty days in all from the date of receipt by the board. [1947 c 6 § 3; Rem. Supp. 1947 § 3778-152.]

68.16.040 Publication and posting of petition and notice of hearing. A copy of the petition with the names of petitioners omitted, together with a notice signed by the clerk of the board of county commissioners stating the day, hour and place of the hearing, shall be published in three consecutive weekly issues of the official newspaper of the county prior to the date of hearing. Said clerk shall also cause a copy of the petition with the names of petitioners omitted, together with a copy of the notice attached, to be posted for not less than fifteen days before the date of hearing in each of three public places within the boundaries of the proposed district, to be previously designated by him and made a matter of record in the proceedings. [1947 c 6 § 4; Rem. Supp. 1947 § 3778-153.]

68.16.050 Hearing—Inclusion and exclusion of lands. At the time and place fixed for hearing on the petition or at any adjournment thereof, the board of county commissioners shall hear said petition and receive such evidence as it may deem material in favor of or opposed to the formation of the district or to the inclusion therein or exclusion therefrom of any lands, but no lands not within the boundaries of the proposed district as described in the petition shall be included without a written waiver describing the land, executed by all persons having any interest of record therein, having been filed in the proceedings. No land within the boundaries described in petition shall be excluded from the district. [1947 c 6 § 5; Rem. Supp. 1947 § 3778-154.]

68.16.060 Election on formation of district and to elect first commissioners. The board of county commissioners shall have full authority to hear and determine the petition, and if it finds that the formation of the district will be conducive to the public welfare and convenience, it shall by resolution so declare, otherwise it shall deny the petition. If the board finds in favor of the formation of the district, it shall designate the name and number of the district, fix the boundaries thereof, and cause an election to be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing its first cemetery district commissioners. The board shall, prior to calling the said election, name three registered resident electors who are

property owners or are purchasing property under contract within the boundaries of the district as candidates for election as cemetery district commissioners. [1947 c 6 § 6; Rem. Supp. 1947 § 3778-155.]

68.16.070 Election, how conducted—Notice. Except as otherwise provided in this chapter, the election shall insofar as possible be called, noticed, held, conducted and canvassed in the same manner and by the same officials as provided by law for special elections in the county. For the purpose of such election county voting precincts may be combined or divided and redefined, and the territory in the district shall be included in one or more election precincts as may be deemed convenient, a polling place being designated for each such precinct. The notice of election shall state generally and briefly the purpose thereof, shall give the boundaries of the proposed district, define the election precinct or precincts, designate the polling place for each, mention the names of the candidates for first cemetery district commissioners, and name the day of the election and the hours during which the polls will be open. [1947 c 6 § 7; Rem. Supp. 1947 § 3778-156.]

Elections: Title 29 RCW.

68.16.080 Election ballot. The ballot for said election shall be in such form as may be convenient but shall present the propositions substantially as follows:

----- (insert county name) ----- cemetery district No.
 ----- (insert number) -----
 ----- Yes -----
 ----- (insert county name) ----- cemetery district No.
 ----- (insert number) -----
 ----- No -----

and shall specify the names of the candidates nominated for election as the first cemetery district commissioners with appropriate space to vote for the same. [1947 c 6 § 8; Rem. Supp. 1947 § 3778-157.]

68.16.090 Canvass of returns—Resolution of organization. The returns of such election shall be canvassed at the court house on the Monday next following the day of the election, but the canvass may be adjourned from time to time if necessary to await the receipt of election returns which may be unavoidably delayed. The canvassing officials, upon conclusion of the canvass, shall forthwith certify the results thereof in writing to the board of county commissioners. If upon examination of the certificate of the canvassing officials it is found that two-thirds of all the votes cast at said election were in favor of the formation of the cemetery district, the board of county commissioners shall, by resolution entered upon its minutes, declare such territory duly organized as a cemetery district under the name theretofore designated and shall declare the three candidates receiving the highest number of votes for cemetery commissioners, the duly elected first cemetery commissioners of the district. The clerk of the board of county commissioners shall certify a copy of the resolution and cause it to be filed for record in the offices of the county auditor and the county assessor of the

county. The certified copy shall be entitled to record without payment of a recording fee. If the certificate of the canvassing officials shows that the proposition to organize the proposed cemetery district failed to receive two-thirds of the votes cast at said election, the board of county commissioners shall enter a minute to that effect and all proceedings theretofore had shall become null and void. [1947 c 6 § 9; Rem. Supp. 1947 § 3778-158.]

68.16.100 Review—Organization complete. Any person, firm or corporation having a substantial interest involved, and feeling aggrieved by any finding, determination or resolution of the board of county commissioners under the provisions of this chapter, may appeal within five days after such finding, determination or resolution was made to the superior court of the county in the same manner as provided by law for appeals from orders of said board. After the expiration of five days from the date of the resolution declaring the district organized, and upon filing of certified copies thereof in the offices of the county auditor and county assessor, the formation of the district shall be complete and its legal existence shall not thereafter be questioned by any person by reason of any defect in the proceedings had for the creation thereof. [1947 c 6 § 10; Rem. Supp. 1947 § 3778-159.]

Appeals from action of board of county commissioners: RCW 36.32.330.

68.16.110 General powers of district. Cemetery districts created under this chapter shall be deemed to be municipal corporations within the purview of the Constitution and laws of the state of Washington. They shall constitute bodies corporate and possess all the usual powers of corporations for public purposes. They shall have full authority to carry out the objects of their creation, and to that end are empowered to acquire, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and perform any and all necessary contracts; to appoint and employ necessary officers, agents and employees; to contract indebtedness; to borrow money; to levy and enforce the collection of taxes against the lands within the district, and to do any and all lawful acts to effectuate the purposes of this chapter. [1967 c 164 § 6; 1947 c 6 § 11; Rem. Supp. 1947 § 3778-160.]

Purpose—1967 c 164: See note following RCW 4.96.010 for purpose of 1967 c 164.

Severability—1967 c 164: See note following RCW 4.96.010.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: RCW 4.96.010.

68.16.111 Contracts with third class cities, towns, for public facilities and services—Joint purchasing. See RCW 35.24.274 and 35.24.275.

Townships—Joint acquisition, operation and maintenance of public cemeteries: RCW 45.12.021.

68.16.112 Public cemetery facilities or services—Cooperation with public or private agencies—Joint purchasing. A cemetery district may jointly operate or

provide, cooperate to operate and provide and/or contract for a term of not to exceed five years to provide or have provided public cemetery facilities or services, with any other public or private agency, including out of state public agencies, which each is separately authorized to operate or provide, under terms mutually agreed upon by such public or private agencies. The governing body of a cemetery district may join with any other public or private agency in buying supplies, equipment, and services collectively. [1963 c 112 § 3.]

68.16.113 Public cemetery facilities or services—"Public agency" defined. As used in RCW 68.16.112, "public agency" means counties, cities and towns, special districts, or quasi municipal corporations. [1963 c 112 § 2.]

68.16.120 Right of eminent domain. The taking and damaging of property or rights therein by any cemetery district to carry out the purposes of its creation, are hereby declared to be for a public use, and any such district shall have and exercise the power of eminent domain to acquire any property or rights therein, either inside or outside the district for the use of such district. In exercising the power of eminent domain, a district shall proceed in the manner provided by law for the appropriation of real property or rights therein by private corporations. It may at its option unite in a single action proceedings to condemn property held by separate owners. Two or more condemnation suits instituted separately may also in the discretion of the court be consolidated upon motion of any interested party into a single action. In such cases the jury shall render separate verdicts for each tract of land in different ownership. No finding of the jury or decree of the court as to damages in any condemnation suit instituted by the district shall be held or construed to destroy the right of the district to levy and collect taxes for any and all district purposes against the uncondemned land situated within the district. [1947 c 6 § 12; Rem. Supp. 1947 § 3778-161.]

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).

Eminent domain by corporations: Chapter 8.20 RCW.

68.16.130 Power to do cemetery business—District may embrace certain cities and towns—Eminent domain exception. (1) A cemetery district organized under this chapter shall have power to acquire, establish, maintain, manage, improve and operate cemeteries and conduct any and all of the businesses of a cemetery as defined in this title. A cemetery district shall constitute a cemetery authority as defined in this title and shall have and exercise all powers conferred thereby upon a cemetery authority and be subject to the provisions thereof.

(2) A cemetery district may include within its boundaries the lands embraced within the corporate limits of any incorporated city or town up to and including third class cities in all counties and in any such cases the district may acquire any cemetery or cemeteries theretofore maintained and operated by any such city or town and proceed to maintain, manage, improve and

operate the same under the provisions hereof. In such event the governing body of the city or town, after the transfer takes place, shall levy no cemetery tax. The power of eminent domain heretofore conferred shall not extend to the condemnation of existing cemeteries within the district: *Provided*, That no cemetery district shall operate a cemetery within the corporate limits of any city or town where there is a private cemetery operated for profit. [1971 c 19 § 2; 1959 c 23 § 2; 1957 c 39 § 1; 1947 c 6 § 13; Rem. Supp. 1947 § 3778-162.]

68.16.140 District commissioners—Election. The affairs of the district shall be managed by a board of cemetery district commissioners composed of three qualified electors of the district. Members of the board shall receive no compensation for their services, but shall receive expenses necessarily incurred in attending meetings of the board or when otherwise engaged in district business. The board shall fix the compensation to be paid the secretary and other employees of the district. The first three cemetery district commissioners shall serve only until the next general election, provided such election occurs thirty or more days after the formation of the district, and until their successors have been elected and qualified. At the next general election, provided it occurs thirty or more days after the formation of the district, three members of the board of cemetery commissioners shall be chosen. They shall have the same qualifications as required of the first three cemetery commissioners. The candidate receiving the highest number of votes shall serve for a term of six years beginning on the second Monday in January following; the candidate receiving the next higher number of votes shall serve for a term of four years from said date; and the candidate receiving the next higher number of votes shall serve for a term of two years from said date. Upon the expiration of their respective terms, successors shall be chosen for terms of six years to begin on the second Monday in January next succeeding the day of election. Such commissioners shall serve until their successors have been elected and qualified. Elections shall be called, noticed, conducted and canvassed by the same officials as provided for general county elections. The polling places for a cemetery district election shall be those of the county voting precincts which include any of the territory within the cemetery district, and may be located outside the boundaries of the district, and no such election shall be held irregular or void on that account. [1947 c 6 § 14; Rem. Supp. 1947 § 3778-163.]

68.16.150 Declarations of candidacy. Not later than fifteen days before the day of election, any qualified registered elector of the district desiring to become a candidate for the office of cemetery district commissioner shall file with the county auditor of his county a statement of his candidacy in the same manner as provided for candidates for county office. All electors so filing their statements shall be entitled to have their names appear as candidates on the election ballot. [1947 c 6 § 15; Rem. Supp. 1947 § 3778-164.]

Declaration of candidacy: RCW 29.18.030 through 29.18.060.

68.16.160 Vacancies. In case a vacancy occurs in the office of cemetery commissioner, it shall be filled by appointment of a qualified registered elector of the district by the board of county commissioners, and the person appointed shall serve until his successor has been elected and qualified. At the next general election, provided there is sufficient time for the nomination of candidates for the office of cemetery commissioner after the filling of a vacancy in such office, there shall be elected a cemetery commissioner to serve for the remainder of the unexpired term. [1947 c 6 § 16; Rem. Supp. 1947 § 3778-165.]

68.16.170 Special elections. Special elections submitting propositions to the qualified voters of the district may be called at any time by resolution of the cemetery commissioners, and shall be called, noticed, held, conducted and canvassed in the same manner and by the same officials as provided for the election to determine whether the district shall be created. The qualifications of electors at all district elections shall be the same as for general state and county elections. [1947 c 6 § 17; Rem. Supp. 1947 § 3778-166.]

Qualifications of electors: RCW 29.07.070.

68.16.180 Oath of commissioners. Each cemetery commissioner, before assuming the duties of his office, shall take and subscribe an official oath to faithfully discharge the duties of his office, which oath shall be filed in the office of the county clerk. [1947 c 6 § 18; Rem. Supp. 1947 § 3778-167.]

68.16.190 Organization of board—Secretary—Office—Meetings—Powers. The board of cemetery district commissioners shall organize and elect a chairman from their number and shall appoint a secretary for such term as they may determine. The secretary shall keep a record of proceedings of the board and perform such other duties as may be prescribed by law or by the board, and shall also take and subscribe an oath for the faithful discharge of his duties, which shall be filed with the county clerk. The office of the board of cemetery commissioners and principal place of business of the district shall be at some place in the district designated by the board. The board shall hold regular monthly meetings at its office on such day as it may by resolution determine and may adjourn such meetings as may be required for the transaction of business. Special meetings of the board may be called at any time by a majority of the commissioners or by the secretary and the chairman of the board. Any commissioner not joining in the call of a special meeting shall be entitled to three days written notice by mail of such meeting, specifying generally the business to be transacted. All meetings of the board of cemetery commissioners shall be public and a majority shall constitute a quorum. All records of the board shall be open to the inspection of any elector of the district at any meeting of the board. The board shall adopt a seal for the district; manage and conduct the affairs of the district; make and execute all necessary contracts; employ any necessary

service, and promulgate reasonable rules and regulations for the government of the district and the performance of its functions and generally perform all acts which may be necessary to carry out the purposes for which the district was formed. [1947 c 6 § 19; Rem. Supp. 1947 § 3778-168.]

68.16.200 Duty of county treasurer—Cemetery district fund. It shall be the duty of the county treasurer of the county in which any cemetery district is situated to receive and disburse all district revenues and collect all taxes authorized and levied under this chapter. There is hereby created in the office of county treasurer of each county in which a cemetery district shall be organized for the use of the district, a cemetery district fund. All taxes levied for district purposes when collected shall be placed by the county treasurer in the cemetery district fund. [1947 c 6 § 20; Rem. Supp. 1947 § 3778-169.]

68.16.210 Tax levy authorized for fund. Annually, after the county board of equalization has equalized assessments for general tax purposes, the secretary of the district shall prepare a budget of the requirements of the cemetery district fund, certify the same and deliver it to the board of county commissioners in ample time for such board to levy district taxes. At the time of making general tax levies in each year, the board of county commissioners shall levy taxes required for cemetery district purposes against the real and personal property in the district in accordance with the equalized valuation thereof for general tax purposes, and as a part of said general taxes. Such levies shall be part of the general tax roll and be collected as a part of general taxes against the property in the district. [1947 c 6 § 21; Rem. Supp. 1947 § 3778-170.]

68.16.220 Disbursement of fund. The county treasurer shall disburse the cemetery district fund upon warrants issued by the county auditor on vouchers approved and signed by a majority of the board of cemetery commissioners and the secretary thereof. [1947 c 6 § 22; Rem. Supp. 1947 § 3778-171.]

68.16.230 Limitation of indebtedness—Limitation of tax levy. The board of cemetery commissioners shall have no authority to contract indebtedness in any year in excess of the aggregate amount of the currently levied taxes, which annual tax levy for cemetery district purposes shall not exceed eleven and one-quarter cents per thousand dollars of assessed valuation. [1973 1st ex.s. c 195 § 77; 1947 c 6 § 23; Rem. Supp. 1947 § 3778-172.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

68.16.240 Dissolution of districts. Cemetery districts may be dissolved by a majority vote of the electors at an election called for that purpose, which shall be conducted in the same manner as provided for special elections, and no further district obligations shall thereafter be incurred, but such dissolution shall not abridge

or cancel any of the outstanding obligations of the district, and the board of county commissioners shall have authority to make annual levies against the lands included within the district until the obligations of the district are fully paid. When the obligations are fully paid, any moneys remaining in the cemetery district fund and all collections of unpaid district taxes shall be transferred to the current expense fund of the county. [1947 c 6 § 24; Rem. Supp. 1947 § 3778-173.]

Dissolution: Chapter 53.48 RCW.

68.16.250 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

68.16.900 Severability—1947 c 6. If any portion of this act shall be adjudged invalid or unconstitutional for any reason, such adjudication shall not affect, impair or invalidate the remaining portions of the act. [1947 c 6 § 25; no RRS.]

Chapter 68.18 ANNEXATION AND MERGER OF CEMETERY DISTRICTS

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68.18.010	Annexation—Petition—Procedure.
68.18.020	Merger—Authorized.
68.18.030	Merger—Petition—Procedure—Contents.
68.18.040	Merger—Petition—Rejection, concurrence or modification—Signatures.
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68.18.110	Merger and transfer of part of one district to adjacent district—When election dispensed with.
68.18.120	Merger and transfer of part of one district to adjacent district—Preexisting indebtedness.

68.18.010 Annexation—Petition—Procedure. Any territory contiguous to a cemetery district and not within the boundaries of a city or town other than as set forth in RCW 68.16.130 or other cemetery district may be annexed to such cemetery district by petition of fifteen percent of the qualified registered electors residing within the territory proposed to be annexed. Such petition shall be filed with the cemetery commissioners of the cemetery district and if the said cemetery commissioners shall concur in the said petition they shall then file such petition with the county auditor who shall within thirty days from the date of filing such petition examine the signatures thereof and certify to the sufficiency or insufficiency thereof. After the county auditor shall have certified to the sufficiency of the petition, the proceedings thereafter by the board of county commissioners, and the rights and powers and duties of the board of county commissioners, petitioners and objectors and the election and canvass thereof shall be the same as in the original proceedings to form a cemetery

district: *Provided*, That the board of county commissioners shall have authority and it shall be its duty to determine on an equitable basis, the amount of obligation which the territory to be annexed to the district shall assume, if any, to place the taxpayers of the existing district on a fair and equitable relationship with the taxpayers of the territory to be annexed by reason of the benefits of coming into a going district previously supported by the taxpayers of the existing district, and such obligation may be paid to the district in yearly installments to be fixed by the county board if within the limits as outlined in RCW 68.16.230 and included in the annual tax levies against the property in such annexed territory until fully paid. The amount of the obligation and the plan of payment thereof filed by the county board shall be set out in general terms in the notice of election for annexation: *Provided*, That the special election shall be held only within the boundaries of the territory proposed to be annexed to said cemetery district. Upon the entry of the order of the board of county commissioners incorporating such contiguous territory within such existing cemetery district, said territory shall become subject to the indebtedness, bonded or otherwise, of said existing district in like manner as the territory of said district. Should such petition be signed by sixty percent of the qualified registered electors residing within the territory proposed to be annexed, and should the cemetery commissioners concur therein, an election in such territory and a hearing on such petition shall be dispensed with and the board of county commissioners shall enter its order incorporating such territory within the said existing cemetery district. [1969 ex.s. c 78 § 1.]

68.18.020 Merger—Authorized. A cemetery district organized under chapter 68.16 RCW may merge with another such district lying adjacent thereto, upon such terms and conditions as they agree upon, in the manner hereinafter provided. The district desiring to merge with another district shall hereinafter be called the "merging district", and the district into which the merger is to be made shall be called the "merger district". [1969 ex.s. c 78 § 2.]

68.18.030 Merger—Petition—Procedure—Contents. To effect such a merger, a petition therefor shall be filed with the board of the merger district by the commissioners of the merging district. The commissioners of the merging district may sign and file the petition upon their own initiative, and they shall file such a petition when it is signed by fifteen percent of the qualified electors resident in the merging district and presented to them. The petition shall state the reasons for the merger; give a detailed statement of the district's finances, listing its assets and liabilities; state the terms and conditions under which the merger is proposed; and pray for the merger. [1969 ex.s. c 78 § 3.]

68.18.040 Merger—Petition—Rejection, concurrence or modification—Signatures. The board of the merger district may, by resolution, reject the petition, or it may concur therein as presented, or it may modify

the terms and conditions of the proposed merger, and shall transmit the petition, together with a copy of its resolution thereon to the merging district. If the petition is concurred in as presented or as modified, the board of the merging district shall forthwith present the petition to the auditor of the county in which the merging district is situated, who shall within thirty days examine the signatures thereon and certify to the sufficiency or insufficiency thereof, and for that purpose he shall have access to all registration books and records in the possession of the registration officers of the election precincts included, in whole or in part, within the merging district. Such books and records shall be prima facie evidence of truth of the certificate. No signatures may be withdrawn from the petition after the filing. [1969 ex.s. c 78 § 4.]

68.18.050 Merger—Petition—Special election. If the auditor finds that the petition contains the signatures of a sufficient number of qualified electors, he shall return it, together with his certificate of sufficiency attached thereto, to the board of the merging district. Thereupon such board shall adopt a resolution, calling a special election in the merging district, at which shall be submitted to the electors thereof, the question of the merger. [1969 ex.s. c 78 § 5.]

68.18.060 Merger—Petition—Election—Vote required—Merger effected. The board of [the] merging district shall notify the board of the merger district of the results of the election. If three-fifths of the votes cast at the election favor the merger, the respective district boards shall adopt concurrent resolutions, declaring the districts merged, under the name of the merger district. Thereupon the districts are merged into one district, under the name of the merger district; the merging district is dissolved without further proceedings; and the boundaries of the merger district are thereby extended to include all the area of the merging district. Thereafter the legal existence cannot be questioned by any person by reason of any defect in the proceedings had for the merger. [1969 ex.s. c 78 § 6.]

68.18.070 Merger—Petition—When election dispensed with. If three-fifths of all the qualified electors in the merging district sign the petition to merge, no election on the question of the merger is necessary. In such case the auditor shall return the petition, together with his certificate of sufficiency attached thereto, to the board of the merging district. Thereupon the boards of the respective districts shall adopt their concurrent resolutions of merger in the same manner and to the same effect as if the merger had been authorized by an election. [1969 ex.s. c 78 § 7.]

68.18.080 Merger—Preexisting obligations. None of the obligations of the merged districts or of a local improvement district therein shall be affected by the merger and dissolution, and all land liable to be assessed to pay any of such indebtedness shall remain liable to the same extent as if the merger had not been made, and any assessments theretofore levied against

the land shall remain unimpaired and shall be collected in the same manner as if no merger had been made. The commissioners of the merged district shall have all the powers possessed at the time of the merger by the commissioners of the two districts, to levy, assess and cause to be collected all assessments against any land in both districts which may be necessary to provide for the payment of the indebtedness thereof, and until the assessments are collected and all indebtedness of the districts paid, separate funds shall be maintained for each district as were maintained before the merger: *Provided*, That the board of the merged district may, with the consent of the creditors of the districts merged, cancel any or all assessments theretofore levied, in accordance with the terms and conditions of the merger, to the end that the lands in the respective districts shall bear their fair and proportionate share of such indebtedness. [1969 ex.s. c 78 § 8.]

68.18.090 Merger—Transfer of all property, funds, assessments. The commissioners of the merging district shall, forthwith upon completion of the merger, transfer, convey, and deliver to the merged district all property and funds of the merging district, together with all interest in and right to collect any assessments theretofore levied. [1969 ex.s. c 78 § 9.]

68.18.100 Merger and transfer of part of one district to adjacent district—Petition—Election—Vote. A part of one district may be transferred and merged with an adjacent district whenever such area can be better served by the merged district. To effect such a merger a petition, signed by not less than fifteen percent of the qualified electors residing in the area to be merged, shall be filed with the commissioners of the merging district. Such petition shall be promoted by one or more qualified electors within the area to be transferred. If the commissioners of the merging district act favorably upon the petition, then the petition shall be presented to the commissioners of the merger district. If the commissioners of the merger district act favorably upon the petition, an election shall be called in the area merged.

In the event that either board of cemetery commissioners should not concur with the petition, the petition may then be presented to a county review board established for such purposes, if there be no county review board for such purposes then to the state review board and if there be no state review board, then to the county commissioners of the county in which the area to be merged is situated, who shall decide if the area can be better served by such a merger; upon an affirmative decision an election shall be called in the area merged.

A majority of the votes cast shall be necessary to approve the transfer. [1969 ex.s. c 78 § 10.]

68.18.110 Merger and transfer of part of one district to adjacent district—When election dispensed with. If three-fifths of all the qualified electors in the area to be merged sign a petition to merge the districts, no election on the question of the merger is necessary, in which case the auditor shall return the petition, together with his certificate of sufficiency attached thereto, to the

boards of the merging districts. Thereupon the boards of the respective districts shall adopt their concurrent resolutions of transfer in the same manner and to the same effect as if the same had been authorized by an election. [1969 ex.s. c 78 § 11.]

68.18.120 Merger and transfer of part of one district to adjacent district—Preexisting indebtedness. When a part of one cemetery district is transferred to another as provided by RCW 68.18.100 and 68.18.110, said part shall be relieved of all liability for any indebtedness of the district from which it is withdrawn. However, the acquiring district shall pay to the losing district that portion of the latter's indebtedness for which the transferred part was liable. This amount shall not exceed the proportion that the assessed valuation of the transferred part bears to the assessed valuation of the whole district from which said part is withdrawn. The adjustment of such indebtedness shall be based on the assessment for the year in which the transfer is made. The boards of commissioners of the districts involved in the said transfer and merger shall enter into a contract for the payment by the acquiring district of the above-referred to indebtedness under such terms as they deem proper, provided such contract shall not impair the security of existing creditors. [1969 ex.s. c 78 § 12.]

Chapter 68.20 PRIVATE CEMETERIES

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68.20.010 Incorporation required. It is unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for that purpose. [1943 c 247 § 42; Rem. Supp. 1943 § 3778-42.]

68.20.020 Corporations, how organized. Any private corporation authorized by its articles so to do, may establish, maintain, manage, improve, or operate a cemetery, and conduct any or all of the businesses of a cemetery, either for or without profit to its members or stockholders. A nonprofit cemetery corporation may be organized in the manner provided in chapter 24.16 RCW. A profit corporation may be organized in the manner provided in the general corporation laws of the state of Washington. [1943 c 247 § 43; Rem. Supp. 1943 § 3778-43. Prior: 1899 c 33 § 1; 1856-7 p 28 § 1.]

Corporations (profit): Title 23A RCW.

68.20.030 Powers of existing corporations enlarged. The powers, privileges and duties conferred and imposed upon any corporation, firm, copartnership, association, trust, or individual, existing and doing business under the laws of this state, are hereby enlarged as each particular case may require to conform to the provisions of *this act. [1943 c 247 § 45; Rem. Supp. 1943 § 3778-45.]

*Reviser's note: "this act", see note following RCW 68.04.020.

68.20.040 Prior corporations not affected. The provisions of *this act do not affect the corporate existence or rights or powers of any cemetery organized under any law then existing prior to *the effective date of this act, and as to such cemeteries and their rights, powers specified in their charters or articles of incorporation, the laws under which the corporation was organized and existed and under which such rights and powers become fixed or vested are applicable. [1943 c 247 § 44; Rem. Supp. 1943 § 3778-44.]

*Reviser's note: (1) "this act", see note following RCW 68.04.020.

(2) The effective date of this act is midnight June 9, 1943, see preface 1943 session laws.

68.20.050 General powers of cemetery corporations. Unless otherwise limited by the law under which created[,] cemetery authorities shall in the conduct of their business have the same powers granted by law to corporations in general, including the right to contract such pecuniary obligations within the limitation of general law as may be required, and may secure them by mortgage, deed of trust, or otherwise upon their property. [1943 c 247 § 59; Rem. Supp. 1943 § 3778-59.]

68.20.060 Specific powers—Rule making and enforcement. A cemetery authority may make, adopt, amend, add to, revise, or modify, and enforce rules and regulations for the use, care, control, management, restriction and protection of all or any part of its cemetery and for the other purposes specified in RCW 68.20.061 through 68.20.067, 68.20.070 and 68.48.080. [1943 c 247 § 46; Rem. Supp. 1943 § 3778-46. Formerly RCW 68.20.070, part. FORMER PART OF SECTION: 1943 c 247 §§ 47 through 52 now codified as RCW 68.20.061 through 68.20.066.]

68.20.061 Specific powers—Control of property. It may restrict and limit the use of all property within its cemetery. [1943 c 247 § 47; Rem. Supp. 1943 § 3778-47. Formerly RCW 68.20.060, part.]

68.20.062 Specific powers—Regulation as to type of markers, monuments, etc. It may regulate the uniformity, class, and kind of all markers, monuments, and other structures within the cemetery and its subdivisions. [1943 c 247 § 48; Rem. Supp. 1943 § 3778-48. Formerly RCW 68.20.060, part.]

68.20.063 Specific powers—Regulation or prohibition as to the erection of monuments, effigies, etc. It may regulate or prohibit the erection of monuments, markers, effigies, and structures within any portion of the cemetery. [1943 c 247 § 49; Rem. Supp. 1943 § 3778-49. Formerly RCW 68.20.060, part.]

68.20.064 Specific powers—Regulation of plants and shrubs. It may regulate or prevent the introduction or care of plants or shrubs within the cemetery. [1943 c 247 § 50; Rem. Supp. 1943 § 3778-50. Formerly RCW 68.20.060, part.]

68.20.065 Specific powers—Prevention of interment. It may prevent interment in any part of the cemetery of human remains not entitled to interment and prevent the use of interment plots for purposes violative of its restrictions or rules and regulations. [1943 c 247 § 51; Rem. Supp. 1943 § 3778-51. Formerly RCW 68.20.060, part.]

68.20.066 Specific powers—Prevention of improper assemblages. It may regulate the conduct of persons and prevent improper assemblages in the cemetery. [1943 c 247 § 52; Rem. Supp. 1943 § 3778-52. Formerly RCW 68.20.060, part.]

68.20.067 Specific powers—Rules and regulations for general purposes. It may make and enforce rules and regulations for all other purposes deemed necessary by the cemetery authority for the proper conduct of the business of the cemetery, for the transfer of any plot or the right of interment, and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery is conducted. [1943 c 247 § 53; Rem. Supp. 1943 § 3778-53. Formerly RCW 68.20.070, part.]

68.20.070 Rules and regulations—Posting. The rules and regulations made pursuant to RCW 68.20.060 shall be plainly printed or typewritten and maintained subject to inspection in the office of the cemetery authority or in such place or places within the cemetery as the cemetery authority may prescribe. [1943 c 247 § 54; Rem. Supp. 1943 § 3778-54. FORMER PART OF SECTION: 1943 c 247 §§ 46 and 53 now codified as RCW 68.20.060 and 68.20.067.]

68.20.080 Cities and counties may regulate cemeteries. Cities and counties are authorized to enact ordinances regulating or prohibiting the establishment of

new cemeteries or the extension of existing ones and to give power to local planning commissions to pass upon and make recommendations to local legislative bodies concerning the establishment or extension of cemeteries. [1943 c 247 § 143; Rem. Supp. 1943 § 3778–143.]

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.20.090 Permit required, when. It shall be unlawful for any person, firm, or corporation to establish or maintain any cemetery or to extend the boundaries of any existing cemetery in this state without a permit first having been applied for and permission obtained in accordance with the city and county ordinance and other zoning or statutory provisions governing the same. [1943 c 247 § 144; Rem. Supp. 1943 § 3778–144.]

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.20.100 Crematory record of caskets. No crematory shall hereafter cremate the remains of any human body without making a permanent signed record of the color, shape and outside covering of the casket consumed with such body, said record to be open to inspection of any person lawfully entitled thereto. [1943 c 247 § 57; Rem. Supp. 1943 § 3778–57. FORMER PART OF SECTION: 1943 c 247 § 58 now codified as RCW 68.20.105.]

68.20.105 Crematory record of caskets—Penalty. Each person violating any provision of RCW 68.20.100 shall be guilty of a misdemeanor and each violation shall constitute a separate offense. [1943 c 247 § 58; Rem. Supp. 1943 § 3778–58. Formerly RCW 68.20.100, part.]

68.20.110 Nonprofit cemetery association—Tax exempt land—Irreducible fund—Bonds. Such association shall be authorized to purchase or take by gift or devise, and hold land exempt from execution and from any appropriation to public purposes for the sole purpose of a cemetery not exceeding eighty acres, which shall be exempt from taxation if intended to be used exclusively for burial purposes without discrimination as to race, color, national origin or ancestry, and in no wise with a view to profit of the members of such association: *Provided*, That when the land already held by the association is all practically used then the amount thereof may be increased by adding thereto not exceeding twenty acres at a time. Such association may by its bylaws provide that a stated percentage of the moneys realized from the sale of lots, donations or other sources of revenue, shall constitute an irreducible fund, which fund may be invested in such manner or loaned upon such securities as the association or the trustees thereof may deem proper. The interest or income arising from the irreducible fund, provided for in any bylaws, or so much thereof as may be necessary, shall be devoted exclusively to the preservation and embellishment of the lots sold to the members of such association, and where

any bylaws has been enacted for the creation of an irreducible fund as herein provided for it cannot thereafter be amended in any manner whatever except for the purpose of increasing such fund. After paying for the land all the future receipts and income of such association subject to the provisions herein for the creation of an irreducible fund, whether from the sale of lots, from donations, rents or otherwise, shall be applied exclusively to laying out, preserving, protecting and embellishing the cemetery and the avenues leading thereto, and in the erection of such buildings as may be necessary or convenient for the cemetery purposes, and to paying the necessary expenses of the association. No debts shall be contracted in anticipation of any future receipts except for originally purchasing, laying out and embellishing the grounds and avenues, for which debts so contracted such association may issue bonds or notes and secure the same by way of mortgage upon any of its lands, excepting such lots as shall have been conveyed to the members thereof; and such association shall have power to adopt such rules and regulations as they shall deem expedient for disposing of and for conveying burial lots. [1961 c 103 § 2; 1899 c 33 § 3; RRS § 3766. Formerly RCW 68.20.110 and 68.24.200.]

Reviser's note: The language "Such association" appears in 1899 c 33 which act provided for the creation of cemetery associations pursuant to 1895 c 158 which is now codified in chapter 24.16 RCW.

Construction—1961 c 103: See note following RCW 49.60.040.

Property taxes, exemptions: RCW 84.36.020.

68.20.120 Sold lots exempt from taxes, etc.—Non-profit associations. Burial lots, sold by such association shall be for the sole purpose of interment, and shall be exempt from taxation, execution, attachment or other claims, lien or process whatsoever, if used as intended, exclusively for burial purposes and in no wise with a view to profit. [1899 c 33 § 5; RRS § 3768. Formerly RCW 68.24.210.]

Reviser's note: "such association", see note following RCW 68.20.110.

Cemetery property exempt from execution: RCW 68.24.220.

Cemetery property exempt from taxation: RCW 84.36.020.

68.20.130 Ground plans. All such associations shall cause a plan of their grounds and of the blocks and lots by them laid out, to be made and recorded, such blocks and lots to be numbered by regular consecutive numbers, and shall have power to enclose, improve and adorn the grounds and avenues, to erect buildings for the use of the association and to prescribe rules for the designation and adorning of lots and for erecting monuments in the cemetery, and to prohibit any use, division, improvement or adornment of a lot which they may deem improper. An annual exhibit shall be made of the affairs of the association. The plan, or plat, hereinbefore required, shall be recorded by the proper county auditor for a fee not to exceed ten cents a lot, and if the actual cost of recording the same shall be less than ten cents a lot, then said auditor shall record the same at the actual cost thereof. [1905 c 64 § 1; 1899 c 33 § 6; RRS § 3769. Formerly RCW 68.24.230.]

Reviser's note: "such associations", see note following RCW 68.20.110.

County auditor's fees, generally: RCW 36.18.010.

Chapter 68.24 CEMETERY PROPERTY

Sections

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68.24.240	Certain cemetery lands exempt from taxes, etc.—1901 c 147.

68.24.010 Right to acquire property. Cemetery authorities may take by purchase, donation or devise, property consisting of lands, mausoleums, crematories, and columbariums, or other property within which the interment of the dead may be authorized by law. [1943 c 247 § 61; Rem. Supp. 1943 § 3778–61.]

Cemetery sites on state lands: RCW 79.01.096.

68.24.020 Surveys and maps. Every cemetery authority, from time to time as its property may be required for cemetery purposes, shall:

(1) In case of land, survey and subdivide it into sections, blocks, plots, avenues, walks, or other subdivisions; make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers.

(2) In case of a mausoleum, or columbarium, it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevation, and other divisions, with descriptive names or numbers. [1943 c 247 § 62; Rem. Supp. 1943 § 3778–62.]

68.24.030 Declaration of dedication and maps—Filing. The cemetery authority shall file the map or plat in the office of the recorder of the county in which all or a portion of the property is situated. The cemetery authority shall also file for record in the county recorder's office a written declaration of dedication of the property delineated on the plat or map, dedicating the property exclusively to cemetery purposes. [1943 c 247 § 63; Rem. Supp. 1943 § 3778–63.]

County auditor: Chapter 36.22 RCW.

County auditor fees, generally: RCW 36.18.010.

68.24.040 Dedication, when complete. Upon the filing of the map or plat and the filing of the declaration for record, the dedication is complete for all purposes and thereafter the property shall be held, occupied, and used exclusively for a cemetery and for cemetery purposes. [1943 c 247 § 64; Rem. Supp. 1943 § 3778–64.]

68.24.050 Constructive notice. The filed map or plat and the recorded declaration are constructive notice to all persons of the dedication of the property to cemetery purposes. [1943 c 247 § 66; Rem. Supp. 1943 § 3778–66.]

68.24.060 Maps and plats—Amendment. Any part or subdivision of the property so mapped and plotted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat filed, so long as such change does not disturb the interred remains of any deceased person. [1943 c 247 § 65; Rem. Supp. 1943 § 3778–65.]

68.24.070 Permanency of dedication. After property is dedicated to cemetery purposes pursuant to RCW 68.24.010 through 68.24.060, neither the dedication, nor the title of a plot owner, shall be affected by the dissolution of the cemetery authority, by nonuser on its part, by alienation of the property, by any incumbrances, by sale under execution, or otherwise except as provided in *this act. [1943 c 247 § 67; Rem. Supp. 1943 § 3778–67.]

***Reviser's note:** "this act", see note following RCW 68.04.020.

68.24.080 Rule against perpetuities, etc., inapplicable. Dedication to cemetery purposes pursuant to *this act is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property, but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the interment of human remains, and a duty to, and for the benefit of, the general public. [1943 c 247 § 68; Rem. Supp. 1943 § 3778–68.]

***Reviser's note:** "this act", see note following RCW 68.04.020.

68.24.090 Removal of dedication—Procedure. Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes, unless and until the dedication is removed from all or any part of it by an order and decree of the superior court of the county in which the property is situated, in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(1) That no interments were made in or that all interments have been removed from that portion of the property from which dedication is sought to be removed.

(2) That the portion of the property from which dedication is sought to be removed is not being used for interment of human remains. [1943 c 247 § 76; Rem. Supp. 1943 § 3778–76.]

68.24.100 Notice of hearing. The notice of hearing provided in RCW 68.24.090 shall be given by publication once a week for at least three consecutive weeks in a newspaper of general circulation in the county where said cemetery is located, and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. Said notice shall:

(1) Describe the portion of the cemetery property sought to be removed from dedication.

(2) State that all remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication.

(3) Specify the time and place of the hearing. [1943 c 247 § 77; Rem. Supp. 1943 § 3778-77.]

68.24.110 Sale of plots. After filing the map or plat and recording the declaration of dedication, a cemetery authority may sell and convey plots subject to such rules and regulations as may be then in effect or thereafter adopted by the cemetery authority, and subject to such other and further limitations, conditions and restrictions as may be inserted in or made a part of the declaration of dedication by reference, or included in the instrument of conveyance of such plot. [1943 c 247 § 70; Rem. Supp. 1943 § 3778-70. FORMER PART OF SECTION: 1943 c 247 § 72 now codified as RCW 68.24.115.]

68.24.115 Execution of conveyances. All conveyances made by a cemetery authority shall be signed by such officer or officers as are authorized by the cemetery authority. [1943 c 247 § 72; Rem. Supp. 1943 § 3778-72. Formerly RCW 68.24.110, part.]

68.24.120 Plots indivisible. All plots, the use of which has been conveyed by deed or certificate of ownership as a separate plot, are indivisible except with the consent of the cemetery authority, or as provided by law. [1943 c 247 § 71; Rem. Supp. 1943 § 3778-71.]

68.24.130 Sales for resale prohibited—Penalty. It shall be unlawful for any person, firm or corporation to sell or offer to sell a cemetery plot upon the promise, representation or inducement of resale at a financial profit. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense. [1943 c 247 § 73; Rem. Supp. 1943 § 3778-73.]

68.24.140 Commission on sales prohibited—Penalty. It shall be unlawful for a cemetery authority to pay or offer to pay to any person, firm or corporation, directly or indirectly, a commission or bonus or rebate or other thing of value for the sale of a plot or services. This shall not apply to a person regularly employed by the cemetery authority for such purpose. Each person violating this section shall be guilty of a misdemeanor and each violation shall constitute a separate offense. [1943 c 247 § 74; Rem. Supp. 1943 § 3778-74.]

68.24.150 Employment of "runners" prohibited—Penalty. Every person who pays or causes to be paid or offers to pay to any other person, firm, or corporation, directly or indirectly, except as provided in RCW 68.24.140, any commission or bonus or rebate, or other thing of value in consideration of recommending or causing a dead human body to be disposed of in any crematory or cemetery, is guilty of a misdemeanor and each violation shall constitute a separate offense. [1943 c 247 § 75; Rem. Supp. 1943 § 3778-75.]

68.24.160 Liens subordinate to dedication. All mortgages, deeds of trust and other liens of any nature, hereafter contracted, placed or incurred upon property which has been and was at the time of the creation or placing of the lien, dedicated as a cemetery pursuant to this part, or upon property which is afterwards, with the consent of the owner of any mortgage, trust deed or lien, dedicated to cemetery purposes pursuant to this part, shall not affect or defeat the dedication, but the mortgage, deed of trust, or other lien is subject and subordinate to such dedication and any and all sales made upon foreclosure are subject and subordinate to the dedication for cemetery purposes. [1943 c 247 § 60; Rem. Supp. 1943 § 3778-60.]

Effective date—1943 c 247: See note following RCW 68.20.040.

68.24.170 Record of ownership and transfers. A record shall be kept of the ownership of all plots in the cemetery which have been conveyed by the cemetery authority and of all transfers of plots in the cemetery. No transfer of any plot, heretofore or hereafter made, or any right of interment, shall be complete or effective until recorded on the books of the cemetery authority. [1943 c 247 § 40; Rem. Supp. 1943 § 3778-40. FORMER PART OF SECTION: 1943 c 247 § 41 now codified as RCW 68.24.175.]

68.24.175 Inspection of records. The records shall be open to inspection during the customary office hours of the cemetery. [1943 c 247 § 41; Rem. Supp. 1943 § 3778-41. Formerly RCW 68.24.170, part.]

68.24.180 Opening of roads, railroads through cemetery—Consent required—Exception. After dedication pursuant to *this act, and as long as the property remains dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall be laid out, through, over, or across any part of it without the consent of the cemetery authority owning and operating it, or of not less than two-thirds of the owners of interment plots: *Provided*, That so long as the action is commenced prior to March 31, 1961, the Washington state highway commission may condemn for state highway purposes for Primary State Highway No. 14 in the vicinity of Gig Harbor land in any burial ground or cemetery in the following cases: (1) Where no organized or known authority is in charge of any such cemetery, or (2) where the necessary consent cannot be obtained and the court shall find that considerations of highway safety necessitate the taking of such land. Any judgment entered in

such condemnation proceedings shall provide and require that before any entry is made on the land condemned for the purpose of construction or for the use of the same for state highway purposes, the state shall, at its own expense, remove or cause to be removed, from such land any bodies buried therein and suitably reinter them elsewhere to the satisfaction of relatives, if they can be found. [1959 c 217 § 1; 1947 c 69 § 1; 1943 c 247 § 69; Rem. Supp. 1947 § 3778-69.]

***Reviser's note:** "this act", see note following RCW 68.04.020.
State highway commission: Chapter 47.01 RCW.

68.24.190 Opening road through cemetery—Penalty. Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement over, through, in, or upon, such part of any inclosure as may be used for the burial of the dead, without authority of law or the consent of the owner thereof, shall be guilty of a misdemeanor. [1909 c 249 § 241; RRS § 2493.]

68.24.220 Burying place exempt from execution. Whenever any part of such burying ground shall have been designated and appropriated by the proprietors thereof as the burying place of any particular person or family, the same shall not be liable to be taken or disposed of by any warrant or execution, for any tax or debt whatever; nor shall the same be liable to be sold to satisfy the demands of creditors whenever the estate of such owner shall be insolvent. [1857 p 28 § 2; RRS § 3760.]

Reviser's note: The language "such burying ground" appears in 1856-57 p 28 which act provided for the creation of corporations for the purpose of establishing a burying ground or place of sepulture.
Cemetery property exempt from taxation: RCW 84.36.020.

68.24.240 Certain cemetery lands exempt from taxes, etc.—1901 c 147. Upon compliance with the requirements of *this act said lands shall forever be exempt from taxation, judgment and other liens and executions. [1901 c 147 § 4; RRS § 3763.]

***Reviser's note:** "this act" appears in 1901 c 147 the remaining sections of which act were repealed by 1943 c 247 § 148. These sections read as follows:

"Section 1. Any person owning any land, exclusive of encumbrances of any kind, situate two miles outside of the corporate limits of any incorporated city or town, may have the same reserved exclusively for burial and cemetery purposes by complying with the terms of this act, provided said lands so sought to be reserved shall not exceed in area one acre.

Sec. 2. Such person or persons shall cause such land to be surveyed and platted.

Sec. 3. A deed of dedication of said tract for burial and cemetery purposes with a copy of said plat shall be filed with the county auditor of the county in which said lands are situated and the title thereto shall be and remain in the owner, his heirs and assigns, subject to the trust aforesaid."

Property taxes, exemptions: RCW 84.36.020.

Chapter 68.28

MAUSOLEUMS AND COLUMBARIUMS

Sections

- 68.28.010 Sections applicable to mausoleums, columbariums, etc.
68.28.020 Buildings converted to use as a place of interment.

- 68.28.030 Standards of construction.
68.28.040 Fireproof construction.
68.28.050 Ordinances and specifications to be complied with.
68.28.060 Improper construction a nuisance—Penalty.
68.28.065 Court to fix costs.
68.28.070 Construction in compliance with existing laws.

68.28.010 Sections applicable to mausoleums, columbariums, etc. RCW 68.28.020 through 68.28.070, 68.20.080, 68.20.090, 68.48.040 and 68.48.060, apply to all buildings, mausoleums and columbariums used or intended to be used for the interment of the remains of fifteen or more persons whether erected under or above the surface of the earth where any portion of the building is exposed to view or, when interment is completed, is less than three feet below the surface of the earth and covered by earth. [1943 c 247 § 134; Rem. Supp. 1943 § 3778-134.]

68.28.020 Buildings converted to use as a place of interment. A building not erected for, or which is not used as, a place of interment of human remains which is converted or altered for such use is subject to *this act. [1943 c 247 § 135; Rem. Supp. 1943 § 3778-135.]

***Reviser's note:** "this act", see note following RCW 68.04.020.

68.28.030 Standards of construction. No building or structure intended to be used for the interment of human remains shall be constructed, and a building not used for the interment of human remains shall not be altered for use or used for interment purposes, unless constructed of such material and workmanship as will insure its durability and permanence as dictated and determined at the time by modern mausoleum construction and engineering science. [1943 c 247 § 136; Rem. Supp. 1943 § 3778-136.]

68.28.040 Fireproof construction. All mausoleums or columbariums hereafter constructed shall be of class A fireproof construction. [1943 c 247 § 137; Rem. Supp. 1943 § 3778-137.]

Effective date—1943 c 247: See note following RCW 68.20.040.

68.28.050 Ordinances and specifications to be complied with. If the proposed site is within the jurisdiction of a city having ordinances and specifications governing class A construction, the provisions of the local ordinances and specifications shall not be violated. [1943 c 247 § 138; Rem. Supp. 1943 § 3778-138.]

68.28.060 Improper construction a nuisance—Penalty. Every owner or operator of a mausoleum or columbarium erected in violation of *this act is guilty of maintaining a public nuisance and upon conviction is punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and, in addition is liable for all costs, expenses and disbursements paid or incurred in prosecuting the case. [1943 c 247 § 140; Rem. Supp. 1943 § 3778-140.]

***Reviser's note:** "this act", see note following RCW 68.04.020.

68.28.065 Court to fix costs. The costs, expenses and disbursements shall be fixed by the court having jurisdiction of the case. [1943 c 247 § 141; Rem. Supp. 1943 § 3778-141.]

68.28.070 Construction in compliance with existing laws. The penalties of *this act shall not apply as to any building which, at the time of construction was constructed in compliance with the laws then existing, if its use is not in violation of the laws for the protection of public health. [1943 c 247 § 142; Rem. Supp. 1943 § 3778-142.]

*Reviser's note: "this act", see note following RCW 68.04.020.

Chapter 68.32

TITLE AND RIGHTS TO CEMETERY PLOTS

Sections

68.32.010	Presumption as to title.
68.32.020	Vested right of spouse.
68.32.030	Vested right—Termination.
68.32.040	Descent of title to plot.
68.32.050	Affidavit as authorization.
68.32.060	When plot inalienable.
68.32.070	Joint tenants—Vested rights.
68.32.080	Joint tenants—Survivorship.
68.32.090	Joint tenants—Identification.
68.32.100	Co-owners may designate representative.
68.32.110	Order of interment—General.
68.32.120	Order of interment, when no parent or child survives.
68.32.130	Waiver of right of interment.
68.32.140	Termination of vested right by waiver.
68.32.150	Limitations on vested rights.
68.32.160	Conveyance of plot to cemetery authority, effect.
68.32.170	Exemption from inheritance tax.

68.32.010 Presumption as to title. All plots conveyed to individuals are presumed to be the sole and separate property of the owner named in the instrument of conveyance. [1943 c 247 § 88; Rem. Supp. 1943 § 3778-88.]

68.32.020 Vested right of spouse. The spouse of an owner of any plot containing more than one interment space has a vested right of interment of his remains in the plot and any person thereafter becoming the spouse of the owner has a vested right of interment of his remains in the plot if more than one interment space is unoccupied at the time the person becomes the spouse of the owner. [1943 c 247 § 89; Rem. Supp. 1943 § 3778-89.]

68.32.030 Vested right—Termination. No conveyance or other action of the owner without the written consent or joinder of the spouse of the owner divests the spouse of a vested right of interment, except that a final decree of divorce between them terminates the vested right of interment unless otherwise provided in the decree. [1943 c 247 § 90; Rem. Supp. 1943 § 3778-90.]

68.32.040 Descent of title to plot. If no interment is made in an interment plot which has been transferred by deed or certificate of ownership to an individual owner, or if all remains previously interred are lawfully removed, upon the death of the owner, unless he has

disposed of the plot either in his will by specific devise or by a written declaration filed and recorded in the office of the cemetery authority, the plot descends to the heirs at law of the owner subject to the rights of interment of the decedent and his surviving spouse. [1943 c 247 § 91; Rem. Supp. 1943 § 3778-91.]

Probate: Title 11 RCW.

68.32.050 Affidavit as authorization. An affidavit by a person having knowledge of the facts setting forth the fact of the death of the owner and the name of the person or persons entitled to the use of the plot pursuant to RCW 68.32.010 through 68.32.040, is complete authorization to the cemetery authority to permit the use of the unoccupied portions of the plot by the person entitled to the use of it. [1943 c 247 § 93; Rem. Supp. 1943 § 3778-93.]

68.32.060 When plot inalienable. Whenever an interment of the remains of a member or of a relative of a member of the family of the record owner or of the remains of the record owner is made in a plot transferred by deed or certificate of ownership to an individual owner and the owner dies without making disposition of the plot either in his will by a specific devise, or by a written declaration filed and recorded in the office of the cemetery authority, the plot thereby becomes inalienable and shall be held as the family plot of the owner. [1943 c 247 § 98; Rem. Supp. 1943 § 3778-98.]

68.32.070 Joint tenants—Vested rights. In a conveyance to two or more persons as joint tenants each joint tenant has a vested right of interment in the plot conveyed. [1943 c 247 § 94; Rem. Supp. 1943 § 3778-94.]

68.32.080 Joint tenants—Survivorship. Upon the death of a joint tenant, the title to the plot held in joint tenancy immediately vests in the survivors, subject to the vested right of interment of the remains of the deceased joint tenant. [1943 c 247 § 95; Rem. Supp. 1943 § 3778-95.]

Joint tenants, simultaneous death: RCW 11.05.030.

68.32.090 Joint tenants—Identification. An affidavit by any person having knowledge of the facts setting forth the fact of the death of one joint tenant and establishing the identity of the surviving joint tenants named in the deed to any plot, when filed with the cemetery authority operating the cemetery in which the plot is located, is complete authorization to the cemetery authority to permit the use of the unoccupied portion of the plot in accordance with the directions of the surviving joint tenants or their successors in interest. [1943 c 247 § 96; Rem. Supp. 1943 § 3778-96.]

68.32.100 Co-owners may designate representative. When there are several owners of a plot, or of rights of interment in it, they may designate one or more persons to represent the plot and file written notice of designation with the cemetery authority. In the absence of such

notice or of written objection to its so doing, the cemetery authority is not liable to any owner for interring or permitting an interment in the plot upon the request or direction of any co-owner of the plot. [1943 c 247 § 97; Rem. Supp. 1943 § 3778-97.]

68.32.110 Order of interment—General. In a family plot one grave, niche or crypt may be used for the owner's interment; one for the owner's surviving spouse, if any, who by law has a vested right of interment in it; and in those remaining, if any, the parents and children of the deceased owner in order of death may be interred without the consent of any person claiming any interest in the plot. [1943 c 247 § 99; Rem. Supp. 1943 § 3778-99.]

68.32.120 Order of interment, when no parent or child survives. If no parents or child survives, the right of interment goes in the order of death first, to the spouse of any child of the record owner, and second, in the order of death to the next heirs at law of the owner or the spouse of any heir at law. [1943 c 247 § 100; Rem. Supp. 1943 § 3778-100.]

68.32.130 Waiver of right of interment. Any surviving spouse, parent, child, or heir having a right of interment in a family plot may waive such right in favor of any other relative or spouse of a relative of the deceased owner; and upon such waiver the remains of the person in whose favor the waiver is made may be interred in the plot. [1943 c 247 § 101; Rem. Supp. 1943 § 3778-101.]

68.32.140 Termination of vested right by waiver. A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested. [1943 c 247 § 102; Rem. Supp. 1943 § 3778-102.]

68.32.150 Limitations on vested rights. No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space in violation of the rules and regulations of the cemetery in which the interment space is located. [1943 c 247 § 103; Rem. Supp. 1943 § 3778-103.]

68.32.160 Conveyance of plot to cemetery authority, effect. A cemetery authority may take and hold any plot conveyed or devised to it by the plot owner so that it will be inalienable, and interments shall be restricted to the persons designated in the conveyance or devise. [1943 c 247 § 104; Rem. Supp. 1943 § 3778-104.]

68.32.170 Exemption from inheritance tax. Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes. [1943 c 247 § 92; Rem. Supp. 1943 § 3778-92.]

Chapter 68.36 ABANDONED LOTS

Sections	
68.36.010	Sale of abandoned space—Presumption of abandonment.
68.36.020	Notice—Requisites—Limitation on placing.
68.36.030	Petition for order of abandonment—Notice and hearing.
68.36.040	Service of notice.
68.36.050	Hearing—Order—Attorney's fee.
68.36.060	Contract for care before adjudication.
68.36.070	Contract for care within one year after adjudication.
68.36.080	Sale after one year.
68.36.090	Disposition of proceeds.
68.36.100	Petition may cover several lots.

68.36.010 Sale of abandoned space—Presumption of abandonment. The ownership of or right in or to unoccupied cemetery space in this state shall, upon abandonment, be subject to forfeiture and sale by the person, association, corporation or municipality having ownership or management of the cemetery containing such unoccupied cemetery space, for the purpose of providing for perpetual care. The continued failure by an owner to maintain or care for an unoccupied cemetery lot, unoccupied part of lot, unoccupied lots or parts of lots for a period of five years shall create and establish a presumption that the same has been abandoned. [1943 c 247 § 78; Rem. Supp. 1943 § 3778-78.]

Reviser's note: The term "perpetual care" referred to herein originally appeared throughout this chapter and chapters 68.40 and 68.44 RCW. The legislature in 1953 c 290 amended most sections in these chapters to read "endowment care". 1953 c 290 § 24 provides that it is a misdemeanor for any cemetery authority, cemetery broker, etc., to represent that any fund set up for maintaining care is perpetual. See RCW 68.40.085.

68.36.020 Notice—Requisites—Limitation on placing. Before such five year period shall commence to run, the owner or manager of the cemetery shall place upon and during such five year period shall maintain upon such unoccupied cemetery space a suitable notice, setting forth the date the notice is placed thereon and stating that such unoccupied space is subject to forfeiture and sale by the owner or manager of the cemetery to provide for perpetual care, if the owner of such unoccupied space fails during the next five years following the date of the notice to maintain or care for the same or unless the owner of such unoccupied space contracts for the perpetual care of the same: *Provided, however,* That such a notice cannot be placed on the unoccupied space in any cemetery lot until twenty years have elapsed since the last interment in any such lot of a member of the immediate family of the record owner. Members of the immediate family shall be construed to include surviving spouse, children, parents, and brothers and sisters. [1943 c 247 § 79; Rem. Supp. 1943 § 3778-79.]

Reviser's note: "perpetual care", see note following RCW 68.36.010.

68.36.030 Petition for order of abandonment—Notice and hearing. After such five year period, the owner or manager of the cemetery may file in the office of the county clerk for the county in which the cemetery is located a verified petition, setting forth its ownership or

management of the cemetery, the facts relating to the continued failure by the owner for a period of five consecutive years to maintain or care for such cemetery lot, part of lot, lots or parts of lots and such facts relating to the ownership thereof as petitioner may have, and asking for an order of the superior court for such county, adjudging the lot, part of lot, lots or parts of lots to have been abandoned.

At the time of filing such petition, the owner or manager of the cemetery shall apply for and the superior court for such county shall fix a time for the hearing of the petition not less than sixty days nor more than ninety days from the time of the application. Not less than sixty days before the time fixed for the hearing of the petition, notice of the hearing and the nature and object of the same shall be given to the owner of such unoccupied space, as herein provided. [1943 c 247 § 80; Rem. Supp. 1943 § 3778-80.]

68.36.040 Service of notice. The notice may be served personally upon the owner, or may be given by the mailing of the notice by registered mail to the owner to his last known address and by publishing the notice three times in a legal newspaper published in the county in which the cemetery is located, and if there be no legal newspaper in the county, then in a legal newspaper published in an adjoining county, and if there be no legal newspaper in an adjoining county, then in a legal newspaper published at the capital of the state. In the event that the whereabouts of the owner is unknown, or if the owner be unknown, then the notice may be given to such owner, unknown owner or unknown claimant, and all other persons or parties claiming any right, title or interest therein, by publishing the notice three times in a legal newspaper as aforesaid. The affidavit of the owner or manager of the cemetery involved to the effect that such owner or claimant is unknown to him and that he exercised diligence in attempting to locate such unknown parties shall, if filed in the proceeding, be conclusive to that effect. [1943 c 247 § 81; Rem. Supp. 1943 § 3778-81.]

68.36.050 Hearing—Order—Attorney's fee. Thereupon, such owner or claimant may appear and make answer to the allegations of said petition, and in case of his failure so to do prior to the day fixed for hearing, his default shall be entered and it shall then be the duty of the superior court for such county to immediately enter an order adjudging such unoccupied space to have been abandoned and subject to sale at the expiration of one year by the person, association, corporation or municipality having ownership or management of the cemetery containing the same. In the event the owner or claimant shall appear and file his answer prior to the day fixed for the hearing, the presumption of abandonment shall no longer exist, and on the day fixed for the hearing of said petition or on any subsequent day to which the hearing of the cause is adjourned, the allegations and proof of the parties shall be presented to the court and if the court shall determine therefrom that there has been a continued failure to maintain or care for such unoccupied space for a period

of five consecutive years preceding the filing of said petition, an order shall be entered accordingly adjudging such unoccupied space to have been abandoned and subject to sale at the expiration of one year by the person, association, corporation or municipality having ownership of the cemetery containing the same. Upon any adjudication of abandonment, the court shall fix such sum as it shall deem reasonable as an attorney's fee for petitioner's attorney for each lot, part of lot, lots or parts of lots adjudged to have been abandoned in such proceedings. [1943 c 247 § 82; Rem. Supp. 1943 § 3778-82.]

68.36.060 Contract for care before adjudication. If at any time before the adjudication of abandonment the owner of an unoccupied space contracts with the owner or manager of the cemetery for the endowment care of the space, the court shall dismiss the proceedings as to such unoccupied space. [1953 c 290 § 1; 1943 c 247 § 83; Rem. Supp. 1943 § 3778-83.]

68.36.070 Contract for care within one year after adjudication. If at any time within one year after the adjudication of abandonment, the former owner of the unoccupied space shall contract for its endowment care, and reimburse the owner or manager of the cemetery for the expense of the proceedings, including attorney's fees, the space shall not be sold and the order adjudging it to have been abandoned shall be vacated upon petition of the former owner. [1953 c 290 § 2; 1943 c 247 § 84; Rem. Supp. 1943 § 3778-84.]

68.36.080 Sale after one year. One year after the entry of the order adjudging such lot, part of lot, lots or parts of lots to have been abandoned, the owner or manager of the cemetery in which the same is located shall have the power to sell the same, in whole or in part, at public or private sale, and convey by deed good, clear and sufficient title thereto. [1943 c 247 § 85; Rem. Supp. 1943 § 3778-85.]

68.36.090 Disposition of proceeds. Not more than twenty percent of the funds realized from the sale of abandoned space shall be used to defray the expenses of the proceedings to abandon, and the improving of it in such manner as to place it in condition for care, and the balance shall be placed immediately in a trust fund or shall be immediately transferred to a nonprofit organization to be used exclusively for the endowment care and maintenance of the cemetery. [1953 c 290 § 3; 1943 c 247 § 86; Rem. Supp. 1943 § 3778-86.]

68.36.100 Petition may cover several lots. In any one petition for abandonment, a petitioner may, irrespective of diversity of ownership, include in any such petition as many lots or parts of lots as come within the provisions of *this act. The petition for abandonment shall be entitled: "In the Matter of the Abandonment, Forfeiture and Sale of Unoccupied and Uncared for Space located in ----- Cemetery." [1943 c 247 § 87; Rem. Supp. 1943 § 3778-87.]

*Reviser's note: "this act", see note following RCW 68.04.020.

Chapter 68.40

ENDOWMENT AND NONENDOWMENT CARE

Sections

68.40.010	Endowment care cemetery defined—Deposit required.
68.40.020	Nonendowment care section.
68.40.030	Endowment care cemetery—Identifying sign.
68.40.040	Endowment care fiscal report.
68.40.050	Annual revision of report.
68.40.060	May accept property in trust—Application of proceeds.
68.40.070	Nonendowment care cemetery defined.
68.40.080	Nonendowment care cemetery—Identifying sign.
68.40.085	Representing fund as perpetual—Penalty.
68.40.090	Penalty.

68.40.010 Endowment care cemetery defined—Deposit required. An endowment care cemetery is one which deposits in its endowment care fund not less than the following amounts for plots sold: Ten percent of the gross sales price, with a minimum of ten dollars for each adult grave; five dollars for each niche; and thirty dollars for each crypt.

The deposits shall be made not later than the twentieth day of the month following the final payment on the sale price.

Any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of twenty-five thousand dollars before disposing of any plot or making any sale thereof: *Provided*, That the requirement of an additional deposit of twenty-five thousand dollars shall not apply to any cemetery in existence on January 1, 1961, having an area not exceeding ten acres. [1961 c 133 § 2; 1953 c 290 § 4; 1943 c 247 § 118; Rem. Supp. 1943 § 3778-118.]

68.40.020 Nonendowment care section. An endowment care cemetery may contain a small section which may be sold without endowment care, if the section is separately set off from the remainder of the cemetery and if signs are kept prominently placed around the section designating it as a "nonendowment care section," in lettering equivalent to a minimum of forty-eight point black type. There shall be printed or stamped at the head of all contracts and certificates of ownership or deeds referring to plots in the section, the phrase "nonendowment care" in lettering equivalent to a minimum of ten point number two black type. [1953 c 290 § 5; 1943 c 247 § 120; Rem. Supp. 1943 § 3778-120.]

68.40.030 Endowment care cemetery—Identifying sign. An endowment care cemetery shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building, and readily accessible to the public, a legible sign with the following phrase: "This is an endowment care property." [1953 c 290 § 6; 1943 c 247 § 121; Rem. Supp. 1943 § 3778-121.]

68.40.040 Endowment care fiscal report. An endowment care cemetery shall file in its principal office a written report which shall be available to any plot owner, and which shall state the amount of the principal of the endowment care fund and the total amount invested in lawful investments, and the amount of cash on hand, which shall show the true financial condition of the trust. [1953 c 290 § 7; 1943 c 247 § 122; Rem. Supp. 1943 § 3778-122.]

68.40.050 Annual revision of report. All the information appearing on the report filed in the cemetery office shall be revised annually and verified by the president and secretary, or two officers authorized by the cemetery authority. [1943 c 247 § 124; Rem. Supp. 1943 § 3778-124.]

68.40.060 May accept property in trust—Application of proceeds. The cemetery authority of an endowment care cemetery may accept any property bequeathed, granted, or given to it in trust and may apply the principal, or proceeds, or income to any or all of the following purposes:

(1) Improvement or embellishment of all or any part of the cemetery or any lot in it;

(2) Erection, renewal, repair, or preservation of any monument, fence, building, or other structure in the cemetery;

(3) Planting or cultivation of trees, shrubs, or plants in or around any part of the cemetery;

(4) Special care or ornamenting of any part of any plot, section, or building in the cemetery; and

(5) Any purpose or use consistent with the purpose for which the cemetery was established or is maintained. [1953 c 290 § 8; 1943 c 247 § 129; Rem. Supp. 1943 § 3778-129.]

68.40.070 Nonendowment care cemetery defined. A nonendowment care cemetery is one that does not deposit in an endowment care fund the minimum required of an endowment care cemetery. [1953 c 290 § 9; 1943 c 247 § 119; Rem. Supp. 1943 § 3778-119.]

68.40.080 Nonendowment care cemetery—Identifying sign. A nonendowment care cemetery shall post in a conspicuous place in the office or offices where sales are conducted and in a conspicuous place at or near the entrance of the cemetery or its administration building and readily accessible to the public, a legible sign with the following phrase: "This is not an endowment care property." This phrase likewise shall be printed or stamped at the head of all contracts, certificates of ownership, or deeds. [1953 c 290 § 10; 1943 c 247 § 123; Rem. Supp. 1943 § 3778-123.]

68.40.085 Representing fund as perpetual—Penalty. It is a misdemeanor for any cemetery authority, its officers, employees, or agents, or a cemetery broker or salesman to represent that an endowment care fund, or any other fund set up for maintaining care, is perpetual. [1953 c 290 § 24.]

68.40.090 Penalty. Any person, partnership, corporation, association, or his or its agents or representatives who shall violate any of the provisions of RCW 68.40-.010 through 68.40.050, 68.40.070, and 68.40.080, or make any false statement appearing on said sign, contract, agreement, receipt, statement, literature or other publication shall be guilty of a misdemeanor. [1943 c 247 § 125; Rem. Supp. 1943 § 3778-125.]

Chapter 68.44 ENDOWMENT CARE FUND

Sections

68.44.010	Fund authorized—Investments.
68.44.020	Use and care of funds.
68.44.030	Authorized investments.
68.44.050	Loan to officers prohibited.
68.44.060	Unauthorized loans—Penalty.
68.44.070	Purpose of endowment care—Validity.
68.44.080	Plans for care—Source of fund.
68.44.090	Covenant to care for cemetery.
68.44.100	Agreement by owner to care for plot.
68.44.110	Trustees of fund.
68.44.120	Directors as trustees—Secretary.
68.44.130	Bank or trust company as trustee.
68.44.140	Compensation of trustees.
68.44.150	Annual report of condition of fund.
68.44.160	Contributions.
68.44.170	Use of income from fund.

68.44.010 Fund authorized—Investments. Any cemetery authority may place its cemetery under endowment care, and establish, maintain, and operate an irreducible endowment care fund. Endowment care and special care funds may be commingled for investment and the income therefrom shall be divided between the funds in the proportion that each contributed to the sum invested. The funds may be held in the name of the cemetery authority or its directors or in the name of the trustees appointed by the cemetery authority. [1953 c 290 § 11; 1943 c 247 § 105; Rem. Supp. 1943 § 3778-105.]

68.44.020 Use and care of funds. Endowment care funds shall not be used for any purpose other than to provide, through income only, for the endowment care stipulated in the instrument by which the fund was established, and shall be kept separate and distinct from all other funds. The principal shall forever remain irreducible and inviolable. [1953 c 290 § 12. Prior: (i) 1943 c 247 § 106; Rem. Supp. 1943 § 3778-106. (ii) 1943 c 247 § 126; Rem. Supp. 1943 § 3778-126.]

68.44.030 Authorized investments. Endowment care funds shall be kept invested in accordance with the provisions of RCW 30.24.020. [1953 c 290 § 13; 1943 c 247 § 127; Rem. Supp. 1943 § 3778-127.]

68.44.050 Loan to officers prohibited. No director or officer of the cemetery authority or trustee of the endowment care or special care funds shall borrow any of such funds for himself, directly or indirectly. [1953 c 290 § 15; 1943 c 247 § 131; Rem. Supp. 1943 § 3778-131.]

68.44.060 Unauthorized loans—Penalty. Every director or officer authorizing or consenting to a loan, and the person who receives a loan, in violation of *this article are severally guilty of a misdemeanor. [1943 c 247 § 133; Rem. Supp. 1943 § 3778-133.]

**Reviser's note:* The term "this article" appears in 1943 c 247, the general cemetery act, which was not divided into articles. For the codification of 1943 c 247, see note following RCW 68.04.020.

68.44.070 Purpose of endowment care—Validity. The endowment care and special care funds and all payments or contributions thereto are hereby expressly permitted for charitable and eleemosynary purposes. Endowment care and such contributions are provisions for the discharge of a duty from the persons contributing to the persons interred and to be interred in the cemetery and provisions for the benefit and protection of the public by preserving and keeping cemeteries from becoming unkempt and places of reproach and desolation in the communities in which they are situated. No payment, or contribution for general endowment care, is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the trust, nor is the fund or any contribution to it invalid as violating any law against perpetuities, or the suspension of the power of alienation of title to property. [1953 c 290 § 16. Prior: (i) 1943 c 247 § 130; Rem. Supp. 1943 § 3778-130. (ii) 1943 c 247 § 117; Rem. Supp. 1943 § 3778-117.]

68.44.080 Plans for care—Source of fund. The cemetery authority may from time to time adopt plans for the general care, maintenance, and embellishment of its cemetery, and charge and collect from all purchasers of plots such reasonable sum as it deems will aggregate a fund, the reasonable income from which will provide care, maintenance, and embellishment on an endowment basis. [1953 c 290 § 17; 1943 c 247 § 108; Rem. Supp. 1943 § 3778-108.]

68.44.090 Covenant to care for cemetery. Upon payment of the purchase price and the amount fixed as a proportionate contribution for endowment care, there may be included in the deed of conveyance or by separate instrument, an agreement to care, in accordance with the plan adopted, for the cemetery and its appurtenances on an endowment basis to the proportionate extent the income received by the cemetery authority from the contribution will permit. [1953 c 290 § 18; 1943 c 247 § 109; Rem. Supp. 1943 § 3778-109.]

68.44.100 Agreement by owner to care for plot. Upon the application of an owner of a plot, and upon the payment by him of the amount fixed as a reasonable and proportionate contribution for endowment care, a cemetery authority may enter into an agreement with him for the care of his plot and its appurtenances. [1953 c 290 § 19; 1943 c 247 § 110; Rem. Supp. 1943 § 3778-110.]

68.44.110 Trustees of fund. The cemetery authority may appoint a board of not less than three members as trustees for its endowment care fund, who shall hold office subject to the direction of the cemetery authority. [1953 c 290 § 20; 1943 c 247 § 111; Rem. Supp. 1943 § 3778-111.]

68.44.120 Directors as trustees—Secretary. The directors of a cemetery authority may be the trustees of its endowment care fund. When the fund is in the care of the directors as a board of trustees the secretary of the cemetery authority shall act as its secretary and keep a true record of all of its proceedings. The investments of the endowment care fund may be held in the name of the cemetery authority. [1953 c 290 § 21; 1943 c 247 § 112; Rem. Supp. 1943 § 3778-112.]

68.44.130 Bank or trust company as trustee. In lieu of the appointment of a board of trustees of its perpetual care fund, any cemetery authority may appoint as sole trustee of its perpetual care fund any bank or trust company qualified to engage in the trust business, and said bank or trust company shall be authorized to receive and accept said fund, including any accumulated perpetual care fund in existence at the time of its appointment. [1943 c 247 § 113; Rem. Supp. 1943 § 3778-113.]

Reviser's note: "perpetual care fund", see note following RCW 68.36.010.

68.44.140 Compensation of trustees. No sum in excess of five percent of the income derived from the fund in any year shall be paid as compensation to the board of trustees for its services as trustee. [1943 c 247 § 114; Rem. Supp. 1943 § 3778-114.]

68.44.150 Annual report of condition of fund. The cemetery authority or the persons in whose names the funds are held shall, annually, and within ninety days after the end of the calendar or fiscal year of the cemetery authority, make and file with it a true and correct written report, verified on oath by an officer of the cemetery authority or by the oath of one or more of the trustees, showing the actual financial condition of the funds. [1943 c 247 § 115; Rem. Supp. 1943 § 3778-115.]

68.44.160 Contributions. A cemetery authority which has established an endowment care fund may take and hold, as a part of or incident to the fund, any property, real, personal, or mixed, bequeathed, devised, granted, given, or otherwise contributed to it for its endowment care fund. [1953 c 290 § 22; 1943 c 247 § 116; Rem. Supp. 1943 § 3778-116.]

68.44.170 Use of income from fund. The income from the endowment care fund shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the cemetery authority may from time to time determine to be for the best interest of the cemetery. [1953 c 290 § 23; 1943 c 247 § 107; Rem. Supp. 1943 § 3778-107.]

Chapter 68.46 PREARRANGEMENT CONTRACTS

Sections	
68.46.010	Definitions.
68.46.020	Prearrangement trust funds—Required.
68.46.030	Prearrangement trust funds—Deposits—Retention by cemetery authority.
68.46.040	Prearrangement trust funds—Deposit with qualified public depository.
68.46.050	Withdrawals from trust funds.
68.46.060	Termination of contract by purchaser or beneficiary.
68.46.070	Involuntary termination of contract—Refund.
68.46.080	Other use of trust funds prohibited.
68.46.090	Financial reports—Filing.
68.46.100	Information to be furnished purchaser.
68.46.110	Compliance required.

68.46.010 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section:

"Prearrangement contract" means a contract for purchase of cemetery merchandise or services, to be furnished at a future date for a specific consideration which is paid in advance by one or more payments in one sum or by installment payments.

"Cemetery merchandise or services" shall mean and include monuments, markers, memorials, nameplates, liners, vaults, boxes, urns, vases, interment services, or any one or more of them.

"Prearrangement trust fund" means all funds required to be maintained in one or more funds for the benefit of beneficiaries by either this chapter or by the terms of a prearrangement contract, as herein defined.

"Depository" means a qualified public depository as defined by RCW 39.58.050, a credit union as governed by chapter 31.12 RCW, a mutual savings bank as governed by Title 32 RCW, and a savings and loan association as governed by Title 33 RCW, in which prearrangement funds are deposited by any cemetery authority. [1973 1st ex.s. c 68 § 1.]

68.46.020 Prearrangement trust funds—Required. Any cemetery authority selling by prearrangement contracts any merchandise or services shall establish and maintain one or more prearrangement funds for the benefit of beneficiaries of prearrangement contracts. [1973 1st ex.s. c 68 § 2.]

68.46.030 Prearrangement trust funds—Deposits—Retention by cemetery authority. Fifty percent of all funds collected in payment of each prearrangement contract, excluding sales tax and endowment care if such charge is made, may be retained by the cemetery authority. Deposits to the prearrangement trust fund shall be made not later than the twentieth day of each month following receipt of each payment as made on the last fifty percent of each prearrangement contract, excluding sales tax and endowment care, if such charge is made. [1973 1st ex.s. c 68 § 3.]

68.46.040 Prearrangement trust funds—Deposit with qualified public depository. All prearrangement trust funds shall be deposited in a qualified public depository as defined by RCW 68.46.010. Such savings accounts shall be designated as the prearrangement

trust fund of the particular cemetery authority for the benefit of the beneficiaries named in any prearrangement contract. [1973 1st ex.s. c 68 § 4.]

68.46.050 Withdrawals from trust funds. A bank, trust company, or savings and loan association designated as the depository of prearrangement funds shall permit withdrawal by a cemetery authority of all funds deposited under any specific prearrangement contract plus interest accrued thereon, under the following circumstances and conditions:

(1) If the cemetery authority files a verified statement with the depository that the prearrangement merchandise and services covered by a contract have been furnished and delivered in accordance therewith; or

(2) If the cemetery authority files a verified statement that a specific prearrangement contract has been canceled in accordance with its terms. [1973 1st ex.s. c 68 § 5.]

68.46.060 Termination of contract by purchaser or beneficiary. Any purchaser or beneficiary or beneficiaries may, upon written demand of any cemetery authority, demand that any prearrangement contract with such cemetery authority be terminated. In such event, the cemetery authority shall within thirty days refund to such purchaser or beneficiary or beneficiaries all moneys which have been deposited by such cemetery authority with any depository according to the provisions of this chapter, along with such interest as may have been earned by the deposit of such moneys. In any case, where, under a prearrangement contract there is more than one beneficiary, no written demand as provided in this section shall be honored by any cemetery authority unless the written demand provided for herein shall bear the signatures of all of such beneficiaries. [1973 1st ex.s. c 68 § 6.]

68.46.070 Involuntary termination of contract—Refund. Prearrangement contracts shall automatically terminate if the cemetery authority shall go out of business, become insolvent or bankrupt, make an assignment for the benefit of creditors, or for any other reason be unable to fulfill the obligations under the contract, in which event, and upon demand by the purchaser or beneficiary or beneficiaries of any prearrangement contract, the depository of the prearrangement funds shall refund to purchasers of prearrangement contracts all funds deposited in accordance with said contracts, unless otherwise ordered by a court of competent jurisdiction. [1973 1st ex.s. c 68 § 7.]

68.46.080 Other use of trust funds prohibited. Prearrangement trust funds shall not be used in any way, directly or indirectly, for the benefit of the cemetery authority or any director, officer, agent or employee of any cemetery authority, including, but not limited to any encumbrance, pledge, or other utilization or prearrangement trust funds as collateral or other security. [1973 1st ex.s. c 68 § 8.]

68.46.090 Financial reports—Filing. Any cemetery authority selling prearrangement merchandise or other prearrangement services shall file in its office or offices and with the cemetery board a written report upon forms prepared by the cemetery board which shall state the amount of the principle of the prearrangement trust fund or funds, the depository of such fund or funds, and cash on hand which is or may be due to such fund as well as such other information the board may deem appropriate. All information appearing on such written reports shall be revised at least annually and shall be verified by the president, and the secretary or auditor preparing the same. [1973 1st ex.s. c 68 § 9.]

68.46.100 Information to be furnished purchaser. Every prearrangement contract shall contain language which informs the purchaser of the prearrangement trust fund and the amount to be deposited in the prearrangement trust fund, which shall not be less than fifty percent of the cash purchase price of the merchandise and services in the contract and shall not include charges for endowment care when included in the purchase price. [1973 1st ex.s. c 68 § 10.]

68.46.110 Compliance required. No cemetery authority shall sell, offer to sell or authorize the sale of cemetery merchandise or services or accept funds in payment of any prearrangement contract, either directly or indirectly, unless such acts are performed in compliance with *this act, and under the authority of a valid, subsisting and unsuspended certificate of authority to operate a cemetery in this state by the Washington state cemetery board. [1973 1st ex.s. c 68 § 11.]

*Reviser's note: "this act" apparently refers to 1973 1st ex.s. c 68, codified herein as chapter 68.46 RCW and the amendments to RCW 68.05.130-68.05.160, 68.05.180 and 68.05.255 by 1973 1st ex.s. c 68.

Chapter 68.48

PENAL AND MISCELLANEOUS PROVISIONS

Sections	
68.48.010	Unlawful damage to graves, markers, shrubs, etc.—Interfering with funeral.
68.48.020	Unlawful damage to graves, markers, shrubs, etc.—Civil liability for damage.
68.48.030	Unlawful damage to graves, markers, shrubs, etc.—Exceptions.
68.48.040	Nonconforming cemetery a nuisance—Penalty—Costs of prosecution.
68.48.050	Requirements as to crematories.
68.48.060	Defendant liable for costs.
68.48.070	Exclusions.
68.48.080	Police authority—Who may exercise.
68.48.090	Forfeiture of office for inattention to duty.

Burial, removal permits required: RCW 70.58.230.

Care of veterans' plot at Olympia: RCW 73.24.020.

Injury to monuments: RCW 9.61.010.

68.48.010 Unlawful damage to graves, markers, shrubs, etc.—Interfering with funeral. Every person is guilty of a gross misdemeanor who unlawfully or without right wilfully does any of the following:

(1) Destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial or marker in a cemetery, or any gate,

door, fence, wall, post or railing, or any enclosure for the protection of a cemetery or any property in a cemetery.

(2) Destroys, cuts, breaks, removes or injures any building, statuary, ornamentation, tree, shrub, flower or plant within the limits of a cemetery.

(3) Disturbs, obstructs, detains or interferes with any person carrying or accompanying human remains to a cemetery or funeral establishment, or engaged in a funeral service, or an interment. [1943 c 247 § 36; Rem. Supp. 1943 § 3778–36. Cf. 1909 c 249 § 240 and 1856–57 p 28 §§ 4, 5.]

68.48.020 Unlawful damage to graves, markers, shrubs, etc.—Civil liability for damage. Any person violating any provision of RCW 68.48.010 is liable, in a civil action by and in the name of the cemetery authority, to pay all damages occasioned by his unlawful acts. The sum recovered shall be applied in payment for the repair and restoration of the property injured or destroyed. [1943 c 247 § 37; Rem. Supp. 1943 § 3778–37.]

68.48.030 Unlawful damage to graves, markers, shrubs, etc.—Exceptions. The provisions of RCW 68.48.010 do not apply to the removal or unavoidable breakage or injury, by a cemetery authority, of any thing placed in or upon any portion of its cemetery in violation of any of the rules or regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority which has become in a wrecked, unsightly or dilapidated condition. [1943 c 247 § 37; Rem. Supp. 1943 § 3778–37.]

68.48.040 Nonconforming cemetery a nuisance—Penalty—Costs of prosecution. Every person, firm or corporation who is the owner or operator of a cemetery established in violation of *this act is guilty of maintaining a public nuisance and upon conviction is punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment in a county jail for not less than one month nor more than six months, or by both; and, in addition is liable for all costs, expenses and disbursements paid or incurred in prosecuting the case. [1943 c 247 § 145; Rem. Supp. 1943 § 3778–145.]

**Reviser's note:* "this act", see note following RCW 68.04.020.

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.48.050 Requirements as to crematories. No crematory shall hereafter be constructed or established unless the crematory is of fireproof construction and there is in connection therewith a fireproof columbarium, a fireproof mausoleum, a fireproof room for temporary care of cremated remains or a burial park amply equipped at all times for the interment of remains of bodies cremated at the crematory. Nothing herein contained shall prevent existing crematories from being repaired, altered, or reconstructed. Nothing in *this act

shall prohibit the cremation of human remains in existing crematories, nor the temporary storage of cremated remains. [1943 c 247 § 56; Rem. Supp. 1943 § 3778–56.]

**Reviser's note:* "this act", see note following RCW 68.04.020.

Effective date—1943 c 247: See note following RCW 68.20.040.

68.48.060 Defendant liable for costs. Every person who violates any provision of *this act is guilty of a misdemeanor, and in addition is liable for all costs, expenses, and disbursements paid or incurred by a person prosecuting the case. [1943 c 247 § 139; Rem. Supp. 1943 § 3778–139.]

**Reviser's note:* "this act", see note following RCW 68.04.020.

Costs, etc., to be fixed by court having jurisdiction: RCW 68.28.065.

Section applies to certain mausoleums, columbariums, etc.: RCW 68.28.010.

68.48.070 Exclusions. The provisions of RCW 68.20.010 through 68.20.040, 68.24.020 through 68.24.150, 68.24.180, and chapters 68.32, 68.40 and 68.44 RCW, relating to private cemeteries, do not apply to any of the following:

(1) Any religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them;

(2) Any county, town or city cemetery. [1943 c 247 § 146; Rem. Supp. 1943 § 3778–146.]

68.48.080 Police authority—Who may exercise. The sexton, superintendent or other person in charge of a cemetery, and such other persons as the cemetery authority designates have the authority of a police officer for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he has charge, and within such radius as may be necessary to protect the cemetery property. [1943 c 247 § 55; Rem. Supp. 1943 § 3778–55.]

68.48.090 Forfeiture of office for inattention to duty. The office of any director or officer who acts or permits action contrary to *this act immediately thereupon becomes vacant. [1943 c 247 § 132; Rem. Supp. 1943 § 3778–132.]

**Reviser's note:* "this act", see note following RCW 68.04.020.

TITLE 69

FOOD, DRUGS, COSMETICS, AND POISONS

Chapters

- 69.04 Food, drug, and cosmetic act.
- 69.06 Food and beverage establishment workers' permits.
- 69.07 Washington food processing act.
- 69.08 Flour, white bread, and rolls.
- 69.11 Bakeries and bakery products—1903 act.
- 69.12 Bakeries and bakery products—1937 act.
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- 69.20 Confections.
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- 69.28 Honey.
- 69.30 Sanitary control of shellfish.
- 69.32 Narcotics—Addiction.
- 69.33 Uniform narcotic drug act.
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- 69.40 Poisons and dangerous drugs.
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- 69.50 Uniform controlled substances act.
- 69.54 Drug and alcohol rehabilitation, education programs—Drug treatment centers.

Board of health and bureau of vital statistics authorized: State Constitution Art. 20 § 1.

Board of pharmacy: Chapter 18.64 RCW.

Cascara bark peeling: Chapter 19.08 RCW.

Controlled atmosphere storage of fruits and vegetables: Chapter 15.30 RCW.

Food lockers: Chapter 19.32 RCW.

Glue sniffing: Chapter 9.47A RCW.

Horse meat: RCW 16.68.140.

Hotel and restaurant safety regulations: Chapter 70.62 RCW.

Milk and milk products for animal food: Chapter 15.37 RCW.

Preparations, patent medicines containing alcohol: Chapter 66.12 RCW.

Regulation of sale of drugs and medicines authorized: State Constitution Art. 20 § 2.

Supervisor of foods, feeds, and drugs: RCW 43.23.080.

Unlawful to refill trademarked containers: RCW 19.76.110.

Chapter 69.04

FOOD, DRUG, AND COSMETIC ACT

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Chapter 69.07 RCW does not impair authority of director or department under this chapter: RCW 69.07.160.

Crimes relating to drugs: Chapters 9.91 and 9.94 RCW.

Dairies and dairy products: Chapter 15.32 RCW.

Feeds, fertilizers and livestock remedies: Chapter 15.52 RCW.

Filled dairy products deemed adulterated for purposes of this chapter: RCW 15.38.040.

Patent medicine peddlers: Chapter 18.60 RCW.

Prescriptions by chiropractors: RCW 18.22.185.

Weights and measures, regulation: Chapter 19.92 RCW.

69.04.001 Statement of purpose. This chapter is intended to enact state legislation (1) which safeguards the public health and promotes the public welfare by protecting the consuming public from injury by product use and the purchasing public from injury by merchandising deceit, flowing from intrastate commerce in food, drugs, devices, and cosmetics; and (2) which is uniform, as provided in this chapter, with the federal food, drug, and cosmetic act; and with the federal trade commission act, to the extent it expressly outlaws the false advertisement of food, drugs, devices, and cosmetics; and (3) which thus promotes uniformity of such law and its administration and enforcement, in and throughout the United States. [1945 c 257 § 2; Rem. Supp. 1945 § 6163–51.]

Conformity with federal regulations: RCW 69.04.190 and 69.04.200.

69.04.002 Introductory. For the purposes of this chapter, terms shall apply as herein defined unless the context clearly indicates otherwise. [1945 c 257 § 3; Rem. Supp. 1945 § 6163–52.]

69.04.003 "Federal act" defined. The term "federal act" means the federal food, drug, and cosmetic act, approved on June 25, 1938. (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) [1945 c 257 § 4; Rem. Supp. 1945 § 6163–53.]

69.04.004 "Intrastate commerce". The term "intrastate commerce" means any and all commerce within the state of Washington and subject to the jurisdiction thereof; and includes the operation of any business or service establishment. [1945 c 257 § 5; Rem. Supp. 1945 § 6163–54.]

69.04.005 "Sale". The term "sale" means any and every sale and includes (1) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possessing; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using. [1945 c 257 § 6; Rem. Supp. 1945 § 6163–55.]

69.04.006 "Director". The term "director" means the director of the department of agriculture of the state of Washington and his duly authorized representatives. [1945 c 257 § 7; Rem. Supp. 1945 § 6163-56.]

Director of agriculture, general duties: Chapter 43.23 RCW.
Supervisor of foods, feeds and drugs: RCW 43.23.080.

69.04.007 "Person". The term "person" includes individual, partnership, corporation, and association. [1945 c 257 § 8; Rem. Supp. 1945 § 6163-57.]

69.04.008 "Food". The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. [1945 c 257 § 9; Rem. Supp. 1945 § 6163-58.]

69.04.009 "Drugs". The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories. [1945 c 257 § 10; Rem. Supp. 1945 § 6163-59. Prior: 1907 c 211 § 2.]

69.04.010 "Device". The term "device" (except when used in RCW 69.04.016 and in RCW 69.04.040 (10), 69.04.270, 69.04.690, and in RCW 69.04.470 as used in the sentence "(as compared with other words, statements, designs, or devices, in the labeling)") means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals. [1945 c 257 § 11; Rem. Supp. 1945 § 6163-60.]

69.04.011 "Cosmetic". The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap. [1945 c 257 § 12; Rem. Supp. 1945 § 6163-61.]

69.04.012 "Official compendium". The term "official compendium" mean the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them. [1945 c 257 § 13; Rem. Supp. 1945 § 6163-62.]

69.04.013 "Label". The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1945 c 257 § 14; Rem. Supp. 1945 § 6163-63.]

69.04.014 "Immediate container". The term "immediate container" does not include package liners. [1945 c 257 § 15; Rem. Supp. 1945 § 6163-64.]

69.04.015 "Labeling". The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article. [1945 c 257 § 16; Rem. Supp. 1945 § 6163-65.]

Crimes relating to labeling: Chapter 9.16 RCW.

69.04.016 "Misleading labeling or advertisement", how determined. If any article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. [1945 c 257 § 17; Rem. Supp. 1945 § 6163-66.]

Crimes relating to advertising: Chapter 9.04 RCW.

69.04.017 "Antiseptic" as germicide. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body. [1945 c 257 § 18; Rem. Supp. 1945 § 6163-67.]

69.04.018 "New drug" defined. The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a

material extent or for a material time under such conditions: *Provided*, That no drug in use on the *effective date of this chapter shall be regarded as a new drug. [1945 c 257 § 19; Rem. Supp. 1945 § 6163-68.]

*Effective date—1945 c 257: See RCW 69.04.860.

69.04.019 "Advertisement". The term "advertisement" means all representations, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics. [1945 c 257 § 20; Rem. Supp. 1945 § 6163-69.]

69.04.020 "Contaminated with filth". The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations. [1945 c 257 § 21; Rem. Supp. 1945 § 6163-70.]

69.04.021 "Package". The word "package" shall include, and be construed to include, wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale. [1963 c 198 § 8.]

69.04.022 "Pesticide chemical". The term "pesticide chemical" means any substance defined as an economic poison and/or agricultural pesticide in Title 15 RCW as now enacted or hereafter amended. [1963 c 198 § 9.]

69.04.023 "Raw agricultural commodity". The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing. [1963 c 198 § 10.]

69.04.024 "Food additive", "safe". (1) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance generally is recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958; through either scientific procedures or experience based on common use in food) to be unsafe under the conditions of its intended use; except that such term does not include; (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (c) a color additive.

(2) The term "safe" as used in the food additive definition has reference to the health of man or animal. [1963 c 198 § 11.]

69.04.025 "Color additive", "color". (1) The term "color additive" means a material which (a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and (b) when added or applied to a food is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the director, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

(2) The term "color" includes black, white, and intermediate grays.

(3) Nothing in subsection (1) hereof shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest. [1963 c 198 § 12.]

69.04.040 Prohibited acts. The following acts and the causing thereof are hereby prohibited:

(1) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

(4) The introduction or delivery for introduction into intrastate commerce of (a) any food in violation of RCW 69.04.350; or (b) any new drug in violation of RCW 69.04.570.

(5) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

(6) The refusal to permit (a) entry and the taking of a sample or specimen or the making of any investigation or examination as authorized by RCW 69.04.780; or (b) access to or copying of any record as authorized by RCW 69.04.810.

(7) The refusal to permit entry or inspection as authorized by RCW 69.04.820.

(8) The removal, mutilation, or violation of an embargo notice as authorized by RCW 69.04.110.

(9) The giving of a guaranty or undertaking in intrastate commerce, referred to in RCW 69.04.080, that is false.

(10) The forging, counterfeiting, simulating, or falsely representing, or without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under RCW 69.04.350.

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a food, drug, device, or cosmetic, or the doing of any

other act with respect to a food, drug, device, or cosmetic, or the labeling or advertisement thereof, which results in a violation of this chapter.

(12) The using in intrastate commerce, in the labeling or advertisement of any drug, of any representation or suggestion that an application with respect to such drug is effective under section 505 of the federal act or under RCW 69.04.570, or that such drug complies with the provisions of either such section. [1945 c 257 § 22; Rem. Supp. 1945 § 6163-71. Prior: 1917 c 168 § 1; 1907 c 211 § 1; 1901 c 94 § 1.]

69.04.050 Remedy by injunction. (1) In addition to the remedies hereinafter provided the director is hereby authorized to apply to the superior court of Thurston county for, and such court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of RCW 69.04.040; without proof that an adequate remedy at law does not exist.

(2) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals (a) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and (b) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction. [1945 c 257 § 23; Rem. Supp. 1945 § 6163-72.]

Injunctions, generally: Chapter 7.40 RCW.

69.04.060 Criminal penalty for violations. Any person who violates any provision of RCW 69.04.040 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than two hundred dollars; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine. [1945 c 257 § 24; Rem. Supp. 1945 § 6163-73. Prior: 1907 c 211 § 12; 1901 c 94 § 11.]

69.04.070 Additional penalty. Notwithstanding the provisions of RCW 69.04.060, in case of a violation of any provision of RCW 69.04.040, with intent to defraud or mislead, the penalty shall be imprisonment for not more than ninety days, or a fine of not more than one thousand dollars, or both such imprisonment and fine. [1945 c 257 § 25; Rem. Supp. 1945 § 6163-74.]

69.04.080 Avoidance of penalty. No person shall be subject to the penalties of RCW 69.04.060:

(1) For having violated RCW 69.04.040(3), if he establishes that he received and sold such article in good faith, unless he refuses on request of the director to furnish the name and address of the person in the state of Washington from whom he received such article and copies of all available documents pertaining to his receipt thereof; or

(2) For having violated RCW 69.04.040(1), (3), or (4), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such article in good faith, to the effect that such article complies with this chapter; or

(3) For having violated RCW 69.04.040(5), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such advertisement in good faith, to the effect that such advertisement complies with this chapter; or

(4) For having violated RCW 69.04.040(9), if he establishes that he gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him, which guaranty or undertaking was to the same effect and was signed by, and contained the name and address of, a person in the state of Washington. [1945 c 257 § 26; Rem. Supp. 1945 § 6163-75.]

69.04.090 Liability of disseminator of advertisement.

No publisher, radio broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 69.04.060 by reason of his dissemination of any false advertisement, unless he has refused on the request of the director to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency in the state of Washington, who caused him to disseminate such false advertisement. [1945 c 257 § 27; Rem. Supp. 1945 § 6163-76.]

69.04.100 Condemnation of adulterated or misbranded article. Whenever the director shall find in intrastate commerce an article subject to this chapter which is so adulterated or misbranded that it is unfit or unsafe for human use and its immediate condemnation is required to protect the public health, such article is hereby declared to be a nuisance and the director is hereby authorized forthwith to destroy such article or to render it unsalable for human use. [1945 c 257 § 28; Rem. Supp. 1945 § 6163-77.]

69.04.110 Embargo of articles. Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce, which was introduced into such commerce in violation of RCW 69.04.350 or 69.04.570, or which is so adulterated or misbranded as to label, that its embargo under this section is required to protect the consuming or purchasing public from substantial injury, he

is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed. [1945 c 257 § 29; Rem. Supp. 1945 § 6163-78.]

69.04.120 Procedure on embargo. When the director has embargoed an article, he shall, forthwith and without delay in no event later than ten days after the affixing of notice of its embargo, petition the superior court for an order affirming such embargo. Such court shall then have jurisdiction, for cause shown and after prompt hearing to any claimant of such article, to issue an order which directs the removal of such embargo or the destruction or the correction and release of such article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses, as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for bond, as the court finds indicated in the circumstances. [1945 c 257 § 30; Rem. Supp. 1945 § 6163-79.]

69.04.130 Petitions may be consolidated. Two or more petitions under RCW 69.04.120, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant. [1945 c 257 § 31; Rem. Supp. 1945 § 6163-80.]

69.04.140 Claimant entitled to sample. The claimant in any proceeding by petition under RCW 69.04.120 shall be entitled to receive a representative sample of the article subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon. [1945 c 257 § 32; Rem. Supp. 1945 § 6163-81.]

69.04.150 Damages not recoverable if probable cause existed. No state court shall allow the recovery of damages from administrative action for condemnation under RCW 69.04.100 or for embargo under RCW 69.04.110, if the court finds that there was probable cause for such action. [1945 c 257 § 33; Rem. Supp. 1945 § 6163-82.]

69.04.160 Prosecutions. (1) It shall be the duty of each state attorney, county attorney, or city attorney to whom the director reports any violation of this chapter, or regulations promulgated under it, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of this chapter is reported by the director to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate

notice and an opportunity to present his views to the director, either orally or in writing, with regard to such contemplated proceeding. [1945 c 257 § 34; Rem. Supp. 1945 § 6163-83.]

69.04.170 Minor infractions. Nothing in this chapter shall be construed as requiring the director to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1945 c 257 § 35; Rem. Supp. 1945 § 6163-84.]

69.04.180 Proceedings to be in name of state. All such proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the state of Washington. [1945 c 257 § 36; Rem. Supp. 1945 § 6163-85.]

69.04.190 Standards may be prescribed by regulations. Whenever in the judgment of the director such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing any standard of fill of container, consideration shall be given to and due allowance shall be made for product or volume shrinkage or expansion unavoidable in good commercial practice, and need for packing and protective material. In prescribing any standard of quality for any canned fruit or canned vegetable, consideration shall be given to and due allowance shall be made for the differing characteristics of the several varieties thereof. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the director shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. [1945 c 257 § 37; Rem. Supp. 1945 § 6163-86. Prior: 1917 c 168 § 2.]

69.04.200 Conformance with federal standards. The definitions and standards of identity, the standards of quality and fill of container, and the label requirements prescribed by regulations promulgated under this section shall conform, insofar as practicable, with those prescribed by regulations promulgated under section 401 of the federal act and to the definitions and standards promulgated under the meat inspection act approved March 4, 1907, as amended. [1945 c 257 § 38; Rem. Supp. 1945 § 6163-87.]

Reviser's note: The language "this section" appears in 1945 c 257 § 38 but apparently refers to 1945 c 257 § 37 codified as RCW 69.04.190.

69.04.205 Bacon—Packaging at retail to reveal quality and leanness. All packaged bacon other than that packaged in cans shall be offered and exposed for sale and sold, within the state of Washington only at

retail in packages which permit the buyer to readily view the quality and degree of leanness of the product. [1971 c 49 § 1.]

69.04.206 Bacon—Rules, regulations and standards—Withholding packaging use—Hearing—Final determination—Appeal. The director of the department of agriculture is hereby authorized to promulgate rules, regulations, and standards for the implementation of RCW 69.04.205 through 69.04.207. If the director has reason to believe that any packaging method, package, or container in use or proposed for use with respect to the marketing of bacon is false or misleading in any particular, or does not meet the requirements of RCW 69.04.205, he may direct that such use be withheld unless the packaging method, package, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the packaging method, package, or container does not accept the determination of the director such person, firm, or corporation may request a hearing, but the use of the packaging method, package, or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to a court of proper jurisdiction. [1971 c 49 § 2.]

69.04.207 Bacon—Effective date. RCW 69.04.205 through 69.04.207 shall take effect on January 1, 1972. [1971 c 49 § 3.]

69.04.210 Food—Adulteration by poisonous or deleterious substance. A food shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2) (a) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive, or (iii) a color additive) which is unsafe within the meaning of RCW 69.04.390, or (b) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, or (c) if it is, or it bears or contains, any food additive which is unsafe within the meaning of RCW 69.04.394: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under RCW 69.04.392 and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of RCW 69.04.390 and

69.04.394, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) If it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter or which has been fed on the uncooked offal from a slaughterhouse; or

(6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394. [1963 c 198 § 1; 1945 c 257 § 39; Rem. Supp. 1945 § 6163–88. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.220 Food—Adulteration by abstraction, addition, substitution, etc. A food shall be deemed to be adulterated (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is. [1945 c 257 § 40; Rem. Supp. 1945 § 6163–89.]

69.04.231 Food—Adulteration by color additive. A food shall be deemed to be adulterated if it is, or it bears or contains a color additive which is unsafe within the meaning of RCW 69.04.396. [1963 c 198 § 5.]

69.04.240 Confectionery—Adulteration. A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, natural gum, and pectin: *Provided*, That this section shall not apply to any confectionery by reason of its containing less than one-half of one percent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances. [1945 c 257 § 42; Rem. Supp. 1945 § 6163–91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.]

69.04.250 Food—Misbranding by false label, etc. A food shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if it is offered for sale under the name of another food; or (3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; or (4) if its container is so made, formed or filled as to be misleading. [1945 c 257 § 43; Rem. Supp. 1945 § 6163-92. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.260 Packaged food—Misbranding. If a food is in package form, it shall be deemed to be misbranded, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director. [1945 c 257 § 44; Rem. Supp. 1945 § 6163-93.]

69.04.270 Food—Misbranding by lack of prominent label. A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1945 c 257 § 45; Rem. Supp. 1945 § 6163-94.]

69.04.280 Food—Misbranding for nonconformity with standard of identity. If a food purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by RCW 69.04.190, it shall be deemed to be misbranded unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food. [1945 c 257 § 46; Rem. Supp. 1945 § 6163-95.]

69.04.290 Food—Misbranding for nonconformity with standard of quality. If a food purports to be or is represented as a food for which a standard of quality has been prescribed by regulations as provided by RCW 69.04.190, and its quality falls below such standard, it shall be deemed to be misbranded unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard. [1945 c 257 § 47; Rem. Supp. 1945 § 6163-96.]

69.04.300 Food—Misbranding for nonconformity with standard of fill. If a food purports to be or is represented as a food for which a standard or standards of

fill of container have been prescribed by regulations as provided by RCW 69.04.190, and it falls below the standard of fill of container applicable thereto, it shall be deemed to be misbranded unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1945 c 257 § 48; Rem. Supp. 1945 § 6163-97.]

69.04.310 Food—Misbranding by failure to show usual name and ingredients. If a food is not subject to the provisions of RCW 69.04.280, it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: *Provided*, That, to the extent that compliance with the requirements of clause (2) of this section is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director. [1945 c 257 § 49; Rem. Supp. 1945 § 6163-98.]

69.04.315 Halibut—Misbranding by failure to show proper name. No person shall label or offer for sale any food fish product designated as halibut, with or without additional descriptive words unless such food fish product is *Hippoglossus Hippoglossus* or *Hippoglossus Stenolepsis*. Any person violating the provisions of this section shall be guilty of misbranding under the provisions of this chapter. [1967 ex.s. c 79 § 1.]

69.04.320 Food—Misbranding by failure to show dietary properties. If a food purports to be or is represented for special dietary uses, it shall be deemed to be misbranded, unless its label bears such information concerning its vitamin, mineral and other dietary properties as is necessary in order to fully inform purchasers as to its value for such uses, as provided by regulations promulgated by the director, such regulations to conform insofar as practicable with regulations under section 403(j) of the federal act. [1945 c 257 § 50; Rem. Supp. 1945 § 6163-99.]

69.04.330 Food—Misbranding by failure to show artificial flavoring, coloring, etc. If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, it shall be deemed to be misbranded unless it bears labeling stating that fact: *Provided*, That to the extent that compliance with the requirements of this section is impracticable, exemptions shall be established by regulations promulgated by the director. The provisions of this section and of RCW 69.04.280 and 69.04.310, with respect to artificial coloring, shall not apply in the case of butter, cheese, or ice cream. [1945 c 257 § 51; Rem. Supp. 1945 § 6163-100.]

69.04.333 Poultry and poultry products—Label to indicate if product frozen. It shall be unlawful for any person to sell at retail or display for sale at retail any poultry and poultry products, including turkey, which

has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such poultry or poultry product shall be sold unless in such a package or container bearing said label. [1969 ex.s. c 194 § 1.]

Washington wholesome poultry products act: Chapter 16.74 RCW.

69.04.334 Turkeys—Label requirement as to grading. No person shall advertise for sale, sell, offer for sale or hold for sale in intrastate commerce any turkey that does not bear a label. Such label shall be properly displayed on the package if such turkey is prepackaged, or attached to the turkey if not prepackaged. Such label shall, if the turkey has been graded, state the name of the governmental agency, whether federal or state, and the grade. No turkey which has been graded may be labeled as being ungraded. Any advertisement in any media concerning the sale of turkeys shall state or set forth whether a turkey is ungraded or graded and the specific grade if graded. [1969 ex.s. c 194 § 2.]

69.04.335 RCW 69.04.333 and 69.04.334 subject to enforcement and penalty provisions of chapter. The provisions of this chapter shall be applicable to the enforcement of RCW 69.04.333 and 69.04.334 and any person violating the provisions of RCW 69.04.333 and 69.04.334 shall be subject to the applicable civil and criminal penalties for such violations as provided for in this chapter. [1969 ex.s. c 194 § 3.]

69.04.340 Natural vitamin, mineral, or dietary properties need not be shown. Nothing in this chapter shall be construed to require the labeling or advertising to indicate the natural vitamin, natural mineral, or other natural dietary properties of dairy products or other agricultural products when sold as food. [1945 c 257 § 52; Rem. Supp. 1945 § 6163–101.]

69.04.350 Permits to manufacture or process certain foods. Whenever the director finds after investigation that the distribution in intrastate commerce of any class of food may, by reason of contamination with microorganisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered intrastate commerce, he then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into intrastate commerce, any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a

permit issued by the director as provided by such regulations. Insofar as practicable such regulations shall conform with, shall specify the conditions prescribed by, and shall remain in effect only so long as those promulgated under section 404(a) of the federal act. [1945 c 257 § 53; Rem. Supp. 1945 § 6163–102.]

69.04.360 Suspension of permit. The director is authorized to suspend immediately upon notice any permit issued under authority of this section, if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and an inspection of the factory or establishment, reinstate such permit, if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended. [1945 c 257 § 54; Rem. Supp. 1945 § 6163–103.]

Reviser's note: The language "this section" appears in 1945 c 257 § 54 but apparently refers to 1945 c 257 § 53 codified as RCW 69.04.350.

69.04.370 Right of access for inspection. Any officer or employee duly designated by the director shall have access to any factory or establishment, the operator of which holds a permit from the director, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator. [1945 c 257 § 55; Rem. Supp. 1945 § 6163–104.]

69.04.380 Food exempt if in transit for completion purposes. Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 56; Rem. Supp. 1945 § 6163–105.]

69.04.390 Regulations permitting tolerance of harmful matter. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed unsafe for purposes of the application of clause (2)(a) of RCW 69.04.210; but when such substance is so required or cannot be so avoided, the director shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed unsafe for purposes of the application of clause (2)(a) of RCW 69.04.210. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall

not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of RCW 69.04.210. In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. [1963 c 198 § 2; 1945 c 257 § 57; Rem. Supp. 1945 § 6163-106.]

69.04.392 Regulations permitting tolerance of harmful matter—Pesticide chemicals in or on raw agricultural commodities. (1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of clause (2) of RCW 69.04.210 unless:

(a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) hereof and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) hereof.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 408 of the Federal Food, Drug and Cosmetic Act, as of *the effective date of this amendatory act, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero tolerances, to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should

be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical. [1963 c 198 § 3.]

*Reviser's note: "the effective date of this amendatory act", was June 13, 1963, see preface to 1963 session laws.

69.04.394 Regulations permitting tolerance of harmful matter—Food additives. (1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of clause (2)(c) of RCW 69.04.210, unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of *the effective date of this amendatory act, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes; either upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the

director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of man or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data. [1963 c 198 § 4.]

**Reviser's note:* "the effective date of this amendatory act", was June 13, 1963, see preface to 1963 session laws.

69.04.396 Regulations permitting tolerance of harmful matter—Color additives. (1) A color additive shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of RCW 69.04.231, unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of *the effective date of this amendatory act, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: *Provided*, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and

that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of man or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper formation of such color additive so as to result in a finished product safe for use as a color additive. [1963 c 198 § 6.]

**Reviser's note:* "the effective date of this amendatory act", was June 13, 1963, see preface to 1963 session laws.

Food—Adulteration by color additive: RCW 69.04.231.

69.04.400 Conformance with federal regulations. The regulations promulgated under RCW 69.04.390 shall conform, insofar as practicable, with those promulgated under section 406 of the federal act. [1963 c 198 § 7; 1945 c 257 § 58; Rem. Supp. 1945 § 6163-107.]

69.04.410 Drugs—Adulteration by harmful substances. A drug or device shall be deemed to be adulterated (1) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one that is harmless and suitable for use in drugs for such purposes, as provided by regulations promulgated under section 504 of the federal act. [1945

c 257 § 59; Rem. Supp. 1945 § 6163-108. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.420 Drugs—Adulteration for failure to comply with compendium standard. If a drug or device purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, it shall be deemed to be adulterated. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium or prescribed by regulations promulgated under section 501(b) of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia. [1945 c 257 § 60; Rem. Supp. 1945 § 6163-109.]

69.04.430 Drugs—Adulteration for lack of represented purity or quality. If a drug or device is not subject to the provisions of RCW 69.04.420 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess, it shall be deemed to be adulterated. [1945 c 257 § 61; Rem. Supp. 1945 § 6163-110.]

69.04.440 Drugs—Adulteration by admixture or substitution of ingredients. A drug shall be deemed to be adulterated if any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor. [1945 c 257 § 62; Rem. Supp. 1945 § 6163-111.]

69.04.450 Drugs—Misbranding by false labeling. A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular. [1945 c 257 § 63; Rem. Supp. 1945 § 6163-112. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.460 Packaged drugs—Misbranding. If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director. [1945 c 257 § 64; Rem. Supp. 1945 § 6163-113. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.470 Drugs—Misbranding by lack of prominent label. A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [1945 c 257 § 65; Rem. Supp. 1945 § 6163-114. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.480 Drugs—Misbranding for failure to state content of habit forming drug. A drug or device shall be deemed to be misbranded if it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaïne, barbituric acid, beta eucaïne, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming." [1945 c 257 § 66; Rem. Supp. 1945 § 6163-115. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.490 Drugs—Misbranding by failure to show usual name and ingredients. If a drug is not designated solely by a name recognized in an official compendium it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, That to the extent that compliance with the requirements of clause (2) of this section is impracticable, exemptions shall be established by regulations promulgated by the director. [1945 c 257 § 67; Rem. Supp. 1945 § 6163-116. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.500 Drugs—Misbranding by failure to give directions for use and warnings. A drug or device shall be deemed to be misbranded unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: *Provided*, That where any requirement of clause (1) of this section as applied to any drug or device, is not necessary for

the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements. Such regulations shall include the exemptions prescribed under section 502(f)(1) of the federal act, insofar as such exemptions are applicable hereunder. [1945 c 257 § 68; Rem. Supp. 1945 § 6163-117. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.510 Drugs—Misbranding for improper packaging and labeling. A drug or device shall be deemed to be misbranded if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: *Provided*, That the method of packing may be modified with the consent of the director, as permitted under section 502(g) of the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia. [1945 c 257 § 69; Rem. Supp. 1945 § 6163-118. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.520 Drugs—Misbranding for failure to show possibility of deterioration. If a drug or device has been found by the secretary of agriculture of the United States to be a drug liable to deterioration, it shall be deemed to be misbranded unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required in an official compendium or by regulations promulgated under section 502(h) of the federal act for the protection of the public health. [1945 c 257 § 70; Rem. Supp. 1945 § 6163-119. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.530 Drugs—Misbranding by misleading representation. A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug; or (4) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof. [1945 c 257 § 71; Rem. Supp. 1945 § 6163-120. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.540 Drugs—Misbranding by sale without prescription of drug requiring it. A drug or device shall be deemed to be misbranded if it is a drug which by label provides, or which the federal act or any applicable law requires by label to provide, in effect, that it shall be used only upon the prescription of a physician, dentist, or veterinarian, unless it is dispensed at retail on a written prescription signed by a physician, dentist, or veterinarian, who is licensed by law to administer such a drug. [1945 c 257 § 72; Rem. Supp. 1945 § 6163-121. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.550 Drugs exempt if in transit for completion purposes. A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 73; Rem. Supp. 1945 § 6163-122.]

69.04.560 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of RCW 69.04.450 through 69.04.540. [1945 c 257 § 74; Rem. Supp. 1945 § 6163-123.]

69.04.570 Introduction of new drug. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: *Provided*, That the requirement of clause (2) shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act: *Provided further*, That if the director finds that the requirement of clause (2) as applied to any drug or class of drugs, is not necessary for the protection of the public health, he shall promulgate regulations of exemption accordingly. [1945 c 257 § 75; Rem. Supp. 1945 § 6163-124.]

69.04.580 Application for introduction. An application under RCW 69.04.570 shall be filed with the director, and subject to any waiver by the director, shall include (1) full reports of investigations which have been made to show whether or not the drug, subject to the application, is safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in,

and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the director may require; and (6) specimens of the labeling proposed to be used for such drug. [1945 c 257 § 76; Rem. Supp. 1945 § 6163-125.]

69.04.590 Effective date of application. An application filed under RCW 69.04.570 shall become effective on the sixtieth day after the filing thereof, unless the director (1) makes such application effective prior to such day; or (2) issues an order with respect to such application pursuant to RCW 69.04.600. [1945 c 257 § 77; Rem. Supp. 1945 § 6163-126.]

69.04.600 Denial of application. If the director finds, upon the basis of the information before him and after due notice and opportunity for hearing to the applicant, that the drug, subject to the application, is not safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, he shall, prior to such effective date, issue an order refusing to permit such application to become effective and stating the findings upon which it is based. [1945 c 257 § 78; Rem. Supp. 1945 § 6163-127.]

69.04.610 Revocation of denial. An order refusing to permit an application under RCW 69.04.570 to become effective may be suspended or revoked by the director, for cause and by order stating the findings upon which it is based. [1945 c 257 § 79; Rem. Supp. 1945 § 6163-128.]

69.04.620 Service of order of denial. Orders of the director issued under RCW 69.04.600 shall be served (1) in person by a duly authorized representative of the director or (2) by mailing the order by registered mail addressed to the applicant or respondent at his address last known to the director. [1945 c 257 § 80; Rem. Supp. 1945 § 6163-129.]

69.04.630 Drug for investigational use exempt. A drug shall be exempt from the operation of RCW 69.04.570 which is intended, and introduced or delivered for introduction into intrastate commerce, solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs and which is plainly labeled "For investigational use only." [1945 c 257 § 81; Rem. Supp. 1945 § 6163-130.]

69.04.640 Court review of denial. The superior court of Thurston county shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW 69.04.600, upon petition seasonably made by the person to whom the order is addressed and after prompt hearing upon due notice to both parties. [1945 c 257 § 82; Rem. Supp. 1945 § 6163-131.]

69.04.650 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if

(1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the operation of RCW 69.04.570 through 69.04.640. [1945 c 257 § 83; Rem. Supp. 1945 § 6163-132.]

69.04.660 Federally licensed drugs exempt. The provisions of RCW 69.04.570 shall not apply to any drug which is licensed under the federal virus, serum, and toxin act of July 1, 1902; or under the federal virus, serums, toxins, antitoxins, and analogous products act of March 4, 1913. [1945 c 257 § 84; Rem. Supp. 1945 § 6163-133.]

69.04.670 Cosmetics—Adulteration by injurious substances. A cosmetic shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: *Provided*, That this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (5) the term "hair dye" shall not include eyelash dyes or eyebrow dyes; or (2) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (3) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (4) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (5) if it is not a hair dye and it bears or contains a coal tar color other than one that is harmless and suitable for use in cosmetics, as provided by regulations promulgated under section 604 of the federal act. [1945 c 257 § 85; Rem. Supp. 1945 § 6163-134.]

69.04.680 Cosmetics—Misbranding by false label, etc. A cosmetic shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (b) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the director. [1945 c 257 § 86; Rem. Supp. 1945 § 6163-135.]

69.04.690 Cosmetics—Misbranding by lack of prominent label. A cosmetic shall be deemed to be misbranded (1) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or (2) if its container is so made, formed, or filled as to be misleading. [1945 c 257 § 87; Rem. Supp. 1945 § 6163–136.]

69.04.700 Cosmetics exempt if in transit for completion purposes. A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 88; Rem. Supp. 1945 § 6163–137.]

69.04.710 Advertisement, when deemed false. An advertisement of a food, drug, device, or cosmetic shall be deemed to be false, if it is false or misleading in any particular. [1945 c 257 § 89; Rem. Supp. 1945 § 6163–138.]

69.04.720 Advertising of cure of certain diseases deemed false. The advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false; except that no advertisement not in violation of RCW 69.04.710 shall be deemed to be false under this section if it is disseminated only to members of the medical, veterinary, dental, pharmacal, and other legally recognized professions dealing with the healing arts, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: *Provided*, That whenever the director determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interest of public health: *Provided further*, That this section shall not be construed as indicating

that self-medication for diseases other than those named herein is safe or efficacious. [1945 c 257 § 90; Rem. Supp. 1945 § 6163–139.]

69.04.730 Enforcement, where vested—Regulations. The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: *Provided, however*, That the director shall designate the Washington state board of pharmacy to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof. [1945 c 257 § 91 (vetoed); 1947 c 25 (passed notwithstanding veto); Rem. Supp. 1947 § 6163–139a.]

69.04.740 Regulations to conform with federal regulations. The purpose of this chapter being to promote uniformity of state legislation with the federal act, the director is hereby authorized (1) to adopt, insofar as applicable, the regulations from time to time promulgated under the federal act; and (2) to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the federal act. [1945 c 257 § 92; Rem. Supp. 1945 § 6163–140.]

69.04.750 Hearings. Hearings authorized or required by this chapter shall be conducted by the director or his duly authorized representative designated for the purpose. [1945 c 257 § 93; Rem. Supp. 1945 § 6163–141.]

69.04.761 Hearing on proposed regulation—Procedure. The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter 34.04 RCW (Administrative Procedure Act) as now enacted or hereafter amended. [1963 c 198 § 13.]

69.04.770 Review on petition prior to effective date. The director shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW 69.04.760, promulgating a new or amended regulation under this chapter, upon petition made at any time prior to the effective date of such regulation, by any person adversely affected by such order. [1945 c 257 § 95; Rem. Supp. 1945 § 6163–143.]

69.04.780 Investigations—Samples—Right of entry. The director shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this chapter. The director shall have the right (1) to take a sample or specimen of any such article, for examination under this chapter, upon tendering the market price therefor to the person having such article in custody; and (2) to enter any place or establishment within this state, at reasonable times, for the purpose of taking a sample or specimen of any such article, for such examination. [1945 c 257 § 96; Rem. Supp. 1945 § 6163–144.]

69.04.790 Owner may obtain part of sample. Where a sample or specimen of any such article is taken for examination under this chapter the director shall, upon

request, provide a part thereof for examination by any person named on the label of such article, or the owner thereof, or his attorney or agent; except that the director is authorized, by regulation, to make such reasonable exceptions from, and to impose such reasonable terms and conditions relating to, the operation of this section as he finds necessary for the proper administration of the provisions of this chapter. [1945 c 257 § 97; Rem. Supp. 1945 § 6163-145.]

69.04.800 Access to records of other agencies. For the purpose of enforcing the provisions of this chapter, pertinent records of any administrative agency of the state government shall be open to inspection by the director. [1945 c 257 § 98; Rem. Supp. 1945 § 6163-146.]

69.04.810 Access to records of intrastate carriers. For the purpose of enforcing the provisions of this chapter, carriers engaged in intrastate commerce, and persons receiving food, drugs, devices, or cosmetics in intrastate commerce or holding such articles so received, shall, upon the request of the director, permit the director at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and the copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates: *Provided*, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: *Provided further*, That carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers. [1945 c 257 § 99; Rem. Supp. 1945 § 6163-147.]

69.04.820 Right of entry to factories, warehouses, vehicles, etc. For the purpose of enforcing the provisions of this chapter, the director is authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment subject to this chapter, or to enter any vehicle being used to transport or hold food, drugs, devices, or cosmetics in intrastate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements therein. [1945 c 257 § 100; Rem. Supp. 1945 § 6163-148.]

69.04.830 Publication of reports of judgments, orders and decrees. The director may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof. [1945 c 257 § 101; Rem. Supp. 1945 § 6163-149.]

69.04.840 Dissemination of information. The director may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the director, imminent danger to health or gross deception of, or fraud upon, the consumer. Nothing in this section shall be construed to prohibit the director from collecting, reporting, and illustrating the results of his examinations and investigations under this chapter. [1945 c 257 § 102; Rem. Supp. 1945 § 6163-150.]

69.04.845 Severability—1945 c 257. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby. [1945 c 257 § 103; Rem. Supp. 1945 § 6163-151.]

69.04.850 Construction—1945 c 257. This chapter and the regulations promulgated hereunder shall be so interpreted and construed as to effectuate its general purpose to secure uniformity with federal acts and regulations relating to adulterating, misbranding and false advertising of food, drugs, devices, and cosmetics. [1945 c 257 § 104; Rem. Supp. 1945 § 6163-152.]

69.04.860 Effective date of chapter. This chapter shall take effect ninety days after the date of its enactment, and all state laws or parts of laws in conflict with this chapter are then repealed: *Provided*, That the provisions of section 91 shall become effective on the enactment of this chapter, and thereafter the director is hereby authorized to conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this chapter as the director shall direct: *Provided further*, That all other provisions of this chapter to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this chapter. [1945 c 257 § 105; Rem. Supp. 1945 § 6163-153.]

Reviser's note: 1945 c 257 § 91 referred to herein was vetoed by the governor but subsequently reenacted as 1947 c 25 notwithstanding the veto. Section 91 is codified as RCW 69.04.730. For effective date of section 91 see preface 1947 session laws.

69.04.870 Short title. This chapter may be cited as the Uniform Washington Food, Drug, and Cosmetic Act. [1945 c 257 § 1; Rem. Supp. 1945 § 6163-50.]

69.04.900 Perishable packaged food—Pull date labeling—Definitions. For the purpose of RCW 69.04.900 through 69.04.920:

(1) "Perishable packaged food goods" means and includes all foods and beverages, except alcoholic beverages, frozen foods, fresh meat, poultry and fish and a raw agricultural commodity as defined in this chapter, intended for human consumption which are canned, bottled, or packaged other than at the time and point of retail sale, which have a high risk of spoilage within a period of thirty days, and as determined by the director of the department of agriculture by rule and regulation to be perishable.

(2) "Pull date" means the latest date a packaged food product shall be offered for sale to the public.

(3) "Shelf life" means the length of time during which a packaged food product will retain its safe consumption quality if stored under proper temperature conditions.

(4) "Fish" as used in subsection (1) of this section shall mean any water breathing animals, including, but not limited to, shellfish such as lobster, clams, crab, or other mollusca which are prepared, processed, sold, or intended or offered for sale. [1974 1st ex.s. c 57 § 1; 1973 1st ex.s. c 112 § 1.]

69.04.905 Perishable packaged food—Pull date labeling—Required. All perishable packaged food goods with a projected shelf life of thirty days or less, which are offered for sale to the public after January 1, 1974 shall state on the package the pull date. The pull date must be stated in day, and month and be in a style and format that is readily decipherable by consumers: *Provided*, That the director of the department of agriculture may exclude the monthly requirement on the pull date for perishable packaged food goods which have a shelf life of seven days or less. No perishable packaged food goods shall be offered for sale after the pull date, except as provided in RCW 69.04.910. [1974 1st ex.s. c 57 § 2; 1973 1st ex.s. c 112 § 2.]

69.04.910 Perishable packaged food—Pull date labeling—Selling or trading goods beyond pull date—Repackaging to substitute for original date—Exception. No person shall sell, trade or barter any perishable packaged food goods beyond the pull date appearing thereon, nor shall any person rewrap or repackage any packaged perishable food goods with the intention of placing a pull date thereon which is different from the original: *Provided, however*, That those packaged perishable food goods whose pull dates have expired may be sold if they are still wholesome and are without danger to health, and are clearly identified as having passed the pull date. [1973 1st ex.s. c 112 § 3.]

69.04.915 Perishable packaged food—Pull date labeling—Storage—Rules and regulations. The director of the department of agriculture shall by rule and regulation establish uniform standards for pull date labeling, and optimum storage conditions of perishable packaged food goods. In addition to his other duties the director, in consultation with the director of the department of social and health services where appropriate, may promulgate such other rules and regulations as may be necessary to carry out the purposes of RCW 69.04.900 through 69.04.920. [1973 1st ex.s. c 112 § 4.]

69.04.920 Perishable packaged food—Pull date labeling—Penalties. Any person convicted of a violation of RCW 69.04.905 or 69.04.910 shall be punishable by a fine not to exceed five hundred dollars. [1973 1st ex.s. c 112 § 5.]

Chapter 69.06 FOOD AND BEVERAGE ESTABLISHMENT WORKERS' PERMITS

Sections	
69.06.010	Food and beverage service worker's permit—Filing, duration.
69.06.020	Permit exclusive and valid throughout state—Cost.
69.06.030	Diseased persons—May not work—Employer may not hire.
69.06.040	Chapter applies only to certain retail establishments.
69.06.050	Permit to be secured within thirty days from time of employment.
69.06.060	Penalty.

69.06.010 Food and beverage service worker's permit—Filing, duration. It shall be unlawful for any person to be employed in the handling of unwrapped or unpackaged food unless he or she shall furnish and place on file with the person in charge of such establishment, a food and beverage service worker's permit, as prescribed by the state board of health. Such permit shall be kept on file by the employer and open for inspection at all reasonable hours by authorized public health officials. Such permit shall be returned to the employee upon termination of employment. Permits shall be valid for two years from date of issuance, and each employee shall furnish the person in charge of said food handling establishments such permit biennially. [1957 c 197 § 1.]

69.06.020 Permit exclusive and valid throughout state—Cost. The permit provided in RCW 69.06.010 shall be valid in every city, town and county in the state, for the period for which it is issued, and no other health certificate shall be required of such employees by any municipal corporation or political subdivision of the state. The cost of the permit shall be uniform throughout the state and shall be in that amount set by the state board of health, not to exceed two dollars. [1957 c 197 § 2.]

69.06.030 Diseased persons—May not work—Employer may not hire. It shall be unlawful for any person afflicted with any contagious or infectious disease to work in or about any place where unwrapped or unpackaged food and/or beverage products are prepared or sold, or offered for sale for human consumption and it shall be unlawful for any person knowingly to employ a person so afflicted. [1957 c 197 § 3.]

69.06.040 Chapter applies only to certain retail establishments. This chapter shall apply only to retail establishments regularly engaged in the business of food handling or food service. [1957 c 197 § 4.]

69.06.050 Permit to be secured within thirty days from time of employment. Individuals under this chapter shall have thirty days from commencement of employment to secure health permits. [1957 c 197 § 5.]

69.06.060 Penalty. Any violation of the provisions of this chapter shall be a misdemeanor. [1957 c 197 § 6.]

Chapter 69.07

WASHINGTON FOOD PROCESSING ACT

Sections

69.07.010	Definitions.
69.07.020	Enforcement—Rules—Adoption—Contents—Standards.
69.07.040	Food processing license—Expiration date—Application, contents—Fee.
69.07.050	Renewal of license—Additional fee, when.
69.07.060	Denial, suspension or revocation of license—Grounds.
69.07.070	Rules and regulations, hearings subject to Administrative Procedure Act.
69.07.080	Inspections by department—Access—When.
69.07.090	Requirements for plants already in operation—Extension of time for compliance, when.
69.07.100	Establishments exempted from provisions of chapter.
69.07.110	Enforcement of chapter.
69.07.120	Disposition of moneys.
69.07.130	Chapter not to affect existing liabilities.
69.07.140	Violations—Warning notice.
69.07.150	Violations—Penalties.
69.07.160	Authority of director and department under chapter 69.04 RCW not impaired by any provision of chapter 69.07 RCW.
69.07.900	Chapter is cumulative and nonexclusive.
69.07.910	Severability—1967 ex.s. c 121.
69.07.920	Short title.

69.07.010 Definitions. For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department;

(3) "Food" means any substance used for food or drink by man and any ingredient used for components of any such substance regardless of the quantity of such component;

(4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: *Provided*, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for resale or distribution to retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: *Provided*, That retail outlets, as set forth herein, processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail

bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants. [1967 ex.s. c 121 § 1.]

69.07.020 Enforcement—Rules—Adoption—Contents—Standards. (1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods. [1969 c 68 § 1; 1967 ex.s. c 121 § 2.]

69.07.040 Food processing license—Expiration date—Application, contents—Fee. It shall be unlawful for any person to operate a food processing plant or process foods without first having obtained an annual license from the department, which shall expire on the 31st day of March following issuance. A separate license shall be required for each food processing plant. Application for a license shall be on a form prescribed by the director and accompanied by a ten dollar annual license fee. Such application shall include the full name of the applicant for the license and the location of the food processing plant he intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the

director. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof. [1969 c 68 § 2; 1967 ex.s. c 121 § 4.]

69.07.050 Renewal of license—Additional fee, when. If the application for renewal of any license provided for under this chapter is not filed prior to April 1st in any year, an additional fee of five dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: *Provided*, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he has not operated a food processing plant or processed foods subsequent to the expiration of his license. [1967 ex.s. c 121 § 5.]

69.07.060 Denial, suspension or revocation of license—Grounds. The director may, subsequent to a hearing thereon, deny, suspend or revoke any license provided for in this chapter if he determines that an applicant has committed any of the following acts:

(1) Refused, neglected or failed to comply with the provisions of this chapter, the rules and regulations adopted hereunder, or any lawful order of the director.

(2) Refused, neglected or failed to keep and maintain records required by this chapter, or to make such records available when requested pursuant to the provisions of this chapter.

(3) Refused the department access to any portion or area of the food processing plant for the purpose of carrying out the provisions of this chapter.

(4) Refused the department access to any records required to be kept under the provisions of this chapter. [1967 ex.s. c 121 § 6.]

69.07.070 Rules and regulations, hearings subject to Administrative Procedure Act. The adoption of any rules and regulations under the provisions of this chapter, or the holding of a hearing in regard to a license issued or which may be issued under the provisions of this chapter shall be subject to the applicable provisions of chapter 34.04 RCW, the Administrative Procedure Act, as enacted or hereafter amended. [1967 ex.s. c 121 § 7.]

69.07.080 Inspections by department—Access—When. For purpose of determining whether the rules adopted pursuant to RCW 69.07.020, as now or hereafter amended are complied with, the department shall have access for inspection purposes to any part, portion or area of a food processing plant, and any records required to be kept under the provisions of this chapter or rules and regulations adopted hereunder. Such inspection shall, when possible, be made during regular business hours or during any working shift of said food processing plant. The department may, however, inspect such food processing plant at any time when it has received information that an emergency affecting the public health has arisen and such food processing plant

is or may be involved in the matters causing such emergency. [1969 c 68 § 3; 1967 ex.s. c 121 § 8.]

69.07.090 Requirements for plants already in operation—Extension of time for compliance, when. Any food processing plant in actual operation at the time of July 30, 1967 or any seasonal food processing plant which has operated during any portion of the twelve months immediately preceding July 30, 1967, shall be granted a license, upon application and payment of the proper license fee, subject to meeting those immediate and absolute minimum requirements in this chapter or rules or regulations promulgated thereunder for the protection of the public health. The department may, however, grant such food processing plant such additional time as may be reasonably necessary, to allow for major renovations, improvements, or additions to said food processing plant, as required to meet the provisions of this chapter or rules and regulations adopted hereunder: *Provided*, That such extension of time shall not apply to the mandatory use of indicating and recording thermometers on retorts or other facilities or equipment used to process food under temperature changes. [1967 ex.s. c 121 § 9.]

69.07.100 Establishments exempted from provisions of chapter. The provisions of this chapter shall not apply to establishments issued a permit or licensed under the provisions of:

(1) Chapter 15.32 RCW, the Dairies and dairy products act;

(2) Chapter 69.12 RCW, the Bakeries and bakery products act;

(3) Chapter 69.16 RCW, the Macaroni and macaroni products act;

(4) Chapter 69.20 RCW, the Confections act;

(5) Chapter 69.24 RCW, the Egg and egg products act;

(6) Chapter 69.28 RCW, the Washington state honey act;

(7) Chapter 16.49 RCW, the Meat inspection act;

(8) Title 66 RCW, relating to alcoholic beverage control; and

(9) Chapter 69.30 RCW, the Sanitary control of shellfish act: *Provided*, That if any such establishments process foods not specifically provided for in the above entitled acts, such establishments shall be subject to the provisions of this chapter.

The provisions of this chapter shall not apply to restaurants or food service establishments. [1967 ex.s. c 121 § 10.]

69.07.110 Enforcement of chapter. The department may use all the civil remedies provided for in chapter 69.04 RCW (The Uniform Washington Food, Drug, and Cosmetic Act) in carrying out and enforcing the provisions of this chapter. [1967 ex.s. c 121 § 11.]

69.07.120 Disposition of moneys. All moneys received by the department under the provisions of this chapter shall be paid into the state treasury. [1967 ex.s. c 121 § 12.]

69.07.130 Chapter not to affect existing liabilities. The enactment of this chapter shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on July 30, 1967. [1967 ex.s. c 121 § 13.]

69.07.140 Violations—Warning notice. Nothing in this chapter shall be construed as requiring the department to report for prosecution violations of this chapter when it believes that the public interest will best be served by a suitable notice of warning in writing. [1967 ex.s. c 121 § 14.]

69.07.150 Violations—Penalties. Any person violating any provision of this chapter or any rule or regulation adopted hereunder shall be guilty of a misdemeanor and guilty of a gross misdemeanor for any second and subsequent violation: *Provided*, That any offense committed more than five years after a previous conviction shall be considered a first offense. [1967 ex.s. c 121 § 15.]

69.07.160 Authority of director and department under chapter 69.04 RCW not impaired by any provision of chapter 69.07 RCW. The authority granted to the director and to the department under the provisions of the Uniform Washington Food, Drug, and Cosmetic Act (chapter 69.04 RCW), as now or hereafter amended, shall not be deemed to be reduced or otherwise impaired as a result of any provision or provisions of the Washington Food Processing Act (chapter 69.07 RCW). [1969 c 68 § 4.]

69.07.900 Chapter is cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy. [1967 ex.s. c 121 § 16.]

69.07.910 Severability—1967 ex.s. c 121. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1967 ex.s. c 121 § 17.]

69.07.920 Short title. This chapter shall be known and designated as the Washington food processing act. [1967 ex.s. c 121 § 18.]

Chapter 69.08

FLOUR, WHITE BREAD, AND ROLLS

Sections

69.08.010	Definitions.
69.08.020	Director, duty to enforce.
69.08.030	Flour—Content requirements.
69.08.040	Bread and rolls—Content requirements.
69.08.045	Specialty breads or rolls, macaroni or macaroni products, enriched white flour required—Exemptions.
69.08.050	Intrastate and interstate standards to conform.
69.08.060	Shortage of ingredients—Procedure.
69.08.070	Regulations, how and where kept—Copies for distribution.
69.08.080	Right of entry, to take samples, etc.
69.08.090	Penalty.

Grist mills: Chapter 19.44 RCW.

Weights and measures, bread: RCW 19.92.100–1992.120.

69.08.010 Definitions. When used in this chapter, unless the context otherwise requires:

(1) "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as (a) white flour, also known as wheat flour or plain flour; (b) bromated flour; (c) self-rising flour, also known as self-rising white flour or self-rising wheat flour, and (d) phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour;

(2) "White bread" means any bread made with flour, as defined in (1), whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including Vienna bread, French bread, and Italian bread;

(3) "Specialty breads" shall mean any yeast-raised bread, such as potato bread, raisin bread or egg sesame bread other than that bread defined in subsection (2) above;

(4) "Rolls" includes plain white rolls and buns of the semibread dough type, namely: soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls, and hard rolls, such as Vienna rolls, Kaiser rolls, but shall not include yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls;

(5) "Specialty rolls" shall mean any sweet rolls or sweet buns, including those made with fillings or coatings, such as cinnamon rolls or buns, butterfly rolls, doughnuts, and English muffins, other than those rolls defined in subsection (4) above;

(6) "Director" means the director of the state department of agriculture of the state of Washington;

(7) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, or any group of persons whether incorporated or not, engaged in the commercial manufacture or sale of flour, white bread or rolls. [1971 c 27 § 1; 1945 c 192 § 1; Rem. Supp. 1945 § 6294–160.]

69.08.020 Director, duty to enforce. The director is hereby charged with the duty of enforcing the provisions of this chapter and he is hereby authorized and directed to make, amend or rescind regulations for the efficient enforcement of this chapter. [1945 c 192 § 4; Rem. Supp. 1945 § 6294–163.]

69.08.030 Flour—Content requirements. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour, as defined in RCW 69.08.010, unless the following vitamins and minerals are contained in each pound of such flour; not less than 2.0 mg and not more than 2.5 mg of thiamine; not less than 1.2 mg and not more than 1.5 mg of riboflavin; not less than 16.0 mg and not more than 20.0 mg of niacin or niacin-amide; not less than 13.0 mg and not more than 16.5 mg of iron (Fe); except in the case of self-rising flour which in addition to the above ingredients shall contain not less

[than] 500 mg and not more than 1500 mg of calcium (Ca): *Provided, however*, That the terms of this section shall not apply to flour sold to distributors, bakers or other processors, if the purchaser furnishes to the seller a certificate in such form as the director shall by regulation prescribe, certifying that such flour will be (1) resold to a distributor, baker or other processor, or (2) used in the manufacture, mixing or compounding of flour, white bread or rolls enriched to meet the requirements of this chapter, or (3) used in the manufacture of products other than flour, white bread or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate to use or resell the flour so purchased in any manner other than as prescribed in this section. [1945 c 192 § 2; Rem. Supp. 1945 § 6294-161.]

69.08.040 Bread and rolls—Content requirements. It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, for human consumption in this state, any white bread or rolls as defined in RCW 69.08.010, unless the following vitamins and minerals are contained in each pound of such bread or rolls: Not less than 1.1 mg and not more than 1.8 mg of thiamine; not less than 0.7 mg and not more than 1.6 mg of riboflavin; not less than 10.0 mg and not more than 15.0 mg of niacin; not less than 8.0 mg and not more than 12.5 mg of iron (Fe). [1945 c 192 § 3; Rem. Supp. 1945 § 6294-162.]

69.08.045 Specialty breads or rolls, macaroni or macaroni products, enriched white flour required—Exemptions. It shall be unlawful for any person to manufacture, bake, sell, or offer for sale for human consumption in this state, any specialty breads, or specialty rolls as defined in RCW 69.08.010 or macaroni or macaroni products as defined in RCW 69.16.020 without using enriched white flour in the baking thereof: *Provided, however*, That those products which contain one hundred percent whole wheat or graham flour are exempted from the requirements of this section. [1971 c 27 § 2.]

69.08.050 Intrastate and interstate standards to conform. Whenever the vitamin and mineral requirements set forth in RCW 69.08.030 and 69.08.040 are no longer in conformity with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the director, in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this chapter, is authorized and directed to modify or revise such requirements to conform with amended standards governing interstate shipments. [1945 c 192 § 5; Rem. Supp. 1945 § 6294-164.]

69.08.060 Shortage of ingredients—Procedure. In the event of findings by the director that there is an existing or imminent shortage of any ingredient required by RCW 69.08.030 and 69.08.040, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of

this chapter, the director shall issue a regulation, to be effective immediately upon issuance, permitting the omission of such ingredient from flour or white bread or rolls; and if he finds it necessary or appropriate, excepting such foods from labeling requirements until the further regulation of the director. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such regulation of the appropriate federal agency or factual information supplied by it, the director on his own motion may, and upon receiving the sworn statements of ten or more persons subject to this chapter that they believe such a shortage exists or is imminent shall, within twenty days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The director shall publish notice of any such hearing at least ten days prior thereto. Whenever the director has reason to believe that such shortage no longer exists, he shall hold a public hearing, after at least ten days' notice shall have been given, at which any interested person may present evidence, and he shall make findings based upon the evidence so presented. If his findings be that such shortage no longer exists, he shall issue a regulation to become effective not less than thirty days after publication thereof, revoking such previous regulation: *Provided, however*, That undisposed flour stocks of flour on hand at the effective date, of such revocation regulation, or flour manufactured prior to such effective date, for sale in this state may thereafter be lawfully sold or disposed of. [1945 c 192 § 6; Rem. Supp. 1945 § 6294-165.]

69.08.070 Regulations, how and where kept—Copies for distribution. All regulations adopted by the director pursuant to this chapter shall be kept in a well bound book in the office of the director and shall become effective upon such date as the director shall fix. Printed copies of such regulations shall be made available for public distribution. [1945 c 192 § 7; Rem. Supp. 1945 § 6294-166.]

69.08.080 Right of entry, to take samples, etc. For the purpose of this chapter, the director, or such officers or employees under his supervision as he may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop or establishment where flour, white bread or rolls are manufactured, processed, packed, sold or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread or rolls therein, and all pertinent equipment, materials, containers and labeling. [1945 c 192 § 8; Rem. Supp. 1945 § 6294-167.]

69.08.090 Penalty. Any person who violates any of the provisions of this chapter or the orders, rules or regulations promulgated by the director under authority thereof, shall upon conviction thereof be subjected to fine for each and every offense, in a sum not exceeding

one thousand dollars, or to imprisonment, not to exceed ninety days. [1945 c 192 § 9; Rem. Supp. 1945 § 6294-168.]

Chapter 69.11
BAKERIES AND BAKERY PRODUCTS—1903
ACT

Sections

69.11.010	Bakeries—Sanitary conditions.
69.11.020	Lavatories, etc., apart from bake room.
69.11.030	Bake room—Size—Plastering, etc.
69.11.040	Flour and meal products, how kept.
69.11.050	Products to be kept separate from sleeping rooms.
69.11.060	Inspection—Certificate to owner.
69.11.070	Order to alter, service of notice of.
69.11.080	Employment of diseased persons prohibited.
69.11.090	Persons under sixteen—Work hours for.
69.11.100	Penalty.

Reviser's note: "Director of agriculture" has been substituted for "commissioner of labor" throughout this chapter since the powers and duties of the commissioner have devolved upon the director of agriculture through a chain of statutes as follows: 1913 c 60 § 6(7); 1921 c 7 § 93(2). See RCW 43.23.090.

69.11.010 Bakeries—Sanitary conditions. All buildings or rooms occupied as biscuit, bread or cake bakeries shall be drained or plumbed in a manner conducive to the proper healthful and sanitary condition thereof, and constructed with air shafts and windows or ventilating pipes sufficient to insure ventilation as the director of agriculture shall direct and no cellar or basement not used as a bakery on the thirtieth day of January 1919 shall thereafter be used and occupied as a bakery and a cellar or basement theretofore occupied as a bakery shall, when once closed, not be reopened for use as a bakery. [1919 c 206 § 1; 1903 c 135 § 1; RRS § 6285. Formerly RCW 69.12.130.]

69.11.020 Lavatories, etc., apart from bake room. Every such bakery shall be provided with a proper washroom and water closet, or closets, apart from the bake room or rooms where the manufacturing of such products is conducted; and no water closet, earth closet, privy or ash pit shall be within or communicate directly with a bake shop. [1903 c 135 § 2; RRS § 6286. Formerly RCW 69.12.140.]

69.11.030 Bake room—Size—Plastering, etc. Every room used for the manufacture of flour or meal food shall be at least eight feet in height, the side walls of such room shall be plastered or wainscoted, the ceiling plastered or ceiled with lumber or metal, and if required by the director of agriculture, shall be whitewashed at least once in three months; the furniture and utensils of such room shall be so arranged as to be easily moved in order that the furniture and floor may at all times be kept in proper healthful sanitary condition. [1903 c 135 § 3; RRS § 6287. Formerly RCW 69.12.150.]

69.11.040 Flour and meal products, how kept. The manufactured flour or meal food products shall be kept in perfectly dry and airy rooms, so arranged that the floors, shelves and all other facilities for storing the

same can be easily and perfectly cleaned. [1903 c 135 § 4; RRS § 6288. Formerly RCW 69.12.160.]

69.11.050 Products to be kept separate from sleeping rooms. The sleeping places for persons employed in a bakery shall be kept separate from the room or rooms where flour or meal food products are manufactured or stored. [1903 c 135 § 5; RRS § 6289. Formerly RCW 69.12.170.]

69.11.060 Inspection—Certificate to owner. After an inspection of a bakery has been made by the director of agriculture and it is found to conform to the provisions of this chapter, said director shall issue a certificate to the owner or operator of such bakery, that it is conducted in compliance with all the provisions of this chapter, but where orders are issued by said director to improve the condition of a bakery, no such certificate shall be issued until such order and the provisions of this chapter have been complied with. [1903 c 135 § 6; RRS § 6290.]

69.11.070 Order to alter, service of notice of. The owner, agent or lessee of any property affected by the provisions of this chapter, shall, within thirty days after the service of notice upon him, of an order issued by the director of agriculture requiring any alterations to be made in or upon such premises, comply therewith, or cease to use or allow the use of such premises as a bakeshop; such notice shall be in writing and may be served upon such owner, agent, or lessee, either personally or by mail, and a notice by registered letter, postage prepaid, mailed to the last known address of such owner, agent, or lessee shall be deemed sufficient for the purposes of this chapter. [1903 c 135 § 6; RRS § 6291.]

69.11.080 Employment of diseased persons prohibited. No employer shall require, permit or suffer any person to work in his bakeshop who is affected with tuberculosis, or with scrofulous diseases, or with any venereal disease or with any communicable skin affection or contagious disease and no person so affected shall work or remain in a bakeshop. Every employer is hereby required to maintain himself and his employees in a clean and sanitary condition while engaged in the manufacture, handling or sale of such food products. [1903 c 135 § 8; RRS § 6292.]

69.11.090 Persons under sixteen—Work hours for. No employer shall require, permit or suffer any person under sixteen years of age to work in his bakeshop between the hours of eight o'clock in the evening and five o'clock in the morning. [1903 c 135 § 9; RRS § 6293. Formerly RCW 49.28.090, part.]

69.11.100 Penalty. Any person who violates the provisions of this chapter or refuses to comply with the requirements of the director of agriculture, as provided herein, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be fined not less than twenty-five nor more than fifty dollars or imprisoned not more than ten days

for the first offense; and shall be fined not less than fifty nor more than one hundred dollars and imprisoned not less than ten nor more than thirty days for each offense after the first. [1903 c 135 § 10; RRS § 6294. Formerly RCW 49.28.090, part and 69.12.180.]

Chapter 69.12
BAKERIES AND BAKERY PRODUCTS—1937
ACT

Sections

69.12.010	Declaration of policy.
69.12.020	Definitions.
69.12.030	Bakery license—Application.
69.12.040	Distributor's license—Application.
69.12.050	License fees—Expiration date—Nontransferability.
69.12.060	Revocation or suspension of license.
69.12.070	Diseased persons barred—Health certificates.
69.12.080	Inspection of premises and vehicles.
69.12.090	Sales on consignment—Rebates and return of products prohibited.
69.12.100	Statement of prices, terms, etc.—Filing and posting.
69.12.110	Subpoenas and taking testimony.
69.12.120	Penalty.

Weights and measures, bread: RCW 19.92.100–19.92.120.

69.12.010 Declaration of policy. This chapter is in exercise of the police powers of the state for the protection of the safety, health and welfare of the people of the state. It hereby is found and declared that the public welfare requires control and regulation of the manufacture and distribution of bread and other bakery products and of persons engaged therein, in order that there may be prevented or eliminated unsanitary, unhealthful, fraudulent, and unfair or uneconomic practices and conditions in connection with such manufacture or distribution which endanger public health, defraud consumers, jeopardize the public source and supply of a nourishing, healthful food, and seriously affect adversely a large and essential industry. It is further found and declared that the regulation of the commercial manufacture and distribution of bakery products as in this chapter provided is in the interest of the economic and social well-being and the health and safety of the state and all of its people. [1937 c 137 § 1; RRS § 6284-1.]

Severability—1937 c 137: "If any clause, sentence, paragraph, section or part of this act shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered." [1937 c 137 § 12.] This applies to RCW 69.12.010–69.12.120.

69.12.020 Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be defined as follows:

(1) "Bakery" means any place, premises or establishment where any bakery product is regularly prepared, processed or manufactured for sale other than for consumption on the premises where originally prepared, processed or manufactured.

(2) "Bakery product" includes bread, rolls, cakes, pies, cookies, doughnuts, biscuits and all similar goods, to be used for human food.

(3) "Person" includes an individual, partnership or corporation. [1937 c 137 § 2; RRS § 6284-2.]

69.12.030 Bakery license—Application. No person shall operate or participate in the operation of any bakery within this state without having obtained from the director of agriculture a bakery license for that bakery issued and in effect under this chapter. Application for such license shall be made in writing and under oath to the director of agriculture, on such forms and with such pertinent information as he shall require. Such license shall be granted as a matter of right unless conditions exist which are grounds for a cancellation or revocation of a license as hereinafter set forth. [1937 c 137 § 3; RRS § 6284-3.]

69.12.040 Distributor's license—Application. No person hereafter shall engage within this state in the sale or distribution of any bakery product, other than exclusively at retail at a fixed place or places of business, without holding a license to do so issued to that person by the director of agriculture. A distributor's license shall not be required of any person distributing solely bakery products manufactured by him in a bakery licensed under this chapter. Application for such license shall be filed in writing and under oath with the director of agriculture upon such form as shall be prescribed and supplied by him. [1937 c 137 § 4; RRS § 6284-4.]

69.12.050 License fees—Expiration date—Non-transferability. (1) There shall be paid to the director of agriculture with each application for a bakery license or distributor's license or for renewal of such license an annual license fee of five dollars. All such license and renewal fees shall be deposited in the state's general fund.

(2) Each such license shall expire on December 31st following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the director of agriculture the old license certificate and paying the required annual license fee. Such license shall not be transferable to any person or be applicable to any location other than that for which originally issued. [1967 c 240 § 44; 1937 c 137 § 5; RRS § 6284-5.]

Severability—1967 c 240: See note following RCW 43.23.010.

Bakery license fund abolished and funds transferred to state general fund. See 1967 c 240 §§ 47, 48.

69.12.060 Revocation or suspension of license. (1) The director of agriculture may cancel or suspend any such license if he finds after proper investigation that (a) the licensee has violated any provisions of this chapter or of any other law of this state relating to the operations of bakeries or the manufacture or handling of any bakery product, or any regulation effective thereunder or (b) the licensed bakery premises or any equipment used therein or in connection therewith is in an unsanitary condition and the licensee has failed or refused to remedy the same within ten days after receipt from the director of written notice to do so.

(2) No license shall be revoked or suspended by the director without delivery to the licensee of a written statement of the charge involved and an opportunity to answer such charge within ten days from the date of such notice.

(3) Any order made by the director suspending or revoking any license may be reviewed by certiorari in the superior court of the county in which the licensee is located within ten days of the date notice in writing of the director's order revoking or suspending such license has been served upon him. [1937 c 137 § 6; 1903 c 135 § 7; RRS § 6284-6.]

69.12.070 Diseased persons barred—Health certificates. (1) No person afflicted with any contagious or infectious disease shall work or be permitted to work or be employed in any bakery.

(2) No person shall work or be permitted to work in any bakery in storing, preparing, mixing or handling any bakery product or any ingredient thereof without holding a certificate from a physician, duly accredited for that purpose by the state board of health, certifying that such person has been examined and found free from any contagious or infectious disease. The state board of health may fix a maximum fee, not exceeding one dollar, which may be charged by a physician for such examination. Such certificate shall be effective for a period of six months and thereafter must be renewed following proper physical examination as aforesaid. Where such certificate is required and provided under municipal ordinance upon examination deemed adequate by the state board of health, certificates issued thereunder shall be sufficient under this chapter.

(3) Any such certificate shall be revoked by the state board of health at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in a bakery to submit to proper and reasonable physical examination upon written demand of the state board of health or the director of agriculture shall be cause for revocation of that person's health certificate. [1937 c 137 § 7; 1903 c 135 § 8; RRS § 6284-7.]

69.12.080 Inspection of premises and vehicles. The state director of agriculture shall cause to be made periodically a thorough inspection of each licensed bakery to determine whether or not the premises are constructed, equipped and operated in accordance with the requirements of this chapter and of all other laws of this state relating to bakeries or bakery products and all regulations effective thereunder. Such inspection shall also be made of each vehicle used by a bakery or distributor licensed under this chapter in transporting or distributing any bakery products within this state. The director shall employ no person as inspector who is a member or employee of a bakery or bakery operators' association or who is interested in any bakery or such association. [1939 c 44 § 1; 1937 c 137 § 8; 1903 c 135 § 6; RRS § 6284-8.]

69.12.090 Sales on consignment—Rebates and return of products prohibited. No baker, or other seller or distributor of bakery products, his agents or employees, shall deliver bakery products on consignment or otherwise than pursuant to a bona fide sale of such products; or give any refund, credit, exchange, discount, gift, or allowance, for or in connection with the sale or delivery of bakery products; or resume possession or accept the return of any bakery product. No purchaser of bakery products shall accept delivery of such products on consignment or otherwise than pursuant to a bona fide sale of such products; or return any bakery product to any seller thereof; or accept any refund, credit, exchange, discount, gift, or allowance for or in connection with the purchase or delivery of bakery products. This paragraph shall not be construed to prohibit such discounts as are based upon quantities, cash payments, or reasonable customer classification, and which are openly published and equally available to all who fall within their terms. [1945 c 169 § 1 (adding to 1937 c 137 a new section, § 8(a)); Rem. Supp. 1945 § 6284-8(a).]

69.12.100 Statement of prices, terms, etc.—Filing and posting. (1) Each person hereafter operating a bakery or operating as a bakery distributor, shall file with the director of agriculture in duplicate and in writing and under oath a statement of all prices, discounts, rebates, allowances and other terms or conditions of sale or payment, thereafter by him to be quoted, offered, charged, made or allowed upon each kind of bakery product offered by him for sale in this state, and shall keep a true and complete copy of said statement posted conspicuously at each of his places of such business within this state, or upon each vehicle used in distribution of bakery products if no fixed place of business is maintained. Such statement may be revised or added to by filing with the director of agriculture a supplementary written statement in duplicate and under oath, the revision or addition to become effective no sooner than ten days after its receipt by the director of agriculture.

(2) On and after fifteen days after the effective date of this chapter no such person shall sell or display or offer for sale within this state any bakery product the price and terms and conditions of sale of which shall not have been filed and posted as aforesaid, nor any price or upon any term or condition or with any rebate, discount or allowance, other than the applicable price, term, condition, rebate, discount or allowance specified for that type of bakery product in the statement of that person then on file with the director of agriculture and posted as aforesaid. [1937 c 137 § 9; RRS § 6284-9.]

69.12.110 Subpoenas and taking testimony. In any proceeding under this chapter the director of agriculture may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the state of Washington. [1937 c 137 § 10; RRS § 6284-10.]

69.12.120 Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense. [1937 c 137 § 11; RRS § 6284-11.]

Chapter 69.16
MACARONI AND MACARONI PRODUCTS

Sections

- 69.16.010 Declaration of policy.
- 69.16.015 Definitions.
- 69.16.020 "Macaroni products" defined.
- 69.16.021 "Macaroni factory" defined.
- 69.16.022 "Person" defined.
- 69.16.023 "Distributor" defined.
- 69.16.030 Factory permit—Application.
- 69.16.040 Distributor's permit—Application.
- 69.16.050 Permit fees—Use of funds.
- 69.16.060 Expiration date—Renewal—Nontransferability—
Change of owner.
- 69.16.070 Permit—Revocation or suspension.
- 69.16.080 Revocation or suspension—Hearing.
- 69.16.090 Appeal.
- 69.16.100 Service of papers.
- 69.16.110 Work by diseased persons prohibited.
- 69.16.115 Food and beverage service worker's permit required.
- 69.16.120 Food and beverage service worker's permit required—
Revocation—Refusal to furnish evidence of freedom
from disease.
- 69.16.130 Inspection of factories and vehicles.
- 69.16.140 Statement of prices, terms, etc.
- 69.16.150 Unlawful to sell without statement.
- 69.16.160 Specific unlawful acts.
- 69.16.170 Penalty.
- 69.16.900 Severability—1939 c 190.

*Macaroni or macaroni products, enriched white flour required—
Exemptions: RCW 69.08.045.*

69.16.010 Declaration of policy. This chapter is in exercise of the police powers of the state for the protection of the safety, health and welfare of the people of the state; it is hereby found and declared that the public welfare requires control and regulation of the manufacture and distribution of macaroni, noodles and related products and of persons engaged therein, in order that there may be prevented or eliminated insanitary, unhealthful, fraudulent, unfair or uneconomic practices and conditions in connection with such manufacture or distribution which endanger public health, defraud consumers, and jeopardize the public source and supply of a nourishing, healthful food. It is further found and declared that the regulation of the commercial manufacture and distribution of macaroni, noodles and related products as provided by this chapter is in the interest of the economic and social well-being and the health and safety of the state and its people, and is a necessary subject for immediate general legislation operating uniformly throughout the state. [1939 c 190 § 1; RRS § 6294-101.]

69.16.015 Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be interpreted and construed as defined herein. [1939 c 190 § 2; RRS § 6294-102.]

69.16.020 "Macaroni products" defined. "Macaroni products" shall mean and include macaroni, spaghetti, vermicelli, noodles and all related products in whatever form or style the same may be prepared. [1939 c 190 § 3; RRS § 6294-103. FORMER PART OF SECTION: 1939 c 190 §§ 4 and 6 now codified as RCW 69.16.021 and 69.16.023.]

69.16.021 "Macaroni factory" defined. "Macaroni factory" shall mean any place, premises or establishment where any macaroni products are regularly prepared, processed or manufactured for sale rather than for consumption on such premises. [1939 c 190 § 4; RRS § 6294-104. Formerly RCW 69.16.020, part.]

69.16.022 "Person" defined. "Person" shall include an individual, partnership, corporation, association or club. [1939 c 190 § 5; RRS § 6294-105.]

69.16.023 "Distributor" defined. "Distributor" shall mean any person engaged within this state in the sale or distribution of any macaroni product by some method other than exclusively at retail at a fixed place or places of business, but shall not include any person distributing or selling macaroni products manufactured in a macaroni factory licensed under this chapter. [1939 c 190 § 6; RRS § 6294-106. Formerly RCW 69.16.020, part.]

69.16.030 Factory permit—Application. No person shall operate, or participate in the management and operation of any macaroni factory within this state without a macaroni factory permit therefor, under the provisions of this chapter. Application for such permit shall be made in writing and under oath to the director of agriculture, upon such forms and with such pertinent information as he shall require. [1939 c 190 § 7; RRS § 6294-107.]

69.16.040 Distributor's permit—Application. No person shall engage within this state in the business of distributor without a permit to do so. Application for such permit shall be made in writing and under oath to the director of agriculture upon such form as shall be prescribed and supplied by him. [1939 c 190 § 8; RRS § 6294-108.]

69.16.050 Permit fees—Use of funds. There shall be paid to the director of agriculture with each application for a macaroni factory permit or distributor's permit or for renewal of such permit an annual fee of twenty-five dollars. All such permit and renewal fees shall be deposited in the state's general fund. [1967 c 240 § 45; 1939 c 190 § 9; RRS § 6294-109.]

Severability—1967 c 240: See note following RCW 43.23.010.

Macaroni license fund abolished and funds transferred to state general fund. See 1967 c 240 §§ 47, 48.

69.16.060 Expiration date—Renewal—Non-transferability—Change of owner. Each permit provided in this chapter shall expire on December 31st, following its date of issue, unless sooner revoked for cause. Renewal thereof may be obtained from the director by surrendering the previous year's permit and paying the permit fee. No permit shall be transferable nor shall it be applicable to any location other than that for which it was originally issued. Upon change of ownership or management of any macaroni factory the new owner or manager before assuming control shall

notify the director of agriculture of the change in writing and obtain a new permit covering that establishment. [1939 c 190 § 10; RRS § 6294-110.]

69.16.070 Permit—Revocation or suspension. The director of agriculture may cancel or suspend any permit provided in this chapter if upon investigation he determines (1) that the permittee has violated any provision of this chapter or of any other law of this state relating to the operation of factories for the manufacture or handling of any macaroni product, or any regulation effective thereunder; or (2) that the factory premises or any equipment of the permittee used therein or in connection therewith is in an insanitary condition and that the permittee has failed or refused to remedy such condition within ten days after written notice to do so from the director. [1939 c 190 § 11; RRS § 6294-111.]

69.16.080 Revocation or suspension—Hearing. No permit shall be revoked or suspended by the director until after a written statement of the grounds therefor has been served upon the permittee and he is given at least ten days within which to answer such charge. For the purpose of making an investigation or of conducting a hearing with reference to such proposed revocation or suspension, the director of agriculture shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas and compel the attendance of witnesses and the production of books, papers, documents and testimony. [1939 c 190 § 12; RRS § 6294-112.]

69.16.090 Appeal. Within thirty days after an order revoking or suspending a permit is made by the director of agriculture any party aggrieved thereby may appeal to the superior court of the county of his residence in this state. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail or personally on the director of agriculture. The director shall, within twenty days after receipt of such notice of appeal, serve and file notice of appearance and such appeal shall thereupon be deemed at issue. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No bond shall be required on such appeal but such appeal shall not stay proceedings before the director. The trial of said issues shall be by the court, and an appeal shall lie from its judgment as in other civil cases. [1939 c 190 § 13; RRS § 6294-113.]

69.16.100 Service of papers. Service as required in this chapter may be made by registered mail, return receipt requested, addressed to the permittee at the address given by him in his most recently filed application for a permit. [1939 c 190 § 14; RRS § 6294-114.]

69.16.110 Work by diseased persons prohibited. No person afflicted with any contagious or infectious disease shall work or be permitted to work or be employed in any macaroni factory. [1939 c 190 § 15; RRS §

6294-115. FORMER PART OF SECTION: 1939 c 190 § 16 now codified as RCW 69.16.115.]

69.16.115 Food and beverage service worker's permit required. No person shall work or be permitted to work in any macaroni factory in storing, preparing, mixing, or handling any macaroni product or any ingredient thereof without holding a food and beverage service worker's permit as prescribed by the state board of health as provided for in RCW 69.06.010. These permits shall be further subject to the provisions of RCW 69.06.020, 69.06.050 and 69.06.060. [1961 c 30 § 1; 1939 c 190 § 16; RRS § 6294-116. Formerly RCW 69.16.110, part.]

69.16.120 Food and beverage service worker's permit required—Revocation—Refusal to furnish evidence of freedom from disease. Any food and beverage service worker's permit shall be revoked in accordance with procedures prescribed by the state board of health at any time the holder thereof is found to be afflicted with any communicable or infectious disease. Refusal of any person employed in a macaroni factory to furnish evidence of freedom from any communicable or infectious disease upon proper demand by the state board of health or a local health officer shall be cause for revocation of that person's food and beverage service worker's permit. [1961 c 30 § 2; 1939 c 190 § 17; RRS § 6294-117.]

69.16.130 Inspection of factories and vehicles. The director of agriculture shall have the right to inspect any macaroni factory for which a permit has been issued under this chapter to determine whether or not the premises are constructed, equipped and operated in accordance with the requirements of this chapter and of all other laws of this state applicable either to macaroni factories or macaroni products, and of all regulations effective thereunder. Such inspection shall also be made of each vehicle used by a macaroni factory or distributor holding a permit under this chapter in transporting or distributing any macaroni products within this state. [1939 c 190 § 18; RRS § 6294-118.]

69.16.140 Statement of prices, terms, etc. Each person hereafter operating a macaroni factory or operating as a distributor, shall file with the director of agriculture in duplicate and under oath a written statement of all prices, discounts, rebates, allowances and other terms or conditions of sale or payment, thereafter by him to be quoted, offered, charged, made or allowed upon each kind of macaroni product offered by him for sale in this state, and shall keep a true and complete copy of said statement posted conspicuously at each of his places of such business within this state, or, if no fixed place of business is maintained, upon each vehicle used in distribution of macaroni products. Such statement may be revised or added to by filing with the director of agriculture a supplementary written statement in duplicate and under oath, the revision or addition to become effective not less than ten days after its receipt by the director. [1939 c 190 § 19; RRS § 6294-119.]

69.16.150 Unlawful to sell without statement. On and after fifteen days after the effective date of this chapter no person shall sell, or display or offer for sale within this state any macaroni product the price and terms and conditions of sale of which have not been filed and posted as provided in this chapter, nor shall any price be quoted nor any term, condition, rebate, discount, or allowance, be offered or accepted, unless the applicable price, term, condition, rebate, discount or allowance specified for that type of macaroni product is contained in the statement of that person then on file with the director of agriculture and posted as provided in this chapter. [1939 c 190 § 20; RRS § 6294-120.]

69.16.160 Specific unlawful acts. In addition to the acts by this chapter made unlawful, it shall be unlawful in connection with the operation of any macaroni factory or the sale or distribution of any macaroni product:

(1) To sell, advertise, describe, brand, mark, label or pack macaroni or any simulation or imitation thereof in a manner which is calculated to mislead or deceive or has the tendency or capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the grade, quality, quantity, substance, character, nature, origin, size, material, content, composition, color, preparation, or manufacture of such products or in any material respect.

(2) To sell, offer for sale, advertise, describe, brand, label or otherwise represent any macaroni or noodle product as being a semolina or farina product when such is not true and correct.

(3) To use yellow coloring in, or yellow transparent containers for, any macaroni product in such manner as deceptively to import or imply to purchasers, prospective purchasers or the consuming public that such product contains egg in greater proportion than is in fact present, or in such manner as to mislead or deceive in any other respect.

(4) To advertise, describe, brand, label, or otherwise represent any product as containing a food ingredient which is not macaroni, found, or is not present in the advertised quantities, resulting in purchasers, prospective purchasers or the consuming public being misled or deceived.

(5) To use photographs, cuts, engraving, illustrations or pictorial or other adoptions or devices of industry products in catalogs, sales literature or advertisements or on packages or containers or otherwise in such manner as to have the capacity and tendency or effect of misleading or deceiving the purchaser or consuming public as to the grade, quality, quantity, substance, character, nature, origin, size material content, composition, coloring, preparation or manufacture of such products.

(6) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standings, or any other false representations, or falsely to disparage the grade, quality or manufacture of the products of competitors or of their business method, selling price, values, grade, terms, policies or services.

(7) To fail to brand, mark or identify macaroni products so as to disclose their true character, where such failure has the tendency, capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public. [1939 c 190 § 21; RRS § 6294-121.]

69.16.170 Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense. [1939 c 190 § 22; RRS § 6294-122.]

69.16.900 Severability—1939 c 190. If any clause, sentence, paragraph, section or part of this chapter shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. [1939 c 190 § 23; RRS § 6294-123.]

Chapter 69.20 CONFECTIONS

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Honey used in candy: RCW 15.60.130.

69.20.005 Declaration of policy. It is hereby found and declared that the protection of public health and welfare requires certain control and regulation of the manufacture and distribution of candy and other confectionery products and of the persons engaged therein, in order that there may be prevented or eliminated insanitary or unhealthful conditions in connection with such manufacture and distribution which endanger public health and jeopardize the public source and supply of a nourishing, healthful food. [1939 c 112 § 1; RRS § 6294-51.]

69.20.007 Definitions. Except where the context indicates a different meaning, terms used in this chapter shall be construed as defined herein. [1939 c 112 § 2; RRS § 6294-52.]

69.20.010 "Confection" defined. The term "confection" shall mean and include any solid combination of sugar or other saccharine substance, together with fruits, nuts, chocolate, or other flavoring or coloring substances. [1939 c 112 § 3; RRS § 6294-53. FORMER PARTS OF SECTION: 1939 c 112 § 4 now codified as RCW 69.20.011; 1939 c 112 § 5 now codified as RCW 69.20.012; 1939 c 112 § 6 now codified as RCW 69.12.013; 1939 c 112 § 7 now codified as RCW 69.12.014.]

69.20.011 "Confectioner" defined. The term "confectioner" shall mean any person who prepares, processes, manufactures, sells, or distributes any confection within the state of Washington: *Provided, however,* That this definition shall not be construed to include any person selling confections exclusively at retail in a fixed place or places of business. [1939 c 112 § 4; RRS § 6294-54. Formerly RCW 69.20.010, part.]

69.20.012 "Confectionery" defined. The term "confectionery" shall mean any place, premises, or establishment where confections are regularly prepared, processed, manufactured, sold, or distributed, exclusive, however, of any place, premises, or establishment where confections are sold exclusively at retail in a fixed place or places of business. [1939 c 112 § 5; RRS § 6294-55. Formerly RCW 69.20.010, part.]

69.20.013 "Person" defined. The term "person" shall include individual, firm, corporation, association, or club. [1939 c 112 § 6; RRS § 6294-56. Formerly RCW 69.20.010, part.]

69.20.014 "Director" defined. The term "director" shall mean the director of agriculture of the state of Washington. [1939 c 112 § 7; RRS § 6294-57. Formerly RCW 69.20.010, part.]

69.20.020 Confectioner's permit—Application. No confectioner shall operate within this state without a state confectioner's permit. Application for such permit shall be made in writing, and under oath, to the director upon such forms and with such pertinent information as shall be required by him. [1939 c 112 § 8; RRS § 6294-58.]

69.20.030 Permit—Expiration—Renewal—Nontransferability. Each permit issued under this chapter shall expire on December 31st following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the director the previous year's permit and paying to the director the required annual permit fee. Such renewal must be obtained on or before the first day of January of each succeeding year. No permit shall be transferable nor shall it be applicable to any location other than that for

which it was originally issued. [1939 c 112 § 9; RRS § 6294-59.]

69.20.040 Annual permit fee—Use of funds. There shall be paid to the director with each application for a confectioner's permit or for a renewal thereof an annual permit fee of five dollars. All such permit and renewal fees shall be deposited in the state's general fund. [1967 c 240 § 46; 1939 c 112 § 10; RRS § 6294-60.]

Severability—1967 c 240: See note following RCW 43.23.010.

Confectioners license fund abolished and funds transferred to state general fund. See 1967 c 240 §§ 47, 48.

69.20.050 Cancellation or suspension of permit. The director may cancel or suspend any permit issued under this chapter if upon investigation he determines (1) that the permittee has violated any provisions of this chapter, or of any other law of this state relating to the manufacture or handling of any confectionery product, or any regulation effective thereunder, or (2) that the confectionery premises or any equipment used therein or in connection therewith is in an insanitary condition and the permittee has failed or refused to remedy such condition within ten days after written notice to do so from the director. [1939 c 112 § 11; RRS § 6294-61.]

69.20.060 Revocation or suspension—Hearing. No permit shall be revoked or suspended by the director until after a written statement of the grounds therefor has been served upon the permittee and he is given at least ten days within which to answer such charge. For the purpose of making an investigation or of conducting a hearing with reference to such proposed revocation or suspension the director of agriculture shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents and testimony. [1939 c 112 § 12; RRS § 6294-62.]

69.20.070 Appeal. Within thirty days after an order revoking or suspending a permit under this chapter is made by the director, any party aggrieved thereby may appeal to the superior court of the county of his residence in this state. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director. The director shall, within twenty days after receipt of such notice of appeal, serve and file notice of appearance and such appeal shall thereupon be deemed at issue. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No bond shall be required on such appeal, but such appeal shall not stay proceedings before the director. The trial of said issues shall be by the court, and an appeal shall lie from its judgment as in other civil cases. [1939 c 112 § 13; RRS § 6294-63.]

69.20.080 Service of papers. Service as required in this chapter may be made by registered mail, return receipt requested, addressed to the permittee at the address given by him in his most recently filed application for a permit. [1939 c 112 § 14; RRS § 6294-64.]

69.20.090 Work by diseased persons prohibited. No person afflicted with any contagious or infectious disease shall work or be permitted to work or be employed in any confectionery. [1939 c 112 § 15; RRS § 6294-65. FORMER PART OF SECTION: 1939 c 112 § 16 now codified as RCW 69.20.095.]

69.20.095 Medical examination and certification of workers—Fee—Renewals. No person shall work or be permitted to work in any confectionery in storing, preparing, mixing, or handling any product or any ingredient thereof without holding a certificate from a physician, duly accredited for that purpose by the state board of health, certifying that such person has been examined and found free from any contagious or infectious disease. The state board of health may fix a maximum fee, not exceeding two dollars, which may be charged by a physician for such examination. Such certificate shall be effective for a period of six months and thereafter must be renewed following proper physical examination as aforesaid. Where such certificate is required, and provided under municipal ordinance upon examination deemed adequate by the state board of health, certificates issued thereunder shall be sufficient under this chapter. [1939 c 112 § 16; RRS § 6294-66. Formerly RCW 69.20.090, part.]

69.20.100 Revocation of health certificate—Refusal to submit to examination. Any certificate issued under RCW 69.20.095 shall be revoked by the state board of health at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in a confectionery to submit to proper and reasonable physical examination upon written demand of the state board of health shall be cause for revocation of that person's health certificate. [1939 c 112 § 17; RRS § 6294-67.]

69.20.110 Noxious or injurious confections forbidden. No person shall prepare, process, manufacture, sell, distribute, or handle any confection containing any wormy, moldy, verminous, noxious, harmful, injurious, or deleterious substances. [1939 c 112 § 18; RRS § 6294-68.]

69.20.120 Inspection of premises and vehicles. The director shall have the right at such time or times as he may deem advisable to make an inspection of any confectionery for which a permit has been issued under this chapter to determine whether or not the premises are constructed, equipped, and operated so as to comply with the requirements of this chapter and of all other laws applicable to either confectioneries or confectionery products, and of all regulations effective thereunder.

The director shall also have the right to inspect any vehicle used by a confectioner in selling, distributing, or handling confections. [1939 c 112 § 19; RRS § 6294-69.]

69.20.130 Filing trademarks and names. Every confectioner shall file with the director a facsimile under oath, and in duplicate, of each trademark and trade name, before the confection to which the same is applicable is sold, distributed, or handled within this state. [1939 c 112 § 20; RRS § 6294-70.]

69.20.140 Sales on consignment, rebates, etc., prohibited. It shall be unlawful for any confectioner to sell confectionery products upon consignment within this state, or to leave or place any confectionery products with any person, firm, or corporation within this state pursuant to an agreement or understanding, either express or implied, that any such confectionery products, or any part thereof, not sold by the person with whom it is left or placed will be taken back, or that the price or other consideration therefor will be returned in whole or in part or that any allowance, credit, commission, rebate, or other thing of value will be given therefor. Nothing in this section shall prohibit a confectioner from making an exchange of confectionery products, or granting a rebate, or allowance, or making any adjustment covering any confectionery products sold, or delivered in a damaged, broken, or unsalable condition: *Provided, however,* That such adjustment must be made within a period of thirty days after date of sale. [1939 c 112 § 21; RRS § 6294-71.]

69.20.150 Penalty. Any person violating any provisions of this chapter shall be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense. [1939 c 112 § 22; RRS § 6294-72.]

69.20.900 Severability—1939 c 112. If any clause, sentence, paragraph, section, or part of this chapter shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. The legislature hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional. [1939 c 112 § 23; RRS § 6294-73.]

Chapter 69.24 EGGS AND EGG PRODUCTS

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WASHINGTON STATE EGG LAW OF 1955

69.24.130 Definitions—General. When used in this chapter:

"Director" means the director of agriculture of the state of Washington or his duly authorized representative.

"Person" means and includes any individual, firm, partnership, exchange, association, trustee, receiver, corporation or any other business organization and any member, officer or employee thereof.

"Sell" means offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

"Container" means any box, case, basket, carton, sack, bag, or other receptacle. "Subcontainer" means any container when being used within another container.

"Dealer" means any person who produces, contracts for or obtains possession or control of any eggs, for the purpose of sale to another dealer or retailer.

"Retailer" means any person who sells eggs to a consumer.

"At retail" means a sale or transaction between a retailer and a consumer.

"Consumer" means any person who purchases eggs for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs for serving to guests or patrons thereof, or for its own use in cooking or baking.

"Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

"Eggs" means eggs in the shell from chickens, turkeys, ducks, geese, or any other species of fowl.

"Mislabel" means the placing or presence of any false, deceptive or misleading mark, term, statement, design, device, inscription or any other designation upon any eggs or upon any container or subcontainer of eggs, or upon the label or lining or wrapper thereof, or upon any placard or sign used in connection therewith or in connection with any bulk lot or display having reference to eggs.

"Deceptive" means any arrangement of the contents of any container, or subcontainer, or of any lot, load, or display, in which the eggs in the outer layer or in any portion exposed to view are in quality, size, condition, or in any other respect so superior to those in the interior or unexposed portion as to materially misrepresent the contents or any part thereof as to size, quality, condition or any other respects.

"Egg products" means and includes any product manufactured from eggs or any part thereof.

"Foreign eggs" means and includes eggs produced in a foreign country, and egg products manufactured from eggs produced in a foreign country.

"Cold storage eggs" means and includes eggs which have been in cold storage for a period of ninety days.

"Incubated eggs" means and includes eggs which have been in the course of incubation, whether natural or artificial, for more than forty-eight hours.

"Marked" means plainly, legibly and conspicuously labeled, stamped, stenciled, printed or branded. [1955 c 193 § 1.]

69.24.140 Definitions—With relation to eggs. As used in this chapter with relation to eggs:

"Addled" or "white rot" means putrid or rotten.

"Adherent yolk" means the yolk has become fastened to the shell.

"Blood" means the presence of blood rings or blood veins due to embryo development, or blood diffused into the white.

"Moldy" or "black spot" or "black rot" means the presence of mold or bacteria inside the shell.

"Processed" means that the shell has been treated with oil or other protective preparation.

"Visible germ development" means that there has been some development of the germ which is visible as a deeper colored area on the yolk as shown by candling the egg.

"Checks" means eggs with shells which are not sound as determined by candling, appearance, or other means: *Provided*, That no exudation is present.

"Inedible eggs" means eggs which as determined by candling or any other means contain black spot, black rot, white rot, mixed rot (addled), adherent yolks, bloody or green white, blood, embryo chicks, sour eggs, musty eggs, or which are moldy, filthy, decomposed, putrid, or otherwise unfit for human consumption in whole or in part.

"Denatured" means eggs (1), made unfit for human food by treatment or the addition of a foreign substance or (2), with one-half or more of the shell's surface covered by a permanent black, dark purple or dark blue dye. [1955 c 193 § 2.]

69.24.150 Rules and regulations, grades and standards—Administrative hearings. The director shall, from time to time, adopt, establish and promulgate reasonable obligatory rules and regulations specifying grades or standards of quality and/or grades of size or weight, governing the sale of eggs for human consumption: *Provided*, That such grades and standards of quality, and grades of size and weight, shall conform as nearly to those established by the United States department of agriculture as local conditions will permit. Said rules and regulations, and any changes therein shall be adopted only after official public hearings have been held pursuant to such reasonable rules prescribed by the director, as will insure a full, fair and impartial opportunity for all interested parties to be heard.

The director may, upon his own initiative or upon petition of the industry covered by this chapter, call hearings from time to time on matters pertaining to the administration of this chapter. [1955 c 193 § 3.]

69.24.160 Dealer's license. No person shall sell or distribute within this state any shell eggs to consumers or to retailers without having first obtained a dealer's license from the state department of agriculture: *Provided*, That the above license shall not be required of a producer selling and delivering shell eggs direct to the consumer at the place of production, or for the sale of uncandled eggs to other than a consumer, or for the sale to a consumer of eggs which previously have been candled and graded by a dealer in compliance with this chapter.

Application for such license shall be in writing on such forms as the director may prescribe. [1955 c 193 § 4.]

69.24.170 Dealer's license—Fee—Disposition. There shall be paid to the director with each application for an egg dealer's license an annual license fee of five dollars. The proceeds from the license fees shall be expended by the director to assist in defraying salaries and expenses incurred in the enforcement of the provisions of this chapter. [1961 c 54 § 1; 1955 c 193 § 5.]

69.24.180 Dealer's license—Duration—Non-transferable—Duplicate. Each egg dealer's license shall expire on the thirtieth day of June following its date of issuance. Such license shall not be transferable to any person, or be applicable to locations other than those for which originally issued, and shall be conspicuously displayed in such locations. Duplicate copies of licenses may be issued upon the payment of a fee of one dollar. [1955 c 193 § 6.]

69.24.190 Dealer's license—Grounds for not issuing. The director may withhold the issuance of a license to an applicant for a period not to exceed thirty days

pending an investigation for the purpose of determining:

(1) Whether the applicant is violating or has violated any of the provisions of this chapter, or

(2) Whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of this chapter by any officer, agent, or employee of the applicant. If, after investigation, it appears to the director that the applicant should be refused a license, the applicant shall be given notice and an opportunity for hearing. [1955 c 193 § 7.]

69.24.200 Dealer's license—Revocation, suspension, denial. The director may decline to grant or may revoke or suspend a license after due notice and a hearing, if he is satisfied that the applicant or licensee is guilty of:

(1) Any violation of the provisions of this chapter, or

(2) The following practices or any of them:

(a) Evidence of dealing of such a nature as to satisfy the director of the inability of the applicant or licensee to conduct properly the business of egg dealer.

(b) Fraud or deception by the licensee in his dealings with purchasers, including misrepresentation of eggs as to grade, conditions, quality, weights, quantity, or any other essential fact in connection therewith.

(c) Fraud or deception by the licensee in his license application. [1955 c 193 § 8.]

69.24.210 Violations by applicant or licensee—Procedure. In the event the director has reason to suspect that any licensee or applicant is violating or has violated the provisions of this chapter, he shall attempt to secure a satisfactory explanation, and failing to secure an explanation, he shall cause a notice to be served upon such licensee or applicant, setting forth the provisions of this chapter which the licensee or applicant is charged with violating, and setting a date in the notice upon which a hearing will be had to determine whether or not the licensee or applicant is violating or has violated such provisions.

Upon completion of the hearing, the director shall make such written findings of fact and order as the circumstances may warrant. Such findings and order shall be final and conclusive upon all parties from and after their effective date, which date shall be ten days after being signed and deposited postage prepaid in the United States mails addressed to the last known address of said parties. An appeal from such findings or order may be taken within ten days of their effective date to the superior court of Thurston county upon such notice and in such manner as appeals are taken from judgments rendered in justice court. [1955 c 193 § 9.]

69.24.220 Washington state egg seals. The director shall provide and make available a suitable seal to be known as the Washington state egg seal; and to accomplish this end he is authorized to issue special permits allowing reasonable facsimiles of the Washington state egg seal to be imprinted on cartons, bags, or other containers used for shell eggs. The director shall from time

to time prescribe rules and regulations governing the affixing of seals and the issuance, use, and cancellation of such permits or seals and he is authorized to cancel any special permit issued pursuant to this chapter or to said rules and regulations at any time whenever the director finds that a violation of the terms under which the permit was granted has occurred or a violation of any of the provisions of this chapter has occurred. The director shall have the power from time to time to establish a sum not in excess of two and one-half mills per dozen eggs which persons who purchase such gummed seals or who imprint such facsimile seals or who use the same shall pay for each seal so purchased, affixed, or imprinted and to promulgate rules and regulations relating to the time and manner of the payment of such sums. The proceeds from the sale of said seals shall be expended by the director to assist in defraying salaries and expenses incurred in the enforcement of the provisions of this chapter.

It shall be unlawful for any person to sell any eggs for human consumption within the state of Washington in previously used cartons, bags, or other containers bearing the Washington state egg seal or any similar identification whatsoever, except the same is obliterated or defaced. [1967 c 240 § 49; 1955 c 193 § 10.]

Severability—1967 c 240: See note following RCW 43.23.010.

69.24.230 Sales to retailers, etc.—Invoice, contents. Each person who sells to any retailer, or to any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs for serving to guests or patrons thereof or for its use in preparation of any food products for human consumption, candled or graded eggs other than those of his own production sold and delivered on the premises where produced, shall furnish that retailer or other purchaser with an invoice covering each such sale, showing the exact grade or quality and the size or weight of the eggs sold, according to the standards prescribed by the director, together with the name and address of the person by whom the eggs were sold. The person selling and the retailer or other purchaser shall each keep a copy of said invoice on file at his place of business for a period of thirty days, during which time the copy shall be available for inspection at all reasonable times by the director: *Provided*, That no retailer or other purchaser shall be guilty of a violation of this chapter if he can establish a guarantee from the person from whom the eggs were purchased to the effect that they, at the time of purchase, conformed to the grade or quality and the size or weight stated in the invoice: *Provided further*, That if the retailer or other purchaser having labeled any such eggs in accordance with the invoice keeps them for such time after they are purchased as to cause them to deteriorate to a lower grade or standard, and then sells them under the label of the invoiced grade or standard, he shall be guilty of a violation of this chapter.

No invoice shall be required on eggs when packed for sale to the United States navy or army if labeled with the United States department of agriculture grades. [1955 c 193 § 11.]

69.24.240 Unlawful acts—Markings required. It shall be unlawful to prepare, pack, place, deliver for shipment, deliver for sale, load, ship, transport or sell in bulk or in containers or subcontainers eggs:

(1) Unless each container and subcontainer of chicken eggs is marked with the full, correct and unabbreviated designation of size and quality of eggs therein according to the standards as prescribed by regulations promulgated by the director together with a date for identification and the name and address of the producer, dealer, or retailer, by or for whom the eggs were graded or marked;

(2) Which are mislabeled;

(3) Which are deceptive;

(4) That are or contain inedibles and which are not denatured: *Provided*, That not to exceed five percent by count of inedibles shall be permitted when eggs are going to a dealer for candling and grading, or to breaking plant for breaking purposes;

(5) Which have been in an incubator, unless the inedibles have been removed.

Only one description of the size and quality of eggs shall appear upon a container, subcontainer or placard required by this chapter, except that as to eggs placed in containers the markings may show different size and quality descriptions for specified quantities of eggs in the container.

Designations of size and quality required by this section to be marked upon container of eggs shall be plainly and conspicuously marked in bold face type letters:

(a) Not less than one-fourth inch in height on the outside top face of each container holding less than fifteen dozen eggs and;

(b) Not less than one-half inch in height on one outside end of any oblong container holding fifteen dozen or more eggs and on one outside side of any other container holding fifteen dozen or more eggs. [1955 c 193 § 12.]

69.24.250 When markings not required. No markings are required on containers or subcontainers of eggs:

(1) When sold at retail from a properly marked bulk display and packaged in the presence of the purchaser for the immediate purpose of the sale;

(2) When packed for sale to the United States navy or army if labeled with United States department of agriculture grades;

(3) When packed for shipment or being shipped to points outside of the state of Washington;

(4) When occasional sales are made to consumers by the producer from eggs produced and delivered on his own premises;

(5) When the containers and subcontainers are packed and certified in accordance with the standards of grade and quality and the grading rules promulgated by the United States department of agriculture;

(6) When being delivered from outside of the state to dealers in the state for candling and grading;

(7) When being delivered to or when in possession of a dealer for candling and grading, or when being delivered to cold storage, when in cold storage, or being removed therefrom, provided eggs which have been in an incubator shall be marked "hatchery test" together with the name and address of the hatchery of origin.

Eggs when marked with United States department of agriculture grades such as referred to in subdivisions (2) and (5) of this section shall be considered as complying with the provisions of this chapter if the eggs so marked as to grade and size meet requirements of the comparable quality grade and size designation according to the standards prescribed by the director. In no case may eggs so marked with United States grade designations be of a lower quality or size than comparable grades or standards prescribed by the director. [1955 c 193 § 13.]

69.24.260 Notice to consumer of grade or quality, size or weight. It shall be unlawful to sell eggs for human consumption without notifying the consumer of the exact grade or quality and size or weight of the eggs according to the standards prescribed by the director by stamping or printing on the container of the eggs such grade or quality and size or weight or if the eggs are offered for sale in bulk, without displaying in a conspicuous place on the container from which they are offered or exposed for sale, a sign printed in letters not less than two inches high, giving the grade, quality, size and weight, and without placing a state egg seal upon each container in which eggs are sold or delivered at retail. The provisions of this section shall not apply to a person selling eggs of his own production except when they are sold at retail to the consumer: *Provided*, That this section, except the provisions relating to egg seals, shall not affect the sale of eggs by the producer when the consumer purchases and receives them at the place of production. [1967 c 240 § 50; 1955 c 193 § 14.]

Severability—1967 c 240: See note following RCW 43.23.010.

69.24.270 Inscription of species of fowl when other than chicken. It shall be unlawful to sell or represent as chicken eggs, eggs from any other species of fowl, or mixed eggs from more than one species of fowl, or eggs from ducks, turkeys, geese, or any species of fowl other than chickens, without marking the containers and subcontainers of such eggs or otherwise indicating fully by sign, placard or other inscription the species of fowl from which such eggs were produced. [1955 c 193 § 15.]

69.24.280 Removal of inaccurate markings required. It shall be unlawful to place or pack eggs in any containers or subcontainers bearing any name, markings of any designation of brand quality, grade or other matter, unless all of such markings which do not properly and accurately apply to the eggs placed or packed therein have been removed, erased or obliterated. [1955 c 193 § 16.]

69.24.290 Unlawful use of name, trademark, or trade name. It shall be unlawful to sell or use any container or subcontainer of eggs which bears a name, a trademark or a trade name unless such a name, trademark or

trade name is obliterated or effaced, except where the seller or user is entitled to use such name, trademark or trade name. [1955 c 193 § 17.]

69.24.300 Unlawful sale or representation as "fresh eggs", etc. It shall be unlawful to sell or advertise cold storage eggs or eggs below the quality grade of grade A as "fresh eggs," "ranch eggs," "farm eggs" or to represent the same to be fresh. [1955 c 193 § 18.]

69.24.310 Unlawful movement when warning affixed. It shall be unlawful to move any eggs or their containers to which any warning tag or notice has been affixed, as provided in RCW 69.24.400, or to remove such warning tag or notice from the place where it may be affixed, except upon written permission or upon the specific direction of the director. [1955 c 193 § 19.]

69.24.320 Stamping foreign eggs. It shall be unlawful to sell or offer or expose for sale foreign eggs in the shell, without having stamped on each such egg, in legible type and in durable indelible ink the words "FROM _____," and the name of the country in which the egg is produced. [1955 c 193 § 20.]

69.24.330 Stamping container of foreign eggs. It shall be unlawful to sell foreign eggs in any other form than in the shell, or any egg products manufactured from foreign eggs, without having stamped or printed in legible type in letters two inches high, in durable paint or ink on the side and on the cover of each container, the words "EGGS FROM _____," followed by the name of the country in which the eggs were produced, or in which the eggs from which the egg products were manufactured were produced. [1955 c 193 § 21.]

69.24.340 Notice of use of foreign eggs by bakeries, confectioneries, etc. It shall be unlawful for the owner or operator of any public place where food is served, or a bakery or confectionery shop where food products are sold, to serve or sell foreign eggs or egg products manufactured from foreign eggs, without maintaining in a conspicuous place where the customers entering can see it, a placard bearing the words "WE USE FOREIGN EGGS" printed or painted in legible letters not less than two inches high. [1955 c 193 § 22.]

69.24.350 Notice of use of foreign eggs in egg products. It shall be unlawful for a person manufacturing or selling any food product containing eggs or egg products, to sell or offer or expose for sale food products containing foreign eggs, or egg products manufactured from foreign eggs, without having printed on the outside of the wrapper or container of each product in legible letters of bold faced type of a size not less than eight point, the words "FOREIGN EGGS USED IN THIS PRODUCT," or if the products are sold, offered, or exposed for sale in bulk, without displaying in a conspicuous place at the point where the products are exposed for sale, a placard printed in letters two inches high, and containing the words "FOREIGN EGGS USED IN THIS PRODUCT." [1955 c 193 § 23.]

69.24.360 Possession by seller presumes eggs for sale. It shall be presumed from the fact of possession by any person, firm or corporation engaged in the sale of eggs that such eggs are for sale. [1955 c 193 § 24.]

69.24.370 Compliance with director's order—Inspections—Halting vehicles. (1) It shall be unlawful to fail to comply with any lawful order of the director, or of any court, in any proceeding under the provisions of this chapter.

(2) It shall be unlawful to refuse to submit any eggs or any container, subcontainer, lot, load, or display of eggs to the inspection of the director or to refuse to stop, at the request of the director, any vehicle transporting eggs. [1955 c 193 § 25.]

69.24.380 Enforcement of chapter—Inspectors—Seizure and sale. (1) The director is charged with the administration of this chapter and the director shall make and enforce such reasonable rules and regulations as may be necessary to carry out the provisions of this chapter. He shall appoint inspectors to carry out the provisions of this chapter. Such inspectors shall pass an examination by the director as will satisfy him they are qualified in knowledge and experience to satisfactorily perform egg inspection work.

(2) The director may enter and inspect any place or conveyance within this state, where any eggs are produced, candled, incubated, stored, packed, delivered for shipment, loaded, shipped, transported, or sold, and may inspect all such eggs and the containers thereof and equipment found in any such places or conveyances, and may take for inspection representative samples of such eggs and containers, for the purpose of determining whether or not any provisions of this chapter have been violated.

(3) The director may, while enforcing the provisions of this chapter, have seized and held as evidence any container of eggs or all or any part of any pack, load, lot consignment or shipment of eggs, packed, stored, delivered for shipment, loaded, shipped, transported or sold in violation of any provisions of this chapter. [1955 c 193 § 26.]

69.24.390 Samples of lots or containers. The director shall prescribe methods of selecting samples of lots or containers of eggs which shall be reasonably calculated to produce by such sampling fair representations of the entire lots or containers sampled. Any sample taken hereunder shall be prima facie evidence, in any court in this state, of the true condition of the entire lot in the examination of which said sample was taken. [1955 c 193 § 27.]

69.24.400 Public nuisance, when—Warning affixed—Abatement. (1) Any eggs prepared, packed, stored, delivered for shipment, delivered for sale, loaded, shipped, transported or sold in violation of any of the provisions of this chapter, together with their containers, are a public nuisance, and such eggs shall be held by the person in whose possession they may be and shall not be removed from the place where they

may be, except upon the written permission or upon the specific direction of the director.

(2) The director may have affixed a warning tag or notice to such nuisance and may give notice of such violation to the producer, packer, or owner, or any person in possession of such eggs. If such person, so notified, refuses or fails within seventy-two hours to commence and proceed with due diligence to recondition or remark the same so as to comply with all provisions of this chapter, such eggs and their containers may be seized by the director. When the eggs are in cold storage the seventy-two hour period does not commence to run until they are removed from cold storage, and delivered to a dealer.

(3) The prosecuting attorney of the county in which any such nuisance is found, on the relation of the director shall maintain, in the name of the state, a civil action to abate and prevent such nuisance; and upon judgment and by order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court, or remarked, denatured, or otherwise reconditioned, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated. If the owner fails to comply with the order of the court within the time specified therein the court may order disposal of the eggs and their containers or the sale thereof, under such terms and conditions as the court may prescribe and in the event the court orders the sale of any of the eggs and their containers which can be salvaged, the cost of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner. [1955 c 193 § 28.]

69.24.410 Adulterated and misbranded eggs and egg products. Whenever eggs, egg products, or food products containing eggs or egg products, inedible (or denatured) and unfit for human consumption, they shall be deemed to be adulterated for all purposes of law, including all of the purposes of chapter 69.04 RCW.

All eggs, egg products, food products containing eggs or egg products and containers holding the same shall be deemed to be misbranded for all of said purposes unless they bear or are purveyed under the seals, labels, markings, printed matter, signs, displays, or other branding and labeling devices required by this chapter, and unless they conform to the standards and grades heretofore or hereafter promulgated by the director pursuant to this chapter. [1955 c 193 § 29.]

69.24.420 Penalties. Any person convicted of violating any provision of this chapter or the rules and regulations issued thereunder, which is not otherwise provided for under chapter 69.04 RCW, or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director in performance of his duty in connection with the provisions of this chapter, shall be adjudged guilty of a misdemeanor: *Provided*, That if such violation is committed after a previous conviction of such person has become final, such person shall be guilty of a gross misdemeanor. Each separate violation shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey

the provisions of this chapter, each day of continuance of such failure or neglect shall be deemed a separate offense. [1955 c 193 § 30.]

69.24.430 Venue for prosecutions. Any prosecution for the violation of any provisions of this chapter may be instituted in any county where any part of the offense occurred. Any evidence taken by the director in any county may be admitted in evidence in any prosecution in any other county. [1955 c 193 § 31.]

69.24.450 State egg account—Expenditures. All moneys collected under this chapter shall be paid into a special fund which is hereby created in the state treasury and designated the "State Egg Account" in the general fund, which shall be expended for necessary expenses hereunder. Moneys in the egg inspection fund created by *RCW 69.24.040 at the time of the effective date of this chapter shall be transferred to and shall constitute a part of the account herein created. [1955 c 193 § 33.]

*Reviser's note: RCW 69.24.040 was repealed by 1955 c 193 § 36.

69.24.900 Short title. This chapter shall be known as the "Washington State Egg Law of 1955." [1955 c 193 § 34.]

69.24.910 Severability—1955 c 193. If any clause, sentence, paragraph, or part of this chapter is for any reason judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. [1955 c 193 § 35.]

Chapter 69.28 HONEY

Sections

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Bees and apiaries: Chapter 15.60 RCW.

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69.28.020 Enforcement power and duty of director and agents. The director is hereby empowered, through his duly authorized agents, to enforce all provisions of this chapter. The director shall have the power to define, promulgate and enforce such reasonable regulations as he may deem necessary in carrying out the provisions of this chapter. [1939 c 199 § 29; RRS § 6163–29. FORMER PART OF SECTION: 1939 c 199 § 44 now codified as RCW 69.28.025.]

69.28.025 Rules and regulations have force of law. Any rules or regulations promulgated and published by the director under the provisions of this chapter shall have the force and effect of law. [1939 c 199 § 44; RRS § 6163–44. Formerly RCW 69.28.020, part.]

69.28.030 Rules prescribing standards. The director is hereby authorized, and it shall be his duty, upon the taking effect of this chapter and from time to time thereafter, to adopt, establish and promulgate reasonable rules and regulations specifying grades or standards of quality governing the sale of honey: *Provided*, That, in the interest of uniformity, such grades and standards of quality shall conform as nearly to those established by the United States department of agriculture as local conditions will permit. [1939 c 199 § 24; RRS § 6163–24.]

69.28.040 Right to enter, inspect, and take samples. The director or any of his duly authorized agents shall have the power to enter and inspect at reasonable times every place, vehicle, plant or other place where honey is being produced, stored, packed, transported, exposed, or offered for sale, and to inspect all such honey and the containers thereof and to take for inspection such samples of said honey as may be necessary. [1939 c 199 § 28; RRS § 6163–28.]

69.28.050 Containers to be labeled. It shall be unlawful to deliver for shipment, ship, transport, sell, expose or offer for sale any containers or subcontainers of

honey within this state unless they shall be conspicuously marked with the name and address of the producer or distributor, the net weight of the honey, the grade of the honey, and, if imported from any foreign country, the name of the country or territory from which the said honey was imported, or if a blend of honey, any part of which is foreign honey, the container must be labeled with the name of the country or territory where such honey was produced and the proportion of each foreign honey used in the blend. [1939 c 199 § 32; RRS § 6163-32.]

69.28.060 Requisites of markings. When any markings are used or required to be used under this chapter on any container of honey to identify the container or describe the contents thereof, such markings must be plainly and conspicuously marked, stamped, stenciled, printed, labeled or branded in the English language, in letters large enough to be discernible by any person, on the front, side or top of any container. [1939 c 199 § 35; RRS § 6163-35.]

69.28.070 "Marked" defined—When honey need not be marked. The term "marked" shall mean printed in the English language on the top, front or side of any container containing honey: *Provided*, That it shall not be necessary to mark honey sold by the producer thereof to any distributor, packer or manufacturer with the net weight, color or grade if the honey is to be used in the manufacture of honey products or is to be graded and packaged by the distributor or packer for resale. [1939 c 199 § 21; RRS § 6163-21.]

69.28.080 Purchaser to be advised of standards—Exceptions. It shall be unlawful for any person to deliver, sell, offer, or expose for sale any honey for human consumption within the state without notifying the person or persons purchasing or intending to purchase the same, of the exact grade or quality of such honey, according to the standards prescribed by the director, by stamping or printing on the container of any such honey such grade or quality: *Provided*, This section shall not apply to honey while it is in transit in intrastate commerce from one establishment to the other, to be processed, labeled, or repacked. [1961 c 60 § 1; 1957 c 103 § 1; 1949 c 105 § 6; 1939 c 199 § 39; Rem. Supp. 1949 § 6163-39.]

69.28.090 Forgery, simulation, etc., of marks, labels, etc., unlawful. It shall be unlawful to forge, counterfeit, simulate, falsely represent or alter without proper authority any mark, stamp, tab, label, seal, sticker or other identification device provided by this chapter. [1961 c 60 § 2; 1939 c 199 § 40; RRS § 6163-40. FORMER PART OF SECTION: 1939 c 199 § 41 now codified as RCW 69.28.095.]

69.28.095 Unlawful mutilation or removal of seals, marks, etc., used by director. It shall be unlawful to mutilate, destroy, obliterate, or remove without proper authority, any mark, stamp, tag, label, seal, sticker or other identification device used by the director under

the provisions of this chapter. [1939 c 199 § 41; RRS § 6163-41. Formerly RCW 69.28.090, part.]

69.28.100 Marks for "slack-filled" container. Any slack-filled container shall be conspicuously marked "slack-filled". [1939 c 199 § 36; RRS § 6163-36. FORMER PART OF SECTION: 1939 c 199 § 10 now codified as RCW 69.28.270.]

69.28.110 Use of used containers. It shall be unlawful to sell, offer, or expose for sale to the consumer any honey in any second-hand or used containers which formerly contained honey, unless all markings as to grade, name and weight have been obliterated, removed or erased. [1939 c 199 § 37; RRS § 6163-37.]

69.28.120 Floral source labels. Any honey which is a blend of two or more floral types of honey shall not be labeled as a honey product from any one particular floral source alone. [1939 c 199 § 34; RRS § 6163-34.]

69.28.130 Adulterated honey—Sale or offer unlawful. It shall be unlawful for any person to sell, offer or intend for sale any adulterated honey as honey. [1939 c 199 § 26; RRS § 6163-26. FORMER PART OF SECTION: 1939 c 199 §§ 27 and 33 now codified as RCW 69.28.133 and 69.28.135.]

69.28.133 Nonconforming honey—Sale or offer unlawful. It shall be unlawful for any person to sell, offer or intend for sale any honey which does not conform to the provisions of this chapter or any regulation promulgated by the director under this chapter. [1939 c 199 § 27; RRS § 6163-27. Formerly RCW 69.28.130, part.]

69.28.135 Warning-tagged honey—Movement prohibited. It shall be unlawful to move any honey or containers of honey to which any warning tag or notice has been affixed except under authority from the director. [1939 c 199 § 33; RRS § 6163-33. Formerly RCW 69.28.130, part.]

69.28.140 Possession of unlawful honey as evidence. Possession by any person, of any honey which is sold, exposed or offered for sale in violation of this chapter shall be prima facie evidence that the same is kept or shipped to the said person, in violation of the provisions of this chapter. [1939 c 199 § 30; RRS § 6163-30.]

69.28.150 Unlawful honey—Seizure and sale—Notice and hearing. The director is hereby authorized to seize upon and to take into his possession such honey and thereupon apply to the superior court of the county in which said honey is seized for an order directing them to dispose of or sell the same and apply the proceeds of the same to the general fund: *Provided, however*, That the director shall first give notice to the person in whose possession such goods are found, or, in the possession of a common carrier, then the consignee of such honey, notifying such person that he has seized such honey, and the reasons therefor, and that he has made an application to the superior court for an

order to sell or dispose of the same, and that he will call up said application for hearing on a day certain, which shall not be less than ten days from the service of such notice, and that at the hearing of said application the said person shall show cause, if any he has, why the prayer of the petition should not be granted. Upon the hearing of said petition, the affidavits or oral testimony may be introduced to show the contention of the respective parties. Hearing, however, may be had at an earlier date by mutual consent of the parties to said application. [1939 c 199 § 31; RRS § 6163-31.]

69.28.170 Inspectors—Prosecutions. It shall be the duty of the director to enforce this chapter and to appoint and employment [employ] such inspectors as may be necessary therefor. The director shall notify the prosecuting attorneys for the counties of the state of violations of this chapter occurring in their respective counties, and it shall be the duty of the respective prosecuting attorneys immediately to institute and prosecute proceeding in their respective counties and to enforce the penalties provided for by this chapter. [1939 c 199 § 43; RRS § 6163-43.]

69.28.180 Violation of rules and regulations unlawful. It shall be unlawful for any person to violate any rule or regulation promulgated by the director under the provisions of this chapter. [1939 c 199 § 25; RRS § 6163-25. FORMER PART OF SECTION: 1939 c 199 § 44 now codified in RCW 69.28.185.]

69.28.185 Penalty. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor, and upon violation thereof shall be punishable by a fine of not more than five hundred dollars or imprisonment in the county jail for a period of not more than six months or by both such fine and imprisonment. [1939 c 199 § 42; RRS § 6163-42. Formerly RCW 69.28.180, part.]

69.28.190 "Director" defined. The term "director" means the director of agriculture of the state of Washington or his duly authorized representative. [1939 c 199 § 2; RRS § 6163-2. Formerly RCW 69.28.010, part.]

69.28.200 "Container" defined. The term "container" shall mean any box, crate, chest, carton, barrel, keg, bottle, jar, can or any other receptacle containing honey. [1939 c 199 § 3; RRS § 6163-3.]

69.28.210 "Subcontainer" defined. The term "subcontainer" shall mean any section box or other receptacle used within a container. [1939 c 199 § 4; RRS § 6163-4.]

69.28.220 "Section box" defined. The term "section box" shall mean the wood or other frame in which bees have built a small comb of honey. [1939 c 199 § 5; RRS § 6163-5.]

69.28.230 "Clean and sound containers" defined. The term "clean and sound containers" shall mean containers which are virtually free from rust, stains or leaks. [1939 c 199 § 6; RRS § 6163-6.]

69.28.240 "Pack", "packing", or "packed" defined. The term "pack", "packing", or "packed" shall mean the arrangement of all or part of the subcontainers in any container. [1939 c 199 § 7; RRS § 6163-7.]

69.28.250 "Label" defined. The term "label" shall mean a display of written, printed or graphic matter upon the immediate container of any article. [1939 c 199 § 8; RRS § 6163-8.]

69.28.260 "Person" defined. The term "person" includes individual, partnership, corporation and/or association. [1939 c 199 § 9; RRS § 6163-9.]

69.28.270 "Slack-filled" defined. The term "slack-filled" shall mean that the contents of any container occupy less than ninety-five percent of the volume of the closed container. [1939 c 199 § 10; RRS § 6163-10. Formerly RCW 69.28.100, part.]

69.28.280 "Deceptive arrangement" defined. The term "deceptive arrangement" shall mean any lot or load, arrangement or display of honey which has in any exposed surface, honey which is so superior in quality, appearance or condition, or in any other respects, to any of that which is concealed or unexposed as to materially misrepresent any part of the lot, load, arrangement or display. [1939 c 199 § 11; RRS § 6163-11.]

69.28.290 "Mislabeled" defined. The term "mislabeled" shall mean the placing or presence of any false or misleading statement, design or device upon, or in connection with, any container or lot of honey, or upon the label, lining or wrapper of any such container, or any placard used in connection therewith, and having reference to such honey. A statement, design or device is false and misleading when the honey to which it refers does not conform in every respect to such statement. [1939 c 199 § 12; RRS § 6163-12.]

69.28.300 "Placard" defined. The term "placard" means any sign, label or designation, other than an oral designation, used with any honey as a description or identification thereof. [1939 c 199 § 13; RRS § 6163-13.]

69.28.310 "Honey" defined. The term "honey" as used herein is the nectar of floral exudations of plants, gathered and stored in the comb by honey bees (*apis mellifica*). It is laevo-rotatory, contains not more than twenty-five percent of water, not more than twenty-five one-hundredths of one percent of ash, not more than eight percent of sucrose, its specific gravity is 1.412, its weight not less than eleven pounds twelve ounces per standard gallon of 231 cubic inches at sixty-eight degrees Fahrenheit. [1939 c 199 § 14; RRS § 6163-14. Formerly RCW 69.28.010, part.]

69.28.320 "Comb-honey" defined. The term "comb-honey" means honey which has not been extracted from the comb. [1939 c 199 § 15; RRS § 6163-15.]

69.28.330 "Extracted honey" defined. The term "extracted honey" means honey which has been removed from the comb. [1939 c 199 § 16; RRS § 6163-16.]

69.28.340 "Crystallized honey" defined. The term "crystallized honey" means honey which has assumed a solid form due to the crystallization of one or more of the natural sugars therein. [1939 c 199 § 17; RRS § 6163-17.]

69.28.350 "Honeydew" defined. The term "honeydew" is the saccharine exudation of plants, other than nectarous exudations, gathered and stored in the comb by honey bees (*apis mellifica*) and is dextrorotatory. [1939 c 199 § 18; RRS § 6163-18. Formerly RCW 69.28.010, part.]

69.28.360 "Foreign material" defined. The term "foreign material" means pollen, wax particles, insects, or materials not deposited by bees. [1937 c 199 § 19; RRS § 6163-19.]

69.28.370 "Foreign honey" defined. The term "foreign honey" means any honey not produced within the continental United States. [1939 c 199 § 20; RRS § 6163-20.]

69.28.380 "Adulterated honey" defined. The term "adulterated honey" means any honey to which has been added honeydew, glucose, dextrose, molasses, sugar, sugar syrup, invert sugar, or any other similar product or products, other than the nectar of floral exudations of plants gathered and stored in the comb by honey bees. [1939 c 199 § 22; RRS § 6163-22. Formerly RCW 69.28.010, part.]

69.28.390 "Serious damage" defined. The term "serious damage" means any injury or defect that seriously affects the edibility or shipping quality of the honey. [1939 c 199 § 23; RRS § 6163-23.]

69.28.900 Severability—1939 c 199. If any provisions of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provisions to other persons or circumstances, shall not be affected thereby. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this chapter. The legislature hereby declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the other sections, subsections, sentences, clauses and phrases be declared unconstitutional. [1939 c 199 § 45; RRS § 6163-45.]

69.28.910 Short title. This chapter may be known and cited as the Washington state honey act. [1939 c 199 § 1; RRS § 6163-1.]

Chapter 69.30 SANITARY CONTROL OF SHELLFISH

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69.30.030	Rules and regulations—Duties of state board of health.
69.30.050	Certificates of approval—Shellfish growing areas.
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69.30.070	Certificates of approval—Compliance with other laws and rules required.
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69.30.130	Water pollution laws and rules applicable.
69.30.140	Penalties.
69.30.900	Severability—1955 c 144.

Shellfish: Chapter 75.24 RCW.

69.30.010 Definitions. When used in this chapter, the following terms shall have the following meanings:

(1) "Shellfish" means all varieties of fresh and frozen oysters and clams, either shucked or in the shell, and any fresh or frozen edible products thereof.

(2) "Sale" means to sell, offer for sale, barter, trade, deliver, consign, hold for sale, consignment, barter, trade, or delivery, and/or possess with intent to sell or dispose of in any commercial manner.

(3) "Shellfish growing areas" means the lands and waters in and upon which shellfish are grown for harvesting for sale for human consumption.

(4) "Establishment" means the buildings together with the necessary equipment and appurtenances used for the storage, culling, shucking, packing and/or shipping of shellfish for sale for human consumption.

(5) "Person" means any individual, partnership, firm, company, corporation and/or association.

(6) "Department" means the state department of health.

(7) "Director" means the state director of health or his authorized representatives. [1955 c 144 § 1.]

69.30.020 Certificate of compliance required for sale. Only shellfish bearing a certificate of compliance with the sanitary requirements of this state or a state, territory, province or country of origin whose requirements are equal or comparable to those established pursuant to this chapter may be sold or offered for sale in the state of Washington. [1955 c 144 § 2.]

69.30.030 Rules and regulations—Duties of state board of health. The state board of health shall cause such investigations to be made as are necessary to determine reasonable requirements governing the sanitation of shellfish growing areas and shellfish plant facilities and operations, in order to protect public health and carry out the provisions of this chapter; and shall adopt such requirements as rules and regulations of the state board of health. Such rules and regulations may include reasonable sanitary requirements relative to the quality of shellfish growing waters and areas, boat and barge sanitation, building construction, water supply, sewage and waste water disposal, lighting and ventilation, insect and rodent control, shell disposal, garbage and waste disposal, cleanliness of establishment, the handling, storage, construction and maintenance of equipment, the handling, storage and refrigeration of shellfish and the identification of containers. [1955 c 144 § 3.]

69.30.050 Certificates of approval—Shellfish growing areas. Shellfish growing areas, from which shellfish are removed for sale for human consumption shall be in a safe and sanitary condition, meeting the requirements of the state board of health; and such shellfish growing areas shall be so certified by the department. Any person desiring to remove shellfish for sale for human consumption from a growing area in the state of Washington shall first apply to the department for a certificate of approval of the growing area. The department shall cause the shellfish growing area to be inspected and if the area meets the sanitary requirements of the state board of health, the department shall issue a certificate of approval for that area. Such certificates shall be issued for a period not to exceed twelve months and may be revoked at any time the area is found not to be in compliance with the sanitary requirements of the state board of health. [1955 c 144 § 5.]

69.30.060 Certificates of approval—Culling, shucking, packing establishments. No person shall cull, shuck, or pack shellfish in the state of Washington for sale for human consumption unless the establishment in which such operations are conducted has been certified by the department as meeting the requirements of the state board of health. Any person desiring to cull, shuck, or pack shellfish within the state of Washington for sale for human consumption, shall apply to the department for a certificate of approval for the establishment in which such operations will be done. The department shall cause such establishment to be inspected, and if the establishment meets the sanitary requirements of the state board of health, the department shall issue a certificate of approval. Such certificates of approval shall be issued for a period not to exceed twelve months, and may be revoked at any time the establishment or the operations are found not to be in compliance with the sanitary requirements of the state board of health. [1955 c 144 § 6.]

69.30.070 Certificates of approval—Compliance with other laws and rules required. Any certificate of approval issued under the provisions of this chapter shall not relieve any person from complying with the laws, rules and/or regulations of the state department of fisheries, relative to shellfish. [1955 c 144 § 7.]

69.30.080 Certificates of approval—Denial or revocation—Procedure. Any order issued by the department which denies or revokes a certificate of approval for a shellfish growing area or establishment shall be in writing and shall contain a statement of the grounds upon which said denial or revocation is based. A copy of the department's order shall be sent by registered mail to the person whose name appears on the certificate of approval or application therefor. Said order shall become final fifteen-days after the date of mailing, provided the person aggrieved by such order does not, within ten days of the date of mailing of such order, apply in writing to the director for a fair hearing. Upon such application, the department shall fix a time for such hearing and shall give the person aggrieved a notice of the time fixed for such a hearing. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the state board of health after consultation with the shellfish sanitation advisory committee. The director shall render his decision affirming, modifying or setting aside the order of the department which decision in the absence of an appeal therefrom as provided by this chapter, shall become final fifteen days after the date of mailing. [1955 c 144 § 8.]

69.30.090 Certificates of approval—Appeal from director's decision. Within ten days after the date of mailing of the decision of the director, the person aggrieved may appeal to the superior court of the county in which the shellfish growing area or establishment is located or to be located and such appeal shall be heard as a case in equity, but upon such appeal only such issues of law may be raised as were properly included in the hearings before the director. Proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by serving a notice of appeal on the department and by filing the notice of appeal together with proof of service thereof with the clerk of the court. The service and filing, together with proof of service of the notice of appeal, all within ten days shall be jurisdictional. The department shall within ten days after receipt of such notice of appeal serve and file a notice of appearance upon appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The department shall serve upon the appellant and file with the clerk of the court before hearing, a certified copy of the complete record of the administrative proceedings which shall, upon being so filed, become the record in such case. The cost of transcribing the record shall be borne by the appellant in the event the director's decision is affirmed by the court. In the event of

modification or reversal, such cost shall be borne by the department. [1955 c 144 § 9.]

69.30.100 Certificates of approval—Decision effective during appeal. Any order or decision issued by the department or director from which an appeal is taken, as provided in this chapter, shall have full force and effect during the appellate procedure. [1955 c 144 § 10.]

69.30.110 Sale in violation of chapter—Withdrawal—Enforcement. Any shellfish sold or offered for sale in the state, which have not been grown, shucked, packed, or shipped in accordance with the provisions of this chapter, shall upon order of the director be immediately withdrawn from sale, use, or consumption. In the event of failure or refusal to comply with said order, the director may apply to the superior court of the county wherein the shellfish were found for an order directing that the person having control of said shellfish withdraw said shellfish from sale, use, or consumption, in compliance with the order of the director. [1955 c 144 § 11.]

69.30.120 Inspection by department. The department may enter and inspect at reasonable times any shellfish growing area or establishment and may inspect all shellfish, and take for inspection such samples of shellfish as may reasonably be necessary to carry out the provisions of this chapter. [1955 c 144 § 12.]

69.30.130 Water pollution laws and rules applicable. All existing laws and rules and regulations governing the pollution of waters of the state shall apply in the control of pollution of shellfish growing areas. [1955 c 144 § 13.]

69.30.140 Penalties. Any person found violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or imprisonment not to exceed ninety days, or to both fine and imprisonment. Upon the violation of any of the provisions of this chapter, written notification shall be sent by the department to the person found in violation. Each day's operation thereafter in violation shall constitute a separate offense and shall be subject to the prescribed penalties. [1955 c 144 § 14.]

69.30.900 Severability—1955 c 144. If any provision of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions of the application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable. [1955 c 144 § 15.]

Chapter 69.32 NARCOTICS—ADDICTION

Sections
69.32.010 Definitions.

69.32.030 State University and State College may purchase drugs.
69.32.060 Exceptions and exemptions not required to be negated.
69.32.070 Suspected addicts—Treatment—Isolation.
69.32.080 Unlawful possession, use—Habitual user—Penalty.
69.32.090 Examination and treatment of convicted persons.
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69.32.100 Rules and regulations—Safeguards—Penalty.
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69.32.900 Continuation of existing law.
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69.32.930 Repeals and saving.
69.32.940 Emergency—1959 c 27.
69.32.950 Statement of public policy.
69.32.960 Chapter is cumulative.

Bringing narcotics into institution for care of mentally ill persons, etc., a felony: RCW 72.23.300.

Restrictions on minors entering places where narcotics used: RCW 26.28.080.

State narcotic farm colony: Chapter 72.48 RCW.

69.32.010 Definitions. The definitions contained in RCW 69.33.220 as now or hereafter amended shall also apply to this chapter.

The term "narcotic addict" means a person who habitually uses a narcotic drug or drugs. [1959 c 27 § 69.32.010. Prior: 1951 2nd ex.s. c 22 § 22; 1923 c 47 § 2, part; RRS § 2509-2, part.]

69.32.030 State University and State College may purchase drugs. Nothing herein shall make unlawful or prevent the purchase by the State University and the State College of Washington or the proper departments thereof, of narcotic drugs and the use thereof for experimental purposes only, when purchased, owned, held, possessed and used in compliance with the acts of congress and the rules and regulations thereunder. [1959 c 27 § 69.32.030. Prior: 1951 2nd ex.s. c 22 § 23; 1923 c 47 § 3, part; RRS § 2509-3, part.]

69.32.060 Exceptions and exemptions not required to be negated. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this chapter, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant. [1959 c 27 § 69.32.060. Prior: 1951 2nd ex.s. c 22 § 18; 1923 c 47 § 5; RRS § 2509-5.]

69.32.070 Suspected addicts—Treatment—Isolation. State, county and municipal health officers, or their authorized deputies, who are licensed physicians, within their respective jurisdictions are hereby directed and empowered, when in their judgment it is necessary to protect the public safety, health and morals, to make examinations of persons reasonably suspected of being habitual users of any narcotic drug and to require persons whom they have reason to suspect to be habitual users of any narcotic drug to report for treatment to an approved physician, and continue treatment at his own

expense until cured, or to submit to treatment, provided at public expense, until cured, and also to isolate or quarantine habitual users of such narcotic drugs or their derivatives. Such officer, deputy or physician shall make a written finding that such person is an habitual user of a narcotic drug, which finding shall be filed in his office: *Provided*, That such habitual users shall not be isolated or quarantined until the state board of health shall first, by general regulation, determine that the quarantine or isolation of all habitual users is necessary: *Provided, further*, That any persons suspected as herein set forth may have present at the time of his examination, a physician of his or her own choosing: *And provided further*, That the suspected person shall be informed by the health officer of his or her rights under this chapter. [1959 c 27 § 69.32.070. Prior: 1923 c 47 § 6; RRS § 2509-6.]

69.32.080 Unlawful possession, use—Habitual user—Penalty. It shall be unlawful for any person to use, administer by hypodermic or otherwise any narcotic drug as defined in the uniform narcotic drug act, RCW 69.33.220 as now or hereafter amended, except as prescribed and under the direction of a physician authorized by law to practice medicine in this state, and any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment. The unlawful possession of narcotic drugs as defined herein shall be prima facie evidence of an intent to illegally use such drugs. An habitual user of narcotic drugs shall be any person addicted to the use of narcotics as defined in this chapter and obtaining such narcotics unlawfully. Any person convicted of being an habitual user of narcotics or of violating any provision of this chapter shall be guilty of a gross misdemeanor. [1959 c 27 § 69.32.080. Prior: 1953 c 88 § 1; 1923 c 47 § 4; RRS § 2509-4.]

Reviser's note: RCW 69.33.220 was repealed by 1971 ex. sess. c 308 § 69.50.606.

69.32.090 Examination and treatment of convicted persons. Any person convicted under the provisions of RCW 69.32.080 or any person who shall be confined or imprisoned in any state, county, or city prison in the state and who may be reasonably suspected by the health officer of being a narcotic addict shall be examined for and if found to be an habitual user of said drugs, or any of them, shall be treated therefor at public expense by the health officers or their deputies who are licensed physicians. The prison authorities of any state, county, or city prison are directed to make available to the health authorities, such portion of any state, county, or city prison as may be necessary for a clinic or hospital wherein all persons who may be confined or imprisoned in any such prison, and who are habitual users of said drugs or their derivatives, may be isolated and treated at public expense until cured, or, in lieu of such isolation any such person may, in the discretion of the board of health, be required to report for treatment to a licensed physician, or submit to treatment provided at public expense, as provided in RCW 69.32.070. Nothing

herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime: *Provided*, That licensed physicians treating any narcotic addict shall, upon beginning said treatment, immediately report the same to the health officer in charge in that jurisdiction, such report to be on forms prescribed by the state board of health, and such report shall give the name of the person receiving such treatment and such other information as shall be deemed necessary by the state board of health. [1959 c 27 § 69.32.090. Prior: 1923 c 47 § 7; RRS § 2509-7.]

69.32.095 Program transferred to department of social and health services. See RCW 43.20A.180.

69.32.096 Drug control assistance unit investigative assistance for enforcement of chapter. See RCW 43.43.610.

69.32.100 Rules and regulations—Safeguards—Penalty. The state board of health is hereby empowered and directed by resolution duly entered on the minutes of its proceedings to make such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of this chapter, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of RCW 69.32.070, and such other rules and regulations, not in conflict with the provisions of this chapter, concerning the control, care, treatment and quarantine of persons addicted to the habitual use of narcotic drugs, as it may from time to time deem advisable. All such rules and regulations so made shall be in force and binding on all county and municipal health officers and other persons affected by this chapter: *Provided*, That such regulations shall prescribe reasonable safeguards against the disclosure, except to officers and physicians charged with the enforcement of this chapter, of the names of any narcotic addicts who faithfully comply with the provisions of this chapter and the lawful regulations of the state board of health, and whoever shall violate any of such safeguarding regulations shall be guilty of a gross misdemeanor. [1959 c 27 § 69.32.100. Prior: 1923 c 47 § 8; RRS § 2509-8.]

69.32.110 Appeals. Any person committed to quarantine under the provisions of RCW 69.32.070 or 69.32.090, feeling aggrieved at the finding of the health officer that he or she is an habitual user of such drugs, or at the finding that he or she be committed to quarantine, shall have the right of appeal from such finding to the superior court of the state of Washington for the county in which said person is quarantined. Said appeal shall be taken within ten days after said health officer shall have made his finding and shall be taken by serving written notice of appeal upon said health officer, and by filing the same in the office of the clerk of the superior court, and the procedure governing appeals from judgments of justices of the peace to the superior court shall govern all such appeals: *Provided*, That the person appealing shall be held in quarantine during the

pendency of such appeal. Within five days after such appeal shall have been filed, the superior court shall, without a jury, examine or cause to be examined the person taking the appeal, and take such evidence as it may deem necessary for the determination of the truth of the charges against the appellant or of the findings of such health officer. The prosecuting attorney of the county shall represent the health or quarantine officer in all such appeals and the appellant shall have the right to be represented by counsel.

The findings and judgment of said superior court upon said appeal shall be conclusive. Any person committed to quarantine under the provisions of this chapter may be paroled, or discharged from quarantine at any time by the committing health officer or his successor in charge, whenever said person is cured of such narcotic habit, or whenever said officer shall deem it no longer necessary for the public health, safety and morals, to continue the quarantine of said individual. Any person held in quarantine deeming himself cured may make application for discharge to the health officer ordering commitment, or his successor, upon which application findings in writing shall be made within five days therefrom. In the event that the application is denied the applicant may appeal to the superior court in the manner herein provided from the findings of the quarantine officer in charge that he or she is not cured of such habit: *Provided, however,* That said appeal shall not lie until after said person shall have been in quarantine for a period of at least six months. If upon such hearing the appeal shall be disallowed by the court, the appellant shall be returned to quarantine. If such appeal be allowed, the appellant shall be discharged therefrom. Nothing in RCW 69.32.070, 69.32.090 through 69.32.110, and 69.32.130 shall affect, prevent, or interfere with prosecutions instituted under RCW 69.32.080. [1959 c 27 § 69.32.110. Prior: 1923 c 47 § 10; RRS § 2509-10.]

69.32.120 Quarantine stations and clinics. For the purpose of carrying out the provisions of this chapter the state board of health shall have the power and authority from time to time to divide the state into such number of quarantine districts consisting of one or more counties, or municipalities, or parts of counties or municipalities, as it shall deem expedient, and to establish at such place, or places, as it shall deem necessary, quarantine stations and clinics for the detention and treatment of persons found to be habitual users of narcotic drugs, and to establish any such quarantine station and clinic in connection with any county or city jail, or in any hospital or other public or private institution having or which may be provided with, such necessary detention, segregation, isolation, clinic and hospital facilities as may be required and prescribed by the board, and to enter into arrangements for the conduct of such quarantine stations and clinics with the public officers or persons, associations, or corporations in charge of or maintaining and operating such institutions. [1959 c 27 § 69.32.120. Prior: 1923 c 47 § 11; RRS § 2509-11.]

69.32.130 Penalty for violating rule or regulation or order. Any person who shall violate lawful rules or regulations made by the state board of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer, pursuant to the authority granted in this chapter, shall be deemed guilty of a gross misdemeanor. [1959 c 27 § 69.32.130. Prior: 1923 c 47 § 9; RRS § 2509-9.]

69.32.900 Continuation of existing law. The provisions of this chapter insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1959 c 27 § 69.32.900.]

69.32.910 Chapter and section headings not part of law. Chapter headings, and section or subsection headings, as used in this chapter do not constitute any part of the law. [1959 c 27 § 69.32.910.]

69.32.920 Invalidity of part of chapter not to affect remainder. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1959 c 27 § 69.32.920.]

69.32.930 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Chapter 47, Laws of 1923;
- (2) Sections 18, 22, and 23, chapter 22, Laws of 1951 second extraordinary session;
- (3) Section 1, chapter 88, Laws of 1953.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor any rule, regulation or order adopted pursuant thereto, nor as affecting any proceeding instituted thereunder. [1959 c 27 § 69.32.930.]

69.32.940 Emergency—1959 c 27. This 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. [1959 c 27 § 69.32.940.]

69.32.950 Statement of public policy. The habitual use of opium, morphine, cocaine, alkaloid cocaine, coca leaves or alpha or beta eucaine, their derivatives and other habit-forming drugs hereinafter named is detrimental and dangerous to the individual and to public safety, health and morals. [1959 c 27 § 69.32.950. Prior: 1923 c 47 § 1; RRS § 2509-1.]

69.32.960 Chapter is cumulative. The provisions of this chapter shall be cumulative with and additional to the existing laws and regulations and nothing herein contained shall abridge or limit the powers of health authorities as construed by the supreme court of the state of Washington, except as herein otherwise provided. [1959 c 27 § 69.32.960.]

Chapter 69.33
UNIFORM NARCOTIC DRUG ACT

Sections

69.33.230	Compliance required.
69.33.240	License required.
69.33.250	Qualifications for license—Suspension or revocation.
69.33.260	Sale by manufacturer, wholesaler—Conditions— Use of drugs.
69.33.270	Sale by apothecary.
69.33.960	Repeals and saving.

Bringing narcotics into institution for care of mentally ill persons, etc., a felony: RCW 72.23.300.

Officer may arrest on reasonable belief crime involving use or possession of cannabis being committed: RCW 10.31.100.

Restrictions on minors entering places where narcotics used: RCW 26.28.080.

State narcotic farm colony: Chapter 72.48 RCW.

69.33.230 Compliance required. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this chapter. [1959 c 27 § 69.33.230. Prior: 1951 2nd ex.s. c 22 § 2. Formerly RCW 69.33.020.]

69.33.240 License required. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the state board of pharmacy. [1959 c 27 § 69.33.240. Prior: 1951 2nd ex.s. c 22 § 3. Formerly RCW 69.33.030.]

69.33.250 Qualifications for license—Suspension or revocation. No license shall be issued under RCW 69.33.240 unless and until the applicant therefor has furnished proof satisfactory to the state board of pharmacy.

(1) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(2) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five years been convicted of a wilful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict.

The state board of pharmacy may suspend or revoke any license for cause. [1959 c 27 § 69.33.250. Prior: 1951 2nd ex.s. c 22 § 4. Formerly RCW 69.33.040.]

69.33.260 Sale by manufacturer, wholesaler—Conditions—Use of drugs. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

- (a) To a manufacturer, wholesaler, or apothecary.
- (b) To a physician, dentist, or veterinarian.
- (c) To a person in charge of a hospital, but only for use by or in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as required by the federal narcotic laws, to a person in the employ of the United States government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some state, territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States army, navy, or public health service employed upon such ship or aircraft, only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States public health service.

(c) To a person in a foreign country if the provisions of the federal narcotic laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed a compliance with this subsection if the parties to the transaction have complied with the federal narcotic laws, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof or a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some state, territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States army, navy, or public health service employed upon such ship or aircraft who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this chapter. [1959 c 27 § 69.33.260. Prior: 1951 2nd ex.s. c 22 § 5. Formerly RCW 69.33.050.]

69.33.270 Sale by apothecary. (1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription or an oral prescription in pursuance to regulations promulgated by the United States commissioner of narcotics under the existing federal narcotic laws, of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty percent of the complete solution, to be used for medical purposes. [1959 c 27 § 69.33.270. Prior: 1955 c 25 § 1; 1951 2nd ex.s. c 22 § 6. Formerly RCW 69.33.060.]

69.33.960 Repeals and saving. The following acts or parts of acts are repealed:

(1) Sections 1 through 17, 19, 20, 21, 24, 25, 26, and 27, chapter 22, Laws of 1951 second extraordinary session;

(2) Sections 2, 3, and 4, chapter 88, Laws of 1953;

(3) Chapter 25, Laws of 1955;

(4) Chapter 161, Laws of 1957.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor any rule, regulation or order adopted pursuant thereto, nor as affecting any proceeding instituted thereunder. [1959 c 27 § 69.33.960.]

Chapter 69.36

WASHINGTON CAUSTIC POISON ACT OF 1929

Sections

69.36.010	Definitions.
69.36.020	Misbranded sales, etc., prohibited—Exceptions.
69.36.030	Condemnation of misbranded packages.
69.36.040	Enforcement—Approval of labels.
69.36.050	Duty to prosecute.
69.36.060	Penalty.
69.36.070	Short title.

Highway transportation of poisons, corrosives, etc.: RCW 46.48.170 through 46.48.190.

69.36.010 Definitions. In this chapter, unless the context or subject matter otherwise requires,

(1) The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten percent or more; (b) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in concentration of ten percent or more; (c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of five percent or more; (d) Carboic acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carboic acid in a concentration of five percent or more; (e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of ten percent or more; (f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of ten percent or more; (g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of twenty percent or more; (h) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten percent or more; (j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten percent or more; (k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of five percent or more, and (l) Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and "hartshorn", in a concentration of five percent or more.

(2) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "POISON", running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance; *Provided*, That such directions need not appear on labels or stickers on parcels, packages or containers at the time of shipment or of delivery for shipment by manufacturers or wholesalers for other than household

use. *Provided further*, That this chapter is not to be construed as applying to any substance subject to the chapter, sold at wholesale or retail for use by a retail druggist in filling prescriptions or in dispensing, in pursuance of a prescription by a physician, dentist, or veterinarian; or for use by or under the direction of a physician, dentist, or veterinarian; or for use by a chemist in the practice or teaching of his profession; or for any industrial or professional use, or for use in any of the arts and sciences. [1929 c 82 § 1; RRS § 2508-1. Formerly RCW 69.36.010 and 69.36.020, part.]

69.36.020 Misbranded sales, etc., prohibited—Exceptions. No person shall sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange, in this state any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use; *Provided*, That household products for cleaning and washing purposes, subject to this chapter and labeled in accordance therewith, may be sold, offered for sale, held for sale and distributed in this state by any dealer, wholesale or retail; *Provided further*, That no person shall be liable to prosecution and conviction under this chapter when he establishes a guaranty bearing the signature and address of a vendor residing in the United States from whom he purchased the dangerous caustic or corrosive substance, to the effect that such substance is not misbranded within the meaning of this chapter. No person in this state shall give any such guaranty when such dangerous caustic or corrosive substance is in fact misbranded within the meaning of this chapter. [1929 c 82 § 2; RRS § 2508-2. FORMER PART OF SECTION: 1929 c 82 § 1 now codified in RCW 69.32.010.]

69.36.030 Condemnation of misbranded packages. Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use, that is being sold, bartered, or exchanged, or held, displayed, or offered for sale, barter, or exchange, shall be liable to be proceeded against in any superior court within the jurisdiction of which the same is found and seized for confiscation, and if such substance is condemned as misbranded, by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the state treasurer; but such substance shall not be sold contrary to the laws of the state: *Provided, however*, That upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof. Such condemnation proceedings shall conform as near as may be to proceedings in the seizure, and condemnation of substances unfit for human consumption. [1929 c 82 § 3; RRS § 2508-3.]

69.36.040 Enforcement—Approval of labels. The director of agriculture shall enforce the provisions of this chapter, and he is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this chapter as may be submitted to him for that purpose and as may in his judgment conform to the requirements of this statute: *Provided, however*, That in any prosecution under this chapter the fact that any brand or label involved in said prosecution has not been submitted to said director for approval, or if submitted, has not been approved by him, shall be immaterial. [1929 c 82 § 5; RRS § 2508-5.]

69.36.050 Duty to prosecute. Every prosecuting attorney to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this chapter shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided. [1929 c 82 § 6; RRS § 2508-6.]

69.36.060 Penalty. Any person violating the provisions of this chapter shall be guilty of a misdemeanor. [1929 c 82 § 4; RRS § 2508-4.]

69.36.070 Short title. This chapter may be cited as the Washington Caustic Poison Act of 1929. [1929 c 82 § 7; RRS § 2508-7.]

Chapter 69.40

POISONS AND DANGEROUS DRUGS

Sections

69.40.010	Poison in edible products.
69.40.015	Poison in edible products—Penalty.
69.40.020	Poison in milk or food products—Penalty.
69.40.025	Supplementary to existing laws—Enforcement.
69.40.030	Placing poison or other harmful object or substance in food, drinks, medicine or water—Penalty.
69.40.050	Selling poison without labeling and recording the sale—Penalty.
69.40.150	Drug control assistance unit investigative assistance for enforcement of chapter.

Pharmacists: Chapter 18.64 RCW.

Poisoning animals—Strychnine sales: RCW 16.52.190-16.52.195.

Poisonous bait, etc., a game violation: RCW 77.16.060.

Washington pesticide application act: Chapter 17.21 RCW.

69.40.010 Poison in edible products. It shall be unlawful for any person to sell, offer for sale, use, distribute, or leave in any place, any crackers, biscuit, bread or any other preparation resembling or in similitude, of any edible product, containing arsenic, strychnine or any other poison. [1905 c 141 § 1; RRS § 6140. FORMER PART OF SECTION: 1905 c 141 § 2 now codified as RCW 69.40.015.]

69.40.015 Poison in edible products—Penalty. Any person violating the provisions of RCW 69.40.010 shall upon conviction be punished by a fine of not less than ten dollars nor more than five hundred dollars. [1905 c 141 § 2; RRS § 6141. Formerly RCW 69.40.010, part.]

69.40.020 Poison in milk or food products—Penalty. Any person who shall sell, offer to sell, or have in his possession for the purpose of sale, either as owner, proprietor, or assistant, or in any manner whatsoever, whether for hire or otherwise, any milk or any food products, containing the chemical ingredient commonly known as formaldehyde, or in which any formaldehyde or other poisonous substance has been mixed, for the purpose of preservation or otherwise, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for the period of not less than one year nor more than three years. [1905 c 50 § 1; RRS § 6142. FORMER PART OF SECTION: 1905 c 50 § 2 now codified as RCW 69.40.025.]

69.40.025 Supplementary to existing laws—Enforcement. This act shall be supplementary to the laws of this state now in force prohibiting the adulteration of food and fraud in the sale thereof; and the state dairy and food commissioner, the chemist of the state agricultural experiment station, the state attorney general and the prosecuting attorneys of the several counties of this state are hereby required, without additional compensation, to assist in the execution of *this act, and in the prosecution of all persons charged with the violation thereof, in like manner and with like powers as they are now authorized and required by law to enforce the laws of this state against the adulteration of food and fraud in the sale thereof. [1905 c 50 § 2; RRS § 6143. Formerly RCW 69.40.020, part.]

***Reviser's note:** (1) "this act" appears in 1905 c 50 codified as RCW 69.40.020 and 69.40.025.

(2) The duties of the state dairy and food commissioner have devolved upon the director of agriculture through a chain of statute as follows: 1913 c 60 § 6(2); 1921 c 7 § 93(1). See RCW 43.23.090(1).

69.40.030 Placing poison or other harmful object or substance in food, drinks, medicine or water—Penalty. Every person who shall wilfully mingle poison or place any harmful object or substance, including but not limited to pins, tacks, needles, nails, razor blades, wire, or glass in any food, drink, medicine, or other edible substance intended or prepared for the use of a human being or who shall knowingly furnish, with intent to harm another person, any food, drink, medicine, or other edible substance containing such poison or harmful object or substance to another human being, and every person who shall wilfully poison any spring, well or reservoir of water, shall be punished by imprisonment in the state penitentiary for not less than five years or by a fine of not less than one thousand dollars: *Provided, however,* That *this act shall not apply to the employer or employers of a person who violates the provisions contained herein without such employer's knowledge. [1973 c 119 § 1; 1909 c 249 § 264; RRS § 2516. Prior: Code 1881 § 802; 1873 p 185 § 27; 1869 p 202 § 25; 1854 p 79 § 25.]

***Reviser's note:** "this act" apparently refers to the amendment to this section by 1973 c 119 § 1.

Reviser's note: Caption for 1909 c 249 § 264 reads: "Wilfully poisoning food."

69.40.050 Selling poison without labeling and recording the sale—Penalty. It shall be unlawful for any person to sell at retail or furnish any of the poisons named in the schedules hereinafter set forth, without affixing or causing to be affixed to the bottle, box, vessel or package, a label containing the name of the article and the word "poison" distinctly shown, with the name and place of business of the seller, all printed in red ink, together with the name of such poison printed or written thereon in plain, legible characters, which schedules are as follows, to wit:

SCHEDULE "A"

Arsenic, cyanide of potassium, hydrocyanic acid, cocaine, morphine, strychnia and all other poisonous vegetable alkaloids and their salts, oil of bitter almonds, containing hydrocyanic acid, opium and its preparations, except paregoric and such others as contain less than two grains of opium to the ounce.

SCHEDULE "B"

Aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote, croton oil, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, white hellebore or any drug, chemical or preparation which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less. Every person who shall dispose of or sell at retail or furnish any poisons included under schedule A shall, before delivering the same, make or cause to be made an entry in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and the quantity of the poison, the purpose for which it is represented by the purchaser to be required and the name of the dispenser, such book to be always open for inspection by the proper authorities, and to be preserved for at least five years after the last entry. He shall not deliver any of said poisons to any minor, intoxicated person, or person known to be of unsound mind, or to any person without satisfying himself that the purchaser is aware of its poisonous character and that the said poison is to be used for a legitimate purpose. The foregoing portions of this section shall not apply to the dispensing of medicines, or poisons, on physicians' prescriptions. Wholesale dealers in drugs, medicines, pharmaceutical preparations or chemicals shall affix or cause to be affixed to every bottle, box, parcel or outer enclosure of an original package containing any of the articles enumerated under said schedule A, a suitable brand in red ink with the word "poison" upon it. Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. [1909 c 249 § 256; RRS § 2508. Prior: Code 1881 § 954; 1873 p 211 § 135; 1869 p 227 § 129; 1854 p 97 § 123.]

69.40.150 Drug control assistance unit investigative assistance for enforcement of chapter. See RCW 43.43.610.

Chapter 69.41
LEGEND DRUGS

Sections

69.41.010	Definitions.
69.41.020	Prohibited acts—Information not privileged communication.
69.41.030	Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions.
69.41.040	Prescription requirements.
69.41.050	Labeling requirements.
69.41.060	Search and seizure.
69.41.070	Penalties.

69.41.010 Definitions. As used in this chapter:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Dispense" means to deliver a legend drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(6) "Distributor" means a person who distributes.

(7) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(8) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(9) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(10) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88

RCW, a licensed practical nurse under chapter 18.78 RCW, or a pharmacist under chapter 18.64 RCW.

(b) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a legend drug in the course of professional practice or research in this state. [1973 1st ex.s. c 186 § 1.]

69.41.020 Prohibited acts—Information not privileged communication. Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs. [1973 1st ex.s. c 186 § 2.]

69.41.030 Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions.

It shall be unlawful for any person to sell, deliver or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatrist under chapter 18.22 RCW, or a veterinarian under chapter 18.92 RCW: *Provided, however,* That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment. [1973 1st ex.s. c 186 § 3.]

69.41.040 Prescription requirements. A prescription, in order to be effective in legalizing the possession of legend drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. An order purporting to be a prescription

issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this section; and the person who knows or should know that he is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. A legitimate medical purpose shall include use in the course of a bona fide research program in conjunction with a hospital or university. [1973 1st ex.s. c 186 § 4.]

69.41.050 Labeling requirements. To every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug and strength per unit dose, name of patient and date: *Provided*, That the practitioner may omit the name and dosage of the drug if he determines that his patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient. [1973 1st ex.s. c 186 § 5.]

69.41.060 Search and seizure. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court or justice of the peace that there is probable cause to believe that any legend drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such justice of the peace or judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding him to search the premises designated and described in such complaint and warrant, and to seize all legend drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such legend drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such legend drugs, furniture or fixtures so seized, and if no person be found in the possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises. [1973 1st ex.s. c 186 § 6.]

69.41.070 Penalties. Whoever violates any provision of this chapter shall, upon conviction, be fined and imprisoned as herein provided:

(1) For a violation of RCW 69.41.020, the offender shall be guilty of a felony.

(2) For a violation of RCW 69.41.030 involving the sale, delivery or possession with intent to sell or deliver, the offender shall be guilty of a felony.

(3) For a violation of RCW 69.41.030 involving possession, the offender shall be guilty of a misdemeanor.

(4) For a violation of RCW 69.41.040, the offender shall be guilty of a felony.

(5) For a violation of RCW 69.41.050, the offender shall be guilty of a misdemeanor.

(6) Any offense which is a violation of chapter 69.50 RCW shall not be charged under this chapter. [1973 1st ex.s. c 186 § 7.]

Chapter 69.50

UNIFORM CONTROLLED SUBSTANCES ACT

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ARTICLE I
DEFINITIONS

69.50.101 Definitions. As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) a practitioner, or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(c) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(f) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(g) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(h) "Dispenser" means a practitioner who dispenses.

(i) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(j) "Distributor" means a person who distributes.

(k) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause

(1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(l) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(m) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice, or

(2) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(n) "Marihuana" means all parts of the plant of the genus *Cannabis* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(o) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(p) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to

morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(q) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

(r) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(s) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(t) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a chiropractor under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(u) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(v) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(w) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(x) "Board" means the state board of pharmacy.

(y) "Executive officer" means the executive officer of the state board of pharmacy. [1973 2nd ex.s. c 38 § 1; 1971 ex.s. c 308 § 69.50.101.]

Severability—1973 2nd ex.s. c 38: "If any of the provisions of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the amendatory act, or the application of the provision to other persons or circumstances, or the act prior to its amendment is not affected." [1973 2nd ex.s. c 38 § 3.] This applies to the amendments to RCW 69.50.101 and 46.61.520 by 1973 2nd ex.s. c 38.

ARTICLE II STANDARDS AND SCHEDULES

69.50.201 Authority to control. (a) The state board of pharmacy shall administer this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the rule-making procedures of chapter 34.04 RCW. In making a determination regarding a substance, the board shall consider the following:

- (1) the actual or relative potential for abuse;
- (2) the scientific evidence of its pharmacological effect, if known;
- (3) the state of current scientific knowledge regarding the substance;
- (4) the history and current pattern of abuse;
- (5) the scope, duration, and significance of abuse;
- (6) the risk to the public health;
- (7) the potential of the substance to produce psychic or physiological dependence liability; and
- (8) whether the substance is an immediate precursor of a substance already controlled under this Article.

(b) After considering the factors enumerated in subsection (a) the board may issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the board, the substance shall be similarly controlled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall proceed pursuant to the rule-making procedures of chapter 34.04 RCW.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 66 RCW and Title 26 RCW.

(f) The board shall exclude any nonnarcotic substances from a schedule if such substances may, under the Federal Food, Drug and Cosmetic Act, and under regulations of the bureau, and the laws of this state including RCW 18.64.250, be lawfully sold over the counter. [1971 ex.s. c 308 § 69.50.201.]

69.50.202 Nomenclature. The controlled substances listed or to be listed in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 are included by whatever official, common, usual, chemical, or trade name designated. [1971 ex.s. c 308 § 69.50.202.]

69.50.203 Schedule I tests. The state board of pharmacy shall place a substance in Schedule I if it finds that the substance:

- (1) has high potential for abuse; and
- (2) has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision. [1971 ex.s. c 308 § 69.50.203.]

69.50.204 Schedule I. (a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol;
- (2) Allyprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Dextrorphan;
- (14) Diampromide;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetyl butyrate;
- (20) Dipipanone;
- (21) Ethylmethylthiambutene;
- (22) Etonitazene;
- (23) Etoxidine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacylmorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Propheptazine;
- (40) Properidine;
- (41) Racemoramide;
- (42) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and

salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Etorphine;
- (10) Heroin;
- (11) Hydromorphanol;
- (12) Methyldesorphine;
- (13) Methyldihydromorphine;
- (14) Morphine methylbromide;
- (15) Morphine methylsulfonate;
- (16) Morphine-N-Oxide;
- (17) Myrophine;
- (18) Nicocodeine;
- (19) Nicomorphine;
- (20) Normorphine;
- (21) Phoclodine;
- (22) Thebacon.

(d) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) Bufotenine;
- (5) Diethyltryptamine;
- (6) Dimethyltryptamine;
- (7) 4-methyl-2,5-dimethoxyamphetamine;
- (8) Ibogaine;
- (9) Lysergic acid diethylamide;
- (10) Marihuana;
- (11) Mescaline;
- (12) Peyote;
- (13) N-ethyl-3-piperidyl benzilate;
- (14) N-methyl-3-piperidyl benzilate;
- (15) Psilocybin;
- (16) Psilocyn;
- (17) Tetrahydrocannabinols. [1971 ex.s. c 308 § 69.50.204.]

69.50.205 Schedule II tests. The state board of pharmacy shall place a substance in Schedule II if it finds that:

- (1) the substance has high potential for abuse;
- (2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) the abuse of the substance may lead to severe psychic or physical dependence. [1971 ex.s. c 308 § 69.50.205.]

69.50.206 Schedule II. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Alphaprodine;
- (2) Anileridine;
- (3) Bezitramide;
- (4) Dihydrocodeine;
- (5) Diphenoxylate;
- (6) Fentanyl;
- (7) Isomethadone;
- (8) Levomethorphan;
- (9) Levorphanol;
- (10) Metazocine;
- (11) Methadone;
- (12) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (13) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (14) Pethidine;
- (15) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine;
- (16) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate;
- (17) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (18) Phenazocine;
- (19) Piminodine;
- (20) Racemethorphan;
- (21) Racemorphan. [1971 ex.s. c 308 § 69.50.206.]

69.50.207 Schedule III tests. The state board of pharmacy shall place a substance in Schedule III if it finds that:

(1) the substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence. [1971 ex.s. c 308 § 69.50.207.]

69.50.208 Schedule III. (a) The controlled substances listed in this section are included in Schedule III.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Phenmetrazine and its salts;

(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(4) Methylphenidate.

(c) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other Schedules;

(2) Chlorhexadol;

(3) Glutethimide;

(4) Lysergic acid;

(5) Lysergic acid amide;

(6) Methypylon;

(7) Phencyclidine;

(8) Sulfondiethylmethane;

(9) Sulfonethylmethane;

(10) Sulfonmethane.

(d) Nalorphine.

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) The state board of pharmacy may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system. [1971 ex.s. c 308 § 69.50.208.]

69.50.209 Schedule IV tests. The state board of pharmacy shall place a substance in Schedule IV if it finds that:

(1) the substance has a low potential for abuse relative to substances in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. [1971 ex.s. c 308 § 69.50.209.]

69.50.210 Schedule IV. (a) The controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Ethchlorvynol;
- (5) Ethinamate;
- (6) Methohexital;
- (7) Meprobamate;
- (8) Methylphenobarbital;
- (9) Paraldehyde;
- (10) Petrichloral;
- (11) Phenobarbital.

(c) The state board of pharmacy may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more

active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system. [1971 ex.s. c 308 § 69.50.210.]

69.50.211 Schedule V tests. The state board of pharmacy shall place a substance in Schedule V if it finds that:

(1) the substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) the substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV. [1971 ex.s. c 308 § 69.50.211.]

69.50.212 Schedule V. (a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams. [1971 ex.s. c 308 § 69.50.212.]

69.50.213 Republishing of schedules. The state board of pharmacy shall at least semiannually for two years from May 21, 1971 and thereafter annually consider the revision of the schedules published pursuant to chapter 34.04 RCW. [1971 ex.s. c 308 § 69.50.213.]

ARTICLE III REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED SUBSTANCES

69.50.301 Rules. The state board of pharmacy may promulgate rules and charge reasonable fees of not less than ten dollars or more than fifty dollars relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state. [1971 ex.s. c 308 § 69.50.301.]

69.50.302 Registration requirements. (a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the state board of pharmacy in accordance with its rules.

(b) Persons registered by the board under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) an agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment: *Provided*, That this exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety: *Provided*, That personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rule. [1971 ex.s. c 308 § 69.50.302.]

69.50.303 Registration. (a) The state board of pharmacy shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this Article for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the board evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration entitles them to be registered under this chapter upon application and payment of the required fee. [1971 ex.s. c 308 § 69.50.303.]

69.50.304 Revocation and suspension of registration.

(a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the state board of pharmacy upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this chapter;

(2) has been found guilty of a felony under any state or federal law relating to any controlled substance; or

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(b) The board may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(c) If the board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the

court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the Bureau of all orders suspending or revoking registration and all forfeitures of controlled substances. [1971 ex.s. c 308 § 69.50.304.]

69.50.305 Procedure for denial, suspension or revocation of registration. (a) Any registration, or exemption from registration, issued pursuant to the provisions of this chapter shall not be denied, suspended, or revoked unless the board denies, suspends, or revokes such registration, or exemption from registration, by proceedings consistent with the administrative procedure act, chapter 34.04 RCW.

(b) The board may suspend any registration simultaneously with the institution of proceedings under RCW 69.50.304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction. [1971 ex.s. c 308 § 69.50.305.]

69.50.306 Records of registrants. Persons registered, or exempted from registration under RCW 69.50.302(d), to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the state board of pharmacy issues. [1971 ex.s. c 308 § 69.50.306.]

69.50.307 Order forms. Controlled substances in Schedule I and II shall be distributed by a registrant or person exempt from registration under RCW 69.50.302 (d) to another registrant, or person exempt from registration under RCW 69.50.302(d), only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section. [1971 ex.s. c 308 § 69.50.307.]

69.50.308 Prescriptions. (a) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner.

(b) In emergency situations, as defined by rule of the state board of pharmacy, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306. No prescription for a Schedule II substance may be refilled.

(c) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under RCW 69.04.560, shall not be dispensed without a written or oral prescription of a

practitioner. Any oral prescription must be promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(d) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that he is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(e) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose. [1971 ex.s. c 308 § 69.50.308.]

69.50.309 Containers. A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner, and the owner of any animal for which such controlled substance has been prescribed, sold, or dispensed may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same. [1971 ex.s. c 308 § 69.50.309.]

ARTICLE IV OFFENSES AND PENALTIES

69.50.401 Prohibited acts A—Penalties. (a) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(1) Any person who violates this subsection with respect to:

(i) a controlled substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, or fined not more than twenty-five thousand dollars, or both;

(ii) any other controlled substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iii) a substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(b) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(1) Any person who violates this subsection with respect to:

(i) a counterfeit substance classified in Schedule I or II which is a narcotic drug, is guilty of a crime and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(ii) any other counterfeit substance classified in Schedule I, II, or III, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iii) a counterfeit substance classified in Schedule IV, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both;

(iv) a counterfeit substance classified in Schedule V, is guilty of a crime and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both.

(c) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this chapter. Any person who violates this subsection is guilty of a crime, and upon conviction may be imprisoned for not more than five years, fined not more than ten thousand dollars, or both, except as provided for in subsection (d) of this section.

(d) Except as provided for in subsection (a)(1)(ii) of this section any person found guilty of possession of forty grams or less of marijuana shall be guilty of a misdemeanor.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410. [1973 2nd ex.s. c 2 § 1; 1971 ex.s. c 308 § 69.50.401.]

69.50.402 Prohibited acts B—Penalties. (a) It is unlawful for any person:

(1) who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under this chapter;

(4) to refuse an entry into any premises for any inspection authorized by this chapter; or

(5) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both. [1971 ex.s. c 308 § 69.50.402.]

69.50.403 Prohibited acts C—Penalties. (a) It is unlawful for any person knowingly or intentionally:

(1) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by RCW 69.50.307;

(2) To use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address.

(4) To falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(5) To make or utter any false or forged prescription or false or forged written order.

(6) To affix any false or forged label to a package or receptacle containing controlled substances.

(7) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter; or

(8) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance.

(b) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(c) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both. [1971 ex.s. c 308 § 69.50.403.]

69.50.404 Penalties under other laws. Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law. [1971 ex.s. c 308 § 69.50.404.]

69.50.405 Bar to prosecution. If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state. [1971 ex.s. c 308 § 69.50.405.]

69.50.406 Distribution to persons under age eighteen. Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing a controlled substance listed in Schedules I or II which is a narcotic

drug to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by RCW 69.50.401(a)(1)(i), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(a)(1)(i), or by both. Any person eighteen years of age or over who violates RCW 69.50.401(a) by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his junior is punishable by the fine authorized by RCW 69.50.401(a)(1)(ii), (iii), or (iv), by a term of imprisonment up to twice that authorized by RCW 69.50.401(a)(1)(ii), (iii), or (iv), or both. [1971 ex.s. c 308 § 69.50.406.]

69.50.407 Conspiracy. Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy. [1971 ex.s. c 308 § 69.50.407.]

69.50.408 Second or subsequent offenses. (a) Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(b) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

(c) This section does not apply to offenses under RCW 69.50.401(c). [1971 ex.s. c 308 § 69.50.408.]

69.50.410 Prohibited acts D—Penalties. (1) Except as authorized by this chapter it shall be unlawful for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense. Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend

or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation. Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: *Provided*, That the board of prison terms and paroles under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(5) Any person, addicted to the use of controlled substances, who voluntarily places himself in the custody of the department of social and health services for the purpose of participating in a rehabilitation program of the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 as now or hereafter amended. [1973 2nd ex.s. c 2 § 2.]

ARTICLE V ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

69.50.500 Powers of enforcement personnel. (a) It is hereby made the duty of the state board of pharmacy, its officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the Washington state board of pharmacy, who are so designated by the board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter. [1971 ex.s. c 308 § 69.50.500.]

69.50.501 Administrative inspections. The state board of pharmacy may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to RCW 69.50.502 an officer or employee designated by the board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the board may:

(a) inspect and copy records required by this chapter to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with chapter 34.04 RCW, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing. [1971 ex.s. c 308 § 69.50.501.]

69.50.502 Warrants for administrative inspections.

Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of a superior court, or a judge of a district court within his jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures or property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(a) state the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(b) be directed to a person authorized by RCW 69.50.500 to execute it;

(c) command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(d) identify the item or types of property to be seized, if any;

(e) direct that it be served during normal business hours and designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person

from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court in which the inspection was made. [1971 ex.s. c 308 § 69.50.502.]

69.50.503 Injunctions. (a) The superior courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section. [1971 ex.s. c 308 § 69.50.503.]

69.50.504 Cooperative arrangements. The state board of pharmacy shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. [1971 ex.s. c 308 § 69.50.504.]

69.50.505 Forfeitures. (a) The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed or acquired in violation of this chapter;

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) all property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) no conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) a conveyance is not subject to forfeiture for a violation of RCW 69.50.401(c); and,

(iv) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) a board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly.

(d) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the board or seizing law enforcement agency subject only to the orders and decrees of the superior court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the board or seizing law enforcement agency may:

(1) place the property under seal;

(2) remove the property to a place designated by it; or

(3) request the appropriate sheriff or director of public safety to take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(e) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs;

(3) request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau for disposition.

(f) Controlled substances listed in Schedule I, II, III, IV and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(g) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter,

or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(h) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants. [1971 ex.s. c 308 § 69.50.505.]

69.50.506 Burden of proof; liabilities. (a) It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, he is presumed not to be the holder of the registration or form. The burden of proof is upon him to rebut the presumption.

(c) No liability is imposed by this chapter upon any authorized state, county or municipal officer, engaged in the lawful performance of his duties. [1971 ex.s. c 308 § 69.50.506.]

69.50.507 Judicial review. All final determinations, findings and conclusions of the state board of pharmacy under this chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the superior court wherein he resides or in the superior court of Thurston county, such review to be in conformity with the administrative procedure act, chapter 34.04 RCW. [1971 ex.s. c 308 § 69.50.507.]

69.50.508 Education and research. (a) The state board of pharmacy may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The board may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) The board may enter into contracts for educational and research activities without performance bonds.

(d) The board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization. [1971 ex.s. c 308 § 69.50.508.]

69.50.509 Search and seizure of controlled substances. If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, justice of the peace, district court judge or municipal judge that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such justice of the peace or judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale,

barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter. [1971 ex.s. c 308 § 69.50.509.]

ARTICLE VI MISCELLANEOUS

69.50.601 Pending proceedings. (a) Prosecution for any violation of law occurring prior to May 21, 1971 is not affected or abated by this chapter. If the offense being prosecuted is similar to one set out in Article IV of this chapter, then the penalties under Article IV apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to May 21, 1971 are not affected by this chapter.

(c) All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to May 21, 1971. Any substance controlled under prior law which is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The state board of pharmacy shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to May 21, 1971 and who are registered or licensed by the state.

(e) This chapter applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following May 21, 1971. [1971 ex.s. c 308 § 69.50.601.]

69.50.602 Continuation of rules. Any orders and rules promulgated under any law affected by this chapter and in effect on May 21, 1971 and not in conflict with it continue in effect until modified, superseded or repealed. [1971 ex.s. c 308 § 69.50.602.]

69.50.603 Uniformity of interpretation. This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it. [1971 ex.s. c 308 § 69.50.603.]

69.50.604 Short title. This chapter may be cited as the Uniform Controlled Substances Act. [1971 ex.s. c 308 § 69.50.604.]

69.50.605 Severability—1971 ex.s. c 308. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. [1971 ex.s. c 308 § 69.50.605.]

69.50.606 Repealers. The laws specified below are repealed except with respect to rights and duties which matured, penalties which were incurred and proceedings which were begun before the effective date of this act:

(1) Section 2072, Code of 1881, section 418, chapter 249, Laws of 1909, section 4, chapter 205, Laws of 1963 and RCW 9.91.030;

(2) Section 69.33.220, chapter 27, Laws of 1959, section 7, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.220;

(3) Sections 69.33.230 through 69.33.280, chapter 27, Laws of 1959 and RCW 69.33.230 through 69.33.280;

(4) Section 69.33.290, chapter 27, Laws of 1959, section 1, chapter 97, Laws of 1959 and RCW 69.33.290;

(5) Section 69.33.300, chapter 27, Laws of 1959, section 8, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.300;

(6) Sections 69.33.310 through 69.33.400, chapter 27, Laws of 1959 and RCW 69.33.310 through 69.33.400;

(7) Section 69.33.410, chapter 27, Laws of 1959, section 20, chapter 38, Laws of 1963 and RCW 69.33.410;

(8) Sections 69.33.420 through 69.33.440, 69.33.900 through 69.33.950, chapter 27, Laws of 1959 and RCW 69.33.420 through 69.33.440, 69.33.900 through 69.33.950;

(9) Section 255, chapter 249, Laws of 1909 and RCW 69.40.040;

(10) Section 1, chapter 6, Laws of 1939, section 1, chapter 29, Laws of 1939, section 1, chapter 57, Laws of 1945, section 1, chapter 24, Laws of 1955, section 1, chapter 49, Laws of 1961, section 1, chapter 71, Laws of 1967, section 9, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.060;

(11) Section 1, chapter 23, Laws of 1955, section 2, chapter 49, Laws of 1961, section 2, chapter 71, Laws of 1967 and RCW 69.40.061;

(12) Section 21, chapter 38, Laws of 1963 and RCW 69.40.063;

(13) Section 2, chapter 6, Laws of 1939, section 23, chapter 38, Laws of 1963, section 10, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.070;

(14) Section 12, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.075;

(15) Section 1, chapter 205, Laws of 1963 and RCW 69.40.080;

(16) Section 2, chapter 205, Laws of 1963 and RCW 69.40.090;

(17) Section 3, chapter 205, Laws of 1963 and RCW 69.40.100;

(18) Section 11, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.110;

(19) Section 1, chapter 33, Laws of 1970 ex. sess. and RCW 69.40.120; and

(20) Section 1, chapter 80, Laws of 1970 ex. sess. [1971 ex.s. c 308 § 69.50.606.]

69.50.607 Effective date—1971 ex.s. c 308. This 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. [1971 ex.s. c 308 § 69.50.607.]

Effective date—1971 ex.s. c 308: The effective date of 1971 ex.s. c 308 was May 21, 1971.

69.50.608 Legislative direction. This act shall constitute a new chapter 69.50 RCW in Title 69 RCW. [1971 ex.s. c 308 § 69.50.608.]

Chapter 69.54 DRUG AND ALCOHOL REHABILITATION, EDUCATION PROGRAMS—DRUG TREATMENT CENTERS

Sections	
69.54.010	Purpose.
69.54.020	Definitions.
69.54.030	Drug treatment centers—Application for certification—Approval.
69.54.040	Programs for rehabilitation and education—Establishment—Rules and regulations—Contracts with other agencies, individuals.
69.54.050	Agreements pursuant to interlocal cooperation act authorized.
69.54.060	Consent to counseling, care, treatment or rehabilitation—Liability for expenses.
69.54.070	Confidentiality.
69.54.080	Confidentiality—Exception as to statistical or other substantive information.
69.54.090	Records and accounts—Availability to state and federal drug inspectors—Restrictions on use.

69.54.010 Purpose. It is the purpose of this chapter and RCW 71.24.020 and 71.24.030 to provide the financial assistance necessary to enable the department of social and health services to offer a meaningful program of rehabilitation for those persons suffering problems related to narcotic drugs, dangerous drugs, and alcohol and to develop a community educational program as to those problems for the benefit of the state's population generally. Such programs can develop in the people of this state a knowledge of the problems caused by alcohol and drug abuse, an acceptance of responsibility for alcohol and drug related problems, an understanding of the causes and consequences of the use and abuse of alcohol and drugs, and thus may prevent many problems from occurring.

It is the further purpose of this chapter and RCW 71.24.020 and 71.24.030 to provide for qualified drug treatment centers approved by the department of social and health services. [1971 ex.s. c 304 § 1.]

69.54.020 Definitions. The following words and phrases shall have the following meaning when used in this chapter and RCW 71.24.020 and 71.24.030:

(1) "Secretary" shall mean the secretary of the department of social and health services.

(2) "Department" shall mean the department of social and health services.

(3) "Drug and alcohol rehabilitation program" shall mean the program developed by the department of social and health services to aid persons suffering problems related to narcotic drugs, dangerous drugs, and alcohol.

(4) "Drug and alcohol educational program" shall mean the program developed by the department of social and health services outside of the kindergarten through twelve programs in the schools to educate the people of this state relative to the use and abuse of narcotic drugs, dangerous drugs and alcohol, and the prevention and consequences thereof.

(5) "Drug treatment center" shall mean any organization, institution, or corporation, public or private, engaged in the care, treatment, or rehabilitation of persons using narcotic drugs or dangerous drugs. [1971 ex.s. c 304 § 2.]

69.54.030 Drug treatment centers—Application for certification—Approval. Every drug treatment center in this state shall apply to the secretary of social and health services for certification as an approved drug treatment center.

The secretary of social and health services shall issue application forms which shall require the following, where applicable:

(1) The name and address of the applicant drug treatment center;

(2) The name of the director or head of such drug treatment center;

(3) The names of the members of the board of directors or sponsors of such drug treatment center;

(4) The names and addresses of all physicians affiliated with such drug treatment center;

(5) A short description of the nature of treatment and/or rehabilitation used by such drug treatment center; and the qualifications of staff to employ such treatment and/or rehabilitation methods;

(6) The source of funds used to finance the activities of such drug treatment center;

(7) Any other information required by rule or regulation of the secretary of social and health services pertaining to the qualifications of such drug treatment center.

The secretary of social and health services may either grant or deny approval or revoke or suspend approval previously granted after investigation to ascertain whether or not such center is adequate to the care, treatment, and rehabilitation of such persons who have voluntarily submitted themselves to the care of such center; such grant, denial or revocation of approval shall be in accordance with standards as set forth in rules and regulations promulgated by the secretary.

Such approval shall be effective for one calendar year from the date of such approval. Renewal of approval shall be made in accordance with the provisions of this section for initial approval and in accordance with the standards set forth in rules and regulations promulgated by the secretary. [1971 ex.s. c 304 § 3.]

69.54.040 Programs for rehabilitation and education—Establishment—Rules and regulations—Contracts with other agencies, individuals. The secretary shall establish within the department a program designed to aid and rehabilitate persons suffering from problems relating to narcotic drugs, dangerous drugs, and alcohol. Without duplicating, and in coordination with the programs established by the state superintendent of public instruction, the secretary shall establish community educational programs outside of the kindergarten through twelve programs in the schools relating to alcohol and drug use and abuse. The secretary is authorized to promulgate rules and regulations pursuant to chapter 34.04 RCW to carry out the provisions and purposes of this chapter and RCW 71.24.020 and 71.24.030 and is authorized to contract, cooperate and coordinate with other public or private agencies or individuals for such purposes. [1971 ex.s. c 304 § 4.]

69.54.050 Agreements pursuant to interlocal cooperation act authorized. Pursuant to the provisions of the Interlocal Cooperation Act, chapter 39.34 RCW, the department may enter into agreements as provided therein to accomplish the purposes of this chapter and RCW 71.24.020 and 71.24.030. [1971 ex.s. c 304 § 5.]

69.54.060 Consent to counseling, care, treatment or rehabilitation—Liability for expenses. Any person fourteen years of age or older may give consent for himself to the furnishing of counseling, care, treatment or rehabilitation by an approved drug treatment center or person licensed or certified by the state related to conditions and problems caused by drug or alcohol abuse. Consent of the parent, parents, or legal guardian of a person less than eighteen years of age shall not be necessary to authorize such care, except that such person shall not become a resident of such treatment center without parental permission. The parent, parents or legal guardian of a person less than eighteen years of age shall not be liable for payment of care for such persons pursuant to this chapter and RCW 71.24.020 and 71.24.030, unless they have joined in the consent to such counseling, care, treatment or rehabilitation. [1971 ex.s. c 304 § 8.]

69.54.070 Confidentiality. When an individual submits himself for care, treatment, counseling, or rehabilitation to any organization, institution or corporation, public or private, approved pursuant to this chapter and RCW 71.24.020 and 71.24.030, or any person licensed or certified by the state whose principal function is the care, treatment, counseling or rehabilitation of alcohol abusers or users of narcotic or dangerous drugs, or the providing of medical, psychological or social counseling or treatment, notwithstanding any other provision of law, such individual is hereby guaranteed confidentiality. No such person, organization, institution or corporation or their agents acting in the scope and course of their duties, providing such care, treatment, counseling or rehabilitation shall divulge nor shall they be required to provide any specific information concerning individuals being cared for, treated, counseled or rehabilitated,

nor shall pharmacists or their agents provide such information when or if they become aware of or receive such information when requested to or for the purpose of providing products or performing services relevant to said care, treatment, counseling or rehabilitation. Should any person, organization, institution or corporation, or their agents, breach confidentiality as provided for in this section, such information and any product thereof shall not be admissible as evidence or be considered in any criminal proceeding. The fact of an individual of authorized age being cared for, treated, counseled or rehabilitated pursuant to this chapter and RCW 71.24.020 and 71.24.030 shall likewise be held confidential and shall not be admissible as evidence or be considered in any criminal proceeding.

Any confidentiality provided for by this section may be waived by the individual, provided such waiver is freely and voluntarily made, and with full prior information as to the consequences thereof. [1971 ex.s. c 304 § 9.]

69.54.080 Confidentiality—Exception as to statistical or other substantive information. Nothing contained in this chapter and RCW 71.24.020 and 71.24.030 shall prohibit or be construed to prohibit the divulging or providing of statistical or other substantive information pertaining to care, treatment, counseling or rehabilitation, pursuant to this chapter and RCW 71.24.020 and 71.24.030, so long as no individual is identified or reasonably identifiable, and individual privacy and confidentiality is retained. [1971 ex.s. c 304 § 10.]

69.54.090 Records and accounts—Availability to state and federal drug inspectors—Restrictions on use. Nothing contained in this chapter and RCW 71.24.020 and 71.24.030 shall relieve any person or firm from the requirements under federal and state drug laws and regulations for the keeping of records and the responsibility for the accountability of drugs received and dispensed. Such records, insofar as they contain confidential information under this chapter and RCW 71.24.020 and 71.24.030, shall only be available to state and federal drug inspectors who shall not divulge such information as is contained in these records, including the identification of individuals, except (1) upon subpoena in a court or administrative proceeding to which the person to whom such prescription, orders or other records relate is a party, or (2) when the information reasonably leads to the conclusion that there has been a violation of RCW 69.33.380 or 69.40.090, then the information may be referred to other law enforcement officers. [1971 ex.s. c 304 § 11.]

Reviser's note: RCW 69.33.380 and 69.40.090 were repealed by 1971 ex.s. c 308 § 69.50.606.

TITLE 70

PUBLIC HEALTH AND SAFETY

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**Chapter 70.01
 GENERAL PROVISIONS**

- Sections
 70.01.010 Cooperation with federal government—Construction.
 70.01.020 Donation of blood by person eighteen or over without parental consent authorized.

70.01.010 Cooperation with federal government—Construction. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the state board of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health. [1969 ex.s. c 25 § 1; 1967 ex.s. c 102 § 12.]

Severability—1967 ex.s. c 102: See note following RCW 43.20.010.

70.01.020 Donation of blood by person eighteen or over without parental consent authorized. Any person of the age of eighteen years or over shall be eligible to donate blood in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization. [1969 c 51 § 1.]

**Chapter 70.05
 LOCAL HEALTH DEPARTMENTS, BOARDS,
 OFFICERS—REGULATIONS**

- Sections
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 70.05.150 Contracts for sale or purchase of health services authorized.

Health districts: Chapter 70.46 RCW.

70.05.010 Definitions. For the purposes of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 and unless the context thereof clearly indicates to the contrary:

(1) "Local health departments" means the city, town, county or district which provides public health services to persons within the area;

(2) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county or district public health department;

(3) "Local board of health" means the city, town, county or district board of health.

(4) "Health district" means all territory encompassed within a single county and all cities and towns therein except cities with a population of over one hundred thousand, or all the territory consisting of one or more counties and all the cities and towns in all of the combined counties except cities of over one hundred thousand population which have been combined and organized pursuant to the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090: *Provided*, That cities with a population of over one hundred thousand may be included in a health district as provided in RCW 70.46.040. [1967 ex.s. c 51 § 1.]

Severability—1967 ex.s. c 51: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 51 § 24.] This applies to chapter 70.05 RCW and RCW 70.46.020 through 70.46.090.

70.05.020 Cities and towns—Organization of local health boards. The governing body of every city or town in this state, except where such city or town is a part of a county health department, a health district, or is purchasing health services under a contract as authorized by chapter 70.05 RCW and RCW 70.46.020 through 70.46.090, shall hereafter organize as a local board of health or shall appoint a local board of health from its

members of at least three persons who shall organize as a local board of health for such city or town. [1967 ex.s. c 51 § 2.]

70.05.030 Counties—Board of county commissioners to constitute local health board—Jurisdiction. The board of county commissioners of each and every county in this state, except where such county is a part of a health district or is purchasing services under a contract as authorized by chapter 70.05 RCW and RCW 70.46.020 through 70.46.090, shall constitute the local board of health for such county, and said local board of health's jurisdiction shall be coextensive with the boundaries of said county, except that nothing herein contained shall give said board jurisdiction in cities of over one hundred thousand population or in such other cities and towns as are providing health services which meet health standards pursuant to RCW 70.46.090. [1967 ex.s. c 51 § 3.]

70.05.040 Local board of health—Chairman—Clerk—Vacancies. The local board of health shall elect a chairman and may appoint a clerk, and shall appoint a local health officer pursuant to RCW 70.05.050. Vacancies on the local board of health shall be filled by appointment within thirty days and made in the same manner as was the original appointment. At the first meeting of the local board of health, the members shall elect a chairman to serve for a period of one year. [1967 ex.s. c 51 § 4.]

70.05.050 Local health officer—Appointment—Term—Employment of personnel—Salary and expenses. Each local board of health shall appoint a local health officer who shall be an experienced physician licensed to practice medicine and surgery or osteopathy and surgery in this state and who is qualified or provisionally qualified in accordance with the standards prescribed in RCW 70.05.051 through 70.05.055 to hold the office of local health officer. No term of office shall be established for the local health officer but he shall not be removed until after notice is given him, and an opportunity for a hearing before the board as to the reason for his removal. He shall act as executive secretary to, and administrative officer for the local board of health. He shall also be empowered to employ such technical and other personnel as approved by the local board of health. The local health officer shall be paid such salary and allowed such expenses as shall be determined by the local board of health. [1969 ex.s. c 114 § 1; 1967 ex.s. c 51 § 9.]

70.05.051 Local health officer—Qualifications. The following persons holding licenses as required by RCW 70.05.050 shall be deemed qualified to hold the position of local health officer:

- (1) Persons holding the degree of master of public health or its equivalent;
- (2) Persons not meeting the requirements of subsection (1) of this section, who upon August 11, 1969 are currently employed in this state as a local health officer

and whom the state director of health recommends in writing to the local board of health as qualified; and

(3) Persons qualified by virtue of completing three years of service as a provisionally qualified officer pursuant to RCW 70.05.053 through 70.05.055. [1969 ex.s. c 114 § 2.]

70.05.053 Provisionally qualified local health officers—Appointment—Term—Requirements. Persons holding licenses required by RCW 70.05.050 but not meeting any of the requirements for qualification prescribed by RCW 70.05.051 may be appointed by local health boards as provisionally qualified local health officers for a maximum period of three years upon the following conditions and in accordance with the following procedure:

(1) He shall participate in an in-service orientation to the field of public health as provided in RCW 70.05.054, and

(2) He shall satisfy the director pursuant to the periodic interviews prescribed by RCW 70.05.055 that he has successfully completed such in-service orientation and is conducting such program of good health practices as may be required by the jurisdictional area concerned. [1969 ex.s. c 114 § 3.]

70.05.054 Provisionally qualified local health officers—In-service public health orientation program. The director of health shall provide an in-service public health orientation program for the benefit of provisionally qualified local health officers.

Such program shall consist of—

(1) A three months course in public health training conducted by the director either in the state department of health, in a county and/or city health department, in a local health district, or in an institution of higher education; or

(2) An on-the-job, self-training program pursuant to a standardized syllabus setting forth the major duties of a local health officer including the techniques and practices of public health principles expected of qualified local health officers: *Provided*, That each provisionally qualified local health officer may choose which type of training he shall pursue. [1969 ex.s. c 114 § 4.]

70.05.055 Provisionally qualified local health officers—Interview—Evaluation as to qualification as local public health officer. Each year, on a date which shall be as near as possible to the anniversary date of appointment as provisional local health officer, the state director of health or his designee shall personally visit such provisional officer's office for a personal review and discussion of the activity, plans, and study being carried on relative to the provisional officer's jurisdictional area: *Provided*, That the third such interview shall occur three months prior to the end of the three year provisional term. A standardized checklist shall be used for all such interviews, but such checklist shall not constitute a grading sheet or evaluation form for use in the ultimate decision of qualification of the provisional appointee as a public health officer.

Copies of the results of each interview shall be supplied to the provisional officer within two weeks following each such interview.

Following the third such interview, the state director of health shall evaluate the provisional local health officer's in-service performance and shall notify such officer by certified mail of his decision whether or not to qualify such officer as a local public health officer. Such notice shall be mailed at least sixty days prior to the third anniversary date of provisional appointment. Failure to so mail such notice shall constitute a decision that such provisional officer is qualified. [1969 ex.s. c 114 § 5.]

70.05.060 Powers and duties of local board of health.

Each local board of health shall have supervision over all matters pertaining to the preservation of the life and health of the people within its jurisdiction and shall:

(1) Enforce through the local health officer the public health statutes of the state and rules and regulations promulgated by the state board of health and the state director of health;

(2) Supervise the maintenance of all health and sanitary measures for the protection of the public health within its jurisdiction;

(3) Enact such local rules and regulations as are necessary in order to preserve, promote and improve the public health and provide for the enforcement thereof;

(4) Provide for the control and prevention of any dangerous, contagious or infectious disease within the jurisdiction of the local health department;

(5) Provide for the prevention, control and abatement of nuisances detrimental to the public health;

(6) Make such reports to the state board of health through the local health officer as the state board of health may require; and

(7) Establish fee schedules for issuing or renewing licenses or permits or for such other services as are authorized by the law and the rules and regulations of the state board of health: *Provided*, That such fees for services shall not exceed the actual cost of providing any such services. [1967 ex.s. c 51 § 10.]

70.05.070 Local health officer—Powers and duties.

The local health officer shall:

(1) Enforce the public health statutes of the state, rules and regulations of the state board of health and the state director of health, and all local health rules, regulations and ordinances within his jurisdiction;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the state director of health or his authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules and regulations of the state board of health.

(8) Take such measures as he deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department. [1967 ex.s. c 51 § 12.]

70.05.080 Local health officer—Failure to appoint—Procedure. In case of the refusal or neglect of any local board of health to appoint a local health officer after a vacancy exists, the state director of health may appoint a local health officer and fix the compensation and the local health officer so appointed shall have the same duties, powers and authority as though appointed by the local boards of health. Such local health officer shall serve until such time as the local board of health appoints a qualified individual in his place. The board shall be authorized to appoint an acting health officer to serve whenever the health officer is absent or incapacitated and unable to fulfill his responsibilities under the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090. [1967 ex.s. c 51 § 13.]

70.05.090 Physicians to report diseases. Whenever any physician shall attend any person sick with any dangerous contagious or infectious disease, or with any diseases required by the state board of health to be reported, he shall, within twenty-four hours, give notice thereof to the local health officer within whose jurisdiction such sick person may then be or to the state department of health in Olympia. [1967 ex.s. c 51 § 14.]

70.05.100 Who determines character of disease. In case of the question arising as to whether or not any person is affected or is sick with a dangerous, contagious or infectious disease, the opinion of the local health officer shall prevail until the state department of health can be notified, and then the opinion of the executive officer of the state department of health, or any physician he may appoint to examine such case, shall be final. [1967 ex.s. c 51 § 15.]

70.05.110 Local health officials and physicians to report contagious diseases. It shall be the duty of the local board of health, health authorities or officials, and of physicians in localities where there are no local health authorities or officials, to report to the state board of health, promptly upon discovery thereof, the existence of any one of the following diseases which may come under their observation, to wit: Asiatic cholera, yellow fever, smallpox, scarlet fever, diphtheria, typhus, typhoid fever, bubonic plague or leprosy, and of such

other contagious or infectious diseases as the state board may from time to time specify. [1967 ex.s. c 51 § 16.]

70.05.120 Violations—Remedies—Penalties.

Any local health officer who shall refuse or neglect to obey or enforce the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or the rules, regulations or orders of the state board of health or who shall refuse or neglect to make prompt and accurate reports to the state board of health, may be removed as local health officer by the state board of health and shall not again be reappointed except with the consent of the state board of health. Any person may complain to the state board of health concerning the failure of the local health officer to carry out the laws or the rules and regulations concerning public health, and the state board of health shall, if a preliminary investigation so warrants, call a hearing to determine whether the local health officer is guilty of the alleged acts. Such hearings shall be held pursuant to the provisions of chapter 34.04 RCW, and the rules and regulations of the state board of health adopted thereunder.

Any member of a local board of health who shall violate any of the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or refuse or neglect to obey or enforce any of the rules, regulations or orders of the state board of health made for the prevention, suppression or control of any dangerous contagious or infectious disease or for the protection of the health of the people of this state, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars. Any physician who shall refuse or neglect to report to the proper health officer within twelve hours after first attending any case of contagious or infectious disease or any diseases required by the state board of health to be reported or any case suspicious of being one of such diseases, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred dollars for each case that is not reported.

Any person violating any of the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or violating or refusing or neglecting to obey any of the rules, regulations or orders made for the prevention, suppression and control of dangerous contagious and infectious diseases by the local board of health or local health officer or state board of health, or who shall leave any isolation hospital or quarantined house or place without the consent of the proper health officer or who evades or breaks quarantine or conceals a case of contagious or infectious disease or assists in evading or breaking any quarantine or concealing any case of contagious or infectious disease, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or to imprisonment in the county jail not to exceed ninety days or to both fine and imprisonment. [1967 ex.s. c 51 § 17.]

70.05.130 Expenses of enforcing laws and regulations. All expenses incurred by the state, health district, or county in carrying out the provisions of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or any other public health law, or the rules and regulations of the state department of health enacted under such laws, shall be paid by the county or city by which or in behalf of which such expenses shall have been incurred and such expenses shall constitute a claim against the general fund as provided herein. [1967 ex.s. c 51 § 18.]

70.05.135 Treasurer—District funds—Contributions by counties and cities. See RCW 70.46.080.

70.05.140 Expenses of providing public health services—Payment by counties and cities—Procedure on failure to pay. See RCW 70.46.085.

70.05.150 Contracts for sale or purchase of health services authorized. In addition to powers already granted them, any city, town, county, district or local health department may contract for either the sale or purchase of any or all health services from any local health department: *Provided*, That such contract shall require the approval of the state board of health. [1967 ex.s. c 51 § 22.]

**Chapter 70.08
COMBINED CITY-COUNTY HEALTH
DEPARTMENTS**

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70.08.110	Prior expenditures in operating combined health depart- ment ratified.

*Control of cities and towns over water pollution: Chapter 35.88
RCW.*

70.08.010 Combined city-county health departments—Establishment. Any city with one hundred thousand or more population and the county in which it is located, are authorized, as shall be agreed upon between the respective governing bodies of such city and said county, to establish and operate a combined city and county health department, and to appoint the director of public health as hereinafter provided. The combination of such city and county health department under this chapter shall be effective whenever the governing body of the city with one hundred thousand or more population shall pass an ordinance and the board of county commissioners of the county in which it is located shall pass a resolution declaring intention to

operate a combined health department in accordance with agreements made between their respective governing bodies. [1949 c 46 § 1; Rem. Supp. 1949 § 6099–30.]

70.08.020 Director of public health—Powers and duties. The director of public health is authorized to and shall exercise all powers and perform all duties by law vested in the county health officer, and is authorized to and shall exercise all powers and perform all duties by law vested in the health officer of said city of one hundred thousand population or more. [1949 c 46 § 2; Rem. Supp. 1949 § 6099–31.]

70.08.030 Qualifications. The director of public health, under this chapter shall be a qualified physician or surgeon having graduated at least five years prior to appointment, shall in addition to his professional degree also hold the degree of master of public health or its equivalent, and shall have had at least three years' practical experience in public health administrative work. He shall not engage in the private practice of his profession during his tenure of office. He shall not be included in the classified civil service of the said city or the said county. [1949 c 46 § 3; Rem. Supp. 1949 § 6099–32.]

70.08.040 Appointment—Salary—Terms of office. The director of public health under this chapter shall be appointed by the mayor of the city of one hundred thousand population or more, such appointment to be effective only upon a majority vote confirmation of each governing body of said city and said county. He shall be paid such salary and allowed such expenses as shall be determined annually by the governing bodies of said city and said county. He shall hold office for an indefinite term and may be removed at any time by the mayor of said city only for cause shown and after public hearing on charges reduced to writing, a copy of such charges having first been filed ten days prior to such public hearing with the governing bodies of said city and of said county. [1949 c 46 § 4; Rem. Supp. 1949 § 6099–33.]

70.08.050 May act as health officer for other cities or towns. Nothing in this chapter shall prohibit the director of public health as provided herein from acting as health officer for any other city or town within the county, nor from acting as health officer in any adjoining county or any city or town within such county having a contract or agreement as provided in RCW 70.08.090: *Provided, however,* That before being appointed health officer for such adjoining county, the state director of health shall first give his approval thereto. [1949 c 46 § 8; Rem. Supp. 1949 § 6099–37.]

70.08.060 Director of public health shall be registrar of vital statistics. The director of public health under this chapter shall be registrar of vital statistics for all cities and counties under his jurisdiction and shall conduct such vital statistics work in accordance with the same laws and/or rules and regulations pertaining to

vital statistics for a city of the first class. [1961 ex.s. c 5 § 4; 1949 c 46 § 9; Rem. Supp. 1949 § 6099–38.]

Vital statistics: Chapter 70.58 RCW.

70.08.070 Employees may be included in city civil service, retirement plans. All employees of the combined city and county health department except those already covered by civil service and retirement plans, may upon passage of an ordinance by the city, be included in the civil service and retirement plans of such city: *Provided,* That residential requirements for such positions shall be coextensive with the county boundaries: *Provided further,* That the county is authorized to pay such parts of the expense of operating and maintaining such civil service and retirement system and to contribute to the retirement fund in behalf of employees such sums as may be agreed upon between the governing bodies of such city and county. [1949 c 46 § 5; Rem. Supp. 1949 § 6099–34.]

70.08.080 Pooling of funds. The city by ordinance, and the county by resolution, under this chapter may pool all or any part of their respective funds available for public health purposes, in the office of the city treasurer in a special pooling fund to be established in accordance with agreements between the governing bodies of said city and county and which shall be expended for the combined health department. [1949 c 46 § 6; Rem. Supp. 1949 § 6099–35.]

70.08.090 Other cities or agencies may contract for services. Any other city in said county, other governmental agency or any charitable or health agency may by contract or by agreement with the governing bodies of the combined health department receive public health services. [1949 c 46 § 7; Rem. Supp. 1949 § 6099–36.]

70.08.100 Termination of agreement to operate combined city–county health department. Agreement to operate a combined city and county health department made under this chapter may after two years from the date of such agreement, be terminated by either party at the end of any calendar year upon notice in writing given at least six months prior thereto. The termination of such agreement shall not relieve either party of any obligations to which it has been previously committed. [1949 c 46 § 10; Rem. Supp. 1949 § 6099–39.]

70.08.110 Prior expenditures in operating combined health department ratified. Any expenditures heretofore made by a city of one hundred thousand population or more, and by the county in which it is located, not made fraudulently and which were within the legal limits of indebtedness, towards the expense of maintenance and operation of a combined health department, are hereby legalized and ratified. [1949 c 46 § 11; Rem. Supp. 1949 § 6099–40.]

Chapter 70.10
COMPREHENSIVE COMMUNITY HEALTH
CENTERS

Sections

- 70.10.010 Declaration of policy—Combining health services—State authorized to cooperate with other entities in constructing.
- 70.10.020 "Comprehensive community health center" defined.
- 70.10.030 Authorization to apply for and administer federal and/or state funds.
- 70.10.040 Application for federal or state funds for construction of facility as part of or separate from health center—Processing and approval by administering agencies—Decision on use as part of comprehensive health center.
- 70.10.050 Application for federal or state funds for construction of facility as part of or separate from health center—Cooperation between agencies in standardizing application procedures and forms.
- 70.10.060 Adoption of rules and regulations—Liberal construction of chapter.

Community mental health centers: Chapter 71.16 RCW.

Community mental health services act: Chapter 71.24 RCW.

Mental health and retardation services, interstate contracts: Chapter 71.28 RCW.

70.10.010 Declaration of policy—Combining health services—State authorized to cooperate with other entities in constructing. It is declared to be the policy of the legislature of the state of Washington that, wherever feasible, community health, mental health and mental retardation services shall be combined within single facilities in order to provide maximum utilization of available funds and personnel, and to assure the greatest possible coordination of such services for the benefit of those requiring them. It is further declared to be the policy of the legislature to authorize the state to cooperate with counties, cities, and other municipal corporations in order to encourage them to take such steps as may be necessary to construct comprehensive community health centers in communities throughout the state. [1967 ex.s. c 4 § 1.]

70.10.020 "Comprehensive community health center" defined. The term "comprehensive community health center" as used in this chapter shall mean a health facility housing community health, mental health, and mental retardation services. [1967 ex.s. c 4 § 2.]

70.10.030 Authorization to apply for and administer federal and/or state funds. The several agencies of the state authorized to administer within the state the various federal acts providing federal moneys to assist in the cost of establishing community health, mental health, and mental retardation facilities, are authorized to apply for and disburse federal grants, matching funds, or other funds, including gifts or donations from any source, available for use by counties, cities, other municipal corporations or nonprofit corporations. Upon application, these agencies shall also be authorized to distribute such state funds as may be appropriated by the legislature for such local construction projects: *Provided*, That where state funds have been appropriated to assist in covering the cost of constructing a comprehensive community health center, or a community health, mental health, or mental retardation facility,

and where any county, city, other municipal corporation or nonprofit corporation has submitted an approved application for such state funds, then, after any applicable federal grant has been deducted from the total cost of construction, the state agency or agencies in charge of each program may allocate to such applicant an amount not to exceed fifty percent of that particular program's contribution toward the balance of remaining construction costs. [1967 ex.s. c 4 § 3.]

70.10.040 Application for federal or state funds for construction of facility as part of or separate from health center—Processing and approval by administering agencies—Decision on use as part of comprehensive health center. Any application for federal or state funds to be used for construction of the community health, mental health, or mental retardation facility, which will be part of the comprehensive community health center as defined in RCW 70.10.020, shall be separately processed and approved by the state agency which has been designated to administer the particular federal or state program involved. Any application for federal or state funds for a construction project to establish a community health, mental health, or mental retardation facility not part of a comprehensive health center shall be processed by the state agency which is designated to administer the particular federal or state program involved. This agency shall also forward a copy of the application to the other agency or agencies designated to administer the program or programs providing funds for construction of the facilities which make up a comprehensive health center. The agency or agencies receiving this copy of the application shall have a period of time not to exceed sixty days in which to file a statement with the agency to which the application has been submitted and to any statutory advisory council or committee which has been designated to advise the administering agency with regard to the program, stating that the proposed facility should or should not be part of a comprehensive health center. [1967 ex.s. c 4 § 4.]

70.10.050 Application for federal or state funds for construction of facility as part of or separate from health center—Cooperation between agencies in standardizing application procedures and forms. The several state agencies processing applications for the construction of comprehensive health centers for community health, mental health, or mental retardation facilities shall cooperate to develop general procedures to be used in implementing the statute and to attempt to develop application forms and procedures which are as nearly standard as possible, after taking cognizance of the different information required in the various programs, to assist applicants in applying to various state agencies. [1967 ex.s. c 4 § 5.]

70.10.060 Adoption of rules and regulations—Liberal construction of chapter. In furtherance of the legislative policy to authorize the state to cooperate with the federal government in facilitating the construction of comprehensive community health centers, the state agencies involved shall adopt such rules and regulations

as may become necessary to entitle the state and local units of government to share in federal grants, matching funds, or other funds, unless the same be expressly prohibited by this chapter. Any section or provision of this chapter susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling the state and local units of government to receive federal grants, matching funds or other funds for the construction of comprehensive community health centers. [1967 ex.s. c 4 § 6.]

Chapter 70.12 PUBLIC HEALTH FUNDS

Sections

COUNTY FUNDS

- 70.12.010 County tax levy for public health.
70.12.015 State director may expend funds in counties.
70.12.020 Expenditures authorized.

PUBLIC HEALTH POOLING FUND

- 70.12.030 Public health pooling fund authorized—"Health district" defined.
70.12.040 Fund, how maintained and disbursed.
70.12.050 Expenditures from fund.
70.12.060 Expenditures geared to budget.
70.12.070 Fund subject to audit and check by state.

COUNTY FUNDS

70.12.010 County tax levy for public health. Each board of county commissioners shall annually budget and levy as a tax for public health work in its county a sum equal to the amount which would be raised by a levy of four and one-half cents per thousand dollars of assessed value against the taxable property in the county, but nothing herein contained shall prohibit a county from obtaining said public health funds from any other source of county revenue or from budgeting additional sums for public health work. [1973 2nd ex.s. c 4 § 4; 1973 1st ex.s. c 195 § 78; 1970 ex.s. c 47 § 6; 1943 c 163 § 1; 1939 c 191 § 1; Rem. Supp. 1943 § 3997-2a.]

Emergency and effective dates—1973 2nd ex.s. c 4: See notes following RCW 84.52.043.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

70.12.015 State director may expend funds in counties. The director of the state department of health is hereby authorized to apportion and expend such sums as he shall deem necessary for public health work in the counties of the state, from the appropriations made to the state department of health for county public health work. [1939 c 191 § 2; RRS § 6001-1. Formerly RCW 70.12.080.]

70.12.020 Expenditures authorized. Each board of county commissioners is hereby authorized and directed to expend the sum budgeted under *this act, or so much thereof as may be necessary, for public health work. [1939 c 191 § 3; RRS § 6094-1.]

***Reviser's note:** The language "this act" appears in 1939 c 191 codified as RCW 70.12.010 through 70.12.020.

PUBLIC HEALTH POOLING FUND

70.12.030 Public health pooling fund authorized—"Health district" defined. Any county, first class city or health district is hereby authorized and empowered to create a "public health pooling fund", hereafter called the "fund", for the efficient management and control of all moneys coming to such county, first class city or district for public health purposes.

"Health district" as used herein may mean all territory consisting of one or more counties and all cities with a population of one hundred thousand or less, and towns therein. [1945 c 46 § 1; 1943 c 190 § 1; Rem. Supp. 1945 § 6099-1.]

70.12.040 Fund, how maintained and disbursed. Any such fund may be established in the county treasurer's office or the city treasurer's office of a first class city according to the type of local health department organization existing.

In a district composed of more than one county, the county treasurer of the county having the largest population shall be the custodian of the fund, and the county auditor of said county shall keep the record of receipts and disbursements; and shall draw and the county treasurer shall honor and pay all such warrants.

Into any such fund so established may be paid:

- (1) All grants from any state fund for county public health work;
- (2) All county funds collected by county levy as set forth in RCW 70.12.010;
- (3) Any county current expense funds appropriated for the health department;
- (4) Any other money appropriated by the county for health work;
- (5) City funds appropriated for the health department;
- (6) All moneys received from any governmental agency, local, state or federal which may contribute to the local health department; and
- (7) Any contributions from any charitable or voluntary agency or contributions from any individual or estate.

Any school district may contract in writing for health services with the health department of the county, first class city or health district, and place such funds in the public health pooling fund in accordance with the contract. [1945 c 46 § 2; 1943 c 190 § 2; Rem. Supp. 1945 § 6099-2.]

70.12.050 Expenditures from fund. All expenditures in connection with salaries, wages and operations incurred in carrying on the health department of the county, first class city or health district shall be paid out of such fund. [1945 c 46 § 3; 1943 c 190 § 3; Rem. Supp. 1945 § 6099-3.]

70.12.060 Expenditures geared to budget. Any fund established as herein provided shall be expended so as to make the expenditures thereof agree with any respective appropriation period. Any accumulation in any

such fund so established shall be taken into consideration when preparing any budget for the operations for the ensuing year. [1943 c 190 § 4; Rem. Supp. 1943 § 6099-4.]

70.12.070 Fund subject to audit and check by state. The public health pool fund shall be subject to audit by the division of departmental audits and shall be subject to check by the state department of health. [1943 c 190 § 5; Rem. Supp. 1943 § 6099-5.]

Chapter 70.16 HEALTH PRECAUTIONS AT SEAPORTS

Sections

70.16.010	County health board—Duties—Health officer.
70.16.020	Residence of health officer—Quarantine of vessels and passengers.
70.16.030	Disinfection of goods from infected vessels—Fees.
70.16.040	Failure to obey orders—Penalty.
70.16.050	Infected persons may be taken ashore.
70.16.060	Breaking quarantine—Penalty.
70.16.070	Entering quarantined vessel or area.
70.16.080	Quarantine flag—Display—Penalty.
70.16.090	Docking infected vessel, false declarations, etc.—Penalty.
70.16.100	Failure to move vessel to quarantine—Penalty.
70.16.110	Notification of health officers—Penalty.
70.16.120	Vessels to anchor at distance.
70.16.130	Penalty.
70.16.140	Entry of vessels against quarantine—Penalty.
70.16.150	Vessel to perform quarantine—Penalty.
70.16.160	Duty of pilots as to quarantine—Penalty.
70.16.170	City to provide quarantine flag.
70.16.180	Who may perform quarantine duties for city.
70.16.190	Expense of city quarantine.
70.16.200	Information to be furnished upon demand.

Navigation: Title 88 RCW.

Penalty for wilful exposure to contagious disease: RCW 70.54.050.

70.16.010 County health board—Duties—Health officer. The county commissioners of the several counties of the state of Washington shall be, and the same are hereby created and constituted, a board of health for said county, whose duty it shall be to make such regulations respecting the quarantine of ships or vessels prescribing in what case it shall be performed by vessels arriving at any port in said state of Washington as may be just and reasonable and the same modify or change as in their opinion the public safety requires, and the board of health so constituted shall appoint a health officer who shall before entering upon the duties of his office, give bonds with good and sufficient sureties to the county commissioners of the county where appointed, in the sum of one thousand dollars conditioned for the faithful performance of his duties as such health officer and shall be sworn before some officer qualified to administer oaths to perform the duties of his office to the best of his ability and which bond and oath shall be filed in the office of the county auditor. [1888 p 46 § 1; RRS § 6047. Formerly RCW 70.06.020, part and 70.16.010.]

Repeal—1888 p 50: "All acts and parts of acts in conflict with the provisions of this act are hereby repealed." [1888 p 50 § 15.]

Effective date—Construction—1888 p 50: "This act shall take effect and be in force from and after its passage and approval by the

governor; *Provided*, that this act shall in no wise effect, modify or repeal Chapter CLXI of the code of Washington in relation to the prevention or spread of contagious diseases in cities and towns, or Chapter CLIX of said code in relation to the quarantine of vessels or any general or special municipal charter or any general law heretofore enacted upon this subject." [1888 p 50 § 16.]

The foregoing annotations apply to RCW 70.16.010 through 70.16.110 and 70.20.010 through 70.20.030.

Appointment of county health officer: RCW 70.05.030.

70.16.020 Residence of health officer—Quarantine of vessels and passengers. The health officer shall reside within the county where appointed and shall require all vessels having on board any person or persons infected with smallpox, plague, pestilential or malignant fever or other malignant, infectious or contagious diseases or who shall have been so infected during the voyage or having on board any goods reasonably supposed to have any infections of such disease to perform quarantine at some safe, suitable and convenient place selected and designated for the purpose by the board of health and order the master or other person having charge or control of such vessel to proceed with such vessel and anchor at such designated place there to remain and be purified and cleansed as he may direct, and a suitable place on shore may be prescribed and properly limited for the landing, care, treatment and purification of any person or passenger of such vessel. [1888 p 46 § 2; RRS § 6048. Formerly RCW 70.06.020, part and 70.16.020.]

70.16.030 Disinfection of goods from infected vessels—Fees. The board of health may, and it shall be their duty to seize any goods landed from any such infected vessel without the permission of the health officer and remove and keep the same until they have caused them, the said goods to be thoroughly cleansed and purified and which cleansing and purification shall be performed by or under the direction of the health officer with all possible dispatch at which time such goods shall be turned over to the care and custody of the person properly claiming the same upon payment by the person so claiming paying the expense of such removal and purification and upon the failure of the health officer to turn over to such person any such goods agreeable to the provisions of this section he shall be liable for all damages that may arise from such failure and which may be recovered by suit in any court of competent jurisdiction together with costs of suit. That the fees of the health officer shall be fixed by the board of health provided for in *this act but shall not exceed the sum of five dollars for each vessel boarded or examined in the daytime and ten dollars in the nighttime between the hours of ten p.m., and five p.m., nor the sum of fifteen dollars for fumigating a vessel which fee shall be paid [by the owner or agent of said] vessel and shall be a lien on said vessel until paid and no vessel shall receive a bill of health or clearance until such fee is paid and the health officer may recover such fee together with the cost of suit in any court having jurisdiction. [1888 p 47 § 3; RRS § 6049.]

***Reviser's note:** The language "this act" refers to 1888 p 46 §§ 1 through 14 codified as RCW 70.16.010 through 70.16.110 and 70.20.010 through 70.20.030.

70.16.040 Failure to obey orders—Penalty. Any owner, master, supercargo officer, seaman, consignee or any other person who shall refuse or neglect to obey the orders and regulations of the board of health in regard to such quarantine or the purification and cleansing of such vessel shall be punished by fine not exceeding one thousand dollars or by imprisonment not exceeding three months, or both. [1888 p 47 § 4; RRS § 6050.]

70.16.050 Infected persons may be taken ashore. Any person sick on board any such vessel may be sent on shore by said health officer at some place appointed and limited for the purpose and shall there be maintained, provided and cleansed by or under the direction of the health officer at the expense of such sick or infected person if able, otherwise at the expense of the vessel in which the person or persons may have been brought into any of the ports or waters of the state of Washington or bordering on said state. [1888 p 47 § 5; RRS § 6051.]

70.16.060 Breaking quarantine—Penalty. If any person shall come on shore from any vessel infected or justly suspected of being so subjected to or performing quarantine or shall leave the place appointed for the sick or for purification, being placed there or employed or placed there by the health officer without permission of such officer he or she shall be fined not exceeding one thousand dollars or imprisoned not exceeding three months, or both. [1888 p 47 § 6; RRS § 6052.]

70.16.070 Entering quarantined vessel or area. If any person shall without permission of the health officer go on board any vessel ordered for or performing quarantine or go within the limits appointed by the health officer for the reception of infected persons and property on shore, he or she shall be considered as infected and shall be held to undergo purification in the same manner and under the same regulations and penalties as those who are performing quarantine and shall remain there at his or her own expense until discharged by the health officer and any person coming into any such place having been previously disguised [designated] as a place for infected persons or property or on board any vessel ordered to or performing quarantine and having at the time the lawful flag as hereinafter described hoisted to the masthead without permission of the health officer he may be forcibly detained by the person or persons there employed by the health officer till he shall have undergone purification in the same manner and under the same regulations as those performing quarantine. [1888 p 48 § 7; RRS § 6053.]

70.16.080 Quarantine flag—Display—Penalty. A red flag at least six feet long and four feet wide shall be hoisted from sunrise to sunset at the main truck of any and all vessels ordered for and performing quarantine failing in which the vessel shall be liable to a fine of five hundred dollars, provided, the master or other person having the care and custody of any such vessel shall first be notified of such regulation and have sufficient time and opportunity to procure said flag. A flag as

hereinbefore described, shall also be conspicuously displayed at the place designated by the board of health for the reception of infected persons and property on shore in default of which the officer or officers having the control of such infected place shall forfeit his appointment and shall also be liable to a fine of fifty dollars to be recovered before any justice of the peace by any person suing for the same. [1888 p 48 § 8; RRS § 6054.]

70.16.090 Docking infected vessel, false declarations, etc.—Penalty. If any master, owner, supercargo, officer, seaman, or consignee of any vessel or any other person knowing such vessel to be subject to quarantine shall bring or suffer the same to be brought to or near any wharf, store or dwelling house or other building not in use for the purpose of the health officer in his official capacity as such or shall make any false declaration as to the port or place from which such vessel came or in regard to the condition and health of any person on board any such vessel or shall cause, aid or permit the landing of any person or property of any nature or kind whatever from such vessel without the permission of the health officer, he shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding three months or both. [1888 p 48 § 9; RRS § 6055.]

70.16.100 Failure to move vessel to quarantine—Penalty. If any such vessel shall not be removed to the place of quarantine agreeably to the directions of the health officer or shall be brought near any wharf, store or dwelling house or other building without his permission, the health officer shall cause such vessel to be forthwith removed to such place there to remain at the risk of the owners till expiration of the time limited by the health officer, and the expense of removal shall be paid by the master, owner or consignee who shall severally be liable therefor and may be recovered by the board of health together with costs of suit in any court having jurisdiction. [1888 p 49 § 10; RRS § 6056.]

70.16.110 Notification of health officers—Penalty. The master of every vessel arriving at any port in any county in the state of Washington or at any port in the waters bordering on said state, having on board any person infected with plague, smallpox or other malignant, infectious or pestilential disease, or who have been so infected during the voyage or having on board any goods which may reasonably be supposed to have any infection of such disease shall forthwith give notice thereof to the health officer, [;] if any such master or other person having charge of such vessel shall neglect to give such notice, he shall be fined not exceeding five thousand dollars or may be imprisoned not exceeding six months or both. [1888 p 49 § 11; RRS § 6057.]

70.16.120 Vessels to anchor at distance. When a vessel or steamer arrives at any seaport in this state, having on board any person infected with any malignant disease, the master, commander, or pilot thereof shall anchor it at some convenient place below the town or city of such seaport, at a distance safe for the inhabitants

thereof and the persons on board other vessels or steamers in the port; and no person or thing on board shall be brought on shore until the municipal or health officers give them written permit so to do. [Code 1881 § 2220; RRS § 6077.]

70.16.130 Penalty. For the wilful violation of the provisions of RCW 70.16.120, such master or commander shall forfeit not exceeding two hundred dollars, and the pilot not exceeding fifty dollars for such offense. [Code 1881 § 2221; RRS § 6078.]

70.16.140 Entry of vessels against quarantine—Penalty. When the master or commander of any vessel or steamer takes either of them up to any seaport, town or city, after notice that a quarantine has been so directed for all vessels or steamers coming from the port or place whence his vessel or steamer sailed, or by false declaration, or otherwise, fraudulently attempts to elude such directions, or lands or suffers to be landed from his vessel or steamer any person or thing without permission of the municipal or health officer, he shall be punished as provided in RCW 70.16.130. [Code 1881 § 2224; RRS § 6081.]

70.16.150 Vessel to perform quarantine—Penalty. The municipal or health officers of any seaport town or city may cause any vessel or steamer arriving there, to perform quarantine at such place and under such regulations as they may judge expedient when they think the safety of the inhabitants requires it; and whoever neglects or refuses to obey such orders and regulations, shall forfeit not exceeding five hundred dollars or be imprisoned not exceeding six months. [Code 1881 § 2222; RRS § 6079.]

70.16.160 Duty of pilots as to quarantine—Penalty. When such officers of a seaport, town or city, think it necessary to order all vessels or steamers, arriving there from any particular port or ports, to perform quarantine, they shall give notice thereof to the pilots of their port, who shall make it known to the master or commander of all vessels or steamers which they board. If any pilot neglects to do so, or contrary thereto, pilots any vessel or steamer up to said seaport, town or city, he shall forfeit not exceeding one hundred dollars. [Code 1881 § 2223; RRS § 6080.]

70.16.170 City to provide quarantine flag. The municipal or health officer of any seaport, town or city requiring vessels or steamers to perform quarantine shall provide, at the expense of such town or city, a suitable number of red flags, at least three yards in length; and the master or commander of every vessel or steamer ordered to perform quarantine shall cause one of them to be continually kept, during the term thereof, at the head of the mainmast of his vessel or steamer, and no person shall go on board such vessel or steamer during said term unless by permission of said officers. If he does, he shall be thereafter held liable to the same regulations and restrictions as those belonging to said vessel or

steamer, and shall there be detained by force if necessary, until duly discharged by said officers. [Code 1881 § 2225; RRS § 6082.]

70.16.180 Who may perform quarantine duties for city. In every seaport town or city where there is a health committee or health officer, he or they may perform all the duties and exercise all the authority of municipal officers in requiring vessels or steamers to perform quarantine. [Code 1881 § 2226; RRS § 6083.]

70.16.190 Expense of city quarantine. All the expenses incurred on account of any person, vessel, or steamer or goods under quarantine regulations, shall be paid by him or the owner of the vessel or steamer, or goods, as the case may be. [Code 1881 § 2227; RRS § 6084.]

70.16.200 Information to be furnished upon demand. If any master, seaman, or passenger of any vessel, or steamer, in which there is any infection, or has lately been, or is suspected to have been, or which has come from a port where any infectious disease prevails, dangerous to the public health, refuses to answer, on oath, such questions as are asked him relating to such infection or disease, by the municipal or health officer of the town or city to which such vessel comes, which oath, either of said officers may administer, he shall forfeit not exceeding two hundred dollars, or be imprisoned not more than six months. [Code 1881 § 2219; RRS § 6076.]

Chapter 70.20 PESTHOUSES, QUARANTINES, AND MISCELLANEOUS HEALTH PRECAUTIONS

Sections	
70.20.010	Pesthouses authorized.
70.20.020	Notice of regulations.
70.20.030	Disposition of fines.
70.20.040	City may quarantine infected persons.
70.20.050	Arrivals from infected areas out of state—Penalty.
70.20.060	City may order infected persons removed—Penalty.
70.20.070	Suspected travelers may be examined—Penalty.
70.20.080	Suspected baggage may be quarantined.
70.20.090	Buildings may be impressed to house suspected articles.
70.20.100	Officers may enter buildings containing infected articles—Penalty for refusal to assist.
70.20.110	Expenses, payment of.
70.20.120	Compensation for services and buildings.
70.20.130	Courts may convene in other cities.
70.20.140	Infected prisoners—Removal.
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70.20.160	City or town may select health committee—Health officer—Powers.
70.20.165	Municipal officers as health committee.
70.20.170	Removal of filth on private property—Penalty.
70.20.180	Breaking quarantine.
70.20.185	Breaking quarantine—Penalty.

70.20.010 Pesthouses authorized. It shall be the duty of the health [officers] to appoint [appointed] under the provisions of this act when by them deemed necessary to procure a suitable building, either by lease or construction to be used exclusively by the health officer as a pesthouse and to approve all necessary expenses of said health officer in procuring a building and keeping

the same in proper repair and obtaining necessary furniture therefor, and in carrying into effect the provisions of *this act and the county commissioners of any of the several counties of the state of Washington constituting said board of health shall appropriate a sufficient sum out of any money in the treasury of said county not otherwise appropriated to pay the health officer a just and reasonable compensation for the services performed in the discharge of his duty as such health officer and the county auditor shall issue an order countersigned by said board of health on the county treasurer who shall pay the same out of any money in the treasury not otherwise appropriated. [1888 p 49 § 12; RRS § 6058.]

***Reviser's note:** "this act", see note following RCW 70.16.030.

70.20.020 Notice of regulations. The board of health shall give notice in such manner as they may think reasonable and most for the public good of any and all regulations made by them under the provisions of *this act, the expense or cost of which shall be paid out of the county treasury, and the county auditor is hereby authorized to draw his warrant countersigned by said board of health on the county treasurer for the same who shall pay such bill out of any money in the treasury not otherwise appropriated. [1888 p 49 § 13; RRS § 6059.]

***Reviser's note:** "this act", see note following RCW 70.16.030.

70.20.030 Disposition of fines. All fines recovered under the provisions of *this act and not otherwise provided for, be and the same shall be paid into the county treasury: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1969 ex.s. c 199 § 30; 1888 p 50 § 14; RRS § 6060.]

***Reviser's note:** "this act", see note following RCW 70.16.030.

Disposition of fines: Chapter 10.82 RCW.

70.20.040 City may quarantine infected persons. When any person is or has recently been infected with any disease or sickness dangerous to the public health, the municipal officers of the town or city where he or she is shall provide for the safety of the inhabitants as they think best, by removing him or her to a separate house if it can be done without great danger to his or her health, and by providing nurses and other assistants, and necessities, at his or her charge, or that of his or her parent or master, if able; otherwise, that of the town or city to which he or she belongs. [Code 1881 § 2204; RRS § 6061.]

70.20.050 Arrivals from infected areas out of state—Penalty. When any infectious or malignant disease is known to exist in any place out of the state, the municipal officers of any town or city in the state by giving public notice therein as they find convenient,

may require any person coming from such place, to inform one of them or the town or city clerk of their arrival and from what place, and if he or she does not within two hours after his or her arrival, or after actual notice of such requirement, give such information, he or she shall forfeit one hundred dollars to the use of the town or city. [Code 1881 § 2205; RRS § 6062.]

70.20.060 City may order infected persons removed—Penalty. Said officers may prohibit a person required to give such information from going to any part of their town where they may think his presence would be unsafe for the inhabitants, and if he does not comply, they may order him, unless disabled by sickness, forthwith to leave the town or city in the manner and by the road they may direct; and if he neglects or refuses so to do, any justice of any town or city, on complaint of either of said officers, may issue a warrant to any proper officer or other person named therein and cause him to be removed out of the state; and if, during the prevalence of such disease in the place where he resides, he returns to any town or city in this state, without the permission of the municipal officers thereof, he shall forfeit not exceeding one hundred dollars; and if said forfeiture is not paid he shall be imprisoned not less than three months nor more than six months. [Code 1881 § 2206; RRS § 6063.]

70.20.070 Suspected travelers may be examined—Penalty. The municipal officers of any town or city near to or adjoining the line of this state, may appoint by writing under their hands, suitable persons to attend at any places by which travelers may pass into such town or city from infected places in other states, territories and provinces, who may examine such passengers as they suspect of bringing with them any infection dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by a justice of the peace in the town or city, or one of said officers, and any such passenger who without such license, travels in this state except to return by the most direct way to the state, territory or province whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit one hundred dollars or be imprisoned three months. [Code 1881 § 2207; RRS § 6064.]

70.20.080 Suspected baggage may be quarantined. When, on the application of the municipal officers of any town or city, it appears to any justice of the peace that there is just cause to suspect that any baggage, clothing or goods of any kind within such town or city are infected with any malignant, contagious disease, by a warrant directed to a proper officer, he shall require him to impress so many men as the justice thinks necessary to secure such infected articles, and to post said men as a guard over the house or place where the articles are lodged, who shall prevent any person removing or coming near such articles, until due inquiry is made into the circumstances thereof. [Code 1881 § 2208; RRS § 6065.]

70.20.090 Buildings may be impressed to house suspected articles. He may by the same warrant, if it appears to him necessary, require said officers under the direction of the municipal officers, to impress and take up convenient houses or other buildings for the safekeeping of such infected articles, and cause them to be removed thereto or otherwise detained, until municipal officers think they are free from infection. [Code 1881 § 2209; RRS § 6066.]

70.20.100 Officers may enter buildings containing infected articles—Penalty for refusal to assist. Said officers, if need be, may break open any house, shop or other place mentioned in the warrant where infected articles are, and require such aid as is necessary to execute it, and all persons at the command of either of said officers shall assist in such execution under a penalty for refusal, of not exceeding ten dollars. [Code 1881 § 2210; RRS § 6067.]

70.20.110 Expenses, payment of. The charges of securing such infected articles and of transporting and purifying them, shall be paid by the owners thereof at the price determined by the municipal officers. [Code 1881 § 2211; RRS § 6068.]

70.20.120 Compensation for services and buildings. When the officer impresses or takes up any house or other building or other necessities, or impresses any man as herein provided, the parties interested shall have just compensation therefor, to be paid by the town or city in which such persons or property were impressed. [Code 1881 § 2212; RRS § 6069.]

70.20.130 Courts may convene in other cities. When a malignant infectious disease prevails in any town or city wherein the supreme or judicial court is to be held, said courts may be adjourned and may be held in any town or city in said county, by proclamation made in such public manner as the courts judge best, as near their usual place of meeting as they think safety permits. [Code 1881 § 2213; RRS § 6070.]

70.20.140 Infected prisoners—Removal. When any person in any jail or prison or workhouse in this state, is attacked with any disease which the municipal officers of his town upon medical advice consider dangerous to the safety and health of other prisoners, or of the inhabitants of the town or city, they shall, by their order in writing, direct his removal to some place of safety, there to be securely kept and provided for until their further order; and if he recovers from such disease, he shall be returned to his place of confinement. [Code 1881 § 2214; RRS § 6071.]

70.20.150 Order of removal. If he was committed by order of a court or under a judicial process, the order for his removal, or a copy thereof attested by the municipal officers, shall be returned by them with the doings thereon, into the office of the clerk of the court from which such order or process was issued. No such

removal shall be deemed an escape. [Code 1881 § 2215; RRS § 6072.]

70.20.160 City or town may select health committee—Health officer—Powers. A town or city may, at its annual meeting, choose or elect a health committee, of not less than three nor more than five, or one person to be a health officer who shall remove, at the expense of their town or city all filth found in any place therein, which, in their judgment endangers the lives or health of any inhabitant, and require the owner or occupant, when they think necessary, to remove or discontinue any drain or other source of filth. [Code 1881 § 2216; RRS § 6073.]

Town or city health officer, appointment: Chapter 70.05 RCW.

70.20.165 Municipal officers as health committee. If any town or city, at its annual election, omits to choose or elect such committee or officer, the municipal officers shall be a health committee and have all their powers and perform all their duties. [Code 1881 § 2217; RRS § 6074.]

Town or city health officer, appointment: Chapter 70.05 RCW.

70.20.170 Removal of filth on private property—Penalty. When any source of filth, or other cause of sickness is found on private property, the owners or occupant thereof shall, within twenty-four hours after notice from the said committee or officers, at his own expense, remove or discontinue it; and if he neglects or unreasonably delays to do so, he shall forfeit not exceeding fifty dollars; and said committee or officers shall cause said nuisance to be removed or discontinued, and all expenses shall be repaid to the town or city by such owner or occupant, or by the person who caused or permitted it. [Code 1881 § 2218; RRS § 6075.]

Nuisances, generally: Chapters 7.48 and 9.66 RCW.

70.20.180 Breaking quarantine. Whenever a house has been quarantined by the board of health in any city or towns in this state, it shall be unlawful for any person, without the permission of the health officer, to leave the said house. [1901 c 48 § 1; no RRS. FORMER PART OF SECTION: 1901 c 48 § 2 now codified as RCW 70.20.185.]

70.20.185 Breaking quarantine—Penalty. Any person violating the provisions of RCW 70.20.180, shall be deemed guilty of a misdemeanor and shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail for a period of thirty days, or both such fine and imprisonment. [1901 c 48 § 2; no RRS. Formerly RCW 70.20.180.]

Chapter 70.22 MOSQUITO CONTROL

Sections

70.22.010	Declaration of purpose.
70.22.020	Director of health may make inspections, investigations and determinations and provide for control.

- 70.22.030 Director to coordinate plans.
 70.22.040 Director may contract with, receive funds from entities and individuals—Authorization for governmental entities to contract, grant funds, levy taxes.
 70.22.050 Powers and duties of director of health.
 70.22.060 Governmental entities to cooperate with director.
 70.22.900 Severability—1961 c 283.

70.22.010 Declaration of purpose. The purpose of this chapter is to establish a state-wide program for the control or elimination of mosquitoes as a health hazard. [1961 c 283 § 1.]

Weeds, rodents and pests: Title 17 RCW.

70.22.020 Director of health may make inspections, investigations and determinations and provide for control. The director of the state department of health is hereby authorized and empowered to make or cause to be made such inspections, investigations, studies and determinations as he may from time to time deem advisable in order to ascertain the effect of mosquitoes as a health hazard, and, to the extent to which funds are available, to provide for the control or elimination thereof in any or all parts of the state. [1961 c 283 § 2.]

70.22.030 Director to coordinate plans. The director of health shall coordinate plans for mosquito control work which may be projected by any county, city or town, municipal corporation, taxing district, state department or agency, federal government agency, or any person, group or organization, and arrange for cooperation between any such districts, departments, agencies, persons, groups or organizations. [1961 c 283 § 3.]

70.22.040 Director may contract with, receive funds from entities and individuals—Authorization for governmental entities to contract, grant funds, levy taxes. The director of health is authorized and empowered to receive funds from any county, city or town, municipal corporation, taxing district, the federal government, or any person, group or organization to carry out the purpose of this chapter. In connection therewith the director is authorized and empowered to contract with any such county, city, or town, municipal corporation, taxing district, the federal government, person, group or organization with respect to the construction and maintenance of facilities and other work for the purpose of effecting mosquito control or elimination, and any such county, city or town, municipal corporation, or taxing district obligated to carry out the provisions of any such contract entered into with the director of health is authorized, empowered and directed to appropriate, and if necessary, to levy taxes for and pay over such funds as its contract with the director may from time to time require. [1961 c 283 § 4.]

70.22.050 Powers and duties of director of health. To carry out the purpose of this chapter, the director of health may

(2) abate as nuisances breeding places for mosquitoes as defined in RCW 17.28.170;

(3) acquire by gift, devise, bequest, lease, or purchase, real and personal property necessary or convenient for carrying out the purpose of this chapter;

(4) make contracts, employ engineers, health officers, sanitarians, physicians, laboratory personnel, attorneys, and other technical or professional assistants;

(5) publish information or literature;

(6) do any and all other things necessary to carry out the purpose of this chapter: *Provided*, That no program shall be permitted nor any action taken in pursuance thereof which may be injurious to the life or health of game or fish. [1961 c 283 § 5.]

Reviser's note: Subdivision (1) was vetoed.

70.22.060 Governmental entities to cooperate with director. Each state department, agency, and political subdivision shall cooperate with the director of health in carrying out the purposes of this chapter. [1961 c 283 § 6.]

70.22.900 Severability—1961 c 283. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1961 c 283 § 7.]

Chapter 70.24

CONTROL AND TREATMENT OF VENEREAL DISEASES

Sections

- 70.24.010 Venereal diseases designated.
 70.24.020 Examination and treatment of suspected persons.
 70.24.030 Treatment of infected prisoners.
 70.24.040 Rules and regulations—Penalty.
 70.24.050 Laboratory examinations.
 70.24.060 Appeal to state director—Findings conclusive.
 70.24.070 Quarantine districts authorized.
 70.24.080 Penalty.
 70.24.090 Test of pregnant women for syphilis.
 70.24.100 Syphilis laboratory tests.
 70.24.110 Minors—Treatment, consent, liability for payment for care.

70.24.010 Venereal diseases designated. Syphilis, gonorrhea and chancroid hereinafter designated as venereal diseases are hereby declared to be contagious, infectious, communicable and dangerous to the public health. It shall be unlawful for anyone infected with these diseases or any of them to expose another person to infection. [1919 c 114 § 1; RRS § 6100.]

70.24.020 Examination and treatment of suspected persons. State, county and municipal health officers, or their authorized deputies, who are licensed physicians, within their respective jurisdictions are hereby directed and empowered, when in their judgment it is necessary to protect the public health, to make examination of persons reasonably suspected of being infected with venereal disease of a communicable nature, and to require persons infected with venereal disease of such communicable nature to report for treatment to a reputable physician and continue treatment until cured, or to submit to treatment provided at public expense until

cured, and also, when in the judgment of the state commissioner of health, it is necessary to protect the public health, to isolate or quarantine persons infected with venereal disease of such communicable nature. It shall be the duty of all local and state health officers to investigate sources of infection of venereal diseases, to cooperate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the repression of prostitution: *Provided*, That any person suspected as herein set out may have present at the time of taking the blood sample or smear a physician of his or her choosing, who may satisfy himself that the blood or smear taken is that of the suspected person, and that the same shall be forwarded to the proper state authorities for laboratory tests, and: *Provided, further*, That the suspected person shall be informed by the health officer of his or her rights under *this act. [1919 c 114 § 2; RRS § 6101.]

***Reviser's note:** "this act" appears in 1919 c 114 codified as RCW 70.24.010 through 70.24.080.

Construction—1919 c 114: "The provisions of this act shall be cumulative with the existing laws and regulations and nothing herein shall abridge or limit the powers of health authorities as construed by the supreme court of the state of Washington; except as herein otherwise provided." [1919 c 114 § 9.]

70.24.030 Treatment of infected prisoners. Any person who shall be confined or imprisoned in any state, county, or city prison in the state and who may be reasonably suspected by the health officer of being infected with venereal disease shall be examined for and, if infected, treated for venereal diseases by the health authorities or their deputies who are licensed physicians. The prison authorities of any state, county, or city prison are directed to make available to the health authorities such portion of any state, county, or city prison as may be necessary for a clinic or hospital wherein all persons who may be confined or imprisoned in any such prison and who are infected with venereal disease, and all such persons who are suffering with venereal disease at the time of the expiration of their terms of imprisonment, and, in case no other suitable place for isolation or quarantine is available, such other persons as may be isolated or quarantined under the provisions of RCW 70.24.020, shall be isolated and treated at public expense until cured, or, in lieu of such isolation any of such persons may, in the discretion of the board of health, be required to report for treatment to a licensed physician, or submit to treatment provided at public expense as provided in RCW 70.24.020. Nothing herein contained shall be construed to interfere with the service of any sentence imposed by a court as a punishment for the commission of crime. [1919 c 114 § 3; RRS § 6102.]

70.24.040 Rules and regulations—Penalty. The state board of health is hereby empowered and directed to make such rules and regulations as shall in its judgment be necessary for the carrying out of the provisions of *this act, including rules and regulations providing for the control and treatment of persons isolated or quarantined under the provisions of RCW 70.24.020,

and such other rules and regulations, not in conflict with provisions of *this act, concerning the control of venereal diseases, and concerning the care, treatment and quarantine of persons infected therewith, as it may from time to time deem advisable. All such rules and regulations so made shall be of force and binding upon all county and municipal health officers and other persons affected by *this act, and shall have the force and effect of law: *Provided*, That such regulations shall prescribe reasonable safeguards against the disclosure of the names of any such infected persons, who faithfully comply with the provisions of *this act and the lawful regulations of the state board of health, except to officers and physicians charged with the enforcement of this act and such rules and regulations and any violation of such safeguarding regulations, shall be a gross misdemeanor. [1919 c 114 § 4; RRS § 6103.]

***Reviser's note:** "this act", see note following RCW 70.24.020.

70.24.050 Laboratory examinations. Diagnosis in every instance must be confirmed by laboratory examinations in a laboratory approved by the state board of health, before any person shall be isolated or committed to quarantine and before any person committed to quarantine shall be discharged therefrom. [1919 c 114 § 6; RRS § 6105.]

70.24.060 Appeal to state director—Findings conclusive. Any person committed to quarantine under the provisions of *this act, feeling aggrieved at the finding of any health officer that he or she is infected, or at the finding of any quarantine officer that he or she has not been cured of infection, shall have the right of appeal from such finding to the state commissioner of health; and it shall be the duty of every health officer making an examination, and of every quarantine officer, to notify all persons examined or quarantined of their rights in that regard, and to supply them with the forms necessary for that purpose, upon which to make such appeals, to be provided by the state commissioner of health, and to immediately transmit any such appeals by mail to the state commissioner of health; and the state commissioner of health shall, within five days after receiving any such appeal, either in person or by regular or special physician deputy appointed for that purpose, and skilled in the diagnosis of contagious venereal diseases, examine or cause to be examined the person taking the appeal, and the finding and conclusion of the commissioner of health or his deputy so making such examination shall be final and conclusive. [1919 c 114 § 7; RRS § 6106.]

***Reviser's note:** "this act", see note following RCW 70.24.020.

State commissioner of health, office abolished and powers and duties transferred to director of health: See 1921 c 7 §§ 59 and 135. The department of health was abolished by RCW 43.20A.500 and its powers, duties and functions were transferred to the secretary of social and health services by RCW 43.20A.120.

70.24.070 Quarantine districts authorized. For the purpose of carrying out the provisions of *this act the state board of health shall have the power and authority, from time to time, to divide the state into such

number of quarantine districts consisting of one or more counties or parts of counties or municipalities as it shall deem expedient, and to establish at such place or places as it shall deem necessary quarantine stations and clinics for the detention and treatment of persons found to be infected and to establish any such quarantine station and clinic in connection with any county or city jail, or in any hospital or other public or private institution having, or which may be provided with, such necessary detention, segregation, isolation, clinic and hospital facilities as may be required and prescribed by the board, and to enter into arrangements for the conduct of such quarantine stations and clinics with the public officials or persons, associations, or corporations in charge of or maintaining and operating such institutions. [1919 c 114 § 8; RRS § 6107.]

***Reviser's note:** "this act", see note following RCW 70.24.020.

70.24.080 Penalty. Any person who shall violate any of the provisions of *this act or any lawful rule or regulation made by the state board of health pursuant to the authority herein granted, or who shall fail or refuse to obey any lawful order issued by any state, county or municipal health officer, pursuant to the authority granted in *this act, shall be deemed guilty of a gross misdemeanor. [1919 c 114 § 5; RRS § 6104.]

***Reviser's note:** "this act", see note following RCW 70.24.020.

70.24.090 Test of pregnant women for syphilis. Every physician attending a pregnant woman in the state of Washington during gestation shall, in the case of each woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. If the pregnant woman first presents herself for examination after the fifth month of gestation the physician or other attendant shall in addition to the above, advise and urge the patient to secure a medical examination and blood test before the fifth month of any subsequent pregnancies. [1939 c 165 § 1; RRS § 6002-1.]

70.24.100 Syphilis laboratory tests. A standard serological test shall be a laboratory test for syphilis approved by the state director of health and shall be performed either by a laboratory approved by the state director of health for the performance of the particular serological test used or by the state department of health, on request of the physician free of charge. [1939 c 165 § 2; RRS § 6002-2.]

70.24.110 Minors—Treatment, consent, liability for payment for care. A minor fourteen years of age or older who may have come in contact with any venereal disease or suspected venereal disease may give consent to the furnishing of hospital, medical and surgical care related to the diagnosis or treatment of such disease. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize hospital, medical and surgical care related to such disease and such parent, parents, or legal

guardian shall not be liable for payment for any care rendered pursuant to this section. [1969 ex.s. c 164 § 1.]

Chapter 70.28 CONTROL OF TUBERCULOSIS

Sections	
70.28.010	Physicians required to report cases.
70.28.020	Record of reports.
70.28.031	Powers and duties of health officers.
70.28.033	Isolation or examination order of health officer—Violation—Penalty.
70.28.035	Isolation or examination order of health officer—Refusal to obey—Application for superior court order.
70.28.037	Superior court order for confinement of individuals having active tuberculosis.
70.28.040	Penalty.
70.28.050	Enforcement of regulations.

70.28.010 Physicians required to report cases. All practicing physicians in the state are hereby required to report to the local boards of health in writing, the name, age, sex, occupation and residence of every person having tuberculosis who has been attended by, or who has come under the observation of such physician within five days thereof. [1967 c 54 § 1; 1899 c 71 § 1; RRS § 6109.]

Severability—1967 c 54: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 54 § 20.]

This applies to RCW 70.28.031-70.28.037, and 70.30.071; the 1967 amendments to RCW 70.28.010, 70.28.020, 70.28.050, 70.30.010, 70.30.040, 70.30.050, 70.30.060, 70.30.080, 70.30.100, 70.32.040, 70.32.050, 70.32.060, 70.32.080; and to the repeal of RCW 70.28.030, 70.30.070, 70.30.090, 70.30.120, 70.30.150, 70.32.011, 70.32.022-70.32.025, 70.32.070, 70.34.010-70.34.190, and 70.36.010-70.36.060.

70.28.020 Record of reports. All local boards of health in this state are hereby required to receive and keep a permanent record of the reports required by RCW 70.28.010 to be made to them; such records shall not be open to public inspection, but shall be submitted to the proper inspection of other local and state boards of health alone, and such records shall not be published nor made public. [1967 c 54 § 2; 1899 c 71 § 2; RRS § 6110.]

70.28.031 Powers and duties of health officers. Each health officer is hereby directed to use every available means to ascertain the existence of, and immediately to investigate, all reported or suspected cases of tuberculosis in the infectious stages within his jurisdiction and to ascertain the sources of such infections. In carrying out such investigations, each health officer is hereby invested with full powers of inspection, examination and quarantine or isolation of all persons known to be infected with tuberculosis in an infectious stage or persons who have been previously diagnosed as having tuberculosis and who are under medical orders for periodic follow-up examinations and is hereby directed:

(a) To make such examinations as are deemed necessary of persons reasonably suspected of having tuberculosis in an infectious stage and to isolate or quarantine such persons, whenever deemed necessary for the protection of the public health.

(b) To make such examinations as deemed necessary of persons who have been previously diagnosed as having tuberculosis and who are under medical orders for periodic follow-up examinations.

(c) Follow local rules and regulations regarding examinations, quarantine, or isolation, and all rules, regulations, and orders of the state board and of the department in carrying out such examination, quarantine or isolation.

(d) Whenever the health officer shall determine on reasonable grounds that an examination of any person is necessary for the preservation and protection of the public health, he shall make an examination order in writing, setting forth the name of the person to be examined, the time and place of the examination, and such other terms and conditions as may be necessary to protect the public health. Nothing contained in this subdivision shall be construed to prevent any person whom the health officer determines should have an examination for infectious tuberculosis from having such an examination made by a physician of his own choice who is licensed to practice osteopathy and surgery under chapter 18.57 RCW or medicine and surgery under chapter 18.71 RCW under such terms and conditions as the health officer shall determine on reasonable grounds to be necessary to protect the public health.

(e) Whenever the health officer shall determine that quarantine or isolation in a particular case is necessary for the preservation and protection of the public health, he shall make an isolation or quarantine order in writing, setting forth the name of the person to be isolated, the period of time during which the order shall remain effective, the place of isolation or quarantine, and such other terms and conditions as may be necessary to protect the public health.

(f) Upon the making of an examination, isolation, or quarantine order as provided in this section, a copy of such order shall be served upon the person named in such order.

(g) Upon the receipt of information that any examination, quarantine, or isolation order, made and served as herein provided, has been violated, the health officer shall advise the prosecuting attorney of the county in which such violation has occurred, in writing, and shall submit to such prosecuting attorney the information in his possession relating to the subject matter of such examination, isolation, or quarantine order, and of such violation or violations thereof.

(h) Any and all orders authorized under this section shall be made by the health officer or his tuberculosis control officer. [1967 c 54 § 4.]

70.28.033 Isolation or examination order of health officer—Violation—Penalty. Inasmuch as the order provided for by RCW 70.28.031 is for the protection of the public health, any person who, after service upon him of an order of a health officer directing his isolation or examination as provided for in RCW 70.28.031, violates or fails to comply with the same or any provision thereof, is guilty of a misdemeanor, and, upon conviction thereof, in addition to any and all other penalties which may be imposed by law upon such conviction,

may be ordered by the court confined until such order of such health officer shall have been fully complied with or terminated by such health officer, but not exceeding six months from the date of passing judgment upon such conviction: *Provided*, That the court, upon suitable assurances that such order of such health officer will be complied with, may place any person convicted of a violation of such order of such health officer upon probation for a period not to exceed two years, upon condition that the said order of said health officer be fully complied with: *And provided further*, That upon any subsequent violation of such order of such health officer, such probation shall be terminated and confinement as herein provided ordered by the court. [1967 c 54 § 5.]

70.28.035 Isolation or examination order of health officer—Refusal to obey—Application for superior court order. In addition to the proceedings set forth in RCW 70.28.031, where a local health officer has reasonable cause to believe that an individual has tuberculosis as defined in the rules and regulations of the state board of health, and the individual refuses to obey the order of the local health officer to appear for an initial examination or a follow-up examination, the health officer may apply to the superior court for an order requiring the individual to comply with the order of the local health officer. [1967 c 54 § 6.]

70.28.037 Superior court order for confinement of individuals having active tuberculosis. Where it has been determined after an examination as prescribed above, that an individual has active tuberculosis, and he resides in a county in which no tuberculosis facility is located, upon application to the superior court by the local health officer, the superior court may order the sheriff to transport said individual to a designated tuberculosis facility for isolation, treatment and care until such time as the medical director of the hospital determines that his condition is such that it is safe for him to be discharged from the facility. [1967 c 54 § 7.]

70.28.040 Penalty. Any practicing physician who shall wilfully fail to comply with the provisions of RCW 70.28.010 shall be guilty of a misdemeanor, and on conviction thereof may be fined for the first offense not exceeding five dollars, and for any subsequent offense not exceeding one hundred dollars. [1899 c 71 § 4; RRS § 6112.]

70.28.050 Enforcement of regulations. It is hereby made the duty of every person having tuberculosis and of every one attending such person, and of the authorities of public and private institutions, hospitals or dispensaries, to observe and enforce the sanitary rules and regulations prescribed from time to time by the local boards of health and by the state board of health for the prevention of the spread of pulmonary tuberculosis. [1967 c 54 § 3; 1899 c 71 § 5; RRS § 6113.]

Chapter 70.30

TUBERCULOSIS HOSPITALS AND FACILITIES

Sections

- 70.30.061 Admissions to facility.
 70.30.072 Payment for care of patients.
 70.30.081 Annual inspections.

County hospitals: Chapter 36.62 RCW.

Hospital's lien: Chapter 60.44 RCW.

Labor regulations, collective bargaining—Health care activities: Chapter 49.66 RCW.

70.30.061 Admissions to facility. Any person residing in the state and needing treatment for tuberculosis, may apply in person to the local health officer or to any licensed physician for examination and if such physician has reasonable cause to believe that said person is suffering from tuberculosis in any form he may apply to the local health officer or tuberculosis hospital director for admission of said person to an appropriate facility for the care and treatment of tuberculosis. [1973 1st ex.s. c 213 § 1; 1972 ex.s. c 143 § 2.]

70.30.072 Payment for care of patients. Upon admission of a patient to a tuberculosis hospital, the secretary or the hospital director, as appropriate, or their designees, shall determine the patient's ability to pay for his care in whole or in part. If the patient or said relatives are not financially able to contribute in whole or in part to his care in the facility, said patient shall be admitted free of charge, or upon the payment of a portion of the charges. [1972 ex.s. c 143 § 3.]

70.30.081 Annual inspections. All hospitals established or maintained for the treatment of persons suffering from tuberculosis shall be subject to annual inspection, or more frequently if required by federal law, by agents of the department of social and health services, and the medical director shall admit such agents into every part of the facility and its buildings, and give them access on demand to all records, reports, books, papers, and accounts pertaining to the facility. [1972 ex.s. c 143 § 4.]

Chapter 70.32

COUNTY AND STATE TUBERCULOSIS FUNDS

Sections

- 70.32.010 Tax levy directed—Tuberculosis fund.
 70.32.050 Responsibility of local health officer.
 70.32.060 Medical reports on patients.
 70.32.090 Counties where tax levy more than adequate—Surplus for general county or public hospital district purpose.

State administered tuberculosis hospital facilities: Chapter 70.33 RCW.

70.32.010 Tax levy directed—Tuberculosis fund. Tuberculosis is a communicable disease and tuberculosis control, case finding, prevention and follow up of known cases of tuberculosis represents the basic step in the conquest of this major health problem. In order to carry on such work effectively, the legislative authority of each county enumerated in RCW 70.33.040 shall budget and shall levy annually a tax in a sum equal to the amount which would be raised by a levy of six and

one-quarter cents per thousand dollars of assessed value against the taxable property in any county enumerated in RCW 70.33.040, to be used for the control of tuberculosis, including case finding, prevention and follow up of known cases of tuberculosis: *Provided*, That upon certification of the secretary that any such county has an unexpended balance from such levy, over and above the amount required for adequate tuberculosis control, including case finding, prevention and follow up of known cases of tuberculosis within such county, the legislative authority may budget and reappropriate the same for such tuberculosis control for the ensuing year, or it may allocate from time to time such unexpended balance, or any portion thereof, to the county health department for use in furtherance of other communicable disease prevention or control, or as provided in RCW 70.32.090 as now or hereafter amended. The sum herein provided for, and any income that may accrue from miscellaneous receipts in connection with the tuberculosis control program of such county, shall be placed in the county treasury in a special fund to be known as the tuberculosis fund, and obligations incurred for the tuberculosis control program shall be paid from said fund by the county treasurer in the same manner as general county obligations are paid. The county auditor shall furnish to the legislative authority and the department a monthly report of receipts and disbursements in the tuberculosis fund, which report shall also show balances of cash on hand. [1973 1st ex.s. c 195 § 79; 1971 ex.s. c 277 § 21; 1970 ex.s. c 47 § 7; 1967 ex.s. c 110 § 11; 1959 c 117 § 1; 1945 c 66 § 1; 1943 c 162 § 1; Rem. Supp. 1945 § 6113-1.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

County treasurer: Chapter 36.29 RCW.

Definitions: RCW 70.33.010.

Tax levy directed—Proceeds to state—Surplus revenue returned: RCW 70.33.040.

70.32.050 Responsibility of local health officer. All arrangements for hospital care, tuberculosis case finding and post hospital public health follow-up of known cases of tuberculosis of any county enumerated in RCW 70.33.040 shall be the responsibility of the local health officer and shall be carried out pursuant to rules and regulations adopted by the state board of health. [1971 ex.s. c 277 § 22; 1967 c 54 § 16; 1945 c 66 § 5; 1943 c 162 § 5; Rem. Supp. 1945 § 6113-5.]

Definitions: RCW 70.33.010.

70.32.060 Medical reports on patients. Medical reports on the condition of all patients shall be submitted to the health department of any county of the patient's residence by the hospital medical director at such times, on such forms and in accordance with such procedure as may be prescribed by the secretary. [1971 ex.s. c 277 § 23; 1967 c 54 § 17; 1945 c 66 § 6; 1943 c 162 § 6; Rem. Supp. 1945 § 6113-6.]

Definitions: RCW 70.33.010.

70.32.090 Counties where tax levy more than adequate—Surplus for general county or public hospital district purpose. In any county enumerated in RCW 70.33.040 where the secretary has certified that the proceeds of the six and one-quarter cents per thousand dollars of assessed value tax levy is more than adequate to provide for tuberculosis control, including case finding, prevention, and follow-up of known cases of tuberculosis in the county, the legislative authority, after a special public hearing conducted in accordance with the procedures established for hearings on budgetary matters as delineated in RCW 36.40.060 and 36.40.070 and upon making a finding that an adequate general public health program is being carried out in the county, may budget and reappropriate such surplus funds from the six and one-quarter cents per thousand dollars of assessed value tax levy for the ensuing year to the county treasury for general purposes of the county, as authorized by law, or the legislative authority in its discretion may budget, reappropriate and transfer such surplus fund to any public hospital district within the county. [1973 1st ex.s. c 195 § 80; 1971 ex.s. c 277 § 24; 1967 ex.s. c 110 § 15; 1961 c 101 § 1; 1959 c 117 § 3.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Definitions: RCW 70.33.010.

Chapter 70.33 STATE ADMINISTERED TUBERCULOSIS HOSPITAL FACILITIES

Sections

70.33.010	Definitions.
70.33.020	Secretary's administrative responsibility—Scope.
70.33.030	Medical director—Qualifications—Powers and duties.
70.33.040	Tax levy directed—State services (as amended by 1973 1st ex.s. c 213 § 4).
70.33.040	Tax levy directed—Proceeds to state—Surplus revenues returned (as amended by 1973 1st ex.s. c 195 § 81).
70.33.050	County responsibility for costs of care terminates, when.
70.33.060	Transfer of assets and liabilities to department, when.

70.33.010 Definitions. The following words and phrases shall have the designated meanings in this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090 unless the context clearly indicated otherwise:

(1) "Department" means the department of social and health services;

(2) "Secretary" means the secretary of the department of social and health services or his designee;

(3) "Tuberculosis hospital" and "tuberculosis hospital facility" refer to hospitals for the care of persons suffering from tuberculosis;

(4) "Tuberculosis control" refers to the procedures administered in the counties for the control and prevention of tuberculosis, but does not include hospitalization. [1971 ex.s. c 277 § 15.]

70.33.020 Secretary's administrative responsibility—Scope. From and after August 9, 1971, the secretary shall have responsibility for establishing standards

for the control, prevention and treatment of tuberculosis and shall have administrative responsibility and control for all tuberculosis hospital facilities in the state operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090 and for providing, either directly or through agreement, contract or purchase, hospital, nursing home and other appropriate facilities and services including laboratory services for persons who are, or may be suffering from tuberculosis except as otherwise provided by RCW 70.30.061, 70.33.020, 70.33.030, 70.33.040 and 70.35.040.

Pursuant to that responsibility, the secretary shall have the following powers and duties:

(1) To develop and enter into such agreements, contracts or purchase arrangements with counties and public and private agencies or institutions to provide for hospitalization, nursing home or other appropriate facilities and services for persons who are or may be suffering from tuberculosis, or to provide for and maintain any tuberculosis hospital facility which the secretary determines is necessary to meet the needs of the state, to determine where such hospitals shall be located and to adequately staff such hospitals to meet patient care needs;

(2) To appoint a medical director for each tuberculosis hospital facility operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090;

(3) Adopt such rules and regulations as are necessary to assure effective patient care and treatment, and to provide for the general administration of tuberculosis hospital facilities operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090. [1973 1st ex.s. c 213 § 2; 1971 ex.s. c 277 § 16.]

70.33.030 Medical director—Qualifications—Powers and duties. The medical director of any tuberculosis hospital facility operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090 and RCW 70.30.061, 70.33.020, 70.33.030, 70.33.040 and 70.35.040 shall be a qualified and licensed practitioner of medicine and shall have the following powers and duties:

(1) To provide for the administration of the hospital according to the rules and regulations adopted by the department;

(2) To adopt and publish such rules and regulations governing the administration of the hospital as are deemed necessary: *Provided*, That such rules and regulations are not in conflict with those adopted by the department and have the written approval of the secretary. [1973 1st ex.s. c 213 § 3; 1971 ex.s. c 277 § 17.]

70.33.040 Tax levy directed—State services (as amended by 1973 1st ex.s. c 213 § 4). In order to maintain adequate tuberculosis hospital facilities and to provide for adequate hospitalization, nursing home and other appropriate facilities and services for the residents of the state of Washington who are or may be suffering from tuberculosis and to assure their proper care pursuant to this chapter, the standards set by the secretary pursuant to RCW 70.33.020 and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090, the legislative authority of Clallam, Jefferson, Kitsap, Mason, Grays Harbor, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark, Skamania, Klickitat, Pierce, King,

Snohomish, Skagit, Whatcom, San Juan and Island counties shall levy annually a tax in the sum equal to the amount which would be raised by a levy of one-sixteenth mill against the actual value of the taxable property in the county.

If such counties desire to receive state services, they may elect to utilize funds collected pursuant to this section for the purpose of contracting with the state upon agreement by the state for the cost of providing tuberculosis hospitalization and/or outpatient treatment including laboratory services, or such funds may be retained by the county for operating its own services for the prevention and treatment of tuberculosis or any other community health purposes authorized by law. None of such counties shall be required to make any payments to the state or any other agency from these funds except upon the express consent of the county legislative authority: *Provided*, That if the counties do not comply with the promulgated standards of the department the secretary shall take action to provide such required services and to charge the affected county directly for the provision of these services by the state. [1973 1st ex.s. c 213 § 4; 1971 ex.s. c 277 § 18.]

Reviser's note: RCW 70.33.040 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Tax levy directed—Tuberculosis fund: RCW 70.32.010.

70.33.040 Tax levy directed—Proceeds to state—Surplus revenues returned (as amended by 1973 1st ex.s. c 195 § 81). In order to maintain adequate tuberculosis hospital facilities for the residents of the state of Washington and to assure their proper care pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090, the legislative authority of Clallam, Jefferson, Kitsap, Mason, Grays Harbor, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark, Skamania, Klickitat, Pierce, King, Snohomish, Skagit, Whatcom, San Juan and Island counties shall, levy annually a tax in the sum equal to the amount which would be raised by a levy of six and one-quarter cents per thousand dollars of assessed value against the taxable property in the county. Upon collection such sum shall be paid to the state to be used for the cost of maintaining and operating tuberculosis hospital facilities operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090. All other sources of revenue in tuberculosis hospital facilities operated pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090 shall be collected by such tuberculosis hospital facilities.

There is hereby appropriated to the department such revenue as is collected resulting from the six and one-quarter cents per thousand dollars of assessed value levy provided for herein, and the collections made by the tuberculosis hospital facilities. Such appropriations to the department shall be used for the cost of maintaining and operating tuberculosis hospital facilities pursuant to this chapter and RCW 70.32.010, 70.32.050, 70.32.060 and 70.32.090: *Provided*, That in the event that the revenues collected under this section exceed the cost of hospitalization, surplus revenues will be returned to the counties in proportion to the property taxes collected from those counties. [1973 1st ex.s. c 195 § 81; 1971 ex.s. c 277 § 18.]

Reviser's note: RCW 70.33.040 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Tax levy directed—Tuberculosis fund: RCW 70.32.010.

70.33.050 County responsibility for costs of care terminates, when. During the period from August 9, 1971 to January 1, 1972 each of the respective counties enumerated in RCW 70.33.040 will be responsible for the cost of care for hospitalization of patients with tuberculosis from the respective counties, when such patients are unable to pay all or any of the hospitalization costs: *Provided*, That no county enumerated in RCW 70.33.040 shall be liable for payment for such cost of care

beyond the amount budgeted and collected in each such county for tuberculosis hospitalization and control as a result of revenue from previous levied tuberculosis taxes or payments in lieu of taxes. [1971 ex.s. c 277 § 19.]

70.33.060 Transfer of assets and liabilities to department, when. From August 9, 1971 in any county enumerated in RCW 70.33.040 currently maintaining a tuberculosis hospital facility, the department will assume all assets and liabilities relating to such hospitals and the counties and the department are authorized and directed to take all steps required by law to effect such transfer. [1971 ex.s. c 277 § 20.]

Chapter 70.35

EASTERN TUBERCULOSIS HOSPITAL DISTRICTS

Sections	Purpose.
70.35.010	Established—Counties constituting—Headquarters county—Powers.
70.35.020	District commission—Members, appointment of—Vacancies, filling of—Duties.
70.35.030	Hospital superintendent—Appointment—Compensation—Qualification—Duties.
70.35.040	District commission—Powers and duties generally—Reimbursement for expenses—Organization and proceedings.
70.35.050	Agreements to use Edgecliff facilities.
70.35.060	Tax levy directed—Disposition of funds—Special fund in headquarters county.
70.35.070	Surplus funds—Uses—Tuberculosis fund—Reports.
70.35.075	Chapter 70.32 RCW provisions inapplicable, when.
70.35.080	State department authority over district.
70.35.090	Payments for treatment at Edgecliff terminated, when.
70.35.100	Contracts to carry out tuberculosis control.
70.35.110	

70.35.010 Purpose. The purpose of this chapter is to authorize and establish a tuberculosis hospital district in the state to operate a hospital and supply hospital service for the residents of such district and such others as the district shall deem necessary. [1971 ex.s. c 277 § 5.]

70.35.020 Established—Counties constituting—Headquarters county—Powers. There is hereby established a tuberculosis hospital district in the state, hereinafter in this chapter referred to as the Eastern district, consisting of the following named counties: Okanogan, Chelan, Kittitas, Yakima, Benton, Walla Walla, Franklin, Grant, Douglas, Ferry, Lincoln, Adams, Columbia, Asotin, Garfield, Whitman, Spokane, Stevens and Pend Oreille; the headquarters county of such district shall be Spokane county. Such hospital district is authorized to operate a hospital in the present tuberculosis hospital facilities at Edgecliff in Spokane, Washington. [1971 ex.s. c 277 § 6.]

70.35.030 District commission—Members, appointment of—Vacancies, filling of—Duties. The Eastern tuberculosis hospital district in this state shall be governed by a commission consisting of five members, three of whom shall be members of the legislative authority of the headquarters county to be chosen by

and to serve at the pleasure of such legislative authority and two of whom shall be elected by and to serve at the pleasure of an advisory committee to the commission made up of the chief health officers of the respective counties within the district. If such advisory committee shall fail to fill a vacancy within two weeks, the governor shall fill such vacancy and so notify the commission. Initial members of the commission shall be elected or appointed within ten days of August 9, 1971. Such advisory committee shall counsel the commission with respect to commission powers and duties under this chapter. Failure of any member to continue in public office shall result in a commission vacancy which shall be filled as in the case of original appointment or election. [1971 ex.s. c 277 § 7.]

70.35.040 Hospital superintendent—Appointment—Compensation—Qualification—Duties.

The district commission shall appoint and determine the compensation of a hospital superintendent for the district who shall serve at the pleasure of the commission and be a physician duly licensed in this state and qualified in public health and/or specializing in the care of tuberculosis. Such superintendent shall act as administrative officer for the commission, shall be the tuberculosis control officer for the district, and shall be empowered to employ such technical and other personnel as approved by such commission. [1973 1st ex.s. c 213 § 5; 1971 ex.s. c 277 § 8.]

70.35.050 District commission—Powers and duties generally—Reimbursement for expenses—Organization and proceedings. The district commission shall have authority:

(1) To lease existing hospital and equipment and/or other property used in connection therewith, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital service for residents of said district in hospitals located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said commission shall have the power to contract with other communities, corporations or individuals for the services provided by said district; and they may further receive in said hospital and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: *Provided*, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available facilities of said hospitals, at rates set by the district commissioners;

(2) To enter into any contract with the United States government, or any state or municipality for carrying out any of the powers authorized in this chapter;

(3) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the district shall be brought in the headquarters county of the district; and

(4) To make contracts, employ superintendents, attorneys, and other technical or professional assistants and all other employees; to make contracts with private

or public institutions for employee retirement programs; to print and publish information or literature and to do all those things necessary to carry out the purposes of this chapter.

Commission members shall be reimbursed for reasonable expenses incurred in connection with commission business and meetings, including subsistence and lodging and travel while away from their place of residence. Commission organization and proceedings shall be in accordance with that for public hospital district commissions under RCW 70.44.050. [1971 ex.s. c 277 § 9.]

70.35.060 Agreements to use Edgecliff facilities. The commission shall as soon as possible after August 9, 1971 enter into those necessary negotiations and agreements to obtain the use of the present tuberculosis hospital facilities at Edgecliff in Spokane, Washington. [1971 ex.s. c 277 § 10.]

70.35.070 Tax levy directed—Disposition of funds—Special fund in headquarters county. Tuberculosis is a communicable disease and tuberculosis control, including hospitalization, case finding, prevention and follow-up of known cases of tuberculosis represent the basic step in the conquest of this major health problem. In order to carry on work effectively in these fields there shall be levied for tuberculosis hospital district purposes in the district annually a tax in a sum equal to the amount which would be raised by a levy of twelve and one-half cents per thousand dollars of assessed value against the taxable property in the district, or the equivalent thereof, such levy to be made by the board of county commissioners in each county constituting the district, fifty percent of the receipts therefrom to be forwarded quarterly in January, April, July and October of each year by the treasurers of such county, other than the headquarters county where tuberculosis control activities will be carried out by the hospital, to the treasurer of the headquarters district county, who shall be treasurer for the district. The retained fifty percent of the funds are to be used by the chief health officers to carry out tuberculosis control on a local county level pursuant to rules and regulations adopted by the district commission. The sum herein provided for, and any income that may occur from miscellaneous receipts in connection with the aforesaid programs shall be placed in a special fund in the treasury of the headquarters county and obligations incurred for such programs shall be paid from such fund upon order of the district commissioners by the treasurer in the same manner as general county obligations are paid. [1973 1st ex.s. c 195 § 82; 1972 ex.s. c 143 § 1; 1971 ex.s. c 277 § 11.]

~~Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.~~

70.35.075 Surplus funds—Uses—Tuberculosis fund—Reports. Upon certificate of the district tuberculosis control officer or his designee that any county in the district has an unexpended balance of the funds from the above-provided for levy, over and above the

amount required for adequate tuberculosis control, including case finding, prevention and follow-up of known cases of tuberculosis within such county, the board of county commissioners may budget and reappropriate the same for such tuberculosis control for the ensuing year, or it may allocate from time to time such certified unexpended balance, or any portion thereof to the county health department, or to a health district encompassing the entire county, for use in furtherance of other communicable disease prevention or control, or for other general county health purposes. The sum herein provided for, that is the fifty percent of such levy, and income that may accrue from miscellaneous receipts in connection with the tuberculosis control program of such county, shall be placed in the county treasury in a special fund to be known as the tuberculosis fund, and obligations incurred for the tuberculosis control program shall be paid from said fund by the county treasurer in the same manner as general county obligations are paid. The county auditor shall furnish to the legislative authority of the county and the district tuberculosis control officer a monthly report of receipts and disbursements in the tuberculosis fund, which report shall also show balance of cash on hand. [1972 ex.s. c 143 § 5.]

70.35.080 Chapter 70.32 RCW provisions inapplicable, when. On and after January 1, 1972 the provisions of chapter 70.32 RCW as now or hereafter amended shall not apply to the eastern district created by RCW 70.35.020. [1971 ex.s. c 277 § 12.]

70.35.090 State department authority over district. The department of social and health services shall have the same authority over the hospital of a tuberculosis hospital district as its authority over any privately administered hospital in this state. [1971 ex.s. c 277 § 13.]

70.35.100 Payments for treatment at Edgecliff terminated, when. Until January 1, 1972, counties and the state shall continue to pay for the treatment of county patients at Edgecliff in Spokane, Washington, in the same manner as they have during this 1969-1971 fiscal biennium prior to August 9, 1971. [1971 ex.s. c 277 § 14.]

70.35.110 Contracts to carry out tuberculosis control. Each county of the district or health district within a county may contract on such terms as are agreeable to the county commissioners of such county or health district and the commission of the tuberculosis hospital district for the performance of services by the hospital superintendent to carry out tuberculosis control in the county and to appoint the hospital superintendent as the tuberculosis control officer for such county or health district. [1972 ex.s. c 143 § 6.]

Chapter 70.37 HEALTH CARE FACILITIES

Sections

70.37.010 Declaration of public policies—Purpose.
70.37.020 Definitions.

70.37.030 Washington health care facilities authority established—Members—Chairman—Terms—Quorum—Vacancies—Expenses.
70.37.040 Washington health care facilities authority—Powers—Special fund bonds—Revenue bonds.
70.37.050 Requests for financing—Project plan or system—Bond issue, special fund authorized.
70.37.060 Bond issues—Terms—Payment—Legal investment, etc.
70.37.070 Bond issues—Special trust fund—Payments—Status—Administration of fund.
70.37.080 Bond issues—Disposition of proceeds—Special fund.
70.37.090 Payment of authority for expenses incurred in investigating and financing projects.
70.37.100 Powers of authority.
70.37.110 Advancements and contributions by political subdivisions.
70.37.900 Severability—1974 1st ex.s. c 147.

70.37.010 Declaration of public policies—Purpose. The good health of the people of our state is a most important public concern. The state has a direct interest in seeing to it that health care facilities adequate for good public health are established and maintained in sufficient numbers and in proper locations. The rising costs of care of the infirm constitute a grave challenge not only to health care providers but to our state and the people of our state who will seek such care. It is hereby declared to be the public policy of the state of Washington to assist and encourage the building, providing and utilization of modern, well equipped and reasonably priced health care facilities, and the improvement, expansion and modernization of health care facilities in a manner that will minimize the capital costs of construction, financing and use thereof and thereby the costs to the public of the use of such facilities, and to contribute to improving the quality of health care available to our citizens. In order to accomplish these and related purposes this chapter is adopted and shall be liberally construed to carry out its purposes and objects. [1974 1st ex.s. c 147 § 1.]

70.37.020 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context indicates or requires another or different meaning or intent and the singular of any term shall encompass the plural and the plural the singular unless the context indicates otherwise:

(1) "Authority" means the Washington health care facilities authority created by RCW 70.37.030 or any board, body, commission, department or officer succeeding to the principal functions thereof or to whom the powers conferred upon the authority shall be given by law.

(2) "Bonds" mean bonds, notes or other evidences of indebtedness of the authority issued pursuant hereto.

(3) "Health care facility" means any land, structure, system, machinery, equipment or other real or personal property or appurtenances useful for or associated with delivery of inpatient or outpatient health care service or support for such care or any combination thereof which is operated or undertaken in connection with hospital, clinic, health maintenance organization, diagnostic or treatment center, extended care facility, or any facility

providing or designed to provide therapeutic, convalescent or preventive health care services, excluding, however, any facility which is maintained by a participant primarily for rental or lease to self-employed health care professionals or as an independent nursing home or other facility primarily offering domiciliary care.

(4) "Participant" means any city, county or other municipal corporation or agency or political subdivision of the state or any corporation, hospital, or health maintenance organization authorized by law to operate nonprofit health care facilities.

(5) "Project" means a specific health care facility or any combination of health care facilities, constructed, purchased, acquired, leased, used, owned or operated by a participant, and alterations, additions to, renovations, enlargements, betterments and reconstructions thereof. [1974 1st ex.s. c 147 § 2.]

70.37.030 Washington health care facilities authority established—Members—Chairman—Terms—Quorum—Vacancies—Expenses. There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington health care facilities authority. The authority shall constitute a political subdivision of the state established as an instrumentality exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010, as now or hereafter amended. The authority shall consist of the governor who shall serve as chairman, the lieutenant governor, the insurance commissioner, the chairman of the Washington state hospital commission, and one member of the public who shall be appointed by the governor, subject to confirmation by the senate, for terms of four years each on the basis of their interest or expertise in health care delivery, the first appointees to be appointed for terms expiring on the second and fourth March 1st, respectively, following enactment of this chapter. In the event that any of the offices referred to shall be abolished the resulting vacancy on the authority shall be filled by the officer who shall succeed substantially to the powers and duties thereof. The members of the authority shall serve without compensation, but shall be entitled to reimbursement, solely from the funds of the authority, of necessary expenses incurred in the discharge of their duties under this chapter, subject to the provisions of chapter 43.03 RCW. A majority shall constitute a quorum. [1974 1st ex.s. c 147 § 3.]

70.37.040 Washington health care facilities authority—Powers—Special fund bonds—Revenue bonds. (1) The authority is hereby empowered to issue bonds for the construction, purchase, acquisition, rental, leasing or use by participants of projects for which bonds to provide funds therefor have been approved by the authority. Such bonds shall be issued in the name of the authority. They shall not be obligations of the state of Washington or general obligations of the authority but shall be payable only from the special funds created by the authority for their payment. They shall contain a recital on their face that their payment and the payment

of interest thereon shall be a valid claim only as against the special fund relating thereto derived by the authority in whole or in part from the revenues received by the authority from the operation by the participant of the health care facilities for which the bonds are issued but that they shall constitute a prior charge over all other charges or claims whatever against such special fund. The lien of any such pledge on such revenues shall attach thereto immediately on their receipt by the authority and shall be valid and binding as against parties having claims of any kind in tort, contract or otherwise against the participant, without recordation thereof and whether or not they have notice thereof. For inclusion in such special funds and for other uses in or for such projects of participants the authority is empowered to accept and receive funds, grants, gifts, pledges, guarantees, mortgages, trust deeds and other security instruments, and property from the federal government or the state of Washington or other public body, entity or agency and from any public or private institution, association, corporation or organization, including participants, except that it shall not accept or receive from the state or any taxing agency any money derived from taxes save money to be devoted to the purposes of a project of the state or taxing agency.

(2) For the purposes outlined in subsection (1) of this section the authority is empowered to provide for the issuance of its special fund bonds and other limited obligation security instruments subordinate to the first and prior lien bonds, if any, relating to a project or projects of a participant and to create special funds relating thereto against which such subordinate securities shall be liens, but the authority shall not have power to incur general obligations with respect thereto.

(3) The authority may also issue special fund bonds to redeem or to fund or refund outstanding bonds or any part thereof at maturity, or before maturity if subject to prior redemption, with the right in the authority to include various series and issues of such outstanding special fund bonds in a single issue of funding or refunding special fund bonds and to pay any redemption premiums out of the proceeds thereto. Such funding or refunding bonds shall be limited special fund bonds issued in accordance with the provisions of this chapter, including this section and shall not be general obligations of the authority.

(4) Such special fund bonds of either first lien or subordinate lien nature may also be issued by the authority, the proceeds of which may be used to refund already existing mortgages or other obligations on health care facilities already constructed and operating incurred by a participant in the construction, purchase or acquisition thereof.

(5) The authority may also lease to participants, lease to them with option to purchase, or sell to them, facilities which it has acquired by construction, purchase, devise, gift, or leasing: *Provided*, That the terms thereof shall at least fully reimburse the authority for its costs with respect to such facilities, including costs of financing, and provide fully for the debt service on any bonds issued by the authority to finance acquisition by it of the facilities. To pay the cost of acquiring or improving

such facilities or to refund any bonds issued for such purpose, the authority may issue its revenue bonds secured solely by revenues derived from the sale or lease of the facility, but which may additionally be secured by mortgage, lease, pledge or assignment, trust agreement or other security device. Such bonds and such security devices shall not be obligations of the state of Washington or general obligations of the authority but shall be payable only from the special funds created by the authority for their payment. Such health care facilities may be acquired, constructed, reconstructed, and improved and may be leased, sold or otherwise disposed of in the manner determined by the authority in its sole discretion and any requirement of competitive bidding, lease performance bonds or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the state, or any agency thereof, is not applicable to any action so taken by the authority. [1974 1st ex.s. c 147 § 4.]

70.37.050 Requests for financing—Project plan or system—Bond issue, special fund authorized. The authority shall establish rules concerning its exercise of the powers authorized by this chapter. The authority shall receive from applicants requests for the providing of bonds for financing of health care facilities and shall investigate and determine the need and the feasibility of providing such bonds. In cooperation with the participant the authority shall work out and specify a project plan or system and the agreements and contracts to be entered into in order to carry out the purposes and policies of this chapter including contracts with respect to construction, financing, maintenance, operation, or management. Whenever the authority deems it necessary or advisable for the benefit of the public health to provide financing for a health care facility, it shall adopt a system and plan therefor and shall declare the estimated cost thereof, as near as may be, including as part of such cost funds necessary for the expenses incurred in the financing as well as in the construction or purchase or other acquisition or in connection with the rental or other payment for the use thereof, interest during construction, reserve funds and any funds necessary for initial start-up costs, and shall issue and sell its bonds for the purposes of the proposed plan or system: *Provided*, That if a certificate of need is required for the proposed project no such plan and system shall be adopted until such certificate has been issued pursuant to chapter 70.38 RCW by the secretary of the department of social and health services. The authority shall have power as a part of such system or plan to create a special fund or funds for the purpose of defraying the cost of such project and for other projects of the same participant subsequently or at the same time approved by it and for their maintenance, improvement, reconstruction, remodeling and rehabilitation, into which special fund or funds it shall obligate and bind the participant to set aside and pay from the gross revenues of the project or from other sources an amount sufficient to pay the principal and interest of the bonds being issued, reserves and other requirements

of the special fund and to issue and sell bonds payable as to both principal and interest out of such fund or funds relating to the project or projects of such participant.

Such bonds shall be executed in such manner, bear such date or dates, mature at such time or times, be in such denominations, be in such form, either coupon or registered, or both, carry such registration privileges, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the authority shall determine. [1974 1st ex.s. c 147 § 5.]

70.37.060 Bond issues—Terms—Payment—Legal investment, etc. The bonds of the authority shall be subject to such terms, conditions and covenants and protective provisions as shall be found necessary or desirable by the authority, which may include but shall not be limited to provisions for the establishment and maintenance by the participant of rates for health services of the project, fees and other charges of every kind and nature sufficient in amount and adequate, over and above costs of operation and maintenance and all other costs other than costs and expenses of capital, associated with the project, to pay the principal of and interest on the bonds payable out of the special fund or funds of the project, to set aside and maintain reserves as determined by the authority to secure the payment of such principal and interest, to set aside and maintain reserves for repairs and replacement, to maintain coverage which may be agreed upon over and above the requirements of payment of principal and interest, and for other needs found by the authority to be required for the security of the bonds. When issuing bonds the authority may provide for the future issuance of additional bonds on a parity with outstanding bonds, and the terms and conditions of their issuance.

All bonds issued under the authority of this chapter shall constitute legal investments for trustees and other fiduciaries and for savings and loan associations, banks, and insurance companies doing business in this state. All such bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning of and for all purposes of the negotiable instruments law of this state. [1974 1st ex.s. c 147 § 6.]

70.37.070 Bond issues—Special trust fund—Payments—Status—Administration of fund. All revenues received by the authority from a participant derived from a particular project of such participant to be applied on principal and interest of bonds or for other bond requirements such as reserves and all other funds for the bond requirements of a particular project received from contributions or grants or in any other form shall be deposited by the authority in qualified public depositories to the credit of a special trust fund to be designated as the authority special bond fund for the particular project or projects producing such revenue or to which the contribution or grant relates. Such fund shall not be or constitute funds of the state of Washington but at all times shall be kept segregated

and set apart from other funds. From such funds, the authority shall make payment of principal and interest of the bonds of the particular project or projects; and the authority may set up subaccounts in the bond fund for reserve accounts for payment of principal and interest, for repairs and replacement and for other special requirements of the bonds of the project or projects as determined by the authority. In lieu of itself receiving and handling these moneys as here outlined the authority may appoint trustees, depositaries and paying agents to perform the functions outlined and to receive, hold, disburse, invest and reinvest such funds on its behalf and for the protection of the bondholders. [1974 1st ex.s. c 147 § 7.]

70.37.080 Bond issues—Disposition of proceeds—Special fund. Proceeds from the sale of all bonds of a project issued under the provisions of this chapter received by the authority shall be deposited forthwith by the authority in qualified public depositaries in a special fund for the particular project for which the bonds were issued and sold, which money shall not be funds of the state of Washington. Such fund shall at all times be segregated and set apart from all other funds and in trust for the purposes of purchase, construction, acquisition, leasing, or use of a project or projects, and for other special needs of the project declared by the authority, including the manner of disposition of any money not finally needed in the construction, purchase, or other acquisition. Money other than bond sale proceeds received by the authority for these same purposes, such as contributions from a participant or a grant from the federal government may be deposited in the same project fund. Proceeds received from the sale of the bonds may also be used to defray the expenses of the authority in connection with and incidental to the issuance and sale of bonds for the project, as well as expenses for studies, surveys, estimates, inspections and examinations of or relating to the particular project, and other costs advanced therefor by the participant or by the authority. In lieu of itself receiving and handling these moneys in the manner here outlined the authority may appoint trustees, depositaries and paying agents to perform the functions outlined and to receive, hold, disburse, invest and reinvest such funds on its behalf and for the protection of the participants and of bondholders. [1974 1st ex.s. c 147 § 8.]

70.37.090 Payment of authority for expenses incurred in investigating and financing projects. The authority shall have power to require persons applying for its assistance in connection with the investigation and financing of projects to pay fees and charges to provide the authority with funds for investigation, financial feasibility studies, expenses of issuance and sale of bonds and other charges for services provided by the authority in connection with such projects. All other expenses of the authority including compensation of its employees and consultants, expenses of administration and conduct of its work and business and other expenses shall

be paid out of such fees and charges, out of contributions and grants to it, out of the proceeds of bonds issued for projects of participants or out of revenues of such projects; none by the state of Washington. The authority shall have power to establish special funds into which such money shall be received and out of which it may be disbursed by the persons and with the procedure and in the manner established by the authority. [1974 1st ex.s. c 147 § 9.]

70.37.100 Powers of authority. The authority may make contracts, employ or engage engineers, architects, attorneys, and other technical or professional assistants, and such other personnel as are necessary. It may enter into contracts with the United States, accept gifts for its purposes, and exercise any other power reasonably required to implement the principal powers granted in this chapter. It shall have no power to levy any taxes of any kind or nature and no power to incur obligations on behalf of the state of Washington. [1974 1st ex.s. c 147 § 10.]

70.37.110 Advancements and contributions by political subdivisions. Any city, county or other political subdivision of this state and any public health care facility is hereby authorized to advance or contribute to the authority real property, money, and other personal property of any kind towards the expense of preliminary surveys and studies and other preliminary expenses of projects which they are by other statutes of this state authorized to own or operate which are a part of a plan or system which has been submitted by them and is under consideration by the authority for assistance under the provisions of this chapter. [1974 1st ex.s. c 147 § 11.]

70.37.900 Severability—1974 1st ex.s. c 147. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 1st ex.s. c 147 § 12.]

**Chapter 70.38
COMPREHENSIVE HEALTH PLANNING**

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70.38.010 Declaration of public policy. It is declared to be the public policy of this state:

(1) That comprehensive planning for promoting, maintaining and assuring a high level of health for all citizens of the state, and for the provision of health services, health manpower, health facilities and other resources, as well as health planning related to environmental matters is essential to the health, safety and welfare of the people of the state. Such planning is necessary on both a state-wide and regional basis, and must maintain responsiveness to changing health and social needs and conditions. The marshaling of all health resources to assure comprehensive health services of high quality available to every person must be the goal of such planning, which must likewise assure optimum efficiency, effectiveness, equity, coordination and economy in development and implementation to reach that goal.

(2) That the timely construction and expansion of hospital and nursing home facilities and the institution of additional hospital and nursing home services should be accomplished in a manner which is orderly, coherent, timely, economical and consistent with the effective development of necessary and adequate means of providing high quality health care for persons to be served by such facilities without duplication or fragmentation of such facilities. [1971 ex.s. c 198 § 2.]

70.38.020 Definitions. The following words or phrases, as used in this chapter, shall have the following meanings unless the context otherwise requires:

(1) "Board" means the Washington state board of health.

(2) "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, extension or modification of a hospital or nursing home, including equipment, the inspection and supervision thereof and other actions necessary thereto, which cost in excess of one hundred thousand dollars.

(3) "Consumer" means any person whose occupation is other than the administration of health activities or the providing of health services, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(4) "Council" means the state comprehensive health planning advisory council.

(5) "Defined population" means the population that is or may reasonably be expected to be served by an

existing or proposed hospital or nursing home. "Defined population" shall also include persons who prefer to receive the services of a particular recognized school or theory of medical care. "Defined population" shall not be limited to a geographical area.

(6) "Department" means the Washington state department of social and health services.

(7) "Hospital" means any institution, place, building or agency, public or private, incorporated or not incorporated:

(a) Which provides or is capable of providing facilities for inpatient care of one or more persons, and inpatient health services, including physician services, through an organized medical staff and continuous nursing services for the prevention, diagnosis or treatment of patients, both surgical and nonsurgical; or

(b) Which qualifies or is required to qualify for a license under chapter 70.41 or 71.12 RCW.

(8) "Nursing home" means any home, place, institution or facility not a hospital:

(a) Which provides or is capable of providing convalescent, chronic or nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board; or

(b) Which qualifies or is required to qualify for a license under chapter 18.51 RCW.

(9) "Regional planning agency" means the area-wide comprehensive health planning agency responsible for comprehensive health planning within a defined area.

(10) "Secretary" means the secretary of the Washington state department of social and health services or his designee.

(11) "State planning agency" means the state comprehensive health planning agency as defined by Public Law 89-749 and designated by the governor pursuant to RCW 70.38.030. [1971 ex.s. c 198 § 3.]

70.38.030 State planning agency—Designation—Responsibilities. In order to carry out the purposes of this chapter, the governor shall designate a single state agency to develop and administer a state comprehensive health planning program. The designated state planning agency shall be responsible for implementing the related provisions of this chapter as hereinafter described, the provisions of Public Law 89-749 and subsequent federal legislation.

The state planning agency responsibilities under this chapter shall include but not be limited to the following:

(1) Develop long-range comprehensive health plans, including services, manpower, facilities and other resources, as well as recommendations for priorities.

(2) Develop guidelines as recommendations for government health planning, and health program evaluation.

(3) Provide continuing assistance to the state council and to regional planning agencies in their organization for and development of comprehensive health plans.

(4) Approve or reject applicants for recognition as a regional planning agency.

(5) Certify regional planning agencies, as appropriate, as capable to conduct evaluations and make recommendations as to applications for certificates of need.

(6) Develop proposals and recommendations regarding needs for training health manpower.

(7) Coordinate the comprehensive health planning activities with other health planning activities throughout the state. [1971 ex.s. c 198 § 4.]

70.38.040 State comprehensive health planning advisory council—Appointment—Members—Terms—Chairman—Meetings. A state comprehensive health planning advisory council shall be appointed by the governor to advise the state planning agency on comprehensive health planning. The council shall consist of not more than thirty-nine public members plus representatives of appropriate departments of state government, such representatives to serve ex officio. One-third of the initial public members shall serve for terms of one year, one-third for terms of two years, and one-third for terms of three years. Subsequent appointments shall be for a three year term. A majority of the public members shall be consumers as defined herein. Included in the balance of the membership of the council shall be at least one physician, one dentist, one hospital administrator, one nursing home administrator, one osteopathic physician, one optometrist, one chiroprapist, one registered nurse and one chiropractor. The chairman of the council shall be appointed by the governor, and shall serve as chairman at his pleasure, but for no longer than three years. A vice chairman shall be elected by the council. The council shall meet on call of the chairman or on request of the state planning agency, or the department, or a majority of public members, but not less than twice a year. The council may create standing and special committees as necessary and may appoint persons who are not members of the council to serve as advisory or consultant members of any committee in order to carry out the purposes of the council. [1971 ex.s. c 198 § 5.]

70.38.050 Per diem and expenses. Except for state employees who shall receive their usual per diem pursuant to RCW 43.03.050, members of the council and advisory or consultant members of any committee shall receive twenty-five dollars per diem spent in performing their duties and in addition all members shall be entitled to reimbursement for actual travel expenses incurred in the performance of their duties pursuant to RCW 43.03.060. [1971 ex.s. c 198 § 6.]

70.38.060 Duties and functions of state comprehensive health planning advisory council. The council shall have the following duties and functions:

(1) Consult with and advise the state planning agency in the conduct of its comprehensive health planning program. The council shall review and comment on project grant applications for public funds that relate to health under section 314, U.S. Public Health Services Act and other state and federal acts that shall from time to time require action by the council.

(2) Provide consultation to the secretary at his request.

(3) Perform such other functions or duties as may be requested. [1971 ex.s. c 198 § 7.]

70.38.070 Regional planning agencies—Establishment—Purpose. There shall be established, in regions established by the governor, regional planning agencies to carry out the purposes of this chapter. The state planning agency shall be responsible, with the advice of the state council, for developing guidelines to assist in the establishment and recognition of regional planning agencies, and for providing planning assistance to such agencies. Any municipal corporation or nonprofit corporation organized under chapter 24.03 RCW, and meeting the state planning agency's guidelines and the criteria set forth in RCW 70.38.080 for regional planning agencies may be eligible for approval by the state planning agency as the regional planning agency for a defined area. [1971 ex.s. c 198 § 8.]

70.38.080 Regional planning agencies—Eligibility criteria for applicant agencies. To be eligible for approval as a regional planning agency, an applicant agency shall meet the following criteria:

(1) Be able to conduct comprehensive health planning for a defined area which is large enough to provide a basis for development of the health facilities, services, manpower and other resources necessary to assure comprehensive health services.

(2) Provide for representation, through an advisory council or its board of directors, of the major public, private and voluntary agencies concerned with physical, mental and environmental health services, facilities, and manpower and other resources. The applicant may obtain additional representation through subcommittees, technical advisory committees, and other such means.

(3) Provide that a majority of the membership of the advisory council and/or board of directors shall be consumers of health services reflecting geographic, socio-economic, ethnic and age groups in the area. The members who are health care providers shall also represent broad geographic, professional and ethnic elements of the area.

(4) Provide comment by a cross-section of county, and city governments, and public, private and voluntary health agencies in the area as the agency to be responsible for the comprehensive area-wide health planning program, or for organizing such a comprehensive health planning program. [1971 ex.s. c 198 § 9.]

70.38.090 Regional planning agencies—Area of responsibility. An approved regional planning agency shall be recognized by the county, city, and other governmental units and public, private and voluntary health agencies in the area as being responsible for the comprehensive area-wide health planning program. [1971 ex.s. c 198 § 10.]

70.38.100 Regional planning agencies—Powers and duties. An approved regional planning agency shall:

(1) Identify health problems, needs, and resources; recommend goals and objectives; and promote the development and effective utilization of the health resources of the area.

(2) Plan and assure coordination and optimum utilization of current and future health manpower, services, facilities and resources for health care and prevention of disease and injury within the area and with state-wide programs.

(3) Prepare and maintain a long-range plan for all health facilities, services, manpower and other resources within the geographic area served by the agency.

(4) Within sixty days of receipt or a specified further period not to exceed an additional thirty days, approved by the secretary, evaluate all applications for certificates of need within the agency's area and make recommendations to the department.

(5) Establish methods of plan revision and amendment to allow responsiveness to changing needs and conditions.

(6) Individually and in cooperation with other regional planning agencies and the state planning agency, make recommendations and otherwise further the state comprehensive health planning program.

(7) Provide other assistance or certification as required by state or federal legislation or upon request by any state agency. [1971 ex.s. c 198 § 11.]

70.38.110 Certificate of need required prior to commencement of construction—Waiver. Construction shall not be instituted or commenced after August 9, 1971 except upon application for and receipt of a certificate of need as provided herein: *Provided*, That in any case in which, prior to August 9, 1971, there has been proposed the construction of a new facility or the expansion of an existing facility and preliminary plans have been submitted to the planning and construction unit of the division of health of the department of social and health services, the secretary may waive all or any portion of the review process, but said facility shall proceed with its plans in an orderly and expeditious manner and commence construction no later than July 1, 1972. [1971 ex.s. c 198 § 12.]

70.38.120 Certificates of need—Issuance, denial, suspension, revocation or reinstatement—Hearing. Certificates of need shall be issued or denied, suspended, revoked or reinstated by the secretary in accordance with the provisions and intent of this chapter and rules, regulations and policies adopted by the board. Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for an administrative hearing in accordance with chapter 34.04 RCW. [1971 ex.s. c 198 § 13.]

70.38.130 Certificate of need—Application—Contents. Application for a certificate of need shall be made to the department, and shall include the following information:

(1) The general geographic area to be served.

(2) The population to be served, and the characterization of the population, as well as projections of population growth by an official federal or state agency.

(3) A description of the service or services to be provided.

(4) The anticipated demand for the hospital or nursing home service or services to be provided.

(5) Utilization of existing programs within the area to be served offering the same or similar health care services.

(6) The benefit to the community or the population to be served which will result from the proposed project as well as the anticipated impact on other facilities offering the same or similar services in the area.

(7) A statement showing the existing working relationship among the hospitals or nursing homes within the defined population or area to be served.

(8) A description of how the hospital or nursing home fits into the comprehensive health program of the region.

(9) Evaluation and recommendation as to need by the regional planning agency or if no capable regional planning agency has been certified for such purpose, or if no area-wide comprehensive health plan exists, the department may utilize such other resources as it deems necessary and appropriate pursuant to RCW 70.38.170.

(10) Such other information as may reasonably be required by the department. [1971 ex.s. c 198 § 14.]

70.38.140 Certificate of need—Considerations for issuance. A certificate of need shall be issued only where the proposed construction is reasonably necessary to provide health care to the defined population served or to be served as economically as practicable, consistent with high quality standards and in such a manner as to encourage orderly, coherent, timely and economic development of adequate and effective health services in the area, region and state. In making such determinations, the secretary shall take into consideration:

(1) Recommendations of the regional planning agency and, if provided, recommendations of the state planning agency.

(2) The comprehensive health plans and development for the area, region and state, and the relationship of the proposal to such plans and development.

(3) The need for health care services in the area and/or the requirements of the defined population.

(4) The availability and adequacy of health care services in the facilities which are currently serving the defined population and which conform to federal and state standards.

(5) The need for special equipment and services in the area which are not reasonably and economically accessible to the defined population.

(6) The need for research and educational facilities.

(7) The probable economies and improvement in services that may be derived from the operation of joint central services or from joint, cooperative, or shared health resources which are accessible to the defined population.

(8) The availability of sufficient manpower in the professional disciplines required for the facility.

(9) The plans for and development of comprehensive health services and facilities for the defined population to be served. Such services may be either direct or indirect through formal affiliation with other health programs in the area, and shall include preventive, diagnostic, treatment and rehabilitation services.

(10) Whether or not the applicant has obtained all relevant approvals, licenses or consents required by law for its incorporation or establishment.

(11) Relevant information from interested persons and agencies.

(12) The needs of members, subscribers and/or enrollees of institutions and health care plans which operate or support particular hospitals for the purpose of rendering health care to such members, subscribers and/or enrollees.

In the case of an application by a hospital or nursing home established or operated by a religious body or denomination, the needs of the members of such religious body or denomination for care and treatment in accordance with their religious or ethical convictions may be considered to be public need. [1971 ex.s. c 198 § 15.]

70.38.150 Utilization of existing facilities to be considered. In the administration of this chapter, consideration shall be given to the efficiency of the utilization of an existing hospital or nursing home which is or will be serving the defined population to be served by a proposed new hospital or nursing home or expansion of an existing hospital or nursing home so as to avoid unnecessary duplication of facilities, and to encourage maximum efficiency in the use of the hospitals or nursing homes which then serve or will be serving the defined population. [1971 ex.s. c 198 § 16.]

70.38.160 Duration of certificate of need—Renewals. A certificate of need shall be valid for such period of time, not to exceed two years, as may reasonably be required to complete preparation of detailed construction plans, secure necessary funds and building permits and undertake construction of the hospital or nursing home in question: *Provided*, That, with the advice of the regional planning agency or, when appropriate, the other resources utilized by the department, the secretary may renew the certificate for such further periods as may be reasonable where the applicant has shown that substantial and continuing progress towards commencement of construction has been demonstrated. [1971 ex.s. c 198 § 17.]

70.38.170 Authority of secretary. The secretary shall have authority to:

(1) Prepare proposed policies, rules and regulations to be considered for adoption by the board in order to effectuate the provisions and purposes of this chapter, including but not limited to the establishment of requirements for a uniform state-wide system of reporting financial and other operating data.

(2) Enter into contracts with any political subdivision, local health department, school of higher education, or nonprofit agency, and such entities are authorized to enter into contracts with the secretary to carry out the purposes of this chapter.

(3) Enter into contracts with consultants or utilize other evaluative or informational resources wherever necessary and feasible in order to effectuate the purposes of this chapter.

(4) Request hospitals or nursing homes to furnish the department such reports and information as he may require in order to carry out the provisions of this chapter.

(5) Cooperate and coordinate with other state departments having jurisdiction over matters affecting the maintenance, care and social well-being of persons using facilities providing hospital or nursing home services. [1971 ex.s. c 198 § 18.]

70.38.180 Subsequent certificates of need for future proposals. The issuance of a certificate of need for a specific project in a hospital's or nursing home's long-range plan shall not constitute a guarantee that all future proposals contained in that long-range plan will receive a certificate of need; however, the existence of previously certified projects that reduce the overall cost of future projects shall be taken into account by the regional planning agency and the secretary in reviewing subsequent proposals. [1971 ex.s. c 198 § 19.]

70.38.190 Injunctions against violations. The secretary may bring an action to enjoin a violation or the threatened violation of any of the provisions of this chapter or any rules or regulations adopted by the board or the department pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. [1971 ex.s. c 198 § 20.]

70.38.200 Civil actions against members, officer or employees of planning agencies or councils restricted. No member, officer or employee of a regional planning agency or its advisory council shall be subject to civil action in any court as the result of any act done or failure to act, or of any statement or opinion made, while discharging his duties as such member, officer or employee: *Provided*, That he acted in good faith with reasonable care and upon proper cause. [1971 ex.s. c 198 § 21.]

70.38.210 Certificate of need prerequisite to hospital applying for or receiving funds under Hospital and Medical Facilities Survey and Construction Act. No hospital constructed after August 9, 1971 shall be eligible to apply for or receive funds under the provisions of chapter 70.40 RCW, the Hospital and Medical Facilities Survey and Construction Act, unless said hospital has applied for and been granted a certificate of need as provided in this chapter. [1971 ex.s. c 198 § 22.]

70.38.900 Severability—1971 ex.s. c 198. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 198 § 23.]

Chapter 70.39
HOSPITAL HEALTH CARE SERVICES—
HOSPITAL COMMISSION

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70.39.010 Purpose. The primary purpose of this chapter is to promote the economic delivery of high quality and effective hospital health care services to the people by establishing a hospital commission with authority over financial disclosure and budget and prospective rate review and other related matters, which will assure all purchasers of hospital health care services that total hospital costs are reasonably related to total services, that hospital rates are reasonably related to aggregate costs, and that such rates are set equitably among all purchasers of these services without undue discrimination.

The legislature finds and declares that rising hospital costs are a vital concern to the people of this state because of the danger which is posed that hospital and health care services are fast becoming out of the economic reach of the majority of our population. It is further declared that health care is a right of the people and one of the primary purposes for which governments are established, and it is, therefore, essential that an effective cost control program be established which will both enable and motivate hospitals to control their spiraling costs. It is the legislative intent, in pursuance of this declared public policy, to provide for uniform measures on a state-wide basis to control hospital costs

without the sacrifice of quality of service. [1973 1st ex.s. c 5 § 2.]

70.39.020 Definitions. As used in this chapter:

(1) "Commission" means the hospital commission of the state of Washington as created by this chapter;

(2) "Consumer" means any person whose occupation is other than the administration of health activities or the providing of health services, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services;

(3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination. [1973 1st ex.s. c 5 § 3.]

70.39.030 Hospital commission—Created—Membership. There is hereby created a hospital commission, which shall be a separate and independent commission of the state. The commission shall be composed of five members appointed by the governor, and generally representative of the public as consumers, labor, business, and hospitals, and shall be individuals concerned with the delivery of quality health care; but in no event shall more than two members have any fiduciary obligation to a health facility or other health agency, nor any direct financial interest in the rendering of health services. In cases when proposed rate increases for osteopathic hospitals are to be considered, the representative of osteopathic hospitals on the technical advisory committee shall replace a hospital representative on the commission. [1973 1st ex.s. c 5 § 4.]

70.39.040 Hospital commission—Terms—Vacancies. Members of the commission shall serve for four-year terms and shall require senate confirmation. No member shall serve on the commission for more than two consecutive terms. A vacancy shall be filled by appointment for the remainder of the unexpired term and the initial appointments and vacancies shall not require senate confirmation until the legislature next convenes. [1973 1st ex.s. c 5 § 5.]

70.39.050 Hospital commission—Officers—Meetings—Compensation. The member representing consumers of health care services shall serve as chairman. The commission shall elect from its members a vice-chairman biennially. Meetings of the commission shall be held as frequently as its duties require. The commission shall keep minutes of its meetings and adopt procedures for the governing of its meetings, minutes, and transactions.

Three members shall constitute a quorum, but a vacancy on the commission shall not impair its power to act. No action of the commission shall be effective unless three members concur therein.

The members of the commission shall receive no compensation but shall be reimbursed for their expenses while attending meetings of the commission in the same manner as legislators engaged in interim committee business as in RCW 44.04.120. [1973 1st ex.s. c 5 § 6.]

70.39.060 Hospital commission—Director—Secretary—Staff—Services. The commission shall appoint a full time executive director and a deputy director and confidential secretary who shall be exempt from the civil service law, chapter 41.06 RCW and who shall perform the duties delegated by the commission. The executive director shall be the chief administrative officer of the commission and shall be subject to its direction.

The secretary of the department of social and health services shall employ and furnish such other staff as are necessary to fulfill the responsibilities and duties of the commission, such staff to be subject to the civil service law, chapter 41.06 RCW, and under the supervision of the commission and its executive director. In addition, the commission may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise.

Any such contractor or consultant shall be prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility, without specific permission of the commission.

The commission may apply for and receive and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects relating to hospital health care costs. [1973 1st ex.s. c 5 § 7.]

70.39.070 Technical advisory committee—Members—Terms—Officers—Meetings—Expenses. In order to assist the commission in carrying out its duties, the governor shall appoint a technical advisory committee, hereinafter referred to as "committee", which shall consist of eleven members as follows:

(1) One member who shall be a certified public accountant licensed pursuant to chapter 18.04 RCW and who shall be knowledgeable in the financial affairs of hospitals.

(2) One member who shall be a health care practitioner licensed under the laws of this state and who shall be knowledgeable in hospital administration.

(3) Five members who shall be representative of the interest of investor-owned, district, not-for-profit, osteopathic, and university hospitals.

(4) One member who shall be representative of consumers of health care.

(5) One member who shall be the secretary of the department of social and health services, or his designee, to provide continuing liaison, data and support from those functions of the department which may affect the responsibilities of the commission.

(6) One member who shall be the director of the planning and community affairs agency, or his designee, to provide continuing liaison with the planning efforts of the comprehensive health planning council.

(7) One member of the commission, elected by the commission.

The members shall serve concurrently and shall have four-year terms. Any vacancy shall be filled by appointment by the governor and an appointee selected to fill such vacancy shall hold office for the balance of the term for which his predecessor was appointed. The committee shall elect from its members a chairman and a vice-chairman to serve concurrently with the chairman. The executive director of the commission shall act as executive secretary to the committee, and the commission shall otherwise offer such staff services and supplies as the committee may require to carry out its responsibilities.

The committee shall meet on call of the chairman of the commission, or on request of a majority of the commission. Members of the committee shall serve without compensation but shall be reimbursed for their expenses in the same manner as members of the commission. [1973 1st ex.s. c 5 § 8.]

70.39.080 Technical advisory committee—Duties. The committee shall have the duty upon the request of the commission to consult with and make recommendations to the commission:

(1) On matters of policy;

(2) On rules and regulations proposed by the commission to implement this chapter;

(3) On analyses and studies of hospital health care costs and related matters which may be undertaken by the commission; and

(4) On such other matters as the commission may refer. [1973 1st ex.s. c 5 § 9.]

70.39.090 Hospital commission—Subcommittees. To further the purposes of this chapter, the commission may create committees from its membership, and may create such ad hoc advisory committees in specialized fields, related to the functions of hospitals, as it deems necessary, to supplement the resources provided by the technical advisory committee. [1973 1st ex.s. c 5 § 10.]

70.39.100 Uniform system of hospital accounting and reporting. (1) The commission, after study and in consultation with advisory committees, if any, shall establish by the promulgation of rules and regulations pursuant to the Administrative Procedure Act, chapter 34.04 RCW, a uniform system of accounting and financial reporting, including such cost allocation methods as it may prescribe, by which hospitals shall record their revenues, expenses, other income, other outlays, assets and liabilities, and units of service. All hospitals shall adopt the system for their fiscal year period to be effective at such time and date as the commission shall direct. In determining the effective date for reporting requirements, the commission shall be mindful both of the immediate need for uniform hospital reporting information to effectuate the purposes of this chapter and

the administrative and economic difficulties which hospitals may encounter in conversion, but in no event shall such effective date be later than two and one-half years from the date of the formation of the commission.

(2) In establishing such accounting systems and uniform reporting procedures, the commission shall take into consideration:

(a) Existing systems of accounting and reporting presently utilized by hospitals;

(b) Differences among hospitals according to size; financial structure; methods of payment for services; and scope, type, and method of providing services; and

(c) Other pertinent distinguishing factors.

(3) The commission shall, where appropriate, provide for modification, consistent with the purposes of this chapter, of reporting requirements to correctly reflect these differences among hospitals, and to avoid otherwise unduly burdensome costs in meeting the requirements of the uniform system of accounting and financial reporting.

(4) The accounting system, where appropriate, shall be structured so as to establish and differentiate costs incurred for patient-related services rendered by hospitals, as distinguished from those incurred with reference to educational research and other nonpatient-related activities including but not limited to charitable activities of such hospitals. [1973 1st ex.s. c 5 § 11.]

70.39.110 Annual reports by hospitals. (1) Each hospital shall file annually with the commission after the close of the fiscal year:

(a) A balance sheet detailing the assets, liabilities, and net worth of the hospital;

(b) A statement of income and expenses;

(c) Such other reports of the costs incurred in rendering services as the commission may prescribe.

(2) Where more than one licensed hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.

(3) The commission shall require certification of specified financial reports by the hospital's certified public accountant, and may require attestation as to such statements from responsible officials of the hospital that such reports have to the best of their knowledge and belief been prepared in accordance with the prescribed system of accounting and reporting.

(4) All reports, except privileged medical information, filed under this chapter shall be open to public inspection.

(5) The commission shall have the right of inspection of hospital books, audits, and records as reasonably necessary to verify hospital reports. [1973 1st ex.s. c 5 § 12.]

70.39.120 Hospital costs and finances—Analyses and studies—Reports. (1) The commission shall from time to time undertake analyses and studies relating to hospital health care costs and to the financial status of any hospital or hospitals subject to the provisions of this chapter, and may publish and disseminate such information as it deems desirable in the public interest. It

shall further require the filing of information concerning the total financial needs of each hospital and the resources available or expected to become available to meet such needs, including the effect of proposals made by area-wide and state comprehensive health planning agencies.

(2) The commission shall also prepare and file such summaries and compilations or other supplementary reports based on the information filed with the commission hereunder as will advance the purposes of this chapter. [1973 1st ex.s. c 5 § 13.]

70.39.130 Report to governor and legislature. The commission shall prepare and, prior to each legislative session beginning in January, transmit to the governor and to members of the legislature an annual report of commission operations and activities for the preceding fiscal year. This report shall include a compilation of all summaries and reports required by this chapter, together with such findings and recommendations as the commission deems necessary. [1973 1st ex.s. c 5 § 14.]

70.39.140 Hospital rates—Review and investigation—Costs—Establishment of rates—Coordination with federal programs. From and after a date not less than twelve months but not more than twenty-four months after the adoption of the uniform system of accounting and financial reporting required by RCW 70.39.100, as the commission may direct, the commission shall have the power to initiate such reviews or investigations as may be necessary to assure all purchasers of hospital health care services that the total costs of a hospital are reasonably related to the total services offered by that hospital, that the hospital's aggregate revenues as expressed by rates are reasonably related to the hospital's aggregate costs; and that rates are set equitably among all purchasers or classes of purchasers of services without undue discrimination or preference.

In order to properly discharge these obligations, the commission shall have full power to review projected annual revenues and approve the reasonableness of rates proposed to generate that revenue established or requested by any hospital subject to the provisions of this chapter. No hospital shall charge for services at rates other than those established in accordance with the procedures established hereunder.

In the interest of promoting the most efficient and effective use of hospital health care service, the commission may promote and approve alternative methods of rate determination and payment of an experimental nature that may be in the public interest and consistent with the purposes of this chapter.

The commission shall serve as the state agency responsible for coordinating state actions and otherwise responding and relating to the efforts of the cost of living council, or its successor, in planning and implementing federal cost containment programs with respect to hospitals and related health care institutions as authorized by the Federal Economic Stabilization Act of 1970, as now or hereafter amended, and any rules or regulations promulgated thereto. In carrying out this responsibility, the commission may serve as the state

agency responsible for recommending increases in rates for hospitals and related health care institutions to the cost of living council, or its successor; may apply to the cost of living council for authorization to administer a control program in Washington state in lieu of the federal controls established and otherwise administered by the cost of living council; may assume another function or role authorized by appropriate federal regulations implementing the Federal Economic Stabilization Act of 1970; or assume any combination of such roles or functions as it may determine will most effectively contain the rising costs of the varying kinds of hospitals and related health care institutions in Washington state. In determining its functions or roles in relation to the efforts to the cost of living council, or its successor, the commission shall seek to ensure coordination, and the reduction of duplicatory cost containment efforts, by the state and federal governments, as well as the diligent fulfillment of the purposes of this chapter and declared public policy and legislative intent herein: *Provided, however,* That in cases where the rates of nursing homes or similar health institutions are subject to review pursuant to the provisions of the Federal Economic Stabilization Act of 1970 or any rules or regulations promulgated thereto, the members of the commission representing hospitals shall not sit in the proceedings nor vote, and the governor shall appoint an ad hoc member representing nursing homes or similar health institutions in lieu thereof, who shall have the same powers as the other members with respect to such review only. [1974 1st ex.s. c 163 § 1; 1973 1st ex.s. c 5 § 15.]

70.39.150 Powers and duties of commission. To properly carry out its authority the commission shall:

(1) Immediately upon July 16, 1973 begin to compile all relevant financial and accounting data in order to have available the statistical information necessary to properly conduct rate review and approval. Such data shall include necessary operating expenses, appropriate expenses incurred for rendering services to patients who cannot or do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The commission shall define and prescribe by rule and regulation the types and classes of charges which cannot be changed except as provided by the procedure contained in RCW 70.39.160 and it shall also obtain from each such hospital a current rate schedule as well as any subsequent amendments or modifications of that schedule as it may require.

(2) Permit any nonprofit hospital subject to the provisions of this chapter to charge reasonable rates which will permit the hospital to render effective and efficient service in the public interest and on a solvent basis.

(3) Permit any proprietary profit-making hospital subject to the provisions of this chapter to charge reasonable rates which will permit the hospital to render effective and efficient service in the public interest and which includes an allowance for a fair return to stockholders based upon actual investment or the fair value of the investment, whichever is less.

(4) Take into account, in the determination of reasonable rates under this section for each hospital, the recommendations of appropriate area-wide and state comprehensive health planning agencies to ensure compliance with Washington comprehensive health planning law, chapter 70.38 RCW.

(5) Permit, in considering a request for change in or initiating a review of rate schedules or other charges, any hospital subject to the provisions of this chapter to charge rates which will in the aggregate produce sufficient total revenue for the hospital to meet all of the reasonable obligations specified in this chapter. [1973 1st ex.s. c 5 § 16.]

70.39.160 Changes in rates—Procedure. From and after the date determined by the commission pursuant to RCW 70.39.140, no hospital subject to the provisions of this chapter shall change or amend that schedule of rates and charges of the type and class which cannot be changed without prior approval of the commission, except in accordance with the following procedure:

(1) Any request for a change in rate schedules or other charges must be filed in writing in the form and content prescribed by the commission and with such supporting data as the hospital seeking the change deems appropriate. Unless the commission orders otherwise as provided for in subsection (4) of this section, no hospital shall establish such changes except after notice to the commission of at least thirty days from the time the rate is intended to go into effect. Upon receipt of notice, the commission may suspend the effective date of any proposed change. In any such case a formal written statement of the reasons for the suspension will be promptly submitted to the hospital. Unless suspended, any proposed change shall go into effect upon the date specified in the application.

(2) In any case where such action is deemed necessary, the commission shall promptly, but in any event within thirty days, institute proceedings as to the reasonableness of the proposed changes. The suspension may extend for a period of not more than thirty days beyond the date the change would otherwise go into effect: *Provided,* That should it be necessary, the commission may extend the suspension for an additional thirty days. After the expiration of ninety days from the date the rate is intended to go into effect the new rate will go into effect, if the commission does not approve, disapprove, or modify the request by that time.

(3) Such proposed changes shall be considered at a public hearing, the time and place of which shall be determined by the commission. The hearing shall be conducted by the commission. Evidence for and against the requested change may be introduced at the time of the hearing by any interested party and witnesses may be heard. The hearing may be conducted without compliance with formal rules of evidence.

(4) The commission may, in its discretion, permit any hospital to make a temporary change in rates which shall be effective immediately upon filing and in advance of any review procedure when it deems it in the public interest to do so. Notwithstanding such temporary change in rates, the review procedures set out in

this section shall be conducted by the commission as soon thereafter as is practicable.

(5) Every decision and order of the commission in any contested proceeding shall be in writing and shall state the grounds for the commission's conclusions. The effects of such orders shall be prospective in nature. [1973 1st ex.s. c 5 § 17.]

70.39.170 Budget—Expenses—Assessments—Hospital commission account. The commission shall biennially prepare a budget which shall include its estimated income and expenditures for administration and operation for the biennium, to be submitted to the governor for transmittal to the legislature for approval.

Expenses of the commission shall be financed by assessment against hospitals in an amount to be determined biennially by the commission, but not to exceed four one-hundredths of one percent of each hospital's gross operating costs to be levied and collected from and after July 1, 1973 for the provision of hospital services for its last fiscal year ending on or before June 30th of the preceding calendar year. Budgetary requirements in excess of that limit may be financed by a general fund appropriation by the legislature. All moneys collected are to be deposited by the state treasurer in the hospital commission account in the general fund which is hereby created.

Any amounts raised by the collection of assessments from hospitals provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the commission in succeeding years. [1973 1st ex.s. c 5 § 18.]

70.39.180 Rules and regulations—Public hearings—Investigations—Subpoena power. In addition to the powers granted to the commission elsewhere in this chapter, the commission may:

(1) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this chapter, subject to the provisions of the Administrative Procedure Act, chapter 34.04 RCW applicable to the promulgation of rules and regulations.

(2) Hold public hearings, conduct investigations, and subpoena witnesses, papers, records, and documents in connection therewith. The commission may administer oaths or affirmations in any hearing or investigation.

(3) Exercise, subject to the limitations and restrictions herein imposed, all other powers which are reasonably necessary or essential to carry out the expressed objects and purposes of this chapter. [1973 1st ex.s. c 5 § 19.]

70.39.190 Review. Any person aggrieved by a final determination of the commission as to any rule, regulation, or determination under the provisions of this chapter shall be entitled to an administrative hearing and judicial review in accordance with the Administrative Procedure Act, chapter 34.04 RCW. [1973 1st ex.s. c 5 § 20.]

70.39.200 Penalties for violations. Every person who shall violate or knowingly aid and abet the violation of this chapter or any valid orders, rules, or regulations

thereunder, or who fails to perform any act which it is herein made his duty to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of this chapter may be enjoined from continuing such violation. [1973 1st ex.s. c 5 § 21.]

70.39.900 Severability—1973 1st ex.s. c 5. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 5 § 22.]

70.39.910 Liberal construction—1973 1st ex.s. c 5. Consistent with the purposes enumerated in RCW 70.39.010, the provisions of this chapter shall be liberally construed, and shall not be limited by any rule of strict construction. [1973 1st ex.s. c 5 § 23.]

Chapter 70.40

HOSPITAL AND MEDICAL FACILITIES SURVEY AND CONSTRUCTION ACT

Sections

70.40.010	Short title.
70.40.020	Definitions.
70.40.030	Section of hospital and medical facility survey and construction established—Duties.
70.40.040	General duties of the director.
70.40.060	Development of program for construction of facilities needed.
70.40.070	Distribution of facilities.
70.40.080	Federal funds—Application for—Deposit, use.
70.40.090	State plan—Publication—Hearing—Approval by surgeon general—Modifications.
70.40.100	Plan shall provide for construction in order of relative needs.
70.40.110	Minimum standards for maintenance and operation.
70.40.120	Applications for construction projects—Diagnostic, treatment centers.
70.40.130	Hearing—Approval.
70.40.140	Inspection of project under construction—Certification as to federal funds due.
70.40.150	Hospital and medical facility construction fund—Deposits, use.
70.40.160	Obtaining certificate of need under comprehensive health planning act a prerequisite for hospital applying for or receiving funds under this chapter.
70.40.900	Severability—1949 c 197.

Labor regulations, collective bargaining—Health care activities: Chapter 49.66 RCW.

70.40.010 Short title. This chapter may be cited as the "Washington Hospital and Medical Facilities Survey and Construction Act." [1959 c 252 § 1; 1949 c 197 § 1; Rem. Supp. 1949 § 6090-60.]

70.40.020 Definitions. As used in this chapter:

(1) "Director" means the director of the state department of health;

(2) "The federal act" means Title VI of the public health service act, as amended, or as hereafter amended by congress;

(3) "The surgeon general" means the surgeon general of the public health service of the United States;

(4) "Hospital" includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals;

(5) "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers;

(6) "Nonprofit hospital" and "nonprofit medical facility" means any hospital or medical facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(7) "Medical facilities" means diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes as those terms are defined in the federal act. [1959 c 252 § 2; 1949 c 197 § 2; Rem. Supp. 1949 § 6090-61.]

70.40.030 Section of hospital and medical facility survey and construction established—Duties. There is hereby established in the state department of health a "section of hospital and medical facility survey and construction" which shall be administered by a full time salaried head under the supervision and direction of the director. The state department of health, through such section, shall constitute the sole agency of the state for the purpose of:

(1) Making an inventory of existing hospitals and medical facilities, surveying the need for construction of hospitals and medical facilities, and developing a program of hospital and medical facility construction; and

(2) Developing and administering a state plan for the construction of public and other nonprofit hospitals and medical facilities as provided in this chapter. [1959 c 252 § 3; 1949 c 197 § 3; Rem. Supp. 1949 § 6090-62.]

70.40.040 General duties of the director. In carrying out the purposes of the chapter the director is authorized and directed:

(1) To require such reports, make such inspections and investigations and prescribe such regulations as he deems necessary;

(2) To provide such methods of administration, appoint a head and other personnel of the section and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(3) To procure in his discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee for service basis and do not involve the performance of administrative duties;

(4) To the extent that he considers desirable to effectuate the purposes of this chapter, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions public or private;

(5) To accept on behalf of the state and to deposit with the state treasurer, any grant, gift, or contribution made to assist in meeting the cost of carrying out the purposes of this chapter, and to expend the same for such purpose; and

(6) To make an annual report to the governor on activities and expenditures pursuant to this chapter, including recommendations for such additional legislation as the director considers appropriate to furnish adequate hospital and medical facilities to the people of this state. [1959 c 252 § 4; 1949 c 197 § 4; Rem. Supp. 1949 § 6090-63.]

70.40.060 Development of program for construction of facilities needed. The director is authorized and directed to make an inventory of existing hospitals and medical facilities, including public nonprofit and proprietary hospitals and medical facilities, to survey the need for construction of hospitals and medical facilities, and, on the basis of such inventory and survey, to develop a program for the construction of such public and other nonprofit hospitals and medical facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital and medical facility services to all the people of the state. [1959 c 252 § 6; 1949 c 197 § 6; Rem. Supp. 1949 § 6090-65.]

70.40.070 Distribution of facilities. The construction program shall provide, in accordance with regulations prescribed under the federal act, for adequate hospital and medical facilities for the people residing in this state and insofar as possible shall provide for their distribution throughout the state in such manner as to make all types of hospital and medical facility service reasonably accessible to all persons in the state. [1959 c 252 § 7; 1949 c 197 § 7; Rem. Supp. 1949 § 6090-66.]

70.40.080 Federal funds—Application for—Deposit, use. The director is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities herein provided. Such funds shall be deposited with the state treasurer and shall be available to the director for expenditure in carrying out the purposes of this part. Any such funds received and not expended for such purposes shall be repaid to the treasurer of the United States. [1949 c 197 § 8; Rem. Supp. 1949 § 6090-67.]

70.40.090 State plan—Publication—Hearing—Approval by surgeon general—Modifications. The director shall prepare and submit to the surgeon general a state plan which shall include the hospital and medical facility construction program developed under this chapter and which shall provide for the establishment, administration, and operation of hospital and medical facility construction activities in accordance

with the requirements of the federal act and the regulations thereunder. The director shall, prior to the submission of such plan to the surgeon general, give adequate publicity to a general description of all the provisions proposed to be included therein, and hold a public hearing at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the surgeon general, the director shall publish a general description of the provisions thereof in at least one newspaper having general circulation in the state, and shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The director shall from time to time review the hospital and medical facility construction program and submit to the surgeon general any modifications thereof which he may find necessary and may submit to the surgeon general such modifications of the state plan, not inconsistent with the requirements of the federal act, as he may deem advisable. [1959 c 252 § 8; 1949 c 197 § 9; Rem. Supp. 1949 § 6090-68.]

70.40.100 Plan shall provide for construction in order of relative needs. The state plan shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the federal act, and provide for the construction, insofar as financial resources available therefor and for maintenance and operations make possible, in the order of such relative need. [1949 c 197 § 11; Rem. Supp. 1949 § 6090-70.]

70.40.110 Minimum standards for maintenance and operation. The director shall by regulation prescribe minimum standards for the maintenance and operation of hospitals and medical facilities which receive federal aid for construction under the state plan. [1959 c 252 § 9; 1949 c 197 § 10; Rem. Supp. 1949 § 6090-69.]

70.40.120 Applications for construction projects—Diagnostic, treatment centers. Applications for hospital and medical facility construction projects for which federal funds are requested shall be submitted to the director and may be submitted by the state or any political subdivision thereof or by any public or nonprofit agency authorized to construct and operate a hospital or medical facility: *Provided*, That except as may be permitted by federal law no application for a diagnostic or treatment center shall be approved unless the applicant is (1) a state, political subdivision, or public agency, or (2) a corporation or association which owns and operates a nonprofit hospital. Each application for a construction project shall conform to federal and state requirements. [1959 c 252 § 10; 1949 c 197 § 12; Rem. Supp. 1949 § 6090-71.]

70.40.130 Hearing—Approval. The director shall afford to every applicant for a construction project an opportunity for a fair hearing. If the director, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the

requirements of RCW 70.40.120 and is otherwise in conformity with the state plan, he shall approve such application and shall recommend and forward it to the surgeon general. [1949 c 197 § 13; Rem. Supp. 1949 § 6090-72.]

70.40.140 Inspection of project under construction—Certification as to federal funds due. From time to time the director shall inspect each construction project approved by the surgeon general, and, if the inspection so warrants, the director shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant. [1949 c 197 § 14; Rem. Supp. 1949 § 6090-73.]

70.40.150 Hospital and medical facility construction fund—Deposits, use. The secretary is hereby authorized to receive federal funds in behalf of, and transmit them to, such applicants or to approve applicants for federal funds and authorize the payment of such funds directly to such applicants as may be allowed by federal law. To achieve that end there is hereby established, separate and apart from all public moneys and funds of this state, a trust fund to be known as the "hospital and medical facility construction fund", of which the state treasurer shall ex officio be custodian. Moneys received from the federal government for construction projects approved by the surgeon general shall be deposited to the credit of this fund, shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects. Vouchers covering all payments from the hospital and medical facility construction fund shall be prepared by the department of social and health services and shall bear the signature of the secretary or his duly authorized agent for such purpose, and warrants therefor shall be signed by the state treasurer. [1973 c 106 § 31; 1959 c 252 § 11; 1949 c 197 § 15; Rem. Supp. 1949 § 6090-74.]

70.40.160 Obtaining certificate of need under comprehensive health planning act a prerequisite for hospital applying for or receiving funds under this chapter. See RCW 70.38.210.

70.40.900 Severability—1949 c 197. If any provision of this chapter or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are declared to be severable. [1949 c 197 § 16; no RRS.]

Chapter 70.41

HOSPITAL LICENSING AND REGULATION

Sections

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70.41.020	Definitions.

- 70.41.030 State board of health—Standards, rules and regulations—Fair hearing procedures.
- 70.41.040 Enforcement of chapter—Personnel—Merit system.
- 70.41.080 Fire protection.
- 70.41.090 Hospital license required.
- 70.41.100 Applications for licenses and renewals—Fees.
- 70.41.110 Licenses, provisional licenses—Issuance, duration, assignment, posting.
- 70.41.120 Inspection of hospitals—Alterations or additions, new facilities.
- 70.41.130 Denial, suspension, revocation of license—Hearings.
- 70.41.140 Denial, suspension, revocation of license—Appeals.
- 70.41.150 Denial, suspension, revocation of license—Disclosure of information.
- 70.41.160 Remedies available to department—Duty of attorney general.
- 70.41.170 Operating or maintaining unlicensed hospital—Penalty.
- 70.41.180 Physicians' services.
- 70.41.900 Severability—1955 c 267.

Hospitals, hospital personnel, actions against, limitation of: RCW 4.16.350.

Labor regulations, collective bargaining—Health care activities: Chapter 49.66 RCW.

Records of hospital committee or board, immunity from process: RCW 4.24.250.

Rendering emergency care, immunity from civil liability: RCW 18.71.220.

70.41.010 Declaration of purpose. The primary purpose of this chapter is to promote safe and adequate care of individuals in hospitals through the development, establishment and enforcement of minimum hospital standards for maintenance and operation. To accomplish these purposes, this chapter provides for:

- (1) The licensing and inspection of hospitals;
- (2) The establishment of a Washington state hospital advisory council;
- (3) The establishment by the state board of health of standards, rules and regulations for the construction, maintenance and operation of hospitals;
- (4) The enforcement by the Washington state department of health of the standards, rules and regulations established by the board. [1955 c 267 § 1.]

70.41.020 Definitions. Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

- (1) "Department" means the Washington state department of social and health services;
- (2) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include maternity homes,

which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations;

(3) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof;

(4) "Board" means the state board of health. [1971 ex.s. c 189 § 8; 1955 c 267 § 2.]

70.41.030 State board of health—Standards, rules and regulations—Fair hearing procedures. The board, shall establish and adopt such minimum standards, rules and regulations pertaining to the construction, maintenance and operation of hospitals, and rescind, amend or modify such rules and regulations from time to time, as are necessary in the public interest, and particularly for the establishment and maintenance of standards of hospitalization required for the safe and adequate care and treatment of patients. All rules and regulations to become effective shall be filed with the office of the code reviser.

The board shall advise and consult with the department in matters of policy affecting the administration of this chapter, and shall conduct fair hearing procedures as provided in RCW 70.41.130. [1971 ex.s. c 189 § 9; 1955 c 267 § 3.]

70.41.040 Enforcement of chapter—Personnel—Merit system. The enforcement of the provisions of this chapter and the standards, rules and regulations established hereunder by the board, shall be the responsibility of the department which shall cooperate with the joint commission on the accreditation of hospitals. The board shall advise on the employment of personnel and the personnel shall be under the merit system or its successor. [1955 c 267 § 4.]

70.41.080 Fire protection. Standards for fire protection and the enforcement thereof, with respect to all hospitals to be licensed hereunder shall be the responsibility of the state fire marshal, who shall adopt, after approval by the board, such recognized standards as may be applicable to hospitals for the protection of life against the cause and spread of fire and fire hazards. The department upon receipt of an application for a license, shall submit to the state fire marshal in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the state fire marshal or his deputy, shall make an inspection of the hospital to be

licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as adopted pursuant to this chapter, he shall promptly make a written report to the hospital and to the department listing the corrective actions required and the time allowed for accomplishing such corrections. The applicant or licensee shall notify the state fire marshal upon completion of any corrections required by him, and the state fire marshal, or his deputy, shall make a reinspection of such premises. Whenever the hospital to be licensed meets with the approval of the state fire marshal, he shall submit to the department a written report approving the hospital with respect to fire protection, and such report is required before a full license can be issued. The state fire marshal shall make or cause to be made inspections of such hospitals at least once a year.

In cities which have in force a comprehensive building code, the provisions of which are determined by the state fire marshal to be equal to the minimum standards of the state fire marshal's code for hospitals, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the state fire marshal or his deputy and they shall jointly approve the premises before a full license can be issued. [1955 c 267 § 8.]

State fire marshal: Chapter 48.48 RCW.

70.41.090 Hospital license required. After January 1, 1956, no person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, shall establish, maintain, or conduct a hospital in this state, or use the word "hospital" to describe or identify an institution, without a license under this chapter: *Provided*, That the provisions of this section shall not apply to state mental institutions and psychiatric hospitals which come within the scope of chapter 71.12 RCW. [1955 c 267 § 9.]

70.41.100 Applications for licenses and renewals—Fees. An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires which may include affirmative evidence of ability to comply with the standards, rules and regulations as are lawfully prescribed hereunder. An application for renewal of license shall be made to the department upon forms provided by it and submitted thirty days prior to the date of expiration of the license. Each application for a license or renewal thereof by a hospital as defined by this chapter shall be accompanied by an annual fee based on the number of beds in said hospital, excluding bassinets for the newborn, as follows: Less than fifty beds, twenty dollars; fifty beds or more, but less than one hundred twenty-five, thirty-five dollars; one hundred twenty five beds or more, fifty dollars: *Provided*, That no fee shall be required of government operated institutions. [1955 c 267 § 10.]

70.41.110 Licenses, provisional licenses—Issuance, duration, assignment, posting. Upon receipt of an application for license and the license fee, the department

shall issue a license or a provisional license if the applicant and the hospital facilities meet the requirements of this chapter and the standards, rules and regulations established by the board. All licenses issued under the provisions of this chapter shall expire on a date to be set by the board, but no license issued pursuant to this chapter shall exceed twelve months in duration: *Provided*, That when the annual license renewal date of a previously licensed hospital is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises.

If there be a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto, the department may in its discretion issue to an applicant for a license, or for the renewal of a license, a provisional license which will permit the operation of the hospital for a period to be determined by the department, but shall not exceed twelve months, unless approved by the board. [1971 ex.s. c 247 § 3; 1955 c 267 § 11.]

70.41.120 Inspection of hospitals—Alterations or additions, new facilities. The department shall make or cause to be made at least yearly an inspection of all hospitals. Every inspection of a hospital may include an inspection of every part of the premises. The department may make an examination of all phases of the hospital operation necessary to determine compliance with the law and the standards, rules and regulations adopted thereunder. Any licensee or applicant desiring to make alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, comply with the regulations prescribed by the board.

No hospital licensed pursuant to the provisions of this chapter shall be required to be inspected or licensed under other state laws or rules and regulations promulgated thereunder, or local ordinances, relative to hotels, restaurants, lodging houses, boarding houses, places of refreshment, nursing homes, maternity homes, or psychiatric hospitals. [1955 c 267 § 12.]

70.41.130 Denial, suspension, revocation of license—Hearings. The department is authorized to deny, suspend, or revoke a license or provisional license in the manner prescribed herein in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards, rules and regulations established hereunder. The department shall issue an order to the applicant or licensee giving notice of any rejection, revocation, or suspension, which order shall become final thirty days after the date of mailing: *Provided*, That the applicant or licensee does not within thirty days from the date of

mailing of the department's order or rejection, revocation, or suspension of license, make written application to the board for a hearing upon receipt of which the board shall fix a time for such hearing and shall give the applicant or licensee a notice of the time fixed therefor. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board. The board shall render its decision affirming, modifying, or setting aside the order of the department which decision in the absence of an appeal therefrom as provided by this chapter, shall become final thirty days after the date of mailing. [1955 c 267 § 13.]

70.41.140 Denial, suspension, revocation of license—Appeals. Within thirty days after the date of mailing of the decision of the board, the interested applicant or licensee may appeal to the superior court of the county of Thurston and such appeal shall be heard as a case in equity, but upon such appeal only such issues of law may be raised as were properly included in the hearing before the board. Proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by serving a notice of appeal on the chairman of the board by personal service, or by mailing a copy thereof to the board and by filing the notice of appeal, together with proof of service thereof, with the clerk of the court. The service and the filing, together with proof of the notice of appeal, all within thirty days shall be jurisdictional. The board shall within ten days after receipt of such notice of appeal serve and file a notice of appearance upon appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The board shall serve upon the appellant and file with the clerk of the court before hearing, a certified copy of the complete record of the administrative proceedings which shall, upon being so filed, become the record in such case. [1955 c 267 § 14.]

70.41.150 Denial, suspension, revocation of license—Disclosure of information. Information received by the board or the department through filed reports, inspection, or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure. Such records of the department shall at all times be available to the council and the members thereof. [1955 c 267 § 15.]

70.41.160 Remedies available to department—Duty of attorney general. Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, upon the advice of the attorney general who shall represent the department and the board in the proceedings, maintain an action in the name of the state for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a

hospital without a license under this law. [1955 c 267 § 16.]

70.41.170 Operating or maintaining unlicensed hospital—Penalty. Any person operating or maintaining a hospital without a license under this chapter shall be guilty of a misdemeanor, and each day of operation of an unlicensed hospital shall constitute a separate offense. [1955 c 267 § 17.]

70.41.180 Physicians' services. Nothing contained in this chapter shall in any way authorize the board to establish standards, rules and regulations governing the professional services rendered by any physician. [1955 c 267 § 18.]

70.41.900 Severability—1955 c 267. If any part, or parts, of this chapter shall be held unconstitutional, the remaining provisions shall be given full force and effect, as completely as if the part held unconstitutional had not been included herein, if any such remaining part can then be administered for the purpose of establishing and maintaining standards for hospitals. [1955 c 267 § 21.]

Chapter 70.44

PUBLIC HOSPITAL DISTRICTS

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70.44.005 Purpose. The purpose of this chapter is to authorize the establishment of public hospital districts to own and operate hospitals, nursing homes, extended care, outpatient, and rehabilitative facilities, contiguous with or within such facilities or hospitals, and ambulances, and to supply hospital, nursing home, extended care, outpatient, rehabilitative, health maintenance, and ambulance service for the residents of such districts and other persons: *Provided*, That hospital districts will not construct nursing homes when such facilities are already available: *Provided further*, That districts located in counties having a population of over eighteen thousand may not construct nursing homes. [1974 1st ex.s. c 165 § 1; 1945 c 264 § 1; Rem. Supp. 1945 § 6090-30. Formerly RCW 70.44.010, part.]

70.44.007 Definitions. As used in this chapter, the following words shall have the following meanings:

(1) The words "other health care facilities" shall mean nursing home, extended care, long-term care, outpatient, and rehabilitative facilities.

(2) The words "other health care services" shall mean nursing home, extended care, long-term care, outpatient, rehabilitative, health maintenance, and ambulance services. [1974 1st ex.s. c 165 § 5.]

70.44.010 Districts authorized. Municipal corporations, to be known as public hospital districts, are hereby authorized and may be established within the several counties of the state as hereinafter provided. [1947 c 225 § 1; 1945 c 264 § 2; Rem. Supp. 1947 § 6090-31. FORMER PART OF SECTION: 1945 c 264 § 1 now codified as RCW 70.44.005.]

70.44.015 Validation of existing districts. Each and all of the respective areas of land heretofore attempted to be organized into public hospital districts under the provisions of this chapter are validated and declared to be duly existing hospital districts having the respective

boundaries set forth in their organization proceedings as shown by the files in the office of the board of county commissioners of the county in question, and by the files of such districts. [1955 c 135 § 2.]

70.44.020 Resolution—Petition for county-wide district—Conduct of elections. At any general election or at any special election which may be called for that purpose the board of county commissioners of a county may, or on petition of ten percent of the electors of the county based on the total vote cast in the last general county election, shall, by resolution, submit to the voters of the county the proposition of creating a public hospital district coextensive with the limits of the county. The petition shall be filed with the county auditor, who shall within fifteen days examine the signatures thereon and certify to the sufficiency thereof, and for that purpose he shall have access to all registration books in the possession of election officers in the county. If the petition is found to be insufficient, it shall be returned to the persons filing it, who may amend or add names thereto for ten days, when it shall be returned to the auditor, who shall have an additional fifteen days to examine it and attach his certificate thereto. No person signing the petition may withdraw his name therefrom after filing. When the petition is certified as sufficient, the auditor shall forthwith transmit it, together with his certificate of sufficiency attached thereto, to the commissioners, who shall immediately transmit the proposition to the supervisor of elections or other election officer of the county, and he shall submit the proposition to the voters at the next general election or if such petition so requests, he shall call a special election on such proposition not less than thirty nor more than ninety days from the date of said certificate. The notice of the election shall state the boundaries of the proposed district and the object of the election, and shall in other respects conform to the requirements of law governing the time and manner of holding elections. In submitting the question to the voters, the proposition shall be expressed on the ballot substantially in the following terms:

For public hospital district No.

Against public hospital district No.

[1955 c 135 § 1; 1945 c 264 § 3; Rem. Supp. 1945 § 6090-32.]

70.44.025 Creation of district—Special election. After this act [1945 c 264] becomes effective a special election may be called at any time by the election board prior to the next general election, to create such hospital districts where the petition for the creation of such districts so provide or were ordered by the county commissioners. [1945 c 264 § 20; Rem. Supp. 1945 § 6090-49.]

70.44.030 Petition for lesser district—Procedure. Any petition for the formation of a public hospital district may describe a less area than the entire county in which the petition is filed, the boundaries of which shall follow the then existing precinct boundaries and not divide any voting precinct; and in the event that such a

petition is filed containing not less than ten percent of the voters of the proposed district who voted at the last general election, certified by the auditor in like manner as for a county-wide district, the board of county commissioners shall fix a date for a hearing on such petition, and shall publish the petition, without the signatures thereto appended, for two weeks prior to the date of the hearing, together with a notice stating the time of the meeting when such petition will be heard. Such publications required by this chapter shall be in a newspaper published in the proposed or established public hospital district, or, if there be no such newspaper, then in a newspaper published in the county in which such district is situated, and of general circulation in such county. The hearing on such petition may be adjourned from time to time, not exceeding four weeks in all. If upon the final hearing the board of county commissioners shall find that any lands have been unjustly or improperly included within the proposed public hospital district the said board shall change and fix the boundary lines in such manner as it shall deem reasonable and just and conducive to the welfare and convenience, and make and enter an order establishing and defining the boundary lines of the proposed public hospital district: *Provided*, That no lands shall be included within the boundaries so fixed lying outside the boundaries described in the petition, except upon the written request of the owners of such lands. Thereafter the same procedure shall be followed as prescribed in this chapter for the formation of a public hospital district including an entire county, except that the petition and election shall be confined solely to the lesser public hospital district. [1945 c 264 § 4; Rem. Supp. 1945 § 6090-33.]

70.44.035 Petition for district lying in more than one county—Procedure. Any petition for the formation of a public hospital district may describe an area lying in more than one county, the boundaries of which shall follow the then existing precinct boundaries and not divide a voting precinct; and if a petition is filed with the county auditor of the respective counties in which a portion of the proposed district is located, containing not less than ten percent of the voters of that area of each county of the proposed district who voted at the last general election, certified by the said respective auditors in like manner as for a county-wide district, the board of county commissioners of each of the counties in which a portion of the proposed district is located shall fix a date for a hearing on the petition, and shall publish the petition, without the signatures thereto appended, for two weeks prior to the hearing, together with a notice stating the time of the meeting when the petition will be heard. The publication required by this chapter shall be in a newspaper published in the portion of each county lying within the proposed district, or if there be no such newspaper published in any such portion of a county, then in one published in the county wherein such portion of said district is situated, and of general circulation in the county. The hearing before the respective county commissioners may be adjourned from time to time not exceeding four weeks in all. If

upon the final hearing the respective boards of county commissioners find that any land has been unjustly or improperly included within the proposed district they may change and fix the boundary lines of the portion of said district located within their respective counties in such manner as they deem reasonable and just and conducive to the welfare and convenience, and enter an order establishing and defining the boundary lines of the proposed district located within their respective counties: *Provided*, That no lands shall be included within the boundaries so fixed lying outside the boundaries described in the petition, except upon the written request of the owners of the land to be so included. Thereafter the same procedure shall be followed as prescribed for the formation of a district including an entire county, except that the petition and election shall be confined solely to the portions of each county lying within the proposed district. [1953 c 267 § 1.]

70.44.040 Elections—Vacancies—Procedure—Boundaries—Consolidations—Terms of commissioners. The provisions of Title 54 RCW relating to elections and procedure of the commission, except vacancies occurring therein, and boundaries and consolidation of public utility districts shall govern public hospital districts, except that the total vote cast upon the proposition to form the district shall exceed forty percent of the total number of votes cast in the precincts comprising the districts at the next preceding general and county election, and except that hospital district commissioners shall hold office for the term of six years and until their successors are elected and qualified, each term to commence on the second Monday in January in each year following the election. At the election at which the proposition is submitted to the voters as to whether a district shall be formed, three commissioners shall be elected to hold office, respectively, for the terms of two, four, and six years. All candidates shall be voted upon by the entire district, and the candidate residing in commissioner district No. 1 receiving the highest number of votes in the hospital district shall hold office for the term of six years; the candidate residing in commissioner district No. 2 receiving the highest number of votes in the hospital district shall hold office for the term of four years; and the candidate residing in commissioner district No. 3 receiving the highest number of votes in the hospital district shall hold office for the term of two years. Each term shall date from the time above specified following the election, but shall also include the period intervening between the election and the beginning of the regular terms specified in this section: *Provided*, That in public hospital districts encompassing portions of more than one county, the total vote cast upon the proposition to form the district shall exceed forty percent of the total number of votes cast in each portion of each county lying within the proposed district at the next preceding general county election. The portion of said proposed district located within each county shall constitute a separate commissioner district. There shall be three district commissioners whose terms shall be six years. Each district shall be designated by the name of

the county in which it is located. All candidates for commissioners shall be voted upon by the entire district. Not more than one commissioner shall reside in any one district: *Provided further*, That in the event there are only two districts then two commissioners may reside in one district. The term of each commissioner shall commence on the second Monday in January in each year following his election. At the election at which the proposition is submitted to the voters as to whether a district shall be formed, three commissioners shall be elected to hold office, respectively, for the terms of two, four, and six years. The candidate receiving the highest number of votes within the district, as constituted by said election, shall serve a term of six years; the candidate receiving the next highest number of votes shall hold office for a term of four years; and the candidate receiving the next highest number of votes shall hold office for a term of two years: *Provided further*, That the holding of each such term of office shall be subject to the residential requirements for district commissioners hereinbefore set forth in this section. [1957 c 11 § 1; 1955 c 82 § 1; 1953 c 267 § 2; 1947 c 229 § 1; 1945 c 264 § 5; Rem. Supp. 1947 § 6090-34.]

70.44.042 Commissioner districts may be abolished—Residence of candidates for positions. Notwithstanding any provision in RCW 70.44.040 to the contrary, any board of public hospital district commissioners may, by resolution, abolish commissioner districts and permit candidates for any position on the board to reside anywhere in the public hospital district. [1967 c 227 § 2.]

70.44.045 Commissioners—Vacancies. A vacancy in the office of commissioner shall occur by death, resignation, removal, conviction of felony, nonattendance at meetings of the commission for sixty days, unless excused by the commission, by any statutory disqualification, or by any permanent disability preventing the proper discharge of his duty. A vacancy shall be filled at the next general election; the vacancy in the interim to be filled by appointment by the remaining commissioners within twenty days from the date of such vacancy, or in the event the remaining commissioners do not fill the vacancy within said time then the county commissioners of the county in which said district is located shall fill said vacancy within twenty days thereafter. If more than one vacancy exists at the same time a special election shall be called by the county election supervisor upon the request of any remaining commissioner and if there is none, then by the supervisor. The election shall be held not more than forty days after the occurrence of the vacancies. [1955 c 82 § 2.]

70.44.050 Commissioners—Compensation—Expenses—Insurance—Resolutions by majority vote—Officers—Rules—Seal—Records. A district may provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding twenty-five dollars for each day or major part thereof devoted to the business of the district, and days upon which he attends meetings of the commission

of his own district, or meetings attended by one or more commissioners of two or more districts called to consider business common to them, except that the total compensation paid to such commissioner during any one year shall not exceed six hundred dollars: *Provided*, That commissioners may not be compensated for services performed of a ministerial or professional nature. Any district providing group insurance for its employees, covering them, their immediate family, and dependents, may provide insurance for its commissioners with the same coverage. Each commissioner shall be reimbursed for reasonable expenses actually incurred in connection with such business and meetings, including his subsistence and lodging and travel while away from his place of residence. No resolution shall be adopted without a majority vote of the whole commission. The commission shall organize by election of its own members of a president and secretary, shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings of the commission shall be by motion or resolution recorded in a book or books kept for such purpose, which shall be public records. [1965 c 157 § 1; 1945 c 264 § 15; Rem. Supp. 1945 § 6090-44.]

70.44.051 Increase in number of commissioners—Authorized. In addition to the procedures enumerated in RCW 70.44.020, 70.44.030 and 70.44.035, the board of public hospital district commissioners in an existing intracounty or intercounty district may be increased to five or to seven members; and any district created after June 8, 1967 may have three, five or seven commissioners. [1967 c 77 § 1.]

70.44.053 Increase in number of commissioners—Proposition to be submitted to voters. At any general or special election which may be called for that purpose the board of public hospital district commissioners may, or on petition of ten percent of the electors based on the total vote cast in the last general election in the district shall, by resolution, submit to the voters of the district the proposition increasing the number of commissioners to any number authorized in RCW 70.44.051. [1967 c 77 § 2.]

70.44.055 Increase in number of commissioners—Number to be elected from commissioner districts, at large positions. (1) (a) In intracounty districts having five commissioners, one shall be elected from each commissioner district as provided in RCW 70.44.040, and two shall be elected at large from the hospital district by positions No. 4 and No. 5.

(b) In intercounty districts having five commissioners, two shall be elected from each commissioner district by positions No. 1 and No. 2, and one shall be elected at large from the hospital district.

(2) (a) In intracounty districts having seven commissioners, two shall be elected from each commissioner district by positions No. 1 and No. 2, and one shall be elected at large from the entire hospital district.

(b) In intercounty districts having seven commissioners, three shall be elected from each commissioner district by positions No. 1, No. 2 and No. 3, and one shall be elected at large from the entire hospital district. [1967 c 77 § 3.]

70.44.057 Increase in number of commissioners—Staggering terms of additional commissioners in existing districts—New districts. (1) In all existing public hospital districts in which an increase in membership of the board of hospital district commissioners is proposed, the district commissioners shall, by resolution adopted in advance of any elections therefor, provide for the staggering of terms of the additional commissioner positions so that, as nearly as is mathematically possible, one-third of the expanded board shall be elected every two years.

(2) When a new district is proposed with more than three commissioners, the county commissioners of the counties affected shall adopt the resolution prescribed in subsection (1) of this section. [1967 c 77 § 4.]

70.44.060 Powers and duties. All public hospital districts organized under the provisions of this chapter shall have power:

(1) To make a survey of existing hospital and other health care facilities within and without such district.

(2) To construct, condemn and purchase, purchase, acquire, lease, add to, maintain, operate, develop and regulate, sell and convey all lands, property, property rights, equipment, hospital and other health care facilities and systems for the maintenance of hospitals, buildings, structures, and any and all other facilities, and to exercise the right of eminent domain to effectuate the foregoing purposes or for the acquisition and damaging of the same or property of any kind appurtenant thereto, and such right of eminent domain shall be exercised and instituted pursuant to a resolution of the commission and conducted in the same manner and by the same procedure as in or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: *Provided*, That no public hospital district shall have the right of eminent domain and the power of condemnation against any health care facility: *And provided, further*, That no hospital district organized and existing in districts having more than twenty-five thousand population have any of the rights herein enumerated without the prior written consent of all existing hospital facilities within the boundaries of such hospital district.

(3) To lease existing hospital and other health care facilities and equipment and/or other property used in connection therewith, including ambulances, and to pay such rental therefor as the commissioners shall deem proper; to provide hospital and other health care services for residents of said district by facilities located outside the boundaries of said district, by contract or in any other manner said commissioners may deem expedient or necessary under the existing conditions; and said hospital district shall have the power to contract with other communities, corporations, or individuals for

the services provided by said hospital district; and they may further receive in said hospitals and other health care facilities and furnish proper and adequate services to all persons not residents of said district at such reasonable and fair compensation as may be considered proper: *Provided*, That it must at all times make adequate provision for the needs of the district and residents of said district shall have prior rights to the available hospital and other health care facilities of said district, at rates set by the district commissioners.

(4) For the purpose aforesaid, it shall be lawful for any district so organized to take, condemn and purchase, lease, or acquire, any and all property, and property rights, including state and county lands, for any of the purposes aforesaid, and any and all other facilities necessary or convenient, and in connection with the construction, maintenance, and operation of any such hospitals and other health care facilities, subject, however, to the applicable limitations provided in subsection (2).

(5) To contract indebtedness or borrow money for corporate purposes on the credit of the corporation or the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, and to issue (a) revenue bonds or warrants therefor payable solely out of a special fund or funds into which the district may pledge such amount of the revenues of the hospitals thereof, and the revenues of any other facilities or services that the district is or hereafter may be authorized by law to provide, to pay the same as the commissioners of the district may determine, such revenue bonds or warrants to be issued in the same manner and subject to the same provisions as provided for the issuance of revenue bonds or warrants by cities or towns under the Municipal Revenue Bond Act, chapter 35.41 RCW, as may hereafter be amended or (b) general obligation bonds therefor in the manner and form as provided in RCW 70.44.110 to 70.44.130, inclusive, as may hereafter be amended; and to assign or sell hospital accounts receivable, and accounts receivable for the use of other facilities or services that the district is or hereafter may be authorized by law to provide, for collection with or without recourse.

(6) To raise revenue by the levy of an annual tax on all taxable property within such public hospital district not to exceed seventy-five cents per thousand dollars of assessed value or such further amount as has been or shall be authorized by a vote of the people: *Provided further*, That the public hospital districts are hereby authorized to levy such a general tax in excess of said seventy-five cents per thousand dollars of assessed value when authorized so to do at a special election conducted in accordance with and subject to all of the requirements of the Constitution and the laws of the state of Washington now in force or hereafter enacted governing the limitation of tax levies. The said board of district commissioners is hereby authorized and empowered to call a special election for the purpose of submitting to the qualified voters of the hospital district a proposition to levy a tax in excess of the seventy-five

cents per thousand dollars of assessed value herein specifically authorized. The superintendent shall prepare a proposed budget of the contemplated financial transactions for the ensuing year and file the same in the records of the commission on or before the first Monday in September. Notice of the filing of said proposed budget and the date and place of hearing on the same shall be published for at least two consecutive weeks in a newspaper printed and of general circulation in said county. On the first Monday in October the commission shall hold a public hearing on said proposed budget at which any taxpayer may appear and be heard against the whole or any part of the proposed budget. Upon the conclusion of said hearing, the commission shall, by resolution, adopt the budget as finally determined and fix the final amount of expenditures for the ensuing year. Taxes levied by the commission shall be certified to and collected by the proper county officer of the county in which such public hospital district is located in the same manner as is or may be provided by law for the certification and collection of port district taxes. The commission is authorized, prior to the receipt of taxes raised by levy, to borrow money or issue warrants of the district in anticipation of the revenue to be derived by such district from the levy of taxes for the purpose of such district, and such warrants shall be redeemed from the first money available from such taxes when collected, and such warrants shall not exceed the anticipated revenues of one year, and shall bear interest at a rate or rates as authorized by the commission.

(7) To enter into any contract with the United States government or any state, municipality, or other hospital district, or any department of those governing bodies, for carrying out any of the powers authorized by this chapter.

(8) To sue and be sued in any court of competent jurisdiction: *Provided*, That all suits against the public hospital district shall be brought in the county in which the public hospital district is located.

(9) To make contracts, employ superintendents, attorneys, and other technical or professional assistants and all other employees; to make contracts with private or public institutions for employee retirement programs; to print and publish information or literature; and to do all other things necessary to carry out the provisions of this chapter. [1974 1st ex.s. c 165 § 2; 1973 1st ex.s. c 195 § 83; 1971 ex.s. c 218 § 2; 1970 ex.s. c 56 § 85; 1969 ex.s. c 65 § 1; 1967 c 164 § 7; 1965 c 157 § 2; 1949 c 197 § 18; 1945 c 264 § 6; Rem. Supp. 1949 § 6090-35.]

~~Severability—Effective dates and termination dates—Construction—~~ 1973 1st ex.s. c 195: See notes following RCW 84.52.043.

~~Purpose—~~ 1970 ex.s. c 56: See note following RCW 39.44.030.

~~Purpose—Severability—~~ 1967 c 164: See notes following RCW 4.96.010.

Eminent domain: State Constitution Art. 1 § 16 (Amendment 9).

Eminent domain by cities: Chapter 8.12 RCW.

Limitation on levies: State Constitution Art. 7 § 2 (Amendment 59); RCW 84.52.050.

Port districts, collection of taxes: RCW 53.36.020.

Tortious conduct of political subdivisions, municipal corporations and quasi municipal corporations, liability for damages: Chapter 4.96 RCW.

70.44.061 Powers and duties—Sales and leases of surplus property. The board of commissioners of any public hospital district may lease out or may sell and convey at public or private sale, surplus property of the district if the board has determined by resolution adopted by unanimous vote of all members of the board that such property is not and will not be needed for the district's purposes, nor for operation of its public hospitals: *Provided*, That in leasing or selling real estate the board shall have obtained not more than one year prior to date of sale a written appraisal of the value of such real estate by at least two disinterested appraisers concurring in and signing the appraisal, who must be licensed under the laws of this state as real estate appraisers or as real estate brokers, and that the board shall have published a call for bids upon such real estate once a week for two successive weeks in a legal newspaper of general circulation in the districts, and that the sale price received be not less than ninety percent of such appraised value of the real estate sold: *Provided further*, That if such appraised value of property proposed to be sold is more than one hundred thousand dollars then before making any sale thereof the question of making a sale of the property shall be submitted to the voters of the district at a general or special election and be determined by majority vote therein. In the event of a sale, not less than one-tenth of the total purchase price shall be paid on the date of execution of the contract for sale, and one-tenth shall be paid annually thereafter until the full purchase price has been paid, but any purchaser may make full payment at any time. All unpaid deferred payments shall draw interest at a rate not less than six percent per annum; or in the alternative, such sale may be effected on such terms and conditions as may be determined by resolution of the board of commissioners: *Provided*, That such sale is approved and confirmed by decree of the superior court in the county where such property is located, after publication of notice of hearing is given as fixed and directed by such court. [1970 ex.s. c 7 § 1; 1963 c 102 § 1.]

70.44.070 Superintendent—Appointment—Removal—Salary. The public hospital district commission shall appoint a superintendent, who shall be appointed for an indefinite time and be removable at the will of the commission. Appointments and removals shall be by resolution, introduced at a regular meeting and adopted at a subsequent regular meeting by a majority vote. He shall receive such salary as the commission shall fix by resolution. [1945 c 264 § 7; Rem. Supp. 1945 § 6090-36.]

70.44.080 Superintendent—Powers. The superintendent shall be the chief administrative officer of the public district hospital and shall have control of administrative functions of said hospital. He shall be responsible to the commission for the efficient administration of all affairs of the hospital. In case of the absence or temporary disability of the superintendent a competent person shall be appointed by the commission. The superintendent shall be entitled to attend all meetings of

the commission and its committees and to take part in the discussion of any matters pertaining to the duties of his department, but shall have no vote. [1945 c 264 § 9; Rem. Supp. 1945 § 6090-38.]

70.44.090 Superintendent—Duties. The public hospital district superintendent shall have power, and it shall be his duty:

(1) To carry out the orders of the commission, and to see that all the laws of the state pertaining to matters within the functions of his department are duly enforced.

(2) To keep the commission fully advised as to the financial condition and needs of the district. To prepare, each year, an estimate for the ensuing fiscal year of the probable expenses of his department, and to recommend to the commission what development work should be undertaken, and what extensions and additions, if any, should be made, during the ensuing fiscal year, with an estimate of the costs of such development work, extensions and additions. To certify to the commission all the bills, allowances and payrolls, including claims due contractors of public works. To recommend to the commission salaries of the employees of his office and a scale of salaries or wages to be paid for the different classes of service required by the district. [1945 c 264 § 11; Rem. Supp. 1945 § 6090-40.]

70.44.100 Inspection and approval of plans by state. The Washington state department of health shall be authorized to inspect all premises maintained or operated by any hospital district created hereunder. No district shall construct any building or make any alteration therein without first having obtained the approval of the Washington state board of health as to plans of such construction and the site thereof. [1945 c 264 § 8; Rem. Supp. 1945 § 6090-37.]

70.44.110 Plan to construct or improve—Submission to vote. Whenever the commission deems it advisable that the district acquire or construct a public hospital, or other health care facilities, or make additions or betterments thereto, or extensions thereof, it shall provide therefor by resolution, which shall specify and adopt the plan proposed, and declare the estimated cost thereof, and specify the amount of indebtedness, the amount of interest, and the time in which all bonds shall be paid, not to exceed thirty years. The incurring of such indebtedness shall be subject to the applicable limitations and requirements provided in section 1, chapter 143, Laws of 1917, as last amended by section 4, chapter 107, Laws of 1967, and RCW 39.36.020, as now or hereafter amended. If a proposition to incur any such indebtedness is to be submitted to the electors of the district it may be submitted at any general election or a special election called for that purpose pursuant to the applicable election laws. [1974 1st ex.s. c 165 § 3; 1969 ex.s. c 65 § 2; 1955 c 56 § 1; 1945 c 264 § 12; Rem. Supp. 1945 § 6090-41.]

70.44.120 Bonds—Form—Terms—Execution. All bonds shall be serial in form and maturity and numbered from one upwards consecutively. The various annual maturities shall commence not later than the tenth year after the date of issue of such bonds. The resolution authorizing the issuance of the bonds shall fix the rate of interest the bonds shall bear and the place and dates of the payment of both principal and interest. The bonds shall be signed by the president of the commission, attested by the secretary of the commission, and the seal of the public hospital district shall be affixed to each bond but not to the coupons: *Provided, however,* That said coupons, in lieu of being so signed, may have printed thereon a facsimile of the signatures of such officers. [1970 ex.s. c 56 § 86; 1969 ex.s. c 65 § 3; 1945 c 264 § 13; Rem. Supp. 1945 § 6090-42.]

~~Purpose~~—1970 ex.s. c 56: See note following RCW 39.44.030.

70.44.130 Bonds—Payment—Security for deposits. The principal and interest of such general bonds shall be paid by levying each year a tax upon the taxable property within the district sufficient, together with other revenues of the district available for such purpose, to pay said interest and principal of said bonds, which tax shall be due and collectible as any other tax. Said bonds shall be sold in such manner as the commission shall deem for the best interests of the district. All bonds and warrants issued under the authority of this chapter shall be legal securities, which may be used by any bank or trust company for deposit with the state treasurer, or any county or city treasurer, as security for deposits, in lieu of a surety bond, under any law relating to deposits of public moneys. [1971 ex.s. c 218 § 3; 1945 c 264 § 14; Rem. Supp. 1945 § 6090-43.]

70.44.140 Contracts for material and work—Call for bids. All materials purchased and work ordered, the estimated cost of which is in excess of five thousand dollars, shall be by contract. Before awarding any such contract, the commission shall cause to be published a notice at least thirty days before the letting of said contract, inviting sealed proposals for such work, plans and specifications which must at the time of the publication of such notice be on file at the office of the public hospital district, subject to public inspection: *Provided, however,* That the commission may at the same time, and as part of the same notice, invite tenders for said work or materials upon plans and specifications to be submitted by bidders. Such notice shall state generally the work to be done, and shall call for proposals for doing the same, to be sealed and filed with the commission on or before the day and hour named therein. Each bid shall be accompanied by bid proposal security in the form of a certified check, cashier's check, postal money order, or surety bond made payable to the order of the commission, for a sum not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal security. At the time and place named, such bids shall be publicly opened and read, and the commission shall proceed to canvass the bids, and may let such contract to

the lowest responsible bidder upon plans and specifications on file, or to the best bidder submitting his own plans and specifications: *Provided, however,* That no contract shall be let in excess of the estimated cost of said materials or work, or if, in the opinion of the commission, all bids are unsatisfactory, they may reject all of them and readvertise, and in such case all bid proposal security shall be returned to the bidders; but if such contract be let, then and in such case all bid proposal security shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for the purchase of such materials for doing such work, and a bond to perform such work furnished, with sureties satisfactory to the commission, in an amount to be fixed by the commission, not less than twenty-five percent of contract price in any case, between the bidder and commission, in accordance with the bid. If such bidder fails to enter into said contract in accordance with said bid and furnish such bond within ten days from the date at which he is notified that he is the successful bidder, the said bid proposal security and the amount thereof shall be forfeited to the public hospital district. [1965 c 83 § 1; 1945 c 264 § 17; Rem. Supp. 1945 § 6090-46.]

Contractor's bond: Chapter 39.08 RCW.

Lien on public works, retained percentage of contractor's earnings: Chapter 60.28 RCW.

70.44.150 Minimum wage scale on construction. Every contractor and subcontractor performing any work for said public hospital districts within said public hospital district shall pay or cause to be paid to its employees on such work or under such contract or subcontract not less than the minimum scale fixed by the resolution of the commission prior to the notice and call for bids on such work. The commission in fixing [the] scale of wages shall fix the same as nearly as possible to the current prevailing and going wages within the district for work of like character. [1945 c 264 § 18; Rem. Supp. 1945 § 6090-47.]

Prevailing wages on public works: Chapter 39.12 RCW.

70.44.160 Medical management of patients—Hospital standards. The medical management of patients shall be subject to the approval of the medical staff. All hospitals operated by a district shall be operated in compliance with the standards set by the American Hospital Association. [1965 c 157 § 3; 1945 c 264 § 10; Rem. Supp. 1945 § 6090-39.]

70.44.171 Treasurer—Duties—Funds—Depositaries—Surety bonds, cost. The treasurer of the county in which a public hospital district is located shall be treasurer of the district, except that the commission by resolution may designate some other person having experience in financial or fiscal matters as treasurer of the district. If the treasurer is not the county treasurer, the commission shall require a bond, with a surety company authorized to do business in the state of Washington, in an amount and under the terms and conditions which the commission by resolution from time to time finds will protect the district against loss.

The premium on any such bond shall be paid by the district.

All district funds shall be paid to the treasurer and shall be disbursed by him only on warrants issued by an auditor appointed by the commission, upon orders or vouchers approved by it. The treasurer shall establish a public hospital district fund, into which shall be paid all district funds, and he shall maintain such special funds as may be created by the commission, into which he shall place all money as the commission may, by resolution, direct.

If the treasurer of the district is the treasurer of the county all district funds shall be deposited with the county depositaries under the same restrictions, contracts, and security as provided for county depositaries. If the treasurer of the district is some other person, all funds shall be deposited in such bank or banks authorized to do business in this state as the commission by resolution shall designate, and with surety bond to the district or securities in lieu thereof of the kind, no less in amount, as provided in RCW 36.48.020 for deposit of county funds. Such surety bond or securities in lieu thereof shall be filed or deposited with the treasurer of the district, and approved by resolution of the commission.

All interest collected on district funds shall belong to the district and be deposited to its credit in the proper district funds.

A district may provide and require a reasonable bond of any other person handling moneys or securities of the district. The district may pay the premium on such bond. [1967 c 227 § 1.]

70.44.185 Change of district boundary lines to allow farm units to be wholly within one hospital district—Notice. Notwithstanding any other provision of law, including RCW 70.44.040, whenever the boundary line between contiguous hospital districts bisects an irrigation block unit placing part of the unit in one hospital district and the balance thereof in another such district, the county auditor, upon his approval of a request therefor after public hearing thereon, shall change the hospital district boundary lines so that the entire farm unit of the person so requesting shall be wholly in one of such hospital districts and give notice thereof to those hospital district and county officials as he shall deem appropriate therefor. [1971 ex.s. c 218 § 4.]

70.44.190 Consolidation of districts. Two or more contiguous hospital districts, whether the territory therein lies in one or more counties, may consolidate by following the procedure outlined in chapter 35.10 RCW with reference to consolidation of cities and towns. [1953 c 267 § 3.]

70.44.200 Annexation of territory. A hospital district may annex territory outside the existing boundaries of such district and contiguous thereto, whether the territory therein lies in one or more counties, under the procedure applicable to annexation of unincorporated areas as provided in chapter 35.12 RCW. [1953 c 267 § 4.]

70.44.210 Alternate method of annexation—Contents of resolution calling for election. As an alternate method of annexation to public hospital districts, any territory adjacent to a public hospital district may be annexed thereto by vote of the qualified electors residing in the territory to be annexed, in the manner provided in RCW 70.44.210 through 70.44.230. An election to annex such territory may be called pursuant to a resolution calling for such an election adopted by the district commissioners.

Any resolution calling for such an election shall describe the boundaries of the territory to be annexed, state that the annexation of such territory to the public hospital district will be conducive to the welfare and benefit of the persons or property within the district and within the territory proposed to be annexed, and fix the date, time and place for a public hearing thereon which date shall be not more than sixty nor less than forty days following the adoption of such resolution. [1967 c 227 § 6.]

70.44.220 Alternate method of annexation—Publication and contents of notice of hearing—Hearing—Resolution—Special election. Notice of such hearing shall be published once a week for at least two consecutive weeks in one or more newspapers of general circulation within the territory proposed to be annexed. The notice shall contain a description of the boundaries of the territory proposed to be annexed and shall state the time and place of the hearing thereon and the fact that any changes in the boundaries of such territory will be considered at such time and place. At such hearing or any continuation thereof, any interested person may appear and be heard on all matters relating to the proposed annexation. The district commissioners may make such changes in the boundaries of the territory proposed to be annexed as it shall deem reasonable and proper, but may not delete any portion of the proposed area which will create an island of included or excluded lands. If the district commissioners shall determine that any additional territory should be included in the territory to be annexed, a second hearing shall be held and notice given in the same manner as for the original hearing. The district commissioners may adjourn the hearing on the proposed annexation from time to time not exceeding thirty days in all. At the next regular meeting following the conclusion of such hearing, the district commissioners shall, if it finds that the annexation of such territory will be conducive to the welfare and benefit of the persons and property therein and the welfare and benefit of the persons and property within the public hospital district, adopt a resolution fixing the boundaries of the territory to be annexed and causing to be called a special election on such annexation to be held not more than one hundred twenty days nor less than sixty days following the adoption of such resolution. [1967 c 227 § 7.]

70.44.230 Alternate method of annexation—Conduct and canvass of election—Notice—Ballot. An election on the annexation of territory to a public hospital district shall be conducted and canvassed in the

same manner as provided for the conduct of an election on the formation of a public hospital district except that notice of such election shall be published in one or more newspapers of general circulation in the territory proposed to be annexed and the ballot proposition shall be in substantially the following form:

ANNEXATION TO (herein insert name of public hospital district)

"Shall the territory described in a resolution of the public hospital district commissioners of (here insert name of public hospital district) adopted on -----, -----, 19--, be annexed to such district?

YES
NO

If a majority of those voting on such proposition vote in favor thereof, the territory shall thereupon be annexed to the public hospital district. [1967 c 227 § 8.]

70.44.240 Contracting or joining with other districts, hospitals, corporations or individuals to jointly provide services or facilities. Any public hospital district may contract or join with any other public hospital district, any publicly owned hospital, any nonprofit hospital, any corporation, or individual to provide such individuals, hospital districts, and hospitals with services or facilities to be used by such individuals, districts, and hospitals, including the providing of health maintenance services. [1974 1st ex.s. c 165 § 4; 1967 c 227 § 3.]

70.44.250 Lease of real or personal property—Conditions of lease—Performance bond—Surety. A public hospital district may lease out real or personal property which it owns or in which it has an interest and which is not immediately necessary for its purposes upon such terms as the board of hospital commissioners deem proper.

No such lease shall be for a period longer than twenty-five years, and each lease of real property shall be secured by a bond conditioned to perform the terms of such lease with surety satisfactory to the commissioners, in a penalty not less than the rental for one-sixth of the term, but in any event not less than the rental for one year. In a lease, the term of which exceeds five years, and when at the option of the commissioners, it is so stipulated in the lease, the commission shall accept, with surety satisfactory to it, a bond conditioned to perform the terms of the lease for some part of the term, in no event less than five years (unless the remainder of the unexpired term is less than five years, in which case for the full remainder) and in every such case the commissioners shall require of the lessee, another or other like bond to be delivered within two years, and not less than one year prior to the expiration of the period covered by the existing bond covering an additional part of the term in accordance with the foregoing provisions in respect to the original bond, and so on until the end of the term so that there will always be in force a bond securing the performance of the lease, and the penalty in each bond shall be not less than the rental for one-half the period covered thereby, but no

bond shall be construed to secure the furnishing of any other bond.

The commissioners may accept as surety on any bond required by this section, either an approved surety company or one or more persons satisfactory to the commissioners, or in lieu of such bond may accept a deposit as security of such property or collateral or the giving of such other form of security as may be satisfactory to the commissioners. [1967 c 227 § 4.]

70.44.900 Severability—Construction—1945 c 264. Adjudication of invalidity of any section, clause or part of a section of this act [1945 c 264] shall not impair or otherwise affect the validity of the act as a whole or any other part thereof. The rule of strict construction shall have no application to this act, but the same shall be liberally construed, in order to carry out the purposes and objects for which this act is intended. When this act comes in conflict with any provisions, limitation or restriction in any other law, this act shall govern and control. [1945 c 264 § 21; no RRS.]

70.44.901 Severability—Construction—1974 1st ex.s. c 165. If any section, clause, or other provision of this 1974 amendatory act, or its application to any person or circumstance, is held invalid, the remainder of such 1974 amendatory act, or the application of such section, clause, or provision to other persons or circumstances, shall not be affected. The rule of strict construction shall have no application to this 1974 amendatory act, but the same shall be liberally construed, in order to carry out the purposes and objects for which this 1974 amendatory act is intended. When this 1974 amendatory act comes in conflict with any provision, limitation, or restriction in any other law, this 1974 amendatory act shall govern and control. [1974 1st ex.s. c 165 § 6.]

70.44.910 Construction—1945 c 264. This act [1945 c 264 § 22] shall not be deemed or construed to repeal or affect any existing act, or any part thereof, relating to the construction, operation and maintenance of public hospitals, but shall be supplemental thereto and concurrent therewith. [1945 c 264 § 22; no RRS.]

Chapter 70.46 HEALTH DISTRICTS

Sections

70.46.020	Districts of two or more counties—Health board—Membership—Chairman.
70.46.030	Districts of one county—Board of health—Membership—Chairman.
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70.46.120	License or permit fees.
70.46.130	Contracts for sale or purchase of health services authorized.

Local health departments, provisions relating to health districts: Chapter 70.05 RCW.

70.46.020 Districts of two or more counties—Health board—Membership—Chairman. Health districts consisting of two or more counties may be created whenever two or more boards of county commissioners shall by resolution establish a district for such purpose. Such a district shall consist of all the area of the combined counties including all cities and towns except cities of over one hundred thousand population. The district board of health of such a district shall consist of not less than seven members, including two representatives from each county who are members of the board of county commissioners and who are appointed by the board of county commissioners of each county within the district. The remaining members shall be representatives of the cities and towns in the district selected by mutual agreement of the legislative bodies of the cities and towns concerned from their membership, taking into consideration the financial contribution of such cities and towns and representation from the several classifications of cities and towns.

At the first meeting of a district board of health the members shall elect a chairman to serve for a period of one year. [1967 ex.s. c 51 § 6; 1945 c 183 § 2; Rem. Supp. 1945 § 6099–11.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.030 Districts of one county—Board of health—Membership—Chairman. A health district to consist of one county only and including all cities and towns therein except cities having a population of over one hundred thousand may be created whenever the board of county commissioners of the county shall pass a resolution to organize such a health district under chapter 70.05 RCW and RCW 70.46.020 through 70.46.090. The district board of health of such district shall consist of not less than five members, including the three members of the board of county commissioners of the county: *Provided*, That if such health district consists of a county of the second class, the district board of health shall consist of not less than six members, including the three members of the board of county commissioners of the county and one person who is a qualified voter of an unincorporated rural area of the county and who is appointed by the legislative authority of the county. The remaining members shall be representatives of the cities and towns in the district selected by mutual agreement of the legislative bodies of the cities and towns concerned from their membership, taking into consideration the respective populations and financial contributions of such cities and towns.

At the first meeting of a district board of health, the members shall elect a chairman to serve for a period of one year. [1969 ex.s. c 70 § 1; 1967 ex.s. c 51 § 5; 1945 c 183 § 3; Rem. Supp. 1945 § 6099–12.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.040 Inclusion of a city over 100,000 population.

Whenever a city of over one hundred thousand population desires to be included in a health district and shall through its legislative authority petition the district board of health to be included and the district board of health and the city legislative authority agree as to the functions to be performed for the city by the health district and the amount of financial contributions to be made by the city to the health district such city shall be included in the health district. [1967 ex.s. c 51 § 7; 1945 c 183 § 4; Rem. Supp. 1945 § 6099-13.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.050 Representation on the district health board.

Whenever a city of over one hundred thousand population is included in a health district it shall have equal representation with the board of county commissioners of the county in which said city is located, the city's representatives to be selected by the legislative body of the city from among its membership. All appointments to the district board of health shall be made within thirty days after the formation of the district. Vacancies on the district board of health shall be filled by appointment within thirty days and made in the same manner as was the original appointment. Representatives on the district board of the various units of the district shall continue at the pleasure of the legislative body of the unit: *Provided*, That the representation on the local boards of health in existence at the time of the enactment of chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 may be continued without change in the discretion of the board. [1967 ex.s. c 51 § 8; 1957 c 100 § 1; 1945 c 183 § 5; Rem. Supp. 1945 § 6099-14.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.060 District health board—Powers and duties.

The district board of health shall constitute the local board of health for all the territory included in the health district, and shall supersede and exercise all the powers and perform all the duties by law vested in the county or city or town board of health of any county, city or town included in the health district, except as otherwise in chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 provided. [1967 ex.s. c 51 § 11; 1945 c 183 § 6; Rem. Supp. 1945 § 6099-15.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.080 Treasurer—District funds—Contributions by counties and cities.

Each health district shall establish a fund to be designated as the "district health fund", in which shall be placed all sums received by the district from any source, and out of which shall be expended all sums disbursed by the district. The county treasurer of the county in the district embracing only one county; or, in a district composed of more than one county the county treasurer of the county having the largest population shall be the custodian of the fund, and the county auditor of said county shall keep the record of the receipts and disbursements, and shall draw and the county treasurer shall honor and pay all warrants, which shall be approved before issuance and

payment as directed by the board: *Provided*, That in local health departments wherein a city of over one hundred thousand population is a part of said department, the local board of health may pool the funds available for public health purposes in the office of the city treasurer in a special pooling fund to be established and which shall be expended as set forth above.

Each county, city or town which is included in the district shall contribute such sums towards the expense for maintaining and operating the district as shall be agreed upon between it and the local board of health in accordance with guidelines established by the state board of health after consultation with the Washington state association of counties and the association of Washington cities. In the event that no agreement can be reached between the district board of health and the county, city or town, the matter shall be resolved by a board of arbitrators to consist of a representative of the district board of health, a representative from the county, city or town involved, and a third representative to be appointed by the two representatives, but if they are unable to agree, a representative shall be appointed by a judge in the county in which the city or town is located. The determination of the proportionate share to be paid by a county, city or town shall be binding on all parties. Payments into the fund of the district may be made by the county or city or town members during the first year of membership in said district from any funds of the respective county, city or town as would otherwise be available for expenditures for health facilities and services, and thereafter the members shall include items in their respective budgets for payments to finance the health district. [1971 ex.s. c 85 § 10; 1967 ex.s. c 51 § 19; 1945 c 183 § 8; Rem. Supp. 1945 § 6099-17.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.085 Expenses of providing public health services—Payment by counties and cities—Procedure on failure to pay.

The expense of providing public health services shall be borne by each county, city or town within the health district, and the local health officer shall certify the amount agreed upon or as determined pursuant to RCW 70.46.080, and remaining unpaid by each county, city or town to the fiscal or warrant issuing officer of such county, city or town.

If the expense as certified is not paid by any county, city or town within thirty days after the end of the fiscal year, the local health officer shall certify the amount due to the auditor of the county in which the governmental unit is situated who shall promptly issue his warrant on the county treasurer payable out of the current expense fund of the county, which fund shall be reimbursed by the county auditor out of the money due said governmental unit at the next monthly settlement or settlements of the collection of taxes and shall be transferred to the current expense fund. [1967 ex.s. c 51 § 20.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

Expenses of enforcing health laws and regulations: RCW 70.05.130.

70.46.090 Withdrawal of county or city. Any county or any city or town may withdraw from membership in said health district any time after it has been within the district for a period of two years, but no withdrawal shall be effective except at the end of the calendar year in which the county, city or town gives at least six months' notice of its intention to withdraw at the end of the calendar year. No withdrawal shall entitle any member to a refund of any moneys paid to the district nor relieve it of any obligations to pay to the district all sums for which it obligated itself due and owing by it to the district for the year at the end of which the withdrawal is to be effective: *Provided*, That any county, city or town which withdraws from membership in said health district shall immediately establish a health department or provide health services which shall meet the standards for health services promulgated by the state board of health: *Provided further*, That no local health department shall be deemed to provide adequate public health services unless there is at least one full time professionally trained and qualified physician as set forth in RCW 70.05.050. [1967 ex.s. c 51 § 21; 1945 c 183 § 9; Rem. Supp. 1945 § 6099-18.]

Severability—1967 ex.s. c 51: See note following RCW 70.05.010.

70.46.100 Power to acquire, maintain, or dispose of property—Contracts. In addition to all other powers and duties, a health district shall have the power to own, construct, purchase, lease, add to, and maintain any real and personal property or property rights necessary for the conduct of the affairs of the district. A health district may sell, lease, convey or otherwise dispose of any district real or personal property no longer necessary for the conduct of the affairs of the district. A health district may enter into contracts to carry out the provisions of this section. [1957 c 100 § 2.]

70.46.110 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

70.46.120 License or permit fees. In addition to all other powers and duties, health districts shall have the power to charge fees in connection with the issuance or renewal of a license or permit required by law: *Provided*, That the fees charged shall not exceed the actual cost involved in issuing or renewing the license or permit: *Provided further*, That no fees shall be charged pursuant to this section within the corporate limits of any city or town which prior to the enactment of this section charged fees in connection with the issuance or renewal of a license or permit pursuant to city or town ordinance and where said city or town makes a direct contribution to said health district, unless such city or town expressly consents thereto. [1963 c 121 § 1.]

70.46.130 Contracts for sale or purchase of health services authorized. See RCW 70.05.150.

Chapter 70.50 STATE OTOLOGIST

Sections

70.50.010 Appointment—Salary.
70.50.020 Duties.

Hearing tests for public school children: RCW 28A.31.030.

70.50.010 Appointment—Salary. The state director of health shall appoint and employ an otologist skilled in diagnosis of diseases of the ear and defects in hearing, especially for school children with an impaired sense of hearing, and shall fix the salary of such otologist in a sum not exceeding the salary of the director. [1945 c 23 § 1; Rem. Supp. 1945 § 6010-10.]

70.50.020 Duties. The otologist shall cooperate with the state department of public instruction, and with the state, county and city health officers, seeking for the children in the schools who are hard of hearing, or have an impaired sense of hearing, and making otological inspections and examinations of children referred to him by such departments and officers. Where necessary or proper he shall make recommendations to parents or guardians of such children, and urge them to submit such recommendations to physicians to be selected by such parents or guardians. [1945 c 23 § 2; Rem. Supp. 1945 § 6010-11.]

Chapter 70.54 MISCELLANEOUS HEALTH AND SAFETY PROVISIONS

Sections

70.54.010 Polluting water supply—Penalty.
70.54.020 Furnishing impure water—Penalty.
70.54.030 Pollution of watershed of city in adjoining state—Penalty.
70.54.040 State director to advise local authorities on sanitation.
70.54.050 Exposing contagious disease—Penalty.
70.54.060 Ambulances and drivers.
70.54.065 Ambulances and drivers—Penalty.
70.54.070 Door of public buildings to swing outward—Penalty.
70.54.080 Liability of person handling steamboat or steam boiler.
70.54.090 Attachment of objects to utility poles.
70.54.100 Penalty for violation of RCW 70.54.090.
70.54.110 New housing for agricultural workers to comply with board of health regulations.
70.54.120 Immunity from implied warranties and civil liability relating to blood, plasma, and blood derivatives—Scope—Effective date.

Control of cities and towns over water pollution: Chapter 35.88 RCW.

Killing by overloading passenger vessel: RCW 9.48.110.

Malicious mischief: Chapter 9.61 RCW.

Nuisances, generally: Chapters 7.48 and 9.66 RCW.

Water pollution control: Chapter 90.48 RCW.

70.54.010 Polluting water supply—Penalty. Every person who shall deposit or suffer to be deposited in any spring, well, stream, river or lake, the water of which is or may be used for drinking purposes, or on any property owned, leased or otherwise controlled by

any municipal corporation, corporation or person as a watershed or drainage basin for a public or private water system, any matter or thing whatever, dangerous or deleterious to health, or any matter or thing which may or could pollute the waters of such spring, well, stream, river, lake or water system, shall be guilty of a gross misdemeanor. [1909 c 249 § 290; RRS § 2542.]

70.54.020 Furnishing impure water—Penalty. Every owner, agent, manager, operator or other person having charge of any waterworks furnishing water for public or private use, who shall knowingly permit any act or omit any duty or precaution by reason whereof the purity or healthfulness of the water supplied shall become impaired, shall be guilty of a gross misdemeanor. [1909 c 249 § 291; RRS § 2543.]

70.54.030 Pollution of watershed of city in adjoining state—Penalty. Any person who shall place or cause to be placed within any watershed from which any city or municipal corporation of any adjoining state obtains its water supply, any substance which either by itself or in connection with other matter will corrupt, pollute or impair the quality of said water supply, or the owner of any dead animal who shall knowingly leave or cause to be left the carcass or any portion thereof within any such watershed in such condition as to in any way corrupt or pollute such water supply shall be deemed guilty of a misdemeanor and upon conviction shall be punished by fine in any sum not exceeding five hundred dollars. [1909 c 16 § 2; RRS § 9281.]

70.54.040 State director to advise local authorities on sanitation. The commissioners of any county or the mayor of any city may call upon the state commissioner of health for advice relative to improving sanitary conditions or disposing of garbage and sewage or obtaining a pure water supply, and when so called upon the state commissioner of health shall either personally or by an assistant make a careful examination into the conditions existing and shall make a full report containing his advice thereon to the county or city making such request. [1909 c 208 § 3; RRS § 6006.]

70.54.050 Exposing contagious disease—Penalty. Every person who shall wilfully expose himself to another, or any animal affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his or its necessary removal in a manner not dangerous to the public health; and every person so affected who shall expose any other person thereto without his knowledge, shall be guilty of a misdemeanor. [1909 c 249 § 287; RRS § 2539.]

70.54.060 Ambulances and drivers. (1) The drivers of all ambulances shall be required to take the advanced first aid course as prescribed by the American Red Cross.

(2) All ambulances must be at all times equipped with first aid equipment consisting of leg and arm splints and standard twenty-four unit first aid kit as prescribed by the American Red Cross. [1945 c 65 § 1;

Rem. Supp. 1945 § 6131-1. FORMER PART OF SECTION: 1945 c 65 § 2 now codified as RCW 70.54.060, part.]

70.54.065 Ambulances and drivers—Penalty. Any person violating any of the provisions herein shall be guilty of a misdemeanor. [1945 c 65 § 2; Rem. Supp. 1945 § 6131-2. Formerly RCW 70.54.060, part.]

70.54.070 Door of public buildings to swing outward—Penalty. The doors of all theatres, opera houses, school buildings, churches, public halls, or places used for public entertainments, exhibitions or meetings, which are used exclusively or in part for admission to or egress from the same, or any part thereof, shall be so hung and arranged as to open outwardly, and during any exhibition, entertainment or meeting, shall be kept unlocked and unfastened, and in such condition that in case of danger or necessity, immediate escape from such building shall not be prevented or delayed; and every agent or lessee of any such building who shall rent the same or allow it to be used for any of the aforesaid public purposes without having the doors thereof hung and arranged as hereinbefore provided, shall, for each violation of any provision of this section, be guilty of a misdemeanor. [1909 c 249 § 273; RRS § 2525.]

70.54.080 Liability of person handling steamboat or steam boiler. Every person who shall apply, or cause to be applied to a steam boiler a higher pressure of steam than is allowed by law, or by any inspector, officer or person authorized to limit the same; every captain or other person having charge of the machinery or boiler in a steamboat used for the conveyance of passengers on the waters of this state, who, from ignorance or gross neglect, or for the purpose of increasing the speed of such boat, shall create or cause to be created an undue or unsafe pressure of steam; and every engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam, who shall wilfully or from ignorance or gross neglect, create or allow to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident, whereby human life is endangered, shall be guilty of a gross misdemeanor. [1909 c 249 § 280; RRS § 2532.]

Boilers and unfired pressure vessels: Chapter 70.79 RCW.

Division of safety: Chapter 43.22 RCW.

70.54.090 Attachment of objects to utility poles. It shall be unlawful to attach to utility poles any of the following: Advertising signs, posters, vending machines, or any similar object which presents a hazard to, or endangers the lives of, electrical workers. Any attachment to utility poles shall only be made with the permission of the utility involved, and shall be placed not less than twelve feet above the surface of the ground. [1953 c 185 § 1.]

70.54.100 Penalty for violation of RCW 70.54.090. Every person violating the provisions of RCW 70.54.090 shall be guilty of a misdemeanor. [1953 c 185 § 2.]

70.54.110 New housing for agricultural workers to comply with board of health regulations. All new housing and new construction together with the land areas appurtenant thereto which shall be started on and after May 3, 1969, and is to be provided by employers, growers, management, or any other persons, for occupancy by workers or by workers and their dependents, in agriculture, shall comply with the rules and regulations of the state board of health pertaining to labor camps, filed with the office of the code reviser on November 20, 1968 and future amendments and revisions thereof. [1969 ex.s. c 231 § 1.]

70.54.120 Immunity from implied warranties and civil liability relating to blood, plasma, and blood derivatives—Scope—Effective date. The procurement, processing, storage, distribution, administration, or use of whole blood, plasma, blood products and blood derivatives for the purpose of injecting or transfusing the same, or any of them, into the human body is declared to be, for all purposes whatsoever, the rendition of a service by each and every person, firm, or corporation participating therein, and is declared not to be covered by any implied warranty under the Uniform Commercial Code, Title 62A RCW, or otherwise, and no civil liability shall be incurred as a result of any of such acts, except in the case of wilful or negligent conduct: *Provided, however,* That this section shall apply only to liability alleged in the contraction of hepatitis and malaria and shall not apply to any transaction in which the blood donor receives compensation: *Provided further,* That this section shall only apply where the person, firm or corporation rendering the above service shall have maintained records of donor suitability and donor identification similar to those specified in sections 73.301 and 73.302(e) as now written or hereafter amended in Title 42, Public Health Service Regulations adopted pursuant to the Public Health Service Act, 42 U.S.C. 262: *Provided further,* That nothing in this section shall be considered by the courts in determining or applying the law to any blood transfusion occurring before June 10, 1971 and the court shall decide such case as though this section had not been passed. [1971 c 56 § 1.]

Severability—1971 c 56: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 c 56 § 2.] This applies to RCW 70.54.120.

Chapter 70.58 VITAL STATISTICS

Sections

70.58.010	Registration districts.
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70.58.030	Duties of local registrars.
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70.58.300	Registry for handicapped children—Purpose.
70.58.310	Registry for handicapped children—To be established and maintained.
70.58.320	Registry for handicapped children—Reports by physician as to congenital defects or disabling conditions.
70.58.330	Registry for handicapped children—Reports of physicians confidential.
70.58.340	Registry for handicapped children—Cooperation with private or public organizations or agencies—Contributions.
70.58.350	Registry for handicapped children—Rules and regulations.

70.58.010 Registration districts. Each city of the first class shall constitute a primary registration district and each county and the territory of counties jointly comprising a health district, exclusive of the portion included within cities of the first class, served by full time health officers shall constitute a primary registration area. All other counties and municipal areas not included in the foregoing shall be divided into registration areas by the state registrar as he may deem essential to obtain the most efficient registration of vital events as provided by law. [1951 c 106 § 4; 1915 c 180 § 1; 1907 c 83 § 2; RRS § 6019.]

70.58.020 Local registrars—Deputies. Under the direction and control of the state registrar, the health officer of each city of the first class shall be the local registrar in and for the primary registration district under his supervision as health officer and the health officer of each county and district health department normally served by a full-time health officer shall be the local registrar in and for the registration area which he supervises as health officer and shall serve as such as long as he performs the registration duties as prescribed by law. He may be removed as local registrar of the registration area which he serves by the state board of health upon its finding of evidence of neglect in the

performance of his duties as such registrar. The state registrar shall appoint local registrars for those registration areas not included in the foregoing and also in areas where the state board of health has removed the health officer from this position as registrar.

Each local registrar, subject to the approval of the state registrar, shall appoint in writing a sufficient number of deputy registrars to administer the laws relating to vital statistics, and shall certify the appointment of such deputies to the state registrar. Deputy registrars shall act in the case of absence, death, illness or disability of the local registrar, or such other conditions as may be deemed sufficient cause to require their services. [1961 ex.s. c 5 § 5; 1951 c 106 § 5; 1915 c 180 § 2; 1907 c 83 § 3; RRS § 6020.]

Director of combined city-county health department as registrar: RCW 70.08.060.

70.58.030 Duties of local registrars. The local registrar shall supply blank forms of certificates to such persons as require them. He shall carefully examine each certificate of birth, death, and fetal death when presented for record, and see that it has been made out in accordance with the provisions of law and the instructions of the state registrar. If any certificate of death is incomplete or unsatisfactory, he shall call attention to the defects in the return, and withhold issuing the burial-transit permit until it is corrected. If the certificate of death is properly executed and complete, he shall issue a burial-transit permit to the funeral director or person acting as such. If a certificate of a birth is incomplete, he shall immediately notify the informant, and require him to supply the missing items if they can be obtained. He shall sign his name as local registrar to each certificate filed in attest of the date of filing in his office. He shall make a record of each birth, death, and fetal death certificate registered by him in such manner as directed by the state registrar. He shall on or before the tenth day of each month, transmit to the state registrar all original certificates registered by him during the preceding month. If no births or no deaths occurred in any month, he shall, on the tenth day of the following month, report that fact to the state registrar, on a card provided for this purpose: *Provided*, That in cities of the first class the city health officer may require the filing of two original certificates and may retain one of the duplicate original certificates as the city record. [1961 ex.s. c 5 § 6; 1907 c 83 § 18; RRS § 6035.]

70.58.040 Compensation of local registrars. A local registrar shall be paid the sum of one dollar for each birth, death, or fetal death certificate registered for his district which sum shall cover making out the burial-transit permit and record of the certificate to be filed and preserved in his office. If no births or deaths were registered during any month, the local registrar shall be paid the sum of one dollar for each report to that effect: *Provided*, That all local health officers who are by statute required to serve as local registrars shall not be entitled to the fee of one dollar. Neither shall any members of their staffs be entitled to the above fee of one dollar when such persons serve as deputy registrars.

All fees payable to local registrars shall be paid by the treasurer of the county or city, properly chargeable therewith, out of the funds of the county or city, upon warrants drawn by the auditor, or other proper officer of the county or city. No warrant shall be issued to a local registrar except upon a statement, signed by the state registrar, stating the names and addresses respectively of the local registrars entitled to fees from the county or city, and the number of certificates and reports of births, deaths, and fetal deaths, properly returned to the state registrar, by each local registrar, during three preceding calendar months prior to the date of the statement, and the amount of fees to which each local registrar is entitled, which statement the state registrar shall file with the proper officers during the months of January, April, July, and October of each year. Upon filing of the statement the auditor or other proper officer of the county or city shall issue warrants for the amount due each local registrar. [1961 ex.s. c 5 § 7; 1951 c 106 § 8; 1915 c 180 § 10; 1907 c 83 § 19; RRS § 6036.]

70.58.050 Duty to enforce law. The local registrars are hereby charged with the strict and thorough enforcement of the provisions of *this act in their districts, under the supervision and direction of the state registrar. And they shall make an immediate report to the state registrar of any violations of this law coming to their notice by observation or upon the complaint of any person, or otherwise. The state registrar is hereby charged with the thorough and efficient execution of the provisions of *this act in every part of the state, and with supervisory power over local registrars, to the end that all of the requirements shall be uniformly complied with. He shall have authority to investigate cases of irregularity or violation of law, personally or by accredited representative, and all local registrars shall aid him, upon request, in such investigation. When he shall deem it necessary he shall report cases of violation of any of the provisions of *this act to the prosecuting attorney of the proper county with a statement of the fact and circumstances; and when any such case is reported to them by the state registrar, all prosecuting attorneys or officials acting in such capacity shall forthwith initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law. And upon request of the state registrar the attorney general shall likewise assist in the enforcement of the provisions of *this act. [1907 c 83 § 22; RRS § 6039.]

***Reviser's note:** "this act" appears in 1907 c 83 codified as RCW 70.58.010 through 70.58.100, 70.58.230 through 70.58.280, and 43.20.070 through 43.20.090.

70.58.070 Registration of births required. All births that occur in the state shall be immediately registered in the districts in which they occur, as hereinafter provided. [1907 c 83 § 11; RRS § 6028.]

70.58.080 Birth certificates—Unwed mothers. The attending physician or midwife shall file a certificate of birth, properly and completely filled out, giving all of

the particulars required, with the local registrar of the district in which the birth occurred, within ten days after the birth. If there is no attending physician or midwife, the father or mother of the child, householder or owner of the premises, manager or superintendent of the public or private institution in which the birth occurred, shall notify the local registrar, within ten days after the birth, of the fact of the birth, and the local registrar shall secure the necessary information and signature to make a proper certificate of birth.

When an infant is found for whom no certificate of birth is known to be on file, a birth certificate shall be filed within the time and in the form prescribed by the state board of health.

When no putative father is named on a birth certificate of a child born to an unwed mother the mother may give any surname she so desires to her child but shall designate in space provided for father's name on the birth certificate "None Named". [1961 ex.s. c 5 § 8; 1951 c 106 § 6; 1907 c 83 § 12; RRS § 6029.]

70.58.095 New certificate of birth—Legitimation, paternity—Substitution for original—When delayed registration required. The state registrar of vital statistics shall establish a new certificate of birth for a person born in this state when he receives a request that a new certificate be established and such evidence as required by regulation of the state board of health proving that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such person. When a new certificate of birth is established, the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of paternity, or legitimation shall not be subject to inspection except upon order of a court of competent jurisdiction. If no certificate of birth is on file for the person for whom a new certificate is to be established under this section, a delayed registration of birth shall be filed with the state registrar of vital statistics as provided in RCW 70.58.120. [1961 ex.s. c 5 § 21.]

70.58.100 Supplemental report on name of child. It shall be the duty of every local registrar when any certificate of birth of a living child is presented without statement of the given name, to make out and deliver to the parents of such child a special blank for the supplemental report of the given name of the child, which shall be filled out as directed and returned to the registrar as soon as the child has been named. [1915 c 180 § 8; 1907 c 83 § 14; RRS § 6031.]

70.58.110 Delayed registration of births—Authorized. Whenever a birth which occurred in this state on or after July 1, 1907, is not on record in the office of the state registrar or in the office of the auditor of the county in which the birth occurred if the birth was prior to July 1, 1907, application for the registration of the birth may be made by the interested person to the state registrar: *Provided*, That if the person whose birth is to

be recorded be a child under four years of age the attending physician, if available, shall make the registration. [1953 c 90 § 2; 1943 c 176 § 1; 1941 c 167 § 1; Rem. Supp. 1943 § 6011-1.]

70.58.120 Delayed registration of births—Application—Evidence required. The delayed registration of birth form shall be provided by the state registrar and shall be signed by the registrant if of legal age, or by the attendant at birth, parent, or guardian if the registrant is not of legal age. In instances of delayed registration of birth where the person whose birth is to be recorded is four years of age or over but under twelve years of age and in instances where the person whose birth is to be recorded is less than four years of age and the attending physician is not available to make the registration, the facts concerning date of birth, place of birth, and parentage shall be established by at least one piece of documentary evidence. In instances of delayed registration of birth where the person whose birth is to be recorded is twelve years of age or over, the facts concerning date of birth and place of birth shall be established by at least three documents of which only one may be an affidavit. The facts concerning parentage shall be established by at least one document. Documents, other than affidavits, or documents established prior to the fourth birthday of the registrant, shall be at least five years old or shall have been made from records established at least five years prior to the date of application. [1961 ex.s. c 5 § 9; 1953 c 90 § 3; 1943 c 176 § 2; 1941 c 167 § 2; Rem. Supp. 1943 § 6011-2.]

70.58.130 Delayed registration of births—Where registered—Copy as evidence. The birth shall be registered in the records of the state registrar. A certified copy of the record shall be prima facie evidence of the facts stated therein. [1961 ex.s. c 5 § 10; 1953 c 90 § 4; 1951 c 106 § 2; 1943 c 176 § 4; 1941 c 167 § 4; Rem. Supp. 1943 § 6011-4.]

70.58.145 Order establishing record of birth when delayed registration not available—Procedure. When a person alleged to be born in this state is unable to meet the requirements for a delayed registration of birth in accordance with RCW 70.58.120, he may petition the superior court of the county of residence or of the county of birth for an order establishing a record of the date and place of his birth, and his parentage. The court shall fix a time for hearing the petition, and the state registrar shall be given notice at least twenty days prior to the date set for hearing in order that he may present at the hearing any information he believes will be useful to the court. If the court from the evidence presented to it finds that the petitioner was born in this state, the court shall issue an order to establish a record of birth. This order shall include the birth data to be registered. If the court orders the birth of a person born in this state registered, it shall be registered in the records of the state registrar. [1961 ex.s. c 5 § 20.]

70.58.150 "Fetal death", "evidence of life", defined.

A fetal death means any product of conception that shows no evidence of life after complete expulsion or extraction from its mother. The words "evidence of life" include breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. [1961 ex.s. c 5 § 11; 1945 c 159 § 5; Rem. Supp. 1945 § 6024-5.]

70.58.160 Certificate of death or fetal death required.

A certificate of every death or fetal death shall be filed with the local registrar of the district in which the death or fetal death occurred within three days after the occurrence is known, or if the place of death or fetal death is not known, then with the local registrar of the district in which the body is found within twenty-four hours thereafter. In every instance a certificate shall be filed prior to the interment or other disposition of the body: *Provided*, That a certificate of fetal death shall not be required if the period of gestation is less than twenty weeks. [1961 ex.s. c 5 § 12; 1945 c 159 § 1; Rem. Supp. 1945 § 6024-1. Prior: 1915 c 180 § 4; 1907 c 83 § 5.]

70.58.170 Certificate of death or fetal death—By whom filed.

The funeral director or person in charge of interment shall file the certificate of death or fetal death. In preparing such certificate, the funeral director or person in charge of interment shall obtain and enter on the certificate such personal data as the certificate requires from the person or persons best qualified to supply them. He shall present the certificate of death to the physician last in attendance upon the deceased, or, if the deceased died without medical attendance, to the health officer, coroner, or prosecuting attorney having jurisdiction, who shall thereupon certify the cause of death according to his best knowledge and belief. He shall present the certificate of fetal death to the physician, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as he can furnish. [1961 ex.s. c 5 § 13; 1945 c 159 § 2; Rem. Supp. 1945 § 6024-2.]

70.58.180 Certificate when no physician in attendance—Legally accepted cause of death.

If the death occurred without medical attendance, the funeral director or person in charge of interment shall notify the coroner, or prosecuting attorney if there is no coroner in the county. If the circumstances suggest that the death or fetal death was caused by unlawful or unnatural causes or if there is no local health officer with jurisdiction, the coroner, or if none, the prosecuting attorney shall complete and sign the certification, noting upon the certificate that no physician was in attendance at the time of death. In case of any death without medical attendance in which there is no suspicion of death from unlawful or unnatural causes, the local health officer or his deputy, the coroner and if none, the prosecuting attorney, shall complete and sign the certification, noting upon the certificate that no physician was in attendance at the time of death, and noting the cause of death without the holding of an inquest or

performing of an autopsy or post mortem, but from statements of relatives, persons in attendance during the last sickness, persons present at the time of death or other persons having adequate knowledge of the facts.

The cause of death, the manner and mode in which death occurred, as noted by the coroner or if none, the prosecuting attorney or the health officer and incorporated in the death certificate filed with the bureau of vital statistics of the board of health shall be the legally accepted manner and mode by which the deceased came to his or her death and shall be the legally accepted cause of death. [1961 ex.s. c 5 § 14; 1953 c 188 § 5; 1945 c 159 § 3; Rem. Supp. 1945 § 6024-3. Prior: 1915 c 180 § 5; 1907 c 83 § 7.]

70.58.190 Permit to dispose of body when cause of death undetermined.

If the cause of death cannot be determined within three days, the certification of its cause may be filed after the prescribed period, but the attending physician, coroner, or prosecuting attorney shall give the local registrar of the district in which the death occurred written notice of the reason for the delay, in order that a permit for the disposition of the body may be issued if required. [1945 c 159 § 4; Rem. Supp. 1945 § 6024-4.]

70.58.200 Forms of birth, death, marriage, and decrees of divorce, annulment, or separate maintenance certificates—Contents—Confidentiality.

The forms of birth, death, fetal death, marriage, and decrees of divorce, annulment, or separate maintenance certificates filed with the state registrar of vital statistics shall include the items required by the respective standard certificate as recommended by the federal agency responsible for national vital statistics which became effective on January 1, 1968, except that no information shall be required on the certificate of divorce relative to the date the couple separated or the number of children under eighteen years of age: *Provided*, That none of the information contained in the confidential section of the forms of marriage, divorce, annulment or separate maintenance shall be required: *Provided further*, That no information shall be required on the certificate of live birth relative to the education of the parents of the child. The Washington state board of health by regulation may require additional pertinent information relative to the birth and manner of delivery as it may deem necessary for statistical study. This information shall be placed in a confidential section of the birth certificate form together with the item pertaining to illegitimacy and shall not be subject to the view of the public or for certification purposes except upon order of a court: *Provided*, That the state board of health may eliminate from the forms any such items that it determines are not necessary for statistical study. [1969 ex.s. c 279 § 2; 1967 c 26 § 10; 1961 ex.s. c 5 § 15; 1945 c 159 § 6; Rem. Supp. 1945 § 6024-6. Prior: 1907 c 83 § 6.]

70.58.210 Birth certificate upon adoption. Whenever a decree of adoption has been entered declaring a child, born in the state of Washington, adopted in any court of competent jurisdiction in the state of Washington or

any other state, a certified copy of the decree of adoption shall be recorded with the proper department of registration of births in the state of Washington and a certificate of birth shall issue upon request, bearing the new name of the child as shown in the decree of adoption, the names of the foster parents of the said child, age, sex, date of birth, but no reference in any birth certificate shall have reference to the adoption of the said child. However, original registration of births shall remain a part of the record of the said board of health: *Provided, however,* There shall be no difference in the color of birth registration cards or certificates, whether the child be legitimate or illegitimate. [1943 c 12 § 1; 1939 c 133 § 1; Rem. Supp. 1943 § 6013-1.]

Adoption: Chapter 26.32 RCW.

70.58.230 Permits for burial, removal, etc., required—Removal to another district without permit, notice to registrar, fee. It shall be unlawful for any person to inter, deposit in a vault, grave, or tomb, cremate or otherwise dispose of, or disinter or remove from one registration district to another, or hold for more than seventy-two hours after death, the body or remains of any person whose death occurred in this state or any body which shall be found in this state, without obtaining, from the local registrar of the district in which the death occurred or in which the body was found, a permit for the burial, disinterment, or removal of such body: *Provided,* That a licensed funeral director or embalmer of this state may remove a body from the district where the death occurred to another registration district without having obtained a permit but in such cases the funeral director or embalmer shall at the time of removing a body file with or mail to the local registrar of the district where the death occurred a notice of removal upon a blank to be furnished by the state registrar. The notice of removal shall be signed by the funeral director or embalmer and shall contain the name and address of the local registrar with whom the certificate of death will be filed and the burial-transit permit secured. Every local registrar, accepting a death certificate and issuing a burial-transit permit for a death that occurred outside his district, shall be entitled to a fee of one dollar to be paid by the funeral director or embalmer at the time the death certificate is accepted and the permit is secured. It shall be unlawful for any person to bring into or transport within the state or inter, deposit in a vault, grave, or tomb, or cremate or otherwise dispose of the body or remains of any person whose death occurred outside this state unless such body or remains be accompanied by a removal or transit permit issued in accordance with the law and health regulations in force where the death occurred, or unless a special permit for bringing such body into this state shall be obtained from the state registrar. [1961 ex.s. c 5 § 16; 1915 c 180 § 3; 1907 c 83 § 4; RRS § 6021.]

70.58.240 Duties of funeral directors. Each funeral director or person acting as such shall obtain a certificate of death and file the same with the local registrar,

and secure a burial-transit permit, prior to any permanent disposition of the body. He shall obtain the personal and statistical particulars required, from the person best qualified to supply them. He shall present the certificate to the attending physician or in case the death occurred without any medical attendance, to the proper official for certification for the medical certificate of the cause of death and other particulars necessary to complete the record. He shall supply the information required relative to the date and place of disposition and he shall present the completed certificate to the local registrar, for the issuance of a burial-transit permit. He shall deliver the burial permit to the sexton, or person in charge of the place of burial, before interring the body; or shall attach the transit permit to the box containing the corpse, when shipped by any transportation company, and the permit shall accompany the corpse to its destination. [1961 ex.s. c 5 § 17; 1915 c 180 § 6; 1907 c 83 § 8; RRS § 6025.]

70.58.250 Burial-transit permit—Requisites. The burial-transit permit shall contain a statement by the local registrar and over his signature, that a satisfactory certificate of death having been filed with him, as required by law, permission is granted to inter, remove, or otherwise dispose of the body; stating the name of the deceased and other necessary details upon the form prescribed by the state registrar. [1961 ex.s. c 5 § 18; 1907 c 83 § 9; RRS § 6026.]

70.58.260 Burial grounds—Duties of sexton. It shall be unlawful for any person in charge of any premises in which bodies of deceased persons are interred, cremated or otherwise permanently disposed of, to permit the interment, cremation or other disposition of any body upon such premises unless it is accompanied by a burial, removal or transit permit as hereinabove provided. It shall be the duty of the person in charge of any such premises to, in case of the interment, cremation or other disposition of a body therein, endorse upon the permit the date and character of such disposition, over his signature, to return all permits so endorsed to the local registrar of his district within ten days from the date of such disposition, and to keep a record of all bodies disposed of on the premises under his charge, stating, in each case, the name of the deceased person, if known, the place of death, the date of burial or other disposition, and the name and address of the undertaker, which record shall at all times be open to public inspection, and it shall be the duty of every undertaker, or person acting as such, when burying a body in a cemetery or burial grounds having no person in charge, to sign the burial, removal or transit permit, giving the date of burial, write across the face of the permit the words "no person in charge", and file the burial, removal or transit permit within ten days with the registrar of the district in which the cemetery is located. [1915 c 180 § 7; 1907 c 83 § 10; RRS § 6027.]

70.58.270 Data on inmates of hospitals, etc. All superintendents or managers, or other persons in charge of hospitals, almshouses, lying-in or other institutions,

public or private, to which persons resort for treatment of disease, confinement, or are committed by process of law, are hereby required to make a record of all the personal and statistical particulars relative to the inmates in their institutions, at the date of approval of *this act, that are required in the form of the certificate provided for by this act, as directed by the state registrar; and thereafter such record shall be by them made for all future inmates at the time of their admission. And in case of persons admitted or committed for medical treatment of contagious disease, the physician in charge shall specify, for entry in the record, the nature of the disease, and where, in his opinion, it was contracted. The personal particulars and information required by this section shall be obtained from the individual himself, if it is practicable to do so; and when they cannot be so obtained, they shall be secured in as complete a manner as possible from the relatives, friends, or other persons acquainted with the facts. [1907 c 83 § 16; RRS § 6033.]

*Reviser's note: "this act", see note following RCW 70.58.050.

70.58.280 Penalty. Every person who shall violate or wilfully fail, neglect or refuse to comply with any provisions of *this act shall be guilty of a misdemeanor and for a second offense shall be punished by a fine of not less than twenty-five dollars, and for a third and each subsequent offense shall be punished by a fine of not less than fifty dollars or more than two hundred and fifty dollars or by imprisonment for not more than ninety days, or by both fine and imprisonment, and every person who shall wilfully furnish any false information for any certificate required by *this act or who shall make any false statement in any such certificate shall be guilty of a gross misdemeanor. [1915 c 180 § 12; 1907 c 83 § 21; RRS § 6038.]

*Reviser's note: "this act", see note following RCW 70.58.050.

70.58.290 Local registrar to furnish list of deceased voters. See RCW 29.10.095.

70.58.300 Registry for handicapped children—Purpose. The purpose of this enactment is to provide a registry for handicapped children as an aid to their timely treatment and care. [1959 c 177 § 1.]

70.58.310 Registry for handicapped children—To be established and maintained. The director of the department of health, through the state registrar of vital statistics, shall establish and maintain a registry for handicapped children. [1959 c 177 § 2.]

70.58.320 Registry for handicapped children—Reports by physician as to congenital defects or disabling conditions. Whenever the attending physician discovers that a newborn child has a congenital defect, and whenever a physician discovers upon treating a child under the age of fourteen years that such child has a partial or complete disability or a condition which may lead to partial or complete disability, such fact shall be

reported to the local registrar upon a form to be provided by the director of health. No report shall be required if the disabling condition has been previously reported or the condition is not one required to be reported by the director of health. Congenital defects shall be reported at the same time as birth certificates are required to be filed. Each physician shall make a report as to disabling conditions within thirty days after discovery thereof.

The forms to be provided by the director of health for this purpose shall require such information as the director deems necessary to carry out the purpose of RCW 70.58.300 through 70.58.350. [1959 c 177 § 3.]

70.58.330 Registry for handicapped children—Reports of physicians confidential. Except compilations of statistical data furnished by the department, the information furnished in the reports required by RCW 70.58.320 shall be secret and shall not be revealed except upon order of the superior court. [1959 c 177 § 4.]

70.58.340 Registry for handicapped children—Cooperation with private or public organizations or agencies—Contributions. The director of health and any local health officer is authorized to cooperate with and to promote the aid of any medical, health, nursing, welfare, or other private groups or organizations, and with any state agency or political subdivision to furnish statistical data in furtherance of the purpose of RCW 70.58.300 through 70.58.350. The director or any local health officer may accept contributions or gifts in cash or otherwise from any person, group, or governmental agency to further the purpose of RCW 70.58.300 through 70.58.350. [1959 c 177 § 5.]

70.58.350 Registry for handicapped children—Rules and regulations. The state board of health is authorized to make such rules and regulations as are necessary to carry out the purpose of RCW 70.58.300 through 70.58.350. [1959 c 177 § 6.]

Chapter 70.62

TRANSIENT ACCOMMODATIONS—
LICENSING—INSPECTIONS

Sections	
70.62.200	Purpose.
70.62.210	Definitions.
70.62.220	License required—Fee—Display.
70.62.230	Inspection fee.
70.62.240	Rules and regulations.
70.62.250	Powers and duties of department.
70.62.260	Licenses—Applications—Expiration—Renewal.
70.62.270	Suspension or revocation of licenses.
70.62.280	Violations—Penalty.
70.62.290	Fire and safety rules and regulations—Duties of state fire marshal.
70.62.900	Severability—1971 ex.s. c 239.

Reviser's note: Throughout this chapter, the terms "this 1971 amendatory act" or "this act" have been changed to "this chapter". "This 1971 amendatory act" and "this act" consist of this chapter, the amendment of RCW 43.22.050 and the repeal of RCW 70.62.010-70.62.130 and 43.22.060-43.22.110 by 1971 ex.s. c 239.

Food and beverage establishment workers' permits: Chapter 69.06 RCW.

Hotels: Chapter 19.48 RCW.

Inspection of hotels: RCW 43.22.050.

Lien of hotels, lodging and boarding houses: Chapter 60.64 RCW.

70.62.200 Purpose. The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of hotels and motels through a licensing program to promote the protection of the health and welfare of individuals using such accommodations in this state. [1971 ex.s. c 239 § 1.]

70.62.210 Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, except in those instances where the context clearly indicates otherwise:

- (1) The term "transient accommodation" shall mean any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests.
- (2) The term "person" shall mean any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.
- (3) The term "secretary" shall mean the secretary of the Washington state department of social and health services and any duly authorized representative thereof.
- (4) The term "board" shall mean the Washington state board of health.
- (5) The term "department" shall mean the Washington state department of social and health services.
- (6) The term "lodging unit" shall mean one self-contained unit designated by number, letter or some other method of identification. [1971 ex.s. c 239 § 2.]

70.62.220 License required—Fee—Display. The person operating a transient accommodation as defined in this chapter shall secure each year an annual operating license and shall pay a fee therefor in the sum of fifteen dollars. The annual licensure period shall run from January 1st through December 31st of each year. The license fee shall be paid to the department prior to the time the license is issued and such license shall be conspicuously displayed in the lobby or office of the facility for which it is issued. [1971 ex.s. c 239 § 3.]

70.62.230 Inspection fee. In addition to the annual license fee, the person operating a transient accommodation shall pay an annual inspection fee if an inspection is made during the course of the year in accordance with the following schedule:

3 to 24 lodging units	\$15.00
25 to 49 lodging units	25.00
50 to 74 lodging units	35.00
75 to 99 lodging units	50.00
100 to 199 lodging units	75.00
200 and up lodging units	100.00

Only one such inspection fee shall be charged during any calendar year regardless of the number of inspections which may be made. [1971 ex.s. c 239 § 4.]

70.62.240 Rules and regulations. The board shall promulgate such rules and regulations, to be effective no sooner than February 1, 1972, as may be necessary to assure that each transient accommodation will be operated and maintained in a manner consistent with the health and welfare of the members of the public using such facilities. Such rules and regulations shall provide for adequate light, heat, ventilation, cleanliness, and sanitation and shall include provisions to assure adequate maintenance. All rules and regulations and amendments thereto shall be adopted in conformance with the provisions of chapter 34.04 RCW. [1971 ex.s. c 239 § 5.]

70.62.250 Powers and duties of department. The department is hereby granted and shall have and exercise, in addition to the powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the power:

- (1) To develop such rules and regulations for proposed adoption by the board as may be necessary to implement the purposes of this chapter;
- (2) To enter and inspect at any reasonable time any transient accommodation and to make such investigations as are reasonably necessary to carry out the provisions of this chapter and any rules and regulations promulgated thereunder: *Provided*, That no room or suite shall be entered for inspection unless said room or suite is not occupied by any patron or guest of the transient accommodation at the time of entry;
- (3) To perform such other duties and employ such personnel as may be necessary to carry out the provisions of this chapter; and
- (4) To administer and enforce the provisions of this chapter and the rules and regulations promulgated thereunder by the board. [1971 ex.s. c 239 § 6.]

70.62.260 Licenses—Applications—Expiration—Renewal. No person shall operate a transient accommodation as defined in this chapter without having a valid license issued by the department. Applications for a license to operate a transient accommodation shall be filed with the department prior to July 1, 1971, and one-half of the annual license fee shall be included with the application. All licenses issued under the provisions of this chapter shall expire on the first day of January next succeeding the date of issue. All applications for renewal of licenses shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application. [1971 ex.s. c 239 § 7.]

70.62.270 Suspension or revocation of licenses. Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person operating a transient accommodation to comply with the provisions of this chapter, or of any rules and regulations adopted by the board hereunder. All such proceedings shall be governed by the provisions of chapter 34.04 RCW. [1971 ex.s. c 239 § 8.]

70.62.280 Violations—Penalty. Any violation of this chapter or the rules and regulations promulgated hereunder by any person operating a transient accommodation shall be a misdemeanor and shall be punished as such. Each day of operation of a transient accommodation in violation of this chapter shall constitute a separate offense. [1971 1st ex.s. c 239 § 10.]

70.62.290 Fire and safety rules and regulations—Duties of state fire marshal. Rules and regulations establishing fire and life safety requirements, not inconsistent with the provisions of this chapter, shall continue to be promulgated and enforced by the state fire marshal's office. [1971 ex.s. c 239 § 11.]

70.62.900 Severability—1971 ex.s. c 239. If any section or any portion of any section of this 1971 amendatory act is found to be unconstitutional, the finding shall be to the individual section or portion of section specifically found to be unconstitutional and the balance of the act shall remain in full force and effect. [1971 ex.s. c 239 § 12.]

Chapter 70.70 SALE OR USE OF SHODDY

Sections

70.70.010	"Shoddy" defined.
70.70.020	Sale or use of shoddy—Restrictions.
70.70.030	Duty to enforce chapter—Right of entry.
70.70.035	Prosecution of cases.
70.70.040	Penalty.

70.70.010 "Shoddy" defined. The term "shoddy", as used in this chapter, shall include all materials made or manufactured of rags, old clothing, burlap, old mattresses, quilts or pillows. [1909 c 56 § 2; RRS § 6133.]

70.70.020 Sale or use of shoddy—Restrictions. No person, firm or corporation shall, within this state, sell, offer for sale, or manufacture for sale, what is commonly known as shoddy, or use the same in the manufacture of mattresses, quilts, pillows, rugs, couches, lounges or bedding of any kind or description, unless such commodity has been first properly disinfected or in some other manner rendered free from pathogenic or disease bearing germs. [1909 c 56 § 1; RRS § 6132.]

70.70.030 Duty to enforce chapter—Right of entry. It shall be the duty of all departments of health, health officers, commissioners of health or officials discharging similar duties in the state of Washington to enforce the provisions of this chapter, and they shall have power, in the performance of their official duties, to enter any store or manufacturing establishment where the articles mentioned in RCW 70.70.010 are manufactured or are for sale and make such examination as they deem necessary in order to ascertain whether or not the provisions of this chapter are being violated. [1909 c 56 § 3; RRS § 6134.]

70.70.035 Prosecution of cases. It shall be the duty of the attorney general and prosecuting attorneys of the counties of this state to prosecute all cases arising under the provisions of this chapter. [1909 c 56 § 4; RRS § 6135.]

70.70.040 Penalty. Every person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment. [1909 c 56 § 5; RRS § 6136.]

Chapter 70.72 WIPING RAGS

Sections

70.72.010	Wiping rags defined.
70.72.020	Sale, rental prohibited unless disinfected and sterilized—Minimum standards.
70.72.030	Parcels, packages to be marked.
70.72.040	Registration—Renewal—Fees.
70.72.050	Application for registration number—Contents.
70.72.060	Enforcement of chapter—Entry—Examination—Obstructing inspection.
70.72.070	Prosecutions—Remedies available.
70.72.080	Unlawful acts—Penalty.
70.72.090	Rules by local authorities, state board, not prohibited.

70.72.010 Wiping rags defined. "Wiping rags" as used in this chapter includes any cast-off cloth, fabric, second-hand material, clothing, wearing apparel, or any similar material used for wiping or cleaning the surfaces of machinery, machines, tools, locomotives, engines, motor cars, automobiles, cars, carriages, windows, furniture, surfaces of articles, appliances and engines in factories, shops, steamships, steamboats, generally for cleaning in industrial employment, by mechanics and workmen for wiping hands and bodies soil incident to employment, or for any other wiping or cleaning purpose in any school, hospital, factory, industry, shop, or in any commercial or industrial employment. [1959 c 206 § 1.]

70.72.020 Sale, rental prohibited unless disinfected and sterilized—Minimum standards. No person who sells or rents wiping rags shall sell or rent, or offer to sell or rent the same unless they have first been thoroughly washed and boiled in this state by a process of washing and boiling in a solution containing seventy-six hundredths of one percent caustic and/or chloride of lime and dried at a temperature of at least an average of 212 degrees Fahrenheit, or otherwise disinfected or sterilized in as an efficient manner as prescribed by the Washington state board of health, or unless they have been disinfected and sterilized in another state of the United States whose standards for sterilization are no less stringent than those prescribed by this chapter and the rules and regulations hereunder. [1959 c 206 § 2.]

70.72.030 Parcels, packages to be marked. Every parcel or package of wiping rags before being sold, rented, or offered for sale or rent, shall be plainly marked "Sterilized Wiping Rags" and in addition it shall be plainly marked with the name of the Washington board or its state officer authorizing it to sterilize said wiping rags, the name and location of the establishment in which said wiping rags were laundered and sterilized and the date thereof, and the registration number of the establishment as issued by the Washington state health department. [1959 c 206 § 3.]

70.72.040 Registration—Renewal—Fees. Every person, firm, or corporation who washes, cleanses, or launders wiping rags shall register with the state department of health upon forms to be supplied by the department. The state department of health shall issue a Washington state health department registration number to such applicant upon the payment of a ten dollar fee. Each registration number shall be renewed annually by the payment of a ten dollar fee. [1959 c 206 § 4.]

70.72.050 Application for registration number—Contents. The application for a registration number or any renewal thereof shall contain such information as the state department of health reasonably requires which may include any information of ability to comply with the standards, rules and regulations as are lawfully prescribed hereunder. [1959 c 206 § 5.]

70.72.060 Enforcement of chapter—Entry—Examination—Obstructing inspection. It shall be the duty of all departments of health, health officers, or other officials discharging similar duties to enforce the provisions of this chapter, and such officials shall upon proper demand have the right to enter any place at reasonable hours for the purpose of making such examination and inspection as he shall deem necessary in order to determine whether or not the provisions of this chapter are being violated. It shall be unlawful for any person to refuse such inspection and examination or to impede or obstruct such official during the inspection and examination. [1959 c 206 § 6.]

70.72.070 Prosecutions—Remedies available. It shall be the duty of the prosecuting attorneys to prosecute all cases arising under the provisions of this chapter and such officers may obtain injunctive relief, abate as a nuisance, or obtain any other relief available by law. [1959 c 206 § 7.]

70.72.080 Unlawful acts—Penalty. Every person who sterilizes wiping rags without first obtaining a registration number, or who wilfully violates any provision of this chapter, or any rule, order, or regulation issued hereunder, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment. Each day upon which a violation occurs shall constitute a separate violation. [1959 c 206 § 8.]

70.72.090 Rules by local authorities, state board, not prohibited. Nothing in this chapter shall be construed so as to prevent the state board of health or any city, town, or health district from promulgating or enacting any rule, regulation, order, or ordinance not inconsistent with and subject to the provisions of this chapter. [1959 c 206 § 9.]

Chapter 70.74

WASHINGTON STATE EXPLOSIVES ACT

Sections

70.74.010	Definitions.
70.74.020	Restrictions on manufacture, sale, or storage—Users—Reports on storage—Waiver.
70.74.025	Magazines—Classification, location and construction—Standards—Use.
70.74.030	Quantity and distance table for storage—Exceptions.
70.74.040	Limit on storage quantity.
70.74.050	Quantity and distance table for explosives manufacturing buildings.
70.74.061	Quantity and distance table for separation between magazines.
70.74.100	Storage of caps with explosives prohibited.
70.74.110	Manufacturer's report—Inspection—License.
70.74.120	Storage report—Inspection—License—Cancellation.
70.74.130	Dealer in explosives—Application—License—Cancellation.
70.74.135	Purchaser of explosives—Application—License—Issuance—Cancellation.
70.74.137	Purchaser's license fee.
70.74.140	Storage license fee.
70.74.142	User's license or renewal—Fee.
70.74.150	Annual inspection.
70.74.160	Unlawful access to explosives.
70.74.170	Discharge of firearms or igniting flame near explosives.
70.74.180	Explosive devices prohibited—Penalty.
70.74.191	Exemptions.
70.74.201	Municipal or county ordinances unaffected—State preemption.
70.74.210	Coal mining code unaffected.
70.74.220	Penalty.
70.74.230	Shipments out of state—Dealer's records.
70.74.240	Sale to unlicensed person prohibited.
70.74.250	Blasting near fur farms and hatcheries.
70.74.270	Endangering life and property by explosives—Penalty.
70.74.280	Damaging building, etc., by explosion—Penalty.
70.74.290	Keeping explosives unlawfully—Penalty.
70.74.295	Abandonment of explosives.
70.74.297	Separate storage of components capable of detonation when mixed.
70.74.300	Explosive containers to be marked—Penalty.
70.74.310	Gas bombs, explosives, stink bombs, etc.
70.74.320	Small arms ammunition, primers and propellants—Transportation regulations.
70.74.330	Small arms ammunition, primers and propellants—Separation from flammable materials.
70.74.340	Small arms ammunition, primers and propellants—Transportation, storage and display requirements.
70.74.350	Small arms ammunition, primers and propellants—Primers, transportation and storage requirements.

70.74.010 Definitions. As used in this chapter, unless a different meaning is plainly required by the context:

The terms "authorized", "approved" or "approval" shall be held to mean authorized, approved, or approval by the department of labor and industries.

The term "blasting agent" shall be held to mean and include any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients

are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap.

The term "explosive" or "explosives" whenever used in this chapter, shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as class A, class B, and class C explosives by the federal department of transportation: *Provided*, That for the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives.

Classification of explosives shall include but not be limited to the following:

CLASS A EXPLOSIVES: (Possessing detonating hazard) dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.

CLASS B EXPLOSIVES: (Possessing flammable hazard) propellant explosives, including smokeless propellants exceeding fifty pounds.

CLASS C EXPLOSIVES: (Including certain types of manufactured articles which contain class A or class B explosives, or both, as components but in restricted quantities) blasting caps in quantities of 1000 or less.

The term "explosive-actuated power devices" shall be held to mean any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

The term "magazine", shall be held to mean and include any building or other structure, other than a factory building, used for the storage of explosives.

The term "inhabited building", shall be held to mean and include only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

The term "explosives manufacturing plant" shall be held to mean and include all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

The term "explosives manufacturing building", shall be held to mean and include any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

The term "railroad" shall be held to mean and include any steam, electric, or other railroad which carries passengers for hire.

The term "highway" shall be held to mean and include any public street, public alley, or public road.

The term "efficient artificial barricade" shall be held to mean an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

The term "person" shall be held to mean and include any individual, firm, copartnership, corporation, company, association, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

The term "dealer" shall be held to mean and include any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

The term "forbidden or not acceptable explosives" shall be held to mean and include explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal department of transportation.

The term "handloader" shall be held to mean and include any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

The term "handloader components" means small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

The term "fuel" shall be held to mean and include a substance which may react with the oxygen in the air or with the oxygen yielded by an oxidizer to produce combustion.

The term "motor vehicle" shall be held to mean and include any self-propelled automobile, truck, tractor, semi-trailer or full trailer, or other conveyance used for the transportation of freight.

The term "natural barricade" shall be held to mean and include any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

The term "oxidizer" shall be held to mean a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

The term "propellant-actuated power device" shall be held to mean and include any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

The term "public conveyance" shall be held to mean and include any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

The term "public utility transmission system" shall mean power transmission lines over 10 KV, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

The term "purchaser" shall be held to mean any person who buys, accepts, or receives any explosives or blasting agents.

The term "pyrotechnics" shall be held to mean and include any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

The term "small arms ammunition" shall be held to mean and include any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

The term "small arms ammunition primers" shall be held to mean small percussion-sensitive explosive charges encased in a cup, used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

The term "smokeless propellants" shall be held to mean and include solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

The term "user" shall be held to mean and include any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

Words used in the singular number shall include the plural, and the plural the singular. [1972 ex.s. c 88 § 5; 1970 ex.s. c 72 § 1; 1969 ex.s. c 137 § 3; 1931 c 111 § 1; RRS § 5440-1.]

Severability—1931 c 111: "In case any provision of this act shall be adjudged unconstitutional, or void for any other reason, such adjudication shall not affect any of the other provisions of this act." [1931 c 111 § 19.]

Use of words: RCW 1.12.050.

70.74.020 Restrictions on manufacture, sale, or storage—Users—Reports on storage—Waiver. No person shall manufacture, possess, store, sell, purchase, transport, or use explosives or blasting agents except in compliance with this chapter.

The director of the department of labor and industries shall make and promulgate rules and regulations concerning qualifications of users of explosives and shall have the authority to issue licenses for users of explosives to effectuate the purpose of this chapter: *Provided*, That where there is a finding by the director that

the use or disposition of explosives in any class of industry presents no unusual hazard to the safety of life or limb of persons employed therewith, and where the users are supervised by a superior in an employment relationship who is sufficiently experienced in the use of explosives, and who possesses a license for such use under this chapter, the director in his discretion may exclude said users in those classes of industry from individual licensing.

The director of the department of labor and industries shall make and promulgate rules and regulations concerning the manufacture, sale, purchase, use, transportation, storage, and disposal of explosives, and shall have the authority to issue licenses for the manufacture, purchase, sale, use, transportation, and storage of explosives to effectuate the purpose of this chapter. The director of the department of labor and industries is hereby delegated the authority to grant written waiver of this chapter whenever it can be shown that the manufacturing, handling, or storing of explosives are in compliance with applicable national or federal explosive safety standards: *Provided*, That any resident of this state who is qualified to purchase explosives in this state and who has complied with the provisions of this chapter applicable to him may purchase explosives from an authorized dealer of a bordering state and may transport said explosives into this state for use herein: *Provided further*, That residents of this state shall, within ten days of the date of purchase, present to the department of labor and industries a report signed by both vendor and vendee of every purchase from an out of state dealer, said report indicating the date of purchase, name of vendor, vendor's license number, vendor's business address, amount and kind of explosives purchased, the name of the purchaser, the purchaser's license number, and the name of receiver if different than purchaser.

It shall be unlawful to sell, give away or otherwise dispose of, or deliver to any person under twenty-one years of age any explosives other than small arms ammunition and handloader components, whether said person is acting for himself or for any other person: *Provided*, That if there is a finding by the director that said use or disposition of explosives poses no unusual hazard to the safety of life or limb in any class of industry, where persons eighteen years of age or older are employed as users, and where said persons are adequately trained and adequately supervised by a superior in an employment relationship who is sufficiently experienced in the use of explosives, and who possesses a valid license for such use under this chapter, the director in his discretion may exclude said persons in that class of industry from said minimum age requirement.

All persons engaged in keeping, using or storing any compound, mixture or material, in wet condition, or otherwise, which upon drying out or undergoing other physical changes, may become an explosive within the definition of RCW 70.74.010, shall report in writing subscribed to by such person or his agent, to the department of labor and industries, report blanks to be furnished by such department, and such reports to require:

(1) The kind of compound, mixture or material kept or stored, and maximum quantity thereof.

(2) Condition or state of compound, mixture or material.

(3) Place where kept or stored.

The department of labor and industries may at any time cause an inspection to be made to determine whether the condition of the compound, mixture or material is as reported. [1972 ex.s. c 88 § 6; 1969 ex.s. c 137 § 4; 1967 c 99 § 1; 1931 c 111 § 2; RRS § 5440-2.]

70.74.025 Magazines—Classification, location and construction—Standards—Use. The director of the department of labor and industries shall establish by rule or regulation requirements for classification, location and construction of magazines for storage of explosives in compliance with accepted applicable explosive safety standards. All explosives shall be kept in magazines which meet the requirements of this chapter. [1969 ex.s. c 137 § 9.]

70.74.030 Quantity and distance table for storage—Exceptions. All explosive manufacturing buildings and magazines in which explosives or blasting agents except small arms ammunition and smokeless powder are had, kept, or stored, must be located at distances from inhabited buildings, railroads, highways, and public utility transmission systems in conformity with the following quantity and distance tables, and these tables shall be the basis on which applications for license for storage shall be made and license for storage issued, as provided in RCW 70.74.110 and 70.74.120. All distances prescribed in the following quantity and distance tables are unbarricaded, and, if there is an efficient artificial barricade or a natural barricade between the explosives manufacturing building or magazine and another explosives manufacturing building or magazine, building, railroad, highway, or public utility transmission system, the distance prescribed in the following quantity and distance tables may be reduced by one-half. Blasting and electric blasting caps in strength through No. 8 must be rated as one and one-half pounds of explosives per one thousand caps. Blasting and electric blasting caps of strength higher than No. 8 must be computed on the combined weight of explosives.

The quantity and distance table governing the manufacture, keeping and storage of explosives to be as follows:

QUANTITY AND DISTANCE TABLE

Column 1 Quantity that may be had, kept or stored		Column 2 Distance from Nearest Inhabited Building	Column 3 Distance From Nearest Railroad	Column 4 Distance from Nearest Highway and Public Utility Transmission System
EXPLOSIVES				
Pounds Over	Pounds Not Over	Feet	Feet	Feet
2	5	140	60	60
5	10	180	70	70
10	20	220	90	90
20	30	250	100	100
30	40	280	110	110
40	50	300	120	120
50	75	340	140	140
75	100	380	150	150
100	125	400	160	160
125	150	430	170	170
150	200	470	190	190
200	250	510	210	210
250	300	540	220	220
300	400	590	240	240
400	500	640	260	260
500	600	680	270	270
600	700	710	290	290
700	800	750	300	300
800	900	780	310	310
900	1,000	800	320	320
1,000	1,200	850	340	330
1,200	1,400	900	360	340
1,400	1,600	940	380	350
1,600	1,800	980	390	360
1,800	2,000	1,010	410	370
2,000	2,500	1,090	440	380
2,500	3,000	1,160	470	390
3,000	4,000	1,270	510	420
4,000	5,000	1,370	550	450
5,000	6,000	1,460	590	470
6,000	7,000	1,540	620	490
7,000	8,000	1,600	640	500
8,000	9,000	1,670	670	510
9,000	10,000	1,730	690	520
10,000	12,000	1,750	740	540
12,000	14,000	1,770	780	550
14,000	16,000	1,800	810	560
16,000	18,000	1,880	840	570
18,000	20,000	1,950	870	580
20,000	25,000	2,110	940	630
25,000	30,000	2,260	1,000	680
30,000	35,000	2,410	1,050	720
35,000	40,000	2,550	1,100	760
40,000	45,000	2,680	1,140	800
45,000	50,000	2,800	1,180	840
50,000	55,000	2,920	1,220	880
55,000	60,000	3,030	1,260	910
60,000	65,000	3,130	1,290	940
65,000	70,000	3,220	1,320	970
70,000	75,000	3,310	1,350	1,000
75,000	80,000	3,390	1,380	1,020
80,000	85,000	3,460	1,410	1,040
85,000	90,000	3,520	1,440	1,060
90,000	95,000	3,580	1,460	1,080
95,000	100,000	3,630	1,490	1,090
100,000	110,000	3,670	1,540	1,100
110,000	120,000	3,710	1,580	1,110
120,000	130,000	3,750	1,620	1,120
130,000	140,000	3,780	1,670	1,130
140,000	150,000	3,800	1,700	1,140
150,000	160,000	3,870	1,740	1,160
160,000	170,000	3,930	1,780	1,180
170,000	180,000	3,980	1,810	1,200

Column 1 Quantity that may be had, kept or stored		Column 2 Distance from Nearest Inhabited Building	Column 3 Distance From Nearest Railroad	Column 4 Distance from Nearest Highway and Public Utility Transmission System
Pounds Over	Pounds Not Over	Feet	Feet	Feet
180,000	190,000	4,020	1,840	1,210
190,000	200,000	4,060	1,870	1,220
200,000	210,000	4,110	1,910	1,240
210,000	230,000	4,200	1,960	1,270
230,000	250,000	4,310	2,020	1,300
250,000	275,000	4,430	2,080	1,340
275,000	300,000	4,550	2,150	1,380

[1972 ex.s. c 88 § 7; 1969 ex.s. c 137 § 10; 1931 c 111 § 5; RRS § 5440-5.]

70.74.040 Limit on storage quantity. No quantity in excess of three hundred thousand pounds, or the equivalent in blasting caps shall be had, kept or stored in any factory building or magazine in this state. [1970 ex.s. c 72 § 2; 1931 c 111 § 4; RRS § 5440-4.]

70.74.050 Quantity and distance table for explosives manufacturing buildings. All explosives manufacturing buildings shall be located one from the other and from other buildings on explosives manufacturing plants in which persons are regularly employed, and all magazines shall be located from factory buildings and buildings on explosives plants in which persons are regularly employed, in conformity with the intraexplosives plant quantity and distance table below set forth:

EXPLOSIVES		
Pounds Over	Pounds Not Over	Distance Feet
.....	10	
10	25	40
25	50	60
50	100	80
100	200	100
200	300	120
300	400	130
400	500	140
500	750	160
750	1,000	180
1,000	1,500	210
1,500	2,000	230
2,000	3,000	260
3,000	4,000	280
4,000	5,000	300
5,000	6,000	320
6,000	7,000	340
7,000	8,000	360
8,000	9,000	380
9,000	10,000	400
10,000	12,500	420
12,500	15,000	450
15,000	17,500	470

EXPLOSIVES		
Pounds Over	Pounds Not Over	Distance Feet
17,500	20,000	490
20,000	25,000	530
25,000	30,000	560
30,000	35,000	590
35,000	40,000	620
40,000	45,000	640
45,000	50,000	660
50,000	55,000	680
55,000	60,000	700
60,000	65,000	720
65,000	70,000	740
70,000	75,000	770
75,000	80,000	780
80,000	85,000	790
85,000	90,000	800
90,000	95,000	820
95,000	100,000	830
100,000	125,000	900
125,000	150,000	950
150,000	175,000	1,000
175,000	200,000	1,050
200,000	225,000	1,100
225,000	250,000	1,150

[1972 ex.s. c 88 § 8; 1931 c 111 § 5; RRS § 5440-5.]

70.74.061 Quantity and distance table for separation between magazines. Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances based on the following:

(1) Blasting caps in strengths through No. 8 should be rated at one and one-half pounds of explosive per one thousand caps;

(2) For strengths higher than No. 8, use the total combined weight of explosives;

(3) Magazines in which explosives are kept and stored shall be detached from other structures and separated from other magazines in conformity with the quantity and distance table set forth below:

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

[1969 ex.s. c 137 § 11.]

70.74.100 Storage of caps with explosives prohibited.

No blasting caps, or other detonating or fulminating caps, or detonators, or flame-producing devices shall be kept or stored in any magazine in which other explosives are kept or stored. [1969 ex.s. c 137 § 12; 1931 c 111 § 10; RRS § 5440-10.]

70.74.110 Manufacturer's report—Inspection—

License. All persons engaged in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device, on the date when this 1969 amendatory act takes effect, shall within sixty days thereafter, and all persons engaging in the manufacture of explosives, or any process involving explosives, or where explosives are used as a component part in the manufacture of any article or device after this act takes effect shall, before so engaging, make an application in writing, subscribed to by such person or his agent, to the department of labor and industries, the application stating:

- (1) Location of place of manufacture or processing;
- (2) Kind of explosives manufactured, processed or used;
- (3) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads and highways and public utility transmission systems;
- (4) The name and address of the applicant;
- (5) The reason for desiring to manufacture explosives;
- (6) The applicant's citizenship, if the applicant is an individual;
- (7) If the applicant is a partnership, the names and addresses of the partners, and their citizenship;
- (8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and
- (9) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

There shall be kept in the main office on the premises of each explosives manufacturing plant a plan of said plant showing the location of all explosives manufacturing buildings and the distance they are located from other factory buildings where persons are employed and from magazines, and these plans shall at all times be open to inspection by duly authorized inspectors of the department of labor and industries. The superintendent of each plant shall upon demand of said inspector furnish the following information:

- (a) The maximum amount and kind of explosive material which is or will be present in each building at one time.
- (b) The nature and kind of work carried on in each building and whether or not said buildings are surrounded by natural or artificial barricades.

The department of labor and industries shall as soon as may be after receiving such application cause an inspection to be made of the explosives manufacturing plant, and if found to be in accordance with RCW 70.74.030 and 70.74.050 and RCW 70.74.061, such department shall issue a license to the person applying therefor showing compliance with the provisions of this chapter, unless the department shall find that the applicant or the officers, agents or employees of the applicant are not sufficiently experienced in the manufacture of explosives, have been convicted of a crime involving

moral turpitude, or are disloyal to the United States. Such license shall continue in full force and effect until surrendered or canceled, because of failure to comply with any of the conditions necessary for the granting of a license. [1969 ex.s. c 137 § 13; 1941 c 101 § 1; 1931 c 111 § 11; Rem. Supp. 1941 § 5440-1.]

Effective date—1969 ex.s. c 137: The effective date of 1969 ex.s. c 137 was August 11, 1969.

70.74.120 Storage report—Inspection—License—Cancellation. All persons engaged in keeping or storing and all persons having in their possession explosives on the date when this 1969 amendatory act takes effect shall within sixty days thereafter, and all persons engaging in keeping or storing explosives or coming into possession thereof after this act takes effect, shall before engaging in the keeping or storing of explosives or taking possession thereof, make an application in writing subscribed to by such person or his agent, to the department of labor and industries stating:

(1) The location of the magazine, if any, if then existing, or in case of a new magazine, the proposed location of such magazine;

(2) The kind of explosives that are kept or stored or possessed or intended to be kept or stored or possessed and the maximum quantity that is intended to be kept or stored or possessed thereat;

(3) The distance that such magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways and public utility transmission systems;

(4) The name and address of the applicant;

(5) The reason for desiring to store or possess explosives;

(6) The citizenship of the applicant if the applicant is an individual;

(7) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(8) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(9) And such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall, as soon as may be after receiving such application, cause an inspection to be made of the magazine, if then constructed, and, in the case of a new magazine, as soon as may be after same is found to be constructed in accordance with the specification provided in RCW 70.74.025, such department shall determine the amount of explosives that may be kept and stored in such magazine by reference to the quantity and distance tables set forth in RCW 70.74.030, 70.74.050 and 70.74.061, and shall issue a license to the person applying therefor, unless the department shall find that such applicant is not sufficiently experienced in the handling of explosives, lacks suitable facilities therefor, has been convicted of a crime involving moral turpitude, or is disloyal to the United States. Said license shall set forth the maximum quantity of explosives that may be had, kept or stored

by said person. Such license shall be valid until canceled for one or more of the causes hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the license therefor, such as:

(a) The erection of buildings nearer said magazine;

(b) The construction of railroads nearer said magazine;

(c) The opening for public travel of highways nearer said magazine; or

(d) The construction of public utilities transmission systems near said magazine; then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to conform to such changed conditions in accordance with the quantity and distance table notwithstanding the license, and the department of labor and industries shall modify or cancel such license in accordance with the changed conditions. Said license may also be canceled if the department of labor and industries shall find that the applicant is keeping explosives for an unlawful purpose or is disloyal to the United States. Whenever any person to whom a license has been issued, keeps or stores in the magazine or has in his possession, any quantity of explosives in excess of the maximum amount set forth in said license, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the department is authorized to cancel such license. Whenever a license is canceled by the department for any cause herein specified, the department shall notify the person to whom such license is issued of the fact of such cancellation and shall in said notice direct the removal of all explosives stored in said magazine within ten days from the giving of said notice, or, if the cause of cancellation be the failure to pay the annual license fee, or the fact that explosives are kept for an unlawful purpose, or the applicant is disloyal to the United States, the department of labor and industries shall order such person to dispossess himself of said explosives within ten days from the giving of said notice. Failure to remove the explosives stored in said magazine or to dispossess oneself of the explosives as herein provided within the time specified in said notice shall constitute a violation of this chapter. [1969 ex.s. c 137 § 14; 1941 c 101 § 2; 1931 c 111 § 12; Rem. Supp. 1941 § 5440-12.]

Effective date—1969 ex.s. c 137: The effective date of 1969 ex.s. c 137 was August 11, 1969.

70.74.130 Dealer in explosives—Application—License—Cancellation. Every person desiring to engage in the business of dealing in explosives shall apply to the department of labor and industries for a license therefor. Said application shall state, among other things:

(1) The name and address of applicant;

(2) The reason for desiring to engage in the business of dealing in explosives;

(3) Citizenship, if an individual applicant;

(4) If a partnership, the names and addresses of the partners and their citizenship;

(5) If an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and

(6) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license applied for unless the department finds that either the applicant or any of the officers, agents or employees of the applicant are not sufficiently experienced in the business of dealing in explosives, lack suitable facilities therefor, have been convicted of a crime involving moral turpitude, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof. [1969 ex.s. c 137 § 16; 1941 c 101 § 3; Rem. Supp. 1941 § 5440-12a.]

70.74.135 Purchaser of explosives—Application—License—Issuance—Cancellation. All persons desiring to purchase explosives except handloader components shall apply to the department of labor and industries for a license. Said application shall state, among other things:

- (1) The location where explosives are to be used;
- (2) The kind and amount of explosives to be used;
- (3) The name and address of the applicant;
- (4) The reason for desiring to use explosives;
- (5) The citizenship of the applicant if the applicant is an individual;
- (6) If the applicant is a partnership, the names and addresses of the partners and their citizenship;
- (7) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship; and
- (8) Such other pertinent information as the director of the department of labor and industries shall require to effectuate the purpose of this chapter.

The department of labor and industries shall issue the license applied for unless the department finds that either the applicant or any of the officers, agents or employees of the applicant are not sufficiently experienced in the use of explosives, lack suitable facilities therefor, have been convicted of a felony involving force or violence, or are disloyal to the United States. Said license may be canceled for any cause that would prevent the initial issuance thereof; or for any violation of this chapter. [1971 ex.s. c 302 § 7; 1970 ex.s. c 72 § 3; 1969 ex.s. c 137 § 18.]

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

70.74.137 Purchaser's license fee. Every person applying for a purchaser's license, or renewal thereof, shall pay an annual license fee of two dollars. Said license fee shall accompany the application, and be by the department turned over to the state treasurer: *Provided*, That if the applicant is denied a purchaser's license the license fee shall be returned to said applicant by registered mail. [1972 ex.s. c 88 § 2.]

70.74.140 Storage license fee. Every person engaging in the business of keeping or storing of explosives, shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, of not less than one dollar nor more than fifty dollars. Said license fee shall accompany the application, and be by the department turned over to the state treasurer. [1969 ex.s. c 137 § 15; 1931 c 111 § 13; RRS § 5440-13.]

70.74.142 User's license or renewal—Fee. Every person applying for a user's license, or renewal thereof, under this chapter shall pay an annual license fee of three dollars. Said license fee shall accompany the application, and be turned over by the department to the state treasurer: *Provided*, That if the applicant is denied a user's license the license fee shall be returned to said applicant by registered mail. [1972 ex.s. c 88 § 1.]

70.74.150 Annual inspection. The department of labor and industries shall make, or cause to be made, at least one inspection during every year, of each licensed explosives plant or magazine. [1931 c 111 § 14; RRS § 5440-14.]

70.74.160 Unlawful access to explosives. No person, except an official as authorized herein or a person authorized to do so by the owner thereof, or his agent, shall enter any explosives manufacturing building, magazine or car, vehicle or other common carrier containing explosives in this state. [1969 ex.s. c 137 § 19; 1931 c 111 § 15; RRS § 5440-15.]

70.74.170 Discharge of firearms or igniting flame near explosives. No person shall discharge any firearms at or against any magazine or explosives manufacturing buildings or ignite any flame or flame-producing device nearer than two hundred feet from said magazine or explosives manufacturing building. [1969 ex.s. c 137 § 20; 1931 c 111 § 16; RRS § 5440-16.]

70.74.180 Explosive devices prohibited—Penalty. Any person who shall have in his possession or control any shell, bomb or similar device, charged or filled with one or more explosives, intending to use the same or cause same to be used for an unlawful purpose, shall be deemed guilty of a felony, and upon conviction, shall be punished by imprisonment in a state prison for a term of not less than five years nor more than twenty-five years. [1969 ex.s. c 137 § 21; 1931 c 111 § 18; RRS § 5440-18.]

70.74.191 Exemptions. The laws contained in this chapter and the ensuing regulations prescribed by the department of labor and industries shall not apply to:

- (1) Explosives or blasting agents in the course of transportation by way of railroad, water, highway or air under the jurisdiction of, and in conformity with, regulations adopted by the federal department of transportation, the Washington state utilities and transportation commission and the Washington state patrol;

(2) The laboratories of schools, colleges and similar institutions if confined to the purpose of instruction or research and if not exceeding the quantity of one pound;

(3) Explosives in the forms prescribed by the official United States Pharmacopoeia;

(4) The transportation, storage and use of explosives or blasting agents in the normal and emergency operations of federal agencies and departments including the regular United States military departments on military reservations, or the duly authorized militia of any state or territory, or to emergency operations of any state department or agency, any police, or any municipality or county;

(5) The sale and use of fireworks, signaling devices, flares, fuses, and torpedoes;

(6) Any violation under this chapter if any existing ordinance of any city, municipality or county is more stringent than this chapter. [1969 ex.s. c 137 § 5.]

70.74.201 Municipal or county ordinances unaffected—State preemption. This chapter shall not affect, modify or limit the power of a city, municipality or county in this state to make an ordinance that is more stringent than this chapter which is applicable within their respective corporate limits or boundaries: *Provided*, That the state shall be deemed to have preempted the field of regulation of small arms ammunition and handloader components. [1970 ex.s. c 72 § 5; 1969 ex.s. c 137 § 6.]

70.74.210 Coal mining code unaffected. All acts and parts of acts inconsistent with this act are hereby repealed: *Provided, however*, That nothing in this act shall be construed as amending, limiting, or repealing any provision of chapter 36, session laws of 1917, known as the coal mining code. [1931 c 111 § 22; RRS § 5440-22.]

Coal mining code: Chapter 78.40 RCW.

70.74.220 Penalty. Except as otherwise provided by the specific penalty provisions in this chapter, whoever fails to comply with or violates any of the provisions of this chapter shall be guilty of a gross misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five dollars, nor more than five hundred dollars. [1969 ex.s. c 137 § 7; 1931 c 111 § 17; RRS § 5440-17.]

70.74.230 Shipments out of state—Dealer's records. If any manufacturer of explosives or dealer therein shall have shipped any explosives into another state, and the laws of such other state shall designate an officer or agency to regulate the possession, receipt or storage of explosives, and such officer or agency shall so require, such manufacturer shall, at least once each calendar month, file with such officer or agency of such other state a report giving the names of all purchasers and the amount and description of all explosives sold or delivered in such other state. Dealers in explosives shall keep a record of all explosives purchased or sold by them, which record shall include the name and address

of each vendor and vendee, the date of each sale or purchase, and the amount and kind of explosives sold or purchased. Such records shall be open for inspection by the duly authorized agents of the department of labor and industries and by all federal, state and local law enforcement officers at all times, and a copy of such record shall be furnished once each calendar month to the department of labor and industries in such form as said department shall prescribe. [1941 c 101 § 4; Rem. Supp. 1941 § 5440-23.]

70.74.240 Sale to unlicensed person prohibited. No dealer shall sell, barter, give or dispose of explosives to any person who does not hold a license to purchase explosives issued under the provisions of this chapter. [1970 ex.s. c 72 § 4; 1969 ex.s. c 137 § 17; 1941 c 101 § 5; Rem. Supp. 1941 § 5440-24.]

70.74.250 Blasting near fur farms and hatcheries. Between the dates of January 15th and June 15th of each year it shall be unlawful for any person to do, or cause to be done, any blasting within fifteen hundred feet from any fur farm or commercial hatchery except in case of emergency without first giving to the person in charge of such farm or hatchery twenty-four hours notice: *Provided, however*, That in the case of an established quarry and sand and gravel operations, and where it is necessary for blasting to be done continually, the notice required in this section may be made at the beginning of the period each year when blasting is to be done. [1941 c 107 § 1; Rem. Supp. 1941 § 5440-25.]

70.74.270 Endangering life and property by explosives—Penalty. Every person who shall maliciously place any explosive substance or material in, upon, under, against or near any building, car, vessel, railroad track, airplane, public utility transmission system, or structure, in such manner or under such circumstances as to destroy or injure the same if exploded, shall be guilty of a felony, and if the circumstances and surroundings are such that the safety of any person might be endangered by the explosion thereof, shall be punished by imprisonment in the state penitentiary for not more than twenty-five years. [1971 ex.s. c 302 § 8; 1969 ex.s. c 137 § 23; 1909 c 249 § 400; RRS § 2652.]

70.74.280 Damaging building, etc., by explosion—Penalty. Every person who shall maliciously, by the explosion of gunpowder or any other explosive substance or material, destroy or damage any building, car, airplane, vessel, common carrier, railroad track, public utility transmission system or structure, shall be punished as follows:

(1) If thereby the life or safety of a human being is endangered, by imprisonment in the state penitentiary for not more than twenty-five years;

(2) In every other case by imprisonment in the state penitentiary for not more than five years. [1971 ex.s. c 302 § 9; 1969 ex.s. c 137 § 24; 1909 c 249 § 401; RRS § 2653.]

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

Death by unlawful keeping of explosives: RCW 9.48.140.

70.74.290 Keeping explosives unlawfully—Penalty. Every person who shall make or keep any explosive in any city or village, or carry it through the streets thereof in a quantity, or manner prohibited by law, or by ordinance of such municipality; and every person who, by careless, negligent or unauthorized use or management of any such explosive, shall injure or cause injury to the person or property of another, shall be guilty of a gross misdemeanor. [1969 ex.s. c 137 § 25; 1909 c 249 § 252; RRS § 2504.]

70.74.295 Abandonment of explosives. It shall be unlawful for any person to abandon explosives or explosive substances. [1972 ex.s. c 88 § 3.]

70.74.297 Separate storage of components capable of detonation when mixed. Any two components which, when mixed, become capable of detonation by a No. 6 cap must be stored in separate locked containers or in a licensed, approved magazine. [1972 ex.s. c 88 § 4.]

70.74.300 Explosive containers to be marked—Penalty. Every person who shall put up for sale, or who shall deliver to any warehouseman, dock, depot, or common carrier any package, cask or can containing any explosive, nitroglycerin, dynamite, or powder, without having been properly labeled thereon to indicate its explosive classification, shall be guilty of a gross misdemeanor. [1969 ex.s. c 137 § 26; 1909 c 249 § 254; RRS § 2506.]

Reviser's note: Caption for 1909 c 249 § 254 reads as follows: "Sec. 254. *Transporting Explosives.*"

70.74.310 Gas bombs, explosives, stink bombs, etc. Any person other than a lawfully constituted peace officer of this state who shall deposit, leave, place, spray, scatter, spread or throw in any building, or any place, or who shall counsel, aid, assist, encourage, incite or direct any other person or persons to deposit, leave, place, spray, scatter, spread or throw, in any building or place, or who shall have in his possession for the purpose of, and with the intent of depositing, leaving, placing, spraying, scattering, spreading or throwing, in any building or place, or of counseling, aiding, assisting, encouraging, inciting or directing any other person or persons to deposit, leave, place, spray, scatter, spread or throw, any stink bomb, stink paint, tear bomb, tear shell, explosive or flame-producing device, or any other device, material, chemical or substance, which, when exploded or opened, or without such exploding or opening, by reason of its offensive and pungent odor, does or will annoy, injure, endanger or inconvenience any person or persons, shall be guilty of a gross misdemeanor: *Provided*, That this section shall not apply to persons in the military service, actually engaged in the performance of military duties, pursuant to orders from competent authority nor to any property owner or person acting under his authority in providing protection against the commission of a felony. [1969 ex.s. c 137 § 27; 1927 c 245 § 1; RRS § 2504-1.]

70.74.320 Small arms ammunition, primers and propellants—Transportation regulations. The federal regulations of the United States department of transportation on the transportation of small arms ammunition, of small arms ammunition primers, and of small arms smokeless propellants are hereby adopted in this chapter by reference.

The director of the department of labor and industries has the authority to issue future regulations in accordance with amendments and additions to the federal regulations of the United States department of transportation on the transportation of small arms ammunition, of small arms ammunition primers, and of small arms smokeless propellants. [1969 ex.s. c 137 § 28.]

70.74.330 Small arms ammunition, primers and propellants—Separation from flammable materials. Small arms ammunition shall be separated from flammable liquids, flammable solids and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of twenty-five feet. [1969 ex.s. c 137 § 29.]

70.74.340 Small arms ammunition, primers and propellants—Transportation, storage and display requirements. Quantities of small arms smokeless propellant (class B) in shipping containers approved by the federal department of transportation not in excess of fifty pounds may be transported in a private vehicle.

Quantities in excess of twenty-five pounds but not to exceed fifty pounds in a private passenger vehicle shall be transported in an approved magazine as specified by the department of labor and industries rules and regulations.

Transportation of quantities in excess of fifty pounds is prohibited in passenger vehicles: *Provided*, That this requirement shall not apply to duly licensed dealers.

Transportation of quantities in excess of fifty pounds shall be in accordance with federal department of transportation regulations.

Small arms smokeless propellant intended for personal use in quantities not to exceed twenty-five pounds may be stored without restriction in residences; quantities over twenty-five pounds but not to exceed fifty pounds shall be stored in a strong box or cabinet constructed with three-fourths inch plywood (minimum), or equivalent, on all sides, top, and bottom.

Black powder as used in muzzle loading firearms may be transported in a private vehicle or stored without restriction in private residences in quantities not to exceed five pounds.

Not more than seventy-five pounds of small arms smokeless propellant, in containers of one pound maximum capacity may be displayed in commercial establishments.

Not more than twenty-five pounds of black powder as used in muzzle loading firearms may be stored in commercial establishments of which not more than four pounds in containers of one pound maximum capacity may be displayed.

Quantities in excess of one hundred fifty pounds of smokeless propellant or twenty-five pounds of black powder as used in muzzle loading firearms shall be

stored in magazines constructed as specified in the rules and regulations for construction of magazines, and located in compliance with this chapter.

All small arms smokeless propellant when stored shall be packed in federal department of transportation approved containers. [1970 ex.s. c 72 § 6; 1969 ex.s. c 137 § 30.]

70.74.350 Small arms ammunition, primers and propellants—Primers, transportation and storage requirements. Small arms ammunition primers shall not be transported or stored except in the original shipping container approved by the federal department of transportation.

Truck or rail transportation of small arms ammunition primers shall be in accordance with the federal regulation of the United States department of transportation.

No more than twenty-five thousand small arms ammunition primers shall be transported in a private passenger vehicle: *Provided*, That this requirement shall not apply to duly licensed dealers.

Quantities not to exceed ten thousand small arms ammunition primers may be stored in a residence.

Small arms ammunition primers shall be separate from flammable liquids, flammable solids, and oxidizing materials by a fire-resistant wall of one-hour rating or by a distance of twenty-five feet.

Not more than seven hundred fifty thousand small arms ammunition primers shall be stored in any one building except as next provided; no more than one hundred thousand shall be stored in any one pile, and piles shall be separated by at least fifteen feet.

Quantities of small arms ammunition primers in excess of seven hundred fifty thousand shall be stored in magazines in accordance with RCW 70.74.025. [1969 ex.s. c 137 § 31.]

Chapter 70.75 FIRE FIGHTING EQUIPMENT— STANDARDIZATION

Sections

70.75.010	Standard thread specified—Exceptions.
70.75.020	Duties of state fire marshal.
70.75.030	Duties of state fire marshal—Notification of industrial establishments and property owners having equipment.
70.75.040	Sale of nonstandard equipment as misdemeanor—Exceptions.
70.75.900	Severability—1967 c 152.

70.75.010 Standard thread specified—Exceptions. All equipment for fire protection purposes, other than for forest fire fighting, purchased by state and municipal authorities, or any other authorities having charge of public property, shall be equipped with the standard threads designated as the national standard thread as adopted by the American Insurance Association and defined in its pamphlet No. 194, dated 1963: *Provided*, That this section shall not apply to steamer connections on fire hydrants. [1967 c 152 § 1.]

70.75.020 Duties of state fire marshal. The standardization of existing fire protection equipment in this state shall be arranged for and carried out by or under the direction of the state fire marshal. He shall provide the appliances necessary for carrying on this work, shall proceed with such standardization as rapidly as possible, and shall require the completion of such work within a period of five years from June 8, 1967: *Provided*, That the state fire marshal may exempt special purpose fire equipment and existing fire protection equipment from standardization when it is established that such equipment is not essential to the coordination of public fire protection operations. [1967 c 152 § 2.]

State fire marshal: Chapter 48.48 RCW.

70.75.030 Duties of state fire marshal—Notification of industrial establishments and property owners having equipment. The state fire marshal shall notify industrial establishments and property owners having equipment, which may be necessary for fire department use in protecting the property or putting out fire, of any changes necessary to bring their equipment up to the requirements of the standard established by RCW 70.75.020, and shall render such assistance as may be available for converting substandard equipment to meet standard specifications and requirements. [1967 c 151 § 3.]

70.75.040 Sale of nonstandard equipment as misdemeanor—Exceptions. Any person who, without approval of the state fire marshal, sells or offers for sale in Washington any fire hose, fire engine or other equipment for fire protection purposes which is fitted or equipped with other than the standard thread is guilty of a misdemeanor: *Provided*, That fire equipment for special purposes, research, programs, forest fire fighting, or special features of fire protection equipment found appropriate for uniformity within a particular protection area may be specifically exempted from this requirement by order of the state fire marshal. [1967 c 152 § 4.]

70.75.900 Severability—1967 c 152. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1967 c 152 § 5.]

Chapter 70.77 STATE FIREWORKS LAW

Sections

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- 70.77.545 Violation a separate, continuing offense.
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- 70.77.900 Effective date—1961 c 228.
- 70.77.910 Severability—1961 c 228.

Sale or gift of pistol or toy pistol to minors under eighteen years of age is misdemeanor: RCW 26.28.080.

State building code: Chapter 19.27 RCW.

70.77.120 Definitions—To govern chapter. The definitions set forth in this chapter shall govern the construction of this chapter, unless the context otherwise requires. [1961 c 228 § 1.]

70.77.125 Definitions—"Fireworks". "Fireworks" means blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, fire balloons (balloons of a type which have burning material of any kind attached thereto or which require fire underneath to propel them), firecrackers, torpedoes, skyrockets, rockets, Roman candles, daygo bombs, or other fireworks of like construction and any fireworks containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, but does not include toy pistols, toy canes, toy guns, or other similar devices in which paper caps containing not more than twenty-five hundredths grain of explosive compound per cap are used. Nothing herein shall be deemed to prohibit the use of any explosive or flammable compound, blasting caps and similar items used for industrial purposes. [1961 c 228 § 2.]

70.77.130 Definitions—"Dangerous fireworks". "Dangerous fireworks" includes any of the following:

- (1) Pyrotechnics or fireworks containing phosphorous, sulphocyanide, mercury, magnesium, potassium picrate, gallic acid, chlorate of potash and sulfur or chlorate of potash and sugar;
- (2) Firecrackers, salutes, and other explosive articles of similar nature;

(3) Blank cartridges;

(4) Skyrockets, rockets, including all similar devices employing any combustible or explosive material and which rise in the air during discharge;

(5) Roman candles, including all devices which discharge balls of fire into the air;

(6) Chasers, including all devices which dart or travel about the surface of the ground during discharge;

(7) Snakes, boa constrictors and snake nests, containing bichloride of mercury;

(8) All articles for pyrotechnic display, which contain gunpowder;

(9) Articles commonly known as son-of-a-gun, devil-on-the-rock, crackit sticks and automatic torpedoes which contain arsenic;

(10) Explosives known as devil-on-the-walk, or any other article of similar character which explodes through means of friction, and all other similar fireworks, unless otherwise designated;

(11) Toy torpedoes of all kinds;

(12) All pyrotechnic devices having a side fuse;

(13) Fire balloons or balloons of any type which have burning material of any kind attached thereto; and

(14) Such other fireworks as may be designated as dangerous by the state fire marshal. [1961 c 228 § 3.]

70.77.135 Definitions—"Safe and sane fireworks". "Safe and sane fireworks" includes any fireworks not designated as "dangerous fireworks" except that in all cases only end fuses may be used and the total pyrotechnic content of any one piece shall not exceed one hundred grams. [1961 c 228 § 4.]

70.77.140 Definitions—"Agricultural and wild life fireworks". "Agricultural and wild life fireworks" includes fireworks designed or used to prevent damages to crops or unwanted occupancy of areas by animals or birds through the employment of sound or light, or both, whenever such fireworks are so classified by the state fire marshal. [1961 c 228 § 5.]

70.77.145 Definitions—"Class 1 flammable liquid". "Class 1 flammable liquid" includes any liquid whose flash point is one hundred degrees Fahrenheit, or less. [1961 c 228 § 6.]

70.77.150 Definitions—"Side fuse". "Side fuse" means a fuse inserted into a pyrotechnic article or device at a point along its length. [1961 c 228 § 7.]

70.77.155 Definitions—"End fuse". "End fuse" means a fuse inserted into any pyrotechnic article or device at the end as distinguished from the side of such device. [1961 c 228 § 8.]

70.77.160 Definitions—"Public display of fireworks". "Public display of fireworks" means an entertainment feature where the public is admitted or permitted to view the display or discharge of dangerous fireworks. [1961 c 228 § 9.]

70.77.165 Definitions—"Fire nuisance". "Fire nuisance" means anything or any act which increases, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire; or which may obstruct, delay, or hinder, or may become the cause of any obstruction, delay, or a hindrance to the prevention or extinguishment of fire. [1961 c 228 § 10.]

70.77.170 Definitions—"License". "License" means a nontransferable formal authorization which the state fire marshal is permitted to issue under this chapter to engage in the branch of pyrotechnics specifically designated therein, whether as an importer, exporter or wholesaler, retailer, manufacturer, salesman, pyrotechnic or agricultural operator, or otherwise. [1961 c 228 § 11.]

70.77.175 Definitions—"Licensee". "Licensee" means any person holding a fireworks license in conformance with this chapter. [1961 c 228 § 12.]

70.77.180 Definitions—"Permit". "Permit" means the official permission granted by the local public agency to a licensee for the purposes of establishing and maintaining a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used. [1961 c 228 § 13.]

70.77.185 Definitions—"Package". "Package" includes any case, container, or receptacle, used for holding fireworks, which is closed, or sealed by tape, cordage, or by any other means. [1961 c 228 § 14.]

70.77.190 Definitions—"Person". "Person" includes any individual, firm, partnership, joint venture, association, concern, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit. [1961 c 228 § 15.]

70.77.195 Definitions—"Exporter". "Exporter" includes any person who sells, consigns or delivers fireworks located within this state for delivery, use, or sale without this state. [1961 c 228 § 16.]

70.77.200 Definitions—"Importer". "Importer" includes any person who for any purpose:

(1) Brings fireworks into this state or causes fireworks to be brought into this state;

(2) Procures the delivery or receives shipments of any fireworks into this state; or

(3) Buys or contracts to buy fireworks for shipment into this state. [1961 c 228 § 17.]

70.77.205 Definitions—"Manufacturer". "Manufacturer" includes any person who manufactures, makes, constructs, fabricates, or produces any fireworks article or device but does not include persons who assemble or fabricate sets or mechanical pieces in public displays of fireworks. [1961 c 228 § 18.]

70.77.210 Definitions—"Wholesaler". "Wholesaler" includes any person, other than an importer, exporter, or manufacturer selling only to wholesalers who sells fireworks to a retailer or any other person for resale and shall also include any person who sells dangerous fireworks to public display permittees. [1961 c 228 § 19.]

70.77.215 Definitions—"Retailer". "Retailer" includes any person who, at a fixed location or place of business, sells, transfers, or gives fireworks to a consumer or user. [1961 c 228 § 20.]

70.77.220 Definitions—"Salesman". "Salesman" includes any person who, as an employee of a manufacturer or wholesaler, solicits, accepts, or receives an order for fireworks from a licensee or permittee. [1961 c 228 § 21.]

70.77.225 Definitions—"Sell", "transfer". "Sell" or "transfer" includes contracts or orders for sales or transfers. [1961 c 228 § 22.]

70.77.230 Definitions—"Pyrotechnic operator". "Pyrotechnic operator" includes any individual who by experience and training has demonstrated the required skill and ability for safely setting up and discharging public displays of dangerous fireworks. [1961 c 228 § 23.]

70.77.235 Definitions—"Within this state". "Within this state" means within all territory within the boundaries of this state. [1961 c 228 § 24.]

70.77.240 Definitions—"Without this state". "Without this state" means all territory without the boundaries of this state. [1961 c 228 § 25.]

70.77.245 Definitions—"The State Fire Marshal's Seal of Registration". "The State Fire Marshal's Seal of Registration" means the seal of registration of the state fire marshal and consists of a series of concentric circles lettered as follows:

Outer circle
upper half: "REGISTERED"
lower half: "FIREWORKS"

Inner circle
upper half: "STATE OF WASHINGTON"
lower half: "STATE FIRE MARSHAL"

In the center shall appear a facsimile of the official state tree, the western hemlock.

Appended below the outer circle and in a central position shall be a box provided for displaying the registration number assigned by the state fire marshal to any registered classified fireworks manufacturer, importer, wholesaler, retailer, or other person or device governed by this chapter. [1961 c 228 § 26.]

70.77.250 State fire marshal to enforce and administer—Powers and duties. The state fire marshal shall enforce and administer this chapter and shall have the following powers and duties:

(1) He shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter;

(2) He may prescribe such rules and regulations relating to fireworks as may be necessary for the protection of life and property, and shall adopt reasonable rules and regulations not inconsistent with the provisions of this chapter, for the granting of permits for, and the presentation of, public displays of fireworks;

(3) He may adopt reasonable regulations providing for:

(a) The granting of licenses and permits for amateur research or experiments with experimental or model rockets or missiles, or for the production, transportation, or firing of experimental or model rockets or missiles.

(b) The granting of licenses and permits for the use of pyrotechnics by television, theatrical, or motion picture special effects personnel.

The provisions of this subsection do not apply to research or experiments with rockets or missiles, or the production, transportation, or firing of rockets or missiles by the department of defense of the United States, or by any agency or organization acting pursuant to a contract which it has with the department of defense for the development or production of rockets or missiles.

(4) Subject to such restrictions as are deemed necessary he may exempt from the provisions of this chapter specific pyrotechnic items for commercial, industrial, and agricultural uses. [1961 c 228 § 27.]

70.77.255 Acts prohibited without permit. No person, without securing a permit, shall do any of the following:

(1) Manufacture, import, export, possess, or sell any fireworks at wholesale or retail for any use, including agricultural purposes or wild life control;

(2) Discharge dangerous fireworks at any place;

(3) Make a public display of fireworks;

(4) Transport fireworks, except as a public carrier. [1961 c 228 § 28.]

70.77.260 Application for permit. Any adult person or other group desiring to do any act mentioned in RCW 70.77.255 shall first make written application for a permit to the chief of the fire department or the chief fire prevention officer of the city or county, or to such other person as may be designated by the governing body of the city or county, or in the event there be no such officer or person appointed within the area, to the state fire marshal or his appropriate deputy. Applications for permits for public display of fireworks shall be made in writing at least ten days in advance of the proposed display. [1961 c 228 § 29.]

70.77.265 Investigation, report on permit application. It shall be the duty of the officer to whom the application for a permit was made to make an investigation

and submit a report of his findings and his recommendation for or against the issuance of the permit, together with his reasons therefor, to the governing body of the city or county. [1961 c 228 § 30.]

70.77.270 Governing body may grant or deny permit—Conditions. The governing body shall have power in its discretion to grant or deny the application, subject to such reasonable conditions, if any, as it shall prescribe. [1961 c 228 § 31.]

70.77.275 License required prior to issuance of permit. A permit shall not be issued unless the person applying for the permit has first obtained a license from the state fire marshal, as provided in this chapter, to do the particular act or acts described in the permit. [1961 c 228 § 32.]

Valid license prerequisite to grant of permit: RCW 70.77.300.

70.77.280 Public display permit—Investigation—Grant, denial—Conditions. It shall be the duty of the officer to whom the application for a permit for a public display of fireworks is made to make an investigation as to whether such a display as proposed will be of such a character and will be so located that it may be hazardous to property or dangerous to any person, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe. [1961 c 228 § 33.]

70.77.285 Public display permit—Submission of license—Employee compensation insurance—Bond or insurance for liability. The applicant for a permit for a public display of fireworks shall at the time of application submit his license for inspection and furnish proof that he carries compensation insurance for his employees as provided by the laws of this state. He shall file with the officer to whom the application is made, a bond issued by an authorized surety company to be approved by such officer, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant, or his or its agents, servants, employees, or subcontractors in the presentation thereof, or a certificate of insurance evidencing the carrying of appropriate public liability insurance for the benefit of the person named therein as assured, as evidence of ability to respond in damages in at least such amount, said policies to be similarly approved. [1961 c 228 § 34.]

Amount of bond or insurance: RCW 70.77.295.

70.77.290 Public display permit—Granted for exclusive purpose—Nontransferable. If a permit for the public display of fireworks is granted, the sale, possession and use of fireworks for the public display is lawful for that purpose only. No such permit granted shall be transferable. [1961 c 228 § 35.]

70.77.295 Public display permit—Amount of bond and insurance. In the case of an application for a permit for the public display of fireworks, the amount of such a

surety bond shall be not less than ten thousand dollars, and the amount of such insurance shall be not less than twenty thousand dollars. [1961 c 228 § 36.]

Bond or insurance required: RCW 70.77.285.

70.77.300 Valid license prerequisite for permit. No permit shall be granted under this chapter for any activity unless the person applying for the permit has obtained a valid license, if a license is required under this chapter for such activity. [1961 c 228 § 37.]

License required prior to issuance of permit: RCW 70.77.275.

70.77.305 Fire marshal to issue and renew licenses. The state fire marshal shall have the power to issue and renew licenses for the manufacture, importation, exportation, sale, use and transportation of all fireworks in this state. [1961 c 228 § 38.]

70.77.310 Certain sales and uses exempt from licensing. No license shall be required for the sale at retail or for the use and discharge of agricultural and wild life fireworks. [1961 c 228 § 39.]

70.77.315 Application for license. Any person who desires to engage in the manufacture, importation, sale, or use of fireworks shall first make a written verified application to the state fire marshal on forms provided by him. Such application shall be accompanied by the annual license fee as prescribed in this chapter. [1961 c 228 § 40.]

70.77.320 Application for license to be signed. The application for a license shall be signed by the applicant. If application is made by a partnership, it shall be signed by each partner of the partnership, and if application is made by a corporation, it shall be signed by an officer of the corporation and bear the seal of the corporation. [1961 c 228 § 41.]

70.77.325 Annual application for renewal of license. Application for renewal of a license shall be made annually by every person holding an existing license and accompanied by the annual license fee as prescribed in this chapter. [1961 c 228 § 42.]

70.77.330 License to engage in particular act to be issued if not contrary to public safety or welfare—Transportation of fireworks authorized. If the state fire marshal finds that the granting or renewing of such license would not be contrary to public safety or welfare, he shall issue or renew a license authorizing the applicant to engage in the particular act or acts upon the payment of the license fee specified in this chapter. Licensees may transport the class of fireworks for which they hold a valid license. [1961 c 228 § 43.]

70.77.335 License authorizes activities of registered salesmen, employees. The authorization to engage in the particular act or acts conferred by a license to a person shall extend to salesmen and other employees of such person who are registered with the state fire marshal. [1961 c 228 § 44.]

70.77.340 Annual license fees. The original and annual renewal license fee shall be as follows:

Manufacturer	\$ 500.00
Importer and/or exporter	100.00
Wholesaler	1,000.00
Retailer (for each separate retail outlet).....	10.00
Public display for dangerous fireworks	10.00
Pyrotechnic operator for dangerous fireworks	5.00

[1961 c 228 § 45.]

70.77.345 Duration of licenses. Beginning January 1, 1962, the original and annual renewal license fee shall be for the calendar year from January 1st to December 31st or for the remaining portion thereof. [1961 c 228 § 46.]

70.77.350 Delinquent license fee. A penalty fee equal to fifty percent of the required original and annual renewal license fee shall be added to such fee in all cases where the fee for a renewal of a license is not paid on or before April 1st. [1961 c 228 § 47.]

70.77.355 General license for public display—Surety bond—Filing with legislative body. Notwithstanding any of the other provisions of this chapter relating to public liability insurance and bonds, any adult individual, concern, firm, corporation, or copartnership may secure a general license for the public display of fireworks within the state of Washington subject to the provisions of this chapter relative to the securing of local permits for the public display of fireworks in any city or county, except that in lieu of filing the bonds or certificate of public liability insurance as required in RCW 70.77.285, a surety bond similarly conditioned in the amount of twenty-five thousand dollars or a certificate evidencing public liability insurance in a like amount shall be filed with the state fire marshal. The state fire marshal shall have the authority to issue such licenses, subject to such reasonable rules and regulations which he may adopt, not inconsistent with the provisions of this chapter. A certificate evidencing such general license, when so obtained, shall be filed with the legislative body or officer granting a permit for the public display of fireworks prior to the issuance thereof. [1961 c 228 § 48.]

70.77.360 Denial of license if contrary to public safety or welfare. If the state fire marshal finds that the granting or renewing of a license would be contrary to the public safety or welfare, he may deny the application for a license or a renewal of a license. [1961 c 228 § 49.]

70.77.365 Denial of license for failure to meet qualifications or conditions. A written report of the state fire marshal, any of his deputies or salaried assistants, or the chief of any city or county fire department or fire protection district or their authorized representatives,

disclosing that the applicant for a license or for a renewal of a license, or the premises for which a license is to apply, do not meet the qualifications or conditions for a license shall constitute grounds for the denial of any application for a license or the renewal of a license. [1961 c 228 § 50.]

70.77.370 Hearing on denial of license. Any applicant who has been denied a license or a renewal of a license shall be entitled to a hearing in accordance with the provisions of chapter 48.04 RCW. [1961 c 228 § 51.]

70.77.375 Mandatory revocation of license. The state fire marshal, upon reasonable opportunity to be heard, shall revoke any license issued pursuant to this chapter, if he finds that:

- (1) A licensee has failed to pay the original and annual renewal license fee provided in this chapter;
- (2) The licensee has violated any provisions of this chapter or any rule or regulations made by the state fire marshal under and with the authority of this chapter;
- (3) The licensee has created or caused a fire nuisance;
- (4) Any licensee has failed or refused to file any required reports; or
- (5) Any fact or condition exists which, if it had existed at the time of the original application for such license, reasonably would have warranted the state fire marshal in refusing originally to issue such license. [1961 c 228 § 52.]

70.77.380 Classification of fireworks. All fireworks, before being imported, exported, sold or offered for sale, shall be classified by the state fire marshal, in accordance with the provisions of this chapter, as being either dangerous fireworks, safe and sane fireworks, or agriculture and wild life fireworks. [1961 c 228 § 53.]

70.77.385 Classification, registration prior to sale, etc.—Labels—Shipments to be prepaid. No fireworks items shall be sold, offered for sale, discharged, or transported within the state without first having been classified and registered by the state fire marshal. Any licensee desiring to have safe and sane fireworks articles classified and registered by the state fire marshal shall submit to his office not less than three live samples of each item for which classification is desired together with a notarized chemical analysis of the materials of such samples. Each item must be labeled as for sale and distribution together with firing instructions. Every fireworks article which has not been submitted for classification or which does not bear the classification label of the state fire marshal shall be considered to be dangerous fireworks. All shipments shall be prepaid. Classification shall be limited to the products of licensed manufacturers excepting only fireworks articles classified by this chapter as dangerous fireworks intended and used for public fireworks displays which may be classified for licensed manufacturers, importers and/or wholesalers. [1961 c 228 § 54.]

70.77.390 Labeling, stamping dangerous fireworks—Marking safe and sane fireworks. The manufacturer, importer or wholesaler shall stamp or label each case or carton of dangerous fireworks offered for sale, sold, consigned or delivered within this state for sale or use within this state as "dangerous fireworks". Each package of safe and sane fireworks shall be marked as "safe and sane fireworks" and shall bear the state fire marshal's classification label and license number. [1961 c 228 § 55.]

70.77.395 Dates safe and sane fireworks may be sold. No safe and sane fireworks shall be sold or offered for sale at retail within this state except from twelve o'clock noon on the twenty-eighth of June to twelve o'clock noon on the sixth of July of each year. [1961 c 228 § 56.]

70.77.400 Protective caps or enclosed packages required for safe and sane fireworks. No safe and sane fireworks shall be sold or offered for sale at retail unless the fuses or other igniting devices are protected by approved protective caps or each item or group of items is enclosed or sealed in a package bearing the state fire marshal's seal of registration upon which the wholesaler's license number appears. [1961 c 228 § 57.]

70.77.405 Authorized sales of toy pistols, canes, guns, etc. Toy pistols, toy canes, toy guns, or other similar devices in which paper caps containing not more than twenty-five hundredths grain of explosive compound for each cap is used may be sold at all times unless prohibited by local ordinance. [1961 c 228 § 58.]

70.77.410 Public displays not to be hazardous. All public displays of fireworks shall be of such a character and so located, discharged, or fired as not to be hazardous or dangerous to persons or property. [1961 c 228 § 59.]

70.77.415 Supervision of public displays. Every public display of fireworks shall be handled or supervised by a competent and experienced pyrotechnic operator approved by the chief of the fire department or the chief fire prevention officer of the city or county in which the display is to be held, or by the state fire marshal or his authorized deputy therefor, if there be no chief of the fire department or chief fire prevention officer in the area. [1961 c 228 § 60.]

70.77.420 Storage permit required. It shall be unlawful for any person to store fireworks of any class without first having made a written application for and received a permit for such storage to the chief of the fire department or to the chief fire prevention officer of the city or county in which the storage is to be made, or to the state fire marshal, or to such authorized deputy as may be designated for such purpose at least ten days prior to the date of the proposed storage. If there is no chief of the fire department or chief fire prevention officer in the area, it shall be the duty of the officer to whom the application for a storage permit is made to

make an investigation as to whether such storage as proposed will be of such a nature and character and will be so located as to constitute a hazard to property or be dangerous to any person, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe. [1961 c 228 § 61.]

70.77.425 Approved storage facilities required. It shall be unlawful for any person to store unsold stocks of safe and sane fireworks remaining unsold after the lawful period of sale as provided in his permit except in such places of storage as the local officer issuing the permit shall approve. Unsold stocks of safe and sane fireworks remaining after the authorized retail sales period from twelve o'clock noon on June 28th to twelve o'clock noon on July 6th shall be returned on or before July 31st of the same year to the approved storage facilities of a licensed fireworks wholesaler, to a magazine or storage place approved by the chief of any city or county fire department or fire protection district, or to a place approved by the state fire marshal. [1961 c 228 § 62.]

70.77.430 Sale of stock after revocation, surrender, failure to renew license. Following the revocation or voluntary surrender of, or failure to renew his license, any person in lawful possession of a lawfully acquired stock of fireworks may sell such fireworks only under supervision of the state fire marshal and in such a manner as he shall by rule provide and solely to persons who are authorized to buy, possess, sell, or use such fireworks. [1961 c 228 § 63.]

70.77.435 Seizure of fireworks. Any fireworks not bearing the seal of approval of the state fire marshal which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter or the rules or regulations of the state fire marshal shall be subject to seizure by the state fire marshal or any deputy state fire marshal. Any fireworks seized under this section may be disposed of by the state fire marshal by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under the provisions of RCW 70.77.440, whichever is later. [1961 c 228 § 64.]

70.77.440 Seizure of fireworks—Petition for return—Hearing—Decision—Judicial action for recovery. Any person whose fireworks are seized under the provisions of RCW 70.77.435 may within ten days after such seizure petition the state fire marshal to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the state fire marshal within fifteen days after filing and an oral hearing granted the petitioner, if requested. Notice of the decision of the state fire marshal shall be served upon the petitioner. The state fire marshal may order the fireworks seized under this chapter disposed of or returned to the petitioner if illegally or erroneously

seized. The determination of the state fire marshal is final unless within sixty days an action is commenced in a court of competent jurisdiction in the state of Washington for the recovery of the fireworks seized by the state fire marshal. [1961 c 228 § 65.]

70.77.445 Removal of vehicle unlawfully used—Notice—Garageman's lien—Sale when unclaimed. The state fire marshal, and his deputies or salaried assistants, the chief of any city or county fire department or fire protection district, or any of their authorized representatives may remove any vehicle which is used unlawfully to transport fireworks or in which any fireworks are unlawfully kept, deposited or concealed, to the nearest garage or other place of safety or to a garage designated or maintained by the state fire marshal.

In the event that the state fire marshal, or any of his deputies or salaried assistants, the chief of any city or county fire department or fire protection district, or any of their authorized representatives, removes any such vehicle, he shall give the notices required of officers under RCW 46.52.110, and the keeper of any garage in which any such vehicle is stored may have a lien thereon for his compensation for towage and for caring for and keeping safe such vehicle.

On the expiration of notice given, unclaimed vehicles shall be sold pursuant to RCW 46.52.110 and the proceeds disposed of as provided therein. [1961 c 228 § 66.]

70.77.450 Examination, inspection of books and premises. The state fire marshal may make an examination of the books and records of any licensee, or other person relative to fireworks, and may visit and inspect the premises of any licensee he may deem at any time necessary for the purpose of enforcing the provisions of this chapter. The licensee, owner, lessee, manager, or operator of any such building or premises shall permit the state fire marshal, his deputies, his salaried assistants and the chief of any city or county fire department or fire protection district and their authorized representatives to enter and inspect the premises at the time and for the purpose stated in this section. [1961 c 228 § 67.]

70.77.455 Licensees to maintain and make available to state fire marshal complete records. All licensees shall maintain and make available to the state fire marshal full and complete records showing all production, imports, exports, purchases, sales and consumption of fireworks items by kind and class whether dangerous fireworks, safe and sane fireworks, or agricultural and wild life fireworks. [1961 c 228 § 68.]

70.77.460 Reports, payments deemed made when filed or paid or date mailed. When reports on fireworks transactions or the payments of license fees or penalties are required to be made on or by specified dates, they shall be deemed to have been made at the time they are filed with or paid to the state fire marshal or, if sent by mail, on the date shown by the United States postmark on the envelope containing the report or payment. [1961 c 228 § 69.]

70.77.465 Additional and supplemental reports. In addition to any other reports required under this chapter, the state fire marshal may, by rule or otherwise, require additional, other, or supplemental reports from licensees and other persons and prescribe the form, including verification, of the information to be given when filing such additional, other or supplemental reports. [1961 c 228 § 70.]

70.77.470 Bills of lading, invoices to bear license numbers. Each bill of lading, manifest, and invoice issued to cover sales or shipments of fireworks shall bear the license number of both the seller or shipper and buyer or receiver. [1961 c 228 § 71.]

70.77.475 Unclassified fireworks—Sale, possession, etc., prohibited. The sale, transportation, possession, or discharge of unclassified fireworks is prohibited. [1961 c 228 § 72.]

70.77.480 Prohibited transfers of dangerous fireworks. The transfer of dangerous fireworks ownership whether by sale at wholesale or retail, by gift or other means of conveyance of title or the delivery of any dangerous fireworks to any person in the state who does not possess and present to the seller for inspection at the time of transfer a valid license and permit, where such permit is required to purchase, possess, transport, or use dangerous fireworks, is prohibited. [1961 c 228 § 73.]

70.77.485 Unlawful possession—Penalty. The unlawful possession of any class or kind of fireworks in violation of the provisions of this chapter shall be a misdemeanor. [1961 c 228 § 74.]

70.77.490 Possession of unmarked fireworks evidence of violation. Possession of fireworks unmarked with the manufacturer's license number and the state fire marshal's classification as required by this chapter shall be prima facie evidence of a violation of this chapter. [1961 c 228 § 75.]

70.77.495 Forestry permit to set off fireworks in forest, brush, fallow, etc. Nothing in this chapter shall be construed as permitting any person to set off fireworks of any kind in forest, fallows, grass or brush covered land, either on his own land or the property of another, between April 15th and December 1st of any year, unless it is done under a written permit from the supervisor of forestry or his duly authorized agent, and in strict accordance with the terms of the permit and any other applicable law. [1961 c 228 § 76.]

70.77.500 Authorized delivery, transportation of dangerous or agricultural and wild life fireworks. No person shall transport, convey, or deliver any dangerous fireworks or agricultural and wild life fireworks except for licensed permittees making delivery to:

- (1) Other licensed permittees;
- (2) Locations of public displays of fireworks authorized under this part;
- (3) Distributors outside this state; or

(4) Agricultural or wild life permittees. [1961 c 228 § 77.]

70.77.505 Sale, discharge where flammables or motor vehicles stored. No person shall sell or discharge any fireworks in any public garage or public oil station or on any premises where gasoline or other class 1 flammable liquids are stored or dispensed or where more than four motor vehicles are stored. [1961 c 228 § 78.]

70.77.510 Sales or transfers of dangerous fireworks only to permittee. No person shall sell or transfer any dangerous fireworks to any person who is not a fireworks permittee as provided for by this chapter. [1961 c 228 § 79.]

70.77.515 Sale, transfer of safe and sane fireworks only at licensed place of business. No person shall sell or transfer any safe and sane fireworks to a consumer or user thereof other than at a fixed place of business of a retailer for which a license and permit have been issued. [1961 c 228 § 80.]

70.77.520 Fire nuisance where fireworks kept prohibited. No person shall allow any rubbish to accumulate in any premises when any fireworks are stored or sold or permit a fire nuisance to exist. [1961 c 228 § 81.]

70.77.525 Nonprohibited acts—Out-of-state shipments, wholesale sales, demonstrations, athletic events, public displays, etc. This chapter does not prohibit any manufacturer, wholesaler, dealer or jobber, having a license and a permit secured under the provisions of this chapter, from:

(1) Manufacturing or selling any kind of fireworks for direct shipment out of this state;

(2) Manufacturing or selling at wholesale any dangerous fireworks to persons holding permits hereunder;

(3) Selling blank cartridges for use by persons for bona fide ceremonial purposes, athletic, sports events, or military ceremonials or demonstrations; or

(4) Selling dangerous fireworks to persons having a license and a permit for public displays of fireworks. [1961 c 228 § 82.]

70.77.530 Nonprohibited acts—Signal purposes, forest protection. This chapter does not prohibit the use of torpedoes, flares, or fuses by motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities. [1961 c 228 § 83.]

70.77.535 Nonprohibited acts—Movies, productions, shows. This chapter does not prohibit the assembling, compounding, use and display of fireworks of whatever nature by any person engaged in the production of motion pictures, theatricals, or operas when such use and display is a necessary part of the production and such person possesses a valid permit to purchase, possess, transport or use dangerous fireworks. [1961 c 228 § 84.]

70.77.540 Penalty. Any person violating any of the provisions of this chapter or any rules or regulations issued thereunder is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not exceeding one year, or by both such fine and imprisonment. [1961 c 228 § 85.]

70.77.545 Violation a separate, continuing offense. A person is guilty of a separate offense for each day during which he commits, continues, or permits a violation of any provision of, or any order, rule, or regulation made pursuant to this chapter. [1961 c 228 § 86.]

70.77.550 Short title. This chapter shall be known and may be cited as the state fireworks law. [1961 c 228 § 87.]

70.77.555 Limitation on local permit fee. A local public agency shall not charge more than ten dollars as a permit fee for any one year. [1961 c 228 § 88.]

70.77.560 Prior rules continued until modified. The rules and regulations adopted by the state fire marshal relating to fireworks and in existence on January 1, 1962 shall continue thereafter to be in effect as rules and regulations of the state fire marshal until amended or repealed pursuant to the provisions of this chapter. [1961 c 228 § 89.]

70.77.900 Effective date—1961 c 228. This act shall take effect on January 1, 1962. [1961 c 228 § 90.]

70.77.910 Severability—1961 c 228. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1961 c 228 § 91.]

Chapter 70.79

BOILERS AND UNFIRED PRESSURE VESSELS

Sections

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Excessive steam in boilers, penalty: RCW 70.54.080.

State building code: Chapter 19.27 RCW.

70.79.010 Board of boiler rules—Members—Terms—Meetings. There is hereby created within this state a board of boiler rules, which shall hereafter be referred to as the board, consisting of five members who shall be appointed to the board by the governor, one for a term of one year, one for a term of two years, one for a term of three years, and two for a term of four years. At the expiration of their respective terms of office, they, or their successors identifiable with the same interests respectively as hereinafter provided, shall be appointed for terms of four years each. The governor may at any time remove any member of the board for inefficiency or neglect of duty in office. Upon the death or incapacity of any member the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these five appointed members, one shall be representative of owners and users of boilers and unfired pressure vessels within the state, one shall be representative of the boiler or unfired pressure vessel manufacturers within the state, one shall be a representative of a boiler insurance company licensed to do business within the state, one shall be a mechanical engineer on the faculty of a recognized engineering college or a graduate mechanical engineer having equivalent experience, and one shall be representative of the boilermakers or practical steam operating engineers. The board shall elect one of its members to serve as chairman and, at the call of the chairman, the board shall meet at least four times each year at the state capitol or other place designated by the board. [1951 c 32 § 1.]

70.79.020 Expense allowance. The members of the board shall serve without salary and shall receive their actual and necessary expenses incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers. [1951 c 32 § 2.]

70.79.030 Duties of board—Make definitions, rules and regulations—Boiler construction code. The board shall formulate definitions, rules, and regulations for the safe and proper construction, installation, repair, use, and operation of boilers and for the safe and proper construction, installation, and repair of unfired pressure vessels in this state. The definitions, rules, and regulations so formulated shall be based upon, and, at all times, follow the generally accepted nationwide engineering standards, formulae, and practices established and pertaining to boiler and unfired pressure vessel construction and safety, and the board may by resolution adopt an existing published codification thereof, known as "The Boiler Construction Code of the American Society of Mechanical Engineers", with the amendments and interpretations thereto made and approved by the council of the society, and may likewise adopt the amendments and interpretations subsequently made and published by the same authority; and when so adopted the same shall be deemed incorporated into, and to constitute a part or the whole of the definitions, rules, and regulations of the board. Amendments and interpretations to the code so adopted shall be adopted immediately upon being promulgated, to the end that the definitions, rules, and regulations shall at all times follow the generally accepted nationwide engineering standards: *Provided, however,* That all rules and regulations promulgated by the board, including any or all of the boiler construction code of the American society of mechanical engineers with amendments and interpretations thereof, shall be adopted in compliance with the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended. All boilers and unfired pressure vessels subject to the jurisdiction of the board, which have been constructed or installed in accordance with the code of the American society of mechanical engineers shall be prima facie evidence of compliance with those provisions of this chapter and the rules of the board. [1972 ex.s. c 86 § 1; 1951 c 32 § 3.]

70.79.040 Rules and regulations—Scope. The board shall promulgate rules and regulations for the safe and proper installation, repair, use and operation of boilers, and for the safe and proper installation and repair of unfired pressure vessels which were in use or installed ready for use in this state prior to the date upon which the first rules and regulations under this chapter pertaining to existing installations became effective, or during the twelve months period immediately thereafter. [1951 c 32 § 4.]

70.79.050 Rules and regulations—Effect. (1) The rules and regulations formulated by the board shall have the force and effect of law, except that the rules applying to the construction of new boilers and unfired pressure vessels shall not be construed to prevent the installation thereof until twelve months after their approval by the director of the department of labor and industries.

(2) Subsequent amendments to the rules and regulations adopted by the board shall be permissive immediately and shall become mandatory twelve months after such approval. [1951 c 32 § 5.]

70.79.060 Construction, installation must conform to rules. No power boiler, low pressure boiler, or unfired pressure vessel which does not conform to the rules and regulations formulated by the board governing new construction and installation shall be installed and operated in this state after twelve months from the date upon which the first rules and regulations under this chapter pertaining to new construction and installation shall have become effective, unless the boiler or unfired pressure vessel is of special design or construction, and is not covered by the rules and regulations, nor is in any way inconsistent with such rules and regulations, in which case a special installation and operating permit may at its discretion be granted by the board. [1951 c 32 § 6.]

70.79.070 Existing installations—Conformance required. (1) All boilers and unfired pressure vessels which were in use, or installed ready for use in this state prior to the date upon which the first rules and regulations under this chapter pertaining to existing installations became effective, or during the twelve months period immediately thereafter, shall be made to conform to the rules and regulations of the board governing existing installations, and the formulae prescribed therein shall be used in determining the maximum allowable working pressure for such boilers and unfired pressure vessels.

(2) This chapter shall not be construed as in any way preventing the use or sale of boilers or unfired vessels as referred to in subsection (1) of this section, provided they have been made to conform to the rules and regulations of the board governing existing installations, and provided, further, they have not been found upon inspection to be in an unsafe condition. [1951 c 32 § 7.]

70.79.080 Exemptions from chapter. This chapter shall not apply to the following boilers, unfired pressure vessels and domestic hot water tanks:

(1) Boilers and unfired pressure vessels under federal regulation or operated by any railroad subject to the provisions of the interstate commerce act;

(2) Unfired pressure vessels meeting the requirements of the interstate commerce commission for shipment of liquids or gases under pressure;

(3) Air tanks located on vehicles operating under the rules of other state authorities and used for carrying passengers, or freight;

(4) Air tanks installed on the right of way of railroads and used directly in the operation of trains;

(5) Unfired pressure vessels having a volume of five cubic feet or less when not located in places of public assembly;

(6) Unfired pressure vessels designed for a pressure not exceeding fifteen pounds per square inch gauge when not located in place of public assembly;

(7) Tanks used in connection with heating water for domestic and/or residential purposes;

(8) Boilers and unfired pressure vessels in cities having ordinances which are enforced and which have requirements equal to or higher than those provided for under this chapter, covering the installation, operation, maintenance and inspection of boilers and unfired pressure vessels. [1951 c 32 § 8.]

70.79.090 Exemptions from certain provisions. The following boilers and unfired pressure vessels shall be exempt from the requirements of RCW 70.79.220, and 70.79.240 through *70.79.340:

(1) Boilers or unfired pressure vessels located on farms and used solely for agricultural purposes;

(2) Steam boilers used exclusively for heating purposes carrying a pressure of not more than fifteen pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;

(3) Hot water heating boilers carrying a pressure of not more than thirty pounds per square inch and which are located in private residences or in apartment houses of less than six families;

(4) Approved pressure vessels (hot water heaters listed by a nationally recognized testing agency), with approved safety devices including a pressure relief valve, with a nominal water containing capacity of one hundred twenty gallons or less having a heat input of two hundred thousand b.t.u.'s per hour or less, used for hot water supply at pressure of one hundred sixty pounds per square inch or less, and at temperatures of two hundred degrees Fahrenheit or less: *Provided, however,* That such pressure vessels are not installed in schools, child care centers, public and private hospitals, nursing and boarding homes, churches, public buildings owned or leased and maintained by the state or any political subdivision thereof, and assembly halls;

(5) Unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping systems, when located in private residences or in apartment houses of less than six families;

(6) Unfired pressure vessels containing liquified petroleum gases. [1972 ex.s. c 86 § 2; 1951 c 32 § 9.]

*Reviser's note: RCW 70.79.340 was repealed by 1970 ex.s. c 21 § 3.

70.79.100 Chief inspector—Qualifications—Appointment, removal. (1) Within sixty days after the effective date of this chapter, and at any time thereafter that the office of the chief inspector may become vacant, the director of the department of labor and industries shall appoint a chief inspector who shall have had at the time of such appointment not less than ten years practical experience in the construction, maintenance, repair, or operation of high pressure boilers and unfired pressure vessels, as a mechanical engineer, steam engineer, boilermaker, or boiler inspector, and who shall have passed the same kind of examination as that prescribed for deputy or special inspectors in RCW 70.79.170 to be chief inspector until his successor shall have

been appointed and qualified. Such chief inspector may be removed for cause after due investigation by the board and its recommendation to the director of the department of labor and industries. [1951 c 32 § 10.]

70.79.110 Chief inspector—Duties in general. The chief inspector, if authorized by the director of the department of labor and industries is hereby charged, directed and empowered:

(1) To cause the prosecution of all violators of the provisions of this chapter;

(2) To issue, or to suspend, or revoke for cause, inspection certificates as provided for in RCW 70.79.290;

(3) To take action necessary for the enforcement of the laws of the state governing the use of boilers and unfired pressure vessels and of the rules and regulations of the board;

(4) To keep a complete record of the type, dimensions, maximum allowable working pressure, age, condition, location, and date of the last recorded internal inspection of all boilers and unfired pressure vessels to which this chapter applies;

(5) To publish and distribute, among manufacturers and others requesting them, copies of the rules and regulations adopted by the board. [1951 c 32 § 11.]

70.79.120 Deputy inspectors—Qualifications—Employment. The chief inspector shall employ deputy inspectors who shall be responsible to the chief inspector and who shall have had at time of appointment not less than five years practical experience in the construction, maintenance, repair, or operation of high pressure boilers and unfired pressure vessels as a mechanical engineer, steam engineer, boilermaker, or boiler inspector, and who shall have passed the examination provided for in RCW 70.79.170. [1951 c 32 § 12.]

70.79.130 Special inspectors—Qualifications—Commission. In addition to the deputy boiler inspectors authorized by RCW 70.79.120, the chief inspector shall, upon the request of any company authorized to insure against loss from explosion of boilers and unfired pressure vessels in this state, or upon the request of any company operating unfired pressure vessels in this state, issue to any inspectors of said company commissions as special inspectors, provided that each such inspector before receiving his commission shall satisfactorily pass the examination provided for in RCW 70.79.170, or, in lieu of such examination, shall hold a certificate of competency as an inspector of boilers and unfired pressure vessels for a state that has a standard of examination substantially equal to that of this state or a certificate as an inspector of boilers from the national board of boiler and pressure vessel inspectors. A commission as a special inspector for a company operating unfired pressure vessels in this state shall be issued only if, in addition to meeting the requirements stated herein, the inspector is continuously employed by the company for the purpose of making inspections of unfired pressure vessels used, or to be used, by such company. [1951 c 32 § 13.]

70.79.140 Special inspectors—Compensation—Continuance of commission. Special inspectors shall receive no salary from, nor shall any of their expenses be paid by the state, and the continuance of a special inspector's commission shall be conditioned upon his continuing in the employ of a boiler insurance company duly authorized as aforesaid or upon continuing in the employ of a company operating unfired pressure vessels in this state and upon his maintenance of the standards imposed by this chapter. [1951 c 32 § 14.]

70.79.150 Special inspectors—Inspections—Exempts from inspection fees. Special inspectors shall inspect all boilers and unfired pressure vessels insured or all unfired pressure vessels operated by their respective companies and, when so inspected, the owners and users of such insured boilers and unfired pressure vessels shall be exempt from the payment to the state of the inspection fees as provided for in RCW 70.79.330. [1951 c 32 § 15.]

70.79.160 Report of inspection by special inspector—Filing. Each company employing special inspectors shall within thirty days following each internal boiler or unfired pressure vessel inspection made by such inspectors, file a report of such inspection with the chief inspector upon appropriate forms as promulgated by the American society of mechanical engineers. Reports of external inspections shall not be required except when such inspections disclose that the boiler or unfired pressure vessel is in dangerous condition. [1951 c 32 § 16.]

70.79.170 Examinations for inspector's appointment or commission—Reexamination. Examinations for chief, deputy, or special inspectors shall be in writing and shall be held by the board, or by at least two members of the board. Such examinations shall be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service. In case an applicant for an inspector's appointment or commission fails to pass the examination, he may appeal to the board for another examination which shall be given by the board within ninety days. The record of an applicant's examination shall be accessible to said applicant and his employer. [1951 c 32 § 18.]

70.79.180 Suspension, revocation of inspector's commission—Grounds—Reinstatement. A commission may be suspended or revoked after due investigation and recommendation by the board to the director of the department of labor and industries for the incompetence or untrustworthiness of the holder thereof, or for wilful falsification of any matter or statement contained in his application or in a report of any inspection. A person whose commission has been suspended or revoked, except for untrustworthiness, shall be entitled to apply to the board for reinstatement or, in the case of a revocation, for a new examination and commission after ninety days from such revocation. [1951 c 32 § 19.]

70.79.190 Suspension, revocation of commission—Appeal. A person whose commission has been suspended or revoked shall be entitled to an appeal as provided in RCW 70.79.360 and to be present in person and/or represented by counsel on the hearing of the appeal. [1951 c 32 § 20.]

70.79.200 Lost or destroyed certificate or commission. If a certificate or commission is lost or destroyed, a new certificate or commission shall be issued in its place without another examination. [1951 c 32 § 21.]

70.79.210 Inspectors—Performance bond required. The chief inspector shall furnish a bond in the sum of five thousand dollars and each of the deputy inspectors, employed and paid by the state, shall furnish a bond in the sum of two thousand dollars conditioned upon the faithful performance of their duties and upon a true account of moneys handled by them respectively and the payment thereof to the proper recipient. The cost of said bonds shall be paid by the state. [1951 c 32 § 35.]

70.79.220 Inspections—Who shall make. The inspections herein required shall be made by the chief inspector, by a deputy inspector, or by a special inspector provided for in this chapter. [1951 c 32 § 25.]

70.79.230 Access to premises by inspectors. The chief inspector, or any deputy or special inspector, shall have free access, during reasonable hours, to any premises in the state where a boiler or unfired pressure vessel is being constructed, or is being installed or operated, for the purpose of ascertaining whether such boiler or unfired pressure vessel is constructed, installed and operated in accordance with the provisions of this chapter. [1951 c 32 § 17.]

70.79.240 Inspection of boilers, etc.—Scope—Frequency. Each boiler and unfired pressure vessel used or proposed to be used within this state, except boilers or unfired pressure vessels exempt in RCW 70.79.080 and 70.79.090, shall be thoroughly inspected as to their construction, installation, condition and operation, as follows:

(1) Power boilers shall be inspected annually both internally and externally while not under pressure and shall also be inspected annually externally while under pressure if possible;

(2) Low pressure heating boilers shall be inspected both internally and externally biennially where construction will permit;

(3) Unfired pressure vessels subject to internal corrosion shall be inspected both internally and externally biennially where construction will permit, except that the board may, in its discretion, provide for longer periods between inspections;

(4) Unfired pressure vessels not subject to internal corrosion shall be inspected externally at intervals set by the board, but internal inspections shall not be required of unfired pressure vessels, the contents of which are known to be noncorrosive to the material of which the shell, head, or fittings are constructed, either from

the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor, provided that such vessels are constructed in accordance with the rules and regulations of the board or in accordance with standards substantially equivalent to the rules and regulations of the board, in effect at the time of manufacture. [1951 c 32 § 22.]

70.79.250 Inspection—Frequency—Grace period. In the case of power boilers a grace period of two months longer than the twelve months period may elapse between internal inspections of a boiler while not under pressure or between external inspections of a boiler while under pressure; in the case of low pressure heating boilers not more than twenty-six months shall elapse between inspections, and in the case of unfired pressure vessels not more than two months longer than the period between inspections prescribed by the board shall elapse between internal inspections. [1951 c 32 § 23.]

70.79.260 Inspection—Frequency—Modification by rules. The rules and regulations formulated by the board applying to the inspection of unfired pressure vessels may be modified by the board to reduce or extend the interval between required inspections where the contents of the vessel or the material of which it is constructed warrant special consideration. [1951 c 32 § 24.]

70.79.270 Hydrostatic test. If at any time a hydrostatic test shall be deemed necessary to determine the safety of a boiler or unfired pressure vessel, [the] same shall be made, at the discretion of the inspector, by the owner or user thereof. [1951 c 32 § 26.]

70.79.280 Inspection during construction. All boilers and all unfired pressure vessels to be installed in this state after the twelve months period from the date upon which the rules and regulations of the board shall become effective shall be inspected during construction as required by the applicable rules and regulations of the board by an inspector authorized to inspect boilers in this state, or, if constructed outside of the state, by an inspector holding a certificate from the national board of boiler and pressure vessel inspectors, or a certificate of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of this state as provided in RCW 70.79.170. [1951 c 32 § 27.]

70.79.290 Inspection certificate—Contents—Posting—Fee. If, upon inspection, a boiler or an unfired pressure vessel is found to comply with the rules and regulations of the board, the owner or user thereof shall pay directly to the chief inspector the sum of three dollars, and the chief inspector, or his duly authorized representative, shall issue to such owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler or unfired pressure vessel may be operated. Such inspection certificate shall be valid for not more than

fourteen months from its date in the case of power boilers and twenty-six months in the case of low pressure heating boilers, and for not more than two months longer than the authorized inspection period in the case of unfired pressure vessels. Certificates shall be posted under glass in the room containing the boiler or unfired pressure vessel inspected. If the boiler or unfired pressure vessel is not located within the building, the certificate shall be posted in a location convenient to the boiler or unfired pressure vessel inspected or, in the case of a portable boiler or unfired pressure vessel, the certificate shall be kept in a metal container to be fastened to the boiler or vessel in a tool box accompanying the boiler or unfired pressure vessel. [1970 ex.s. c 21 § 1; 1951 c 32 § 28.]

70.79.300 Inspection certificate invalid on termination of insurance. No inspection certificate issued for an insured boiler or unfired pressure vessel inspected by a special inspector shall be valid after the boiler or unfired pressure vessel, for which it was issued, shall cease to be insured by a company duly authorized by this state to carry such insurance. [1951 c 32 § 29.]

70.79.310 Inspection certificate—Suspension—Reinstatement. The chief inspector, or his authorized representative, may at any time suspend an inspection certificate when, in his opinion, the boiler or unfired pressure vessel for which it was issued, cannot be operated without menace to the public safety, or when the boiler or unfired pressure vessel is found not to comply with the rules and regulations herein provided. A special inspector shall have corresponding powers with respect to inspection certificates for boilers or unfired pressure vessels insured or unfired pressure vessels operated by the company employing him. Such suspension of an inspection certificate shall continue in effect until such boiler or unfired pressure vessel shall have been made to conform to the rules and regulations of the board, and until said inspection certificate shall have been reinstated. [1951 c 32 § 30.]

70.79.320 Operating without or exceeding inspection certificate prohibited—Penalty. After twelve months following the date on which this chapter becomes effective, it shall be unlawful for any person, firm, partnership, or corporation to operate under pressure in this state a boiler or unfired pressure vessel, to which this chapter applies, without a valid inspection certificate as provided for in this chapter. The operation of a boiler or unfired pressure vessel without such inspection certificate, or at a pressure exceeding that specified in such inspection certificate, shall constitute a misdemeanor on the part of the owner, user, or operator thereof. Each day of such unlawful operation shall be deemed a separate offense. [1951 c 32 § 31.]

70.79.330 Inspection fees—Expenses—Schedules. The owner or user of a boiler or pressure vessel required by this chapter to be inspected by the chief inspector, or his deputy inspector, shall pay directly to the

chief inspector, upon completion of inspection, fees and expenses in accordance with the following schedule:

Inspections:

Boilers:

Not to exceed 500 square feet of total heating surface——internal: \$10.00
external: 5.00

From 500 square feet of total heating surface to 2500 square feet of total heating surface ——internal: 20.00
external: 10.00

For each additional 2500 square feet of total heating surface, or any portion thereof ——internal: 10.00
external: 5.00

Pressure Vessels:

Not to exceed 50 square feet in area as determined by multiplying the length of the shell by its diameter ——internal: 5.00
external: 5.00

For each additional 50 square feet in area or any portion thereof ——internal: 5.00
external: 5.00

When it is necessary to make a special inspection or witness the application of a hydrostatic test, the applicable internal inspection fee plus expenses shall be charged.

Shop inspections, field construction inspections and secondhand or resale inspections:

One-half day \$50.00 plus expenses

One full day \$80.00 plus expenses

One-half day: Not to exceed 3 hours on site.

One full day: Not to exceed 6 hours on site.

In excess of 6 hours on site: \$25.00 per hour or any portion thereof.

Expenses shall include:

Travel: \$5.00 per hour plus \$.10 per mile driven, or \$5.00 per hour plus actual cost of purchased transportation. Hourly travel charges shall not exceed \$50.00 for any 24-hour period.

Hotel and meals: Actual cost.

[1970 ex.s. c 21 § 2; 1963 c 217 § 1; 1951 c 32 § 32.]

70.79.350 Inspection fees—Receipts for and transfer. The chief inspector shall give an official receipt for said fees and shall transfer all sums so received to the treasurer of the state of Washington. [1951 c 32 § 34.]

70.79.360 Appeal from orders or acts. Any person aggrieved by an order or act of the director of the department of labor and industries, the chief inspector, under this chapter, may, within fifteen days after notice thereof, appeal from such order or act to the board which shall, within thirty days thereafter, hold a hearing after having given at least ten days written notice to all interested parties. The board shall, within thirty days after such hearing, issue an appropriate order either approving or disapproving said order or act. A copy of

such order by the board shall be given to all interested parties. Within thirty days after any order or act of the board, any person aggrieved thereby may file a petition in the superior court of the county of Thurston for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree. [1951 c 32 § 36.]

70.79.900 Severability—1951 c 32. The fact that any section, subsection, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason shall not affect the remaining portions of this chapter. [1951 c 32 § 37.]

Chapter 70.82 CEREBRAL PALSY PROGRAM

Sections

70.82.010	Purpose and aim of program.
70.82.021	Cerebral palsy fund—Moneys transferred to general fund.
70.82.022	Cerebral palsy fund—Appropriations to be paid from general fund.
70.82.023	Cerebral palsy fund—Abolished.
70.82.024	Cerebral palsy fund—Warrants to be paid from general fund.
70.82.030	Eligibility.
70.82.040	Diagnosis.
70.82.050	Powers, duties, functions, unallocated funds, transferred.

70.82.010 Purpose and aim of program. It is hereby declared to be of vital concern to the state of Washington that all persons who are bona fide residents of the state of Washington and who are afflicted with cerebral palsy in any degree be provided with facilities and a program of service for medical care, education, treatment and training to enable them to become normal individuals. In order to effectively accomplish such purpose the department of social and health services, hereinafter called the department, is authorized and instructed and it shall be its duty to establish and administer facilities and a program of service for the discovery, care, education, hospitalization, treatment and training of educable persons afflicted with cerebral palsy, and to provide in connection therewith nursing, medical, surgical and corrective care, together with academic, occupational and related training. Such program shall extend to developing, extending and improving service for the discovery of such persons and for diagnosis and hospitalization and shall include cooperation with other agencies of the state charged with the administration of laws providing for any type of service or aid to handicapped persons, and with the United States government through any appropriate agency or instrumentality in developing, extending and improving such service, program and facilities. Such facilities shall include field clinics, diagnosis and observation centers, boarding schools, special classes in day schools, research facilities and such other facilities as shall be required to render appropriate aid to such persons. Existing facilities, buildings, hospitals and equipment belonging to or operated by the state of Washington shall be made available for these purposes when use therefor does not conflict with the primary use of such

existing facilities. Existing buildings, facilities and equipment belonging to private persons, firms or corporations or to the United States government may be acquired or leased. [1974 1st ex.s. c 91 § 2; 1947 c 240 § 1; Rem. Supp. 1947 § 5547-1.]

Severability—1974 1st ex.s. c 91: "If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 1st ex.s. c 91 § 8.]

Emergency—Effective date—1974 1st ex.s. c 91: "This 1974 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: *Provided*, That sections 2 through 5 of this 1974 amendatory act shall not take effect until July 1, 1974." [1974 1st ex.s. c 91 § 7.]

Severability—1947 c 240: "If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application." [1947 c 240 § 5.] This applies to RCW 70.82.010, 70.82.030 and 70.82.040.

70.82.021 Cerebral palsy fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the state cerebral palsy fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the state cerebral palsy fund, shall be and are hereby transferred to and placed in the general fund. [1955 c 326 § 1.]

70.82.022 Cerebral palsy fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the state cerebral palsy fund shall be paid out of moneys in the general fund. [1955 c 326 § 2.]

70.82.023 Cerebral palsy fund—Abolished. From and after the first day of May, 1955, the state cerebral palsy fund is abolished. [1955 c 326 § 3.]

70.82.024 Cerebral palsy fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the state cerebral palsy fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1955 c 326 § 4.]

70.82.030 Eligibility. Any resident of this state who is educable but so severely handicapped as the result of cerebral palsy that he is unable to take advantage of the regular system of free education of this state may be admitted to or be eligible for any service and facilities provided hereunder, provided such resident has lived in this state continuously for more than one year before his application for such admission or eligibility. [1947 c 240 § 3; Rem. Supp. 1947 § 5547-2.]

70.82.040 Diagnosis. Persons shall be admitted to or be eligible for the services and facilities provided herein only after diagnosis according to procedures and regulations established and approved for this purpose by the

department of social and health services. [1974 1st ex.s. c 91 § 3; 1947 c 240 § 4; Rem. Supp. 1947 § 5547-3.]

Severability—Emergency—Effective date—1974 1st ex.s. c 91: See notes following RCW 70.82.010.

70.82.050 Powers, duties, functions, unallocated funds, transferred. All powers, duties and functions of the superintendent of public instruction or the state board of education relating to the Cerebral Palsy Center as referred to in chapter 39, Laws of 1973 2nd ex. sess. shall be transferred to the department of social and health services as created in chapter 43.20A RCW, and all unallocated funds within any account to the credit of the superintendent of public instruction or the state board of education for purposes of such Cerebral Palsy Center shall be transferred effective July 1, 1974 to the credit of the department of social and health services, which department shall hereafter expend such funds for such Cerebral Palsy Center purposes as contemplated in the appropriations therefor. All employees of the Cerebral Palsy Center on July 1, 1974 who are classified employees under chapter 41.06 RCW, the state civil service law, shall be assigned and transferred to the department of social and health services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1974 1st ex.s. c 91 § 4.]

Severability—Emergency—Effective date—1974 1st ex.s. c 91: See notes following RCW 70.82.010.

Chapter 70.83 PHENYLKETONURIA AND OTHER PREVENTABLE HERITABLE DISORDERS

Sections

- 70.83.010 Declaration of policy and purpose.
- 70.83.020 Screening tests of newborn infants.
- 70.83.030 Report of positive test to department of health.
- 70.83.040 Services and facilities of state agencies made available to families and physicians.
- 70.83.050 Rules and regulations to be adopted by state board of health.
- 70.83.060 Annual reports to governor and legislative council.

70.83.010 Declaration of policy and purpose. It is hereby declared to be the policy of the state of Washington to make every effort to detect as early as feasible and to prevent where possible phenylketonuria and other preventable heritable disorders leading to mental retardation or physical defects. [1967 c 82 § 1.]

70.83.020 Screening tests of newborn infants. It shall be the duty of the Washington state department of health to promote screening tests of all newborn infants for the detection of phenylketonuria and other heritable or metabolic disorders leading to mental retardation or physical defects when such tests are available, practical, and indicated by sound medical practice. [1967 c 82 § 2.]

70.83.030 Report of positive test to department of health. Laboratories, attending physicians, hospital administrators, or other persons performing or requesting the performance of tests for phenylketonuria shall report to the department of health all positive tests. The state board of health by rule and regulation shall, when it deems appropriate, require that positive tests for other heritable and metabolic disorders covered by this chapter be reported to the state department of health by such persons or agencies requesting or performing such tests. [1967 c 82 § 3.]

70.83.040 Services and facilities of state agencies made available to families and physicians. When notified of positive screening tests, the state department of health shall offer the use of its services and facilities, designed to prevent mental retardation or physical defects in such children, to the attending physician, or the parents of the newborn child if no attending physician can be identified.

The services and facilities of the state department of health, and other state and local agencies cooperating with the department of health in carrying out programs of detection and prevention of mental retardation and physical defects shall be made available to the family and physician to the extent required in order to carry out the intent of this chapter and within the availability of funds. [1967 c 82 § 4.]

70.83.050 Rules and regulations to be adopted by state board of health. The state board of health shall adopt rules and regulations necessary to carry out the intent of this chapter. [1967 c 82 § 5.]

70.83.060 Annual reports to governor and legislative council. The department shall report annually to the governor and the legislative council on the progress and effect of such testing programs. The first such report shall be delivered by January 1, 1968. [1967 c 82 § 6.]

Chapter 70.84 BLIND, HANDICAPPED AND DISABLED PERSONS—"WHITE CANE LAW"

Sections

- 70.84.010 Declaration—Policy.
- 70.84.020 "Guide dog" defined.
- 70.84.030 Guide dog—Extra charge or refusing service because of prohibited.
- 70.84.040 Standard of care for drivers of motor vehicles—Blind pedestrians carrying white cane or using guide dog.
- 70.84.050 Blind pedestrians not carrying white cane or using guide dog—Rights and privileges.
- 70.84.060 Unauthorized use of white cane or guide dog.
- 70.84.070 Penalty for violations.
- 70.84.080 Employment of blind, visually and physically handicapped persons in public service.
- 70.84.900 Short title.

70.84.010 Declaration—Policy. The legislature declares:

(1) It is the policy of this state to encourage and enable the blind, the visually handicapped and the otherwise physically disabled to participate fully in the social

and economic life of the state, and to engage in remunerative employment.

(2) As citizens, the blind, the visually handicapped, and the otherwise physically disabled have the same rights as the able-bodied to the full and free use of the streets, highways, walkways, public buildings, public facilities, and other public places.

(3) The blind, the visually handicapped and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges on common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, and all other public conveyances, as well as in hotels, lodging places, places of public resort, accommodation, assemblage or amusement, and all other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. [1969 c 141 § 1.]

70.84.020 "Guide dog" defined. For the purpose of this chapter, the term "guide dog" shall mean a dog which is in working harness and is trained or approved by an accredited school engaged in training dogs for the purpose of guiding blind persons. [1969 c 141 § 2.]

70.84.030 Guide dog—Extra charge or refusing service because of prohibited. Every totally or partially blind person shall have the right to be accompanied by a guide dog in any of the places listed in RCW 70.84.010(3) without being required to pay an extra charge for the guide dog. It shall be unlawful to refuse service to a blind person in any such place solely because he is accompanied by a guide dog. [1969 c 141 § 3.]

70.84.040 Standard of care for drivers of motor vehicles—Blind pedestrians carrying white cane or using guide dog. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip) or using a guide dog shall take all necessary precautions to avoid injury to such blind pedestrian. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk, any pedestrian wholly or partially blind, crossing or attempting to cross the roadway, if such pedestrian indicates his intention to cross or of continuing on, with a timely warning by holding up or waving a white cane, or using a guide dog. The failure of any such pedestrian so to signal shall not deprive him of the right of way accorded him by other laws. [1971 ex.s. c 77 § 1; 1969 c 141 § 4.]

70.84.050 Blind pedestrians not carrying white cane or using guide dog—Rights and privileges. A totally or partially blind pedestrian not carrying a white cane or using a guide dog in any of the places, accommodations, or conveyances listed in RCW 70.84.010, shall have all of the rights and privileges conferred by law on other persons. [1969 c 141 § 5.]

70.84.060 Unauthorized use of white cane or guide dog. It shall be unlawful for any pedestrian who is not totally or partially blind to use a white cane or guide dog in any of the places, accommodations, or conveyances listed in RCW 70.84.010 for the purpose of securing the rights and privileges accorded by the chapter to totally or partially blind people. [1969 c 141 § 6.]

70.84.070 Penalty for violations. Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation, who denies or interferes with admittance to or enjoyment of the public facilities enumerated in RCW 70.84.010, or otherwise interferes with the rights of a totally or partially blind person as set forth in RCW 70.84.010 shall be guilty of a misdemeanor. [1969 c 141 § 7.]

70.84.080 Employment of blind, visually and physically handicapped persons in public service. In accordance with the policy set forth in RCW 70.84.010, the blind, the visually handicapped and the otherwise physically disabled shall be employed in the state service, in the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved. [1969 c 141 § 9.]

70.84.900 Short title. This chapter shall be known and may be cited as the "White Cane Law." [1969 c 141 § 11.]

Chapter 70.85 PARTY LINE TELEPHONES—EMERGENCY CALLS

Sections	Definitions.
70.85.010	Definitions.
70.85.020	Refusal to yield line—Penalty.
70.85.030	Request for line on pretext of emergency—Penalty.
70.85.040	Telephone directories—Notice.

Fraud in operating coin-box telephone: RCW 9.45.180.

Telephone and telegraph companies: Chapter 80.36 RCW.

70.85.010 Definitions. "Party line" means a subscribers' line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

"Emergency" means a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential. [1953 c 25 § 1.]

70.85.020 Refusal to yield line—Penalty. Any person who shall wilfully refuse to yield or surrender the use of a party line to another person for the purpose of permitting such other person to report a fire or summon police, medical or other aid in case of emergency, shall be deemed guilty of a misdemeanor. [1953 c 25 § 2.]

70.85.030 Request for line on pretext of emergency—Penalty. Any person who shall ask for or request the use of a party line on pretext that an emergency exists, knowing that no emergency in fact exists, shall be deemed guilty of a misdemeanor. [1953 c 25 § 3.]

70.85.040 Telephone directories—Notice. After September 9, 1953, every telephone directory thereafter distributed to the members of the general public shall contain a notice which explains this chapter, such notice to be printed in type which is no smaller than any other type on the same page and to be preceded by the word "warning": *Provided*, That the provisions of this section shall not apply to those directories distributed solely for business advertising purposes, commonly known as classified directories. [1953 c 25 § 4.]

Chapter 70.86 EARTHQUAKE RESISTANCE STANDARDS

Sections

70.86.010	Definitions.
70.86.020	Buildings to resist earthquake intensities.
70.86.030	Standards for design and construction.
70.86.040	Penalty.

70.86.010 Definitions. The word "person" includes any individual, corporation, or group of two or more individuals acting together for a common purpose, whether acting in an individual, representative, or official capacity. [1955 c 278 § 1.]

70.86.020 Buildings to resist earthquake intensities. Hospitals, schools, except one story, portable, frame school buildings, buildings designed or constructed as places of assembly accommodating more than three hundred persons; and all structures owned by the state, county, special districts, or any municipal corporation within the state of Washington shall hereafter be designed and constructed to resist probable earthquake intensities at the location thereof in accordance with RCW 70.86.030, unless other standards of design and construction for earthquake resistance are prescribed by enactments of the legislative authority of counties, special districts, and/or municipal corporations in which the structure is constructed. [1955 c 278 § 2.]

70.86.030 Standards for design and construction. Structural frames, exterior walls, and all appendages of the buildings described in RCW 70.86.020, whose collapse will endanger life and property shall be designed and constructed to withstand horizontal forces from any direction of not less than the following fractions of the weight of the structure and its parts acting at the centers of gravity:

Western Washington 0.05. [1955 c 278 § 3.]

70.86.040 Penalty. Any person violating any provision of this chapter shall be guilty of a misdemeanor: *Provided*, That any person causing such a building to be built shall be entitled to rely on the certificate of a

licensed professional engineer and/or registered architect that the standards of design set forth above have been met. [1955 c 278 § 4.]

Chapter 70.87 ELEVATORS, LIFTING DEVICES, AND MOVING WALKS

Sections

70.87.010	Definitions.
70.87.020	Conveyances to be safe and in conformity with law.
70.87.030	Director of labor and industries to administer—Rules and regulations.
70.87.040	Privately and publicly owned conveyances are subject to chapter.
70.87.050	Conveyances in buildings occupied by state, county or political subdivision.
70.87.060	Responsibility for operation and maintenance of equipment and for periodic tests.
70.87.070	Serial numbers.
70.87.080	Installation permits—When required—Application for—Posting.
70.87.090	Operating permits—Limited permits—Duration—Posting—Revocation.
70.87.100	Acceptance tests.
70.87.110	Exceptions authorized.
70.87.120	Inspectors—Inspections and reinspections—Order to discontinue use.
70.87.140	Operation without permit enjoined.
70.87.150	Noncompliance with inspection report—Hearing to show cause.
70.87.160	Noncompliance with inspection report—Order pursuant to hearing—Rehearing—Judicial review as for safety orders.
70.87.170	Judicial review of orders in accordance with administrative procedure act.
70.87.180	Violations—Penalties.
70.87.190	Accidents—Report and investigation—Cessation of use—Removal of damaged parts.
70.87.200	Exemptions.
70.87.210	Disposition of revenue.
70.87.900	Severability—1963 c 26.

State building code: Chapter 19.27 RCW.

70.87.010 Definitions. For the purposes of this chapter, except where a different interpretation is required by the context:

(1) "Owner" means any person having title to or control of a conveyance, as guardian, trustee, lessee or otherwise;

(2) "Conveyance" means an elevator, escalator, dumbwaiter, belt manlift, automobile parking elevator and moving walk, all as defined herein;

(3) "Existing installations" means all conveyances for which plans were completed and accepted by the owner, or the plans and specifications for which have been filed with and approved by the department of labor and industries before the *effective date of this chapter and work on the erection of which was begun not more than twelve months thereafter;

(4) "Elevator" means a hoisting or lowering machine equipped with a car or platform which moves in guides in a substantially vertical direction and which serves two or more floors or landings of a building or structure;

(a) "Passenger elevator" means an elevator on which passengers are permitted to ride and may be used to

carry freight or materials when the load carried does not exceed the capacity of the elevator;

(b) "Freight elevator" means an elevator used primarily for carrying freight and on which only the operator, the persons necessary for loading and unloading and such employees as may be approved by the department of labor and industries are permitted to ride;

(c) "Sidewalk elevator" means a freight elevator which operates between a sidewalk or other area exterior to the buildings and floor levels inside the building below such area, which has no landing opening into the building at its upper limit of travel and which is not used to carry automobiles;

(5) "Escalator" means a power driven, inclined, continuous stairway used for raising and lowering passengers;

(6) "Dumbwaiter" means a hoisting and lowering mechanism equipped with a car which moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet, whose total inside height, whether or not provided with fixed or removable shelves, does not exceed four feet, the capacity of which does not exceed five hundred pounds and is used exclusively for carrying materials;

(7) "Automobile parking elevator" means an elevator located in either a stationary or horizontally moving hoistway and used exclusively for parking automobiles where, during the parking process, each automobile is moved either under its own power or by means of a power driven transfer device onto and off the elevator directly into parking spaces or cubicles in line with the elevator and where no persons are normally stationed on any level except the receiving level;

(8) "Moving walk" means a type of passenger carrying device on which passengers stand or walk and whose passenger carrying surface remains parallel to its direction of motion;

(9) "Belt manlift" means a device consisting of a power driven endless belt provided with steps or platforms and hand hold attached to it for the transportation of personnel from floor to floor;

(10) "Division" means the division of industrial safety and health of the department of labor and industries;

(11) "Supervisor" means the supervisor, of the division of industrial safety and health of the department of labor and industries;

(12) "Inspector" means any safety or elevator inspector of the division including assistant and deputy inspectors, or the mechanical or elevator inspectors of the municipality having in effect an elevator ordinance as hereinafter set forth;

(13) "Permit" means a permit issued by the supervisor to construct, install or operate a conveyance.

(14) "One man capacity manlift" means a single passenger, hand powered counterweighted device, or electric powered device, which travels vertically in guides and serves two or more landings. [1973 1st ex.s. c 52 § 9; 1969 ex.s. c 108 § 1; 1963 c 26 § 1.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

***Effective date**—1963 c 26: The "effective date of this chapter" was June 13, 1963, see preface, 1963 session laws.

70.87.020 Conveyances to be safe and in conformity with law. The purpose of this chapter is to provide for the safe mechanical and electrical operation, erection, installation, alteration, inspection, and repair of conveyances, and all such operation, erection, installation, alteration, inspection, and repair subject to the provisions of this chapter shall be reasonably safe to persons and property and in conformity with the provisions of this chapter and the applicable statutes of the state of Washington, and all orders, rules and regulations of the department of labor and industries issued by authority thereof. Conformity in this respect with the applicable rules and regulations set forth in the American Standard Safety Code for Elevators, Dumbwaiters and Escalators shall be prima facie evidence that such operation, erection, installation, alteration, inspection and repair is reasonably safe to persons and property. [1963 c 26 § 2.]

70.87.030 Director of labor and industries to administer—Rules and regulations. The director of the department of labor and industries shall administer this chapter through the supervisor of the division of building and construction safety inspection services: *Provided*, That, except for the new construction thereof, all handpowered elevators, belt manlifts, and one-man capacity manlifts installed in or on grain elevators shall be the responsibility of the division of industrial safety and health of the department of labor and industries. The supervisor shall promulgate and adopt such rules and regulations governing the mechanical and electrical operation, erection, installation, alterations, inspection, acceptance tests, and repair of conveyances as may be necessary and appropriate and shall also promulgate and adopt minimum standards governing existing installations: *Provided*, That in the execution of this rule making power and prior to the promulgation and adoption of rules and regulations by the supervisor, he shall consider generally the rules and regulations for the safe mechanical operation, erection, installation, alteration, inspection, and repair of conveyances, including the American Standard Safety Code for Elevators, Dumbwaiters and Escalators, and any amendatory or supplemental provisions thereto, and he shall be guided by the provisions thereof where pertinent and consistent with the purposes of this chapter. The director of the department of labor and industries by rule and regulation shall establish a schedule of fees to pay the costs incurred by the department for the work related to administration and enforcement of this chapter. Nothing in this chapter shall limit the authority of the division to prescribe or enforce general or special safety orders as provided by law. [1973 1st ex.s. c 52 § 10; 1971 c 66 § 1; 1970 ex.s. c 22 § 1; 1963 c 26 § 3.]

Effective date—1973 1st ex.s. c 52: See RCW 43.22.010.

70.87.040 Privately and publicly owned conveyances are subject to chapter. All privately owned conveyances and all publicly owned conveyances are subject to the provisions of this chapter except as hereinafter specifically excluded. [1963 c 26 § 4.]

70.87.050 Conveyances in buildings occupied by state, county or political subdivision. The operation, erection, installation, alteration, inspection, and repair of any conveyance located in, or used in connection with any building owned by the state, county, or any political subdivision not otherwise exempted by this chapter, even though located within a city having an elevator code, shall be under the jurisdiction of the Washington state department of labor and industries. [1969 ex.s. c 108 § 2; 1963 c 26 § 5.]

70.87.060 Responsibility for operation and maintenance of equipment and for periodic tests. (1) The person or firm installing, relocating or altering any conveyance shall be responsible for its operation and maintenance until the operating permit therefor has been issued by the supervisor except during the period when any limited operating permit as defined in RCW 70.87.090(2) shall be in effect, and shall also be responsible for all tests of new, relocated, and altered equipment until the operating permit thereof has been issued by the supervisor.

(2) The owner or his duly appointed agent shall be responsible for the safe operation and proper maintenance of the conveyance after the operating permit has been issued by the supervisor and also during the period of effectiveness of any limited operating permit as defined in RCW 70.87.090(2). The owner shall be responsible for all periodic tests required by the supervisor. [1963 c 26 § 6.]

70.87.070 Serial numbers. All new and existing conveyances shall have a serial number painted on or attached as directed by the supervisor. This serial number shall be assigned by the supervisor and shown on all required permits. [1963 c 26 § 7.]

70.87.080 Installation permits—When required—Application for—Posting. (1) An installation permit shall be obtained from the supervisor before erecting, installing, relocating, or altering a conveyance.

(2) The installer of the conveyance shall submit an application for such permit in duplicate, in such form as the supervisor may prescribe.

(3) The permit issued by the supervisor shall be kept posted conspicuously at the site of installation.

(4) No permit shall be required for repairs and replacement normally necessary for maintenance and made with parts of equivalent materials, strength and design. [1963 c 26 § 8.]

70.87.090 Operating permits—Limited permits—Duration—Posting—Revocation. (1) An operating permit shall be required for each conveyance operated in the state of Washington except during its erection by the person or firm responsible for its installation. A permit issued by the supervisor shall remain in effect and be kept conspicuously posted near the conveyance or in the machine room thereof.

(2) The supervisor may permit the temporary use of any conveyance during its installation or alteration, under the authority of a limited permit issued by the supervisor for each class of service. Limited permits shall be issued for a period not to exceed thirty days and may be renewed at the discretion of the supervisor. Where a limited permit is issued, a notice bearing the information that the equipment has not been finally approved shall be conspicuously posted.

(3) The supervisor may at any time and after giving notice and an opportunity to be heard in accordance with the provisions of chapter 34.04 RCW, in the interest of safety, revoke any current permit to operate a conveyance. [1963 c 26 § 9.]

70.87.100 Acceptance tests. (1) The person or firm installing, relocating or altering conveyances shall notify the supervisor in writing, at least seven days before completion of the work, and shall subject the new, moved, or altered portions of the equipment to the acceptance tests.

(2) All new, altered, or relocated conveyances where a permit has been issued, shall be inspected for compliance with the requirements of this chapter by an inspector in the employ of the division who shall also witness the test specified. [1963 c 26 § 10.]

70.87.110 Exceptions authorized. The requirements of this chapter are intended to apply to all conveyance installations except as modified or waived by the supervisor. They are intended to be modified or waived whenever any requirements are shown to be impracticable, such as involving expense not justified by the protection secured: *Provided*, That equivalent or safer construction is secured in other ways. Such exceptions shall apply only to the installation covered by the application for waiver. [1963 c 26 § 11.]

70.87.120 Inspectors—Inspections and reinspections—Order to discontinue use. (1) The supervisor shall appoint and employ inspectors, as may be necessary to carry out the provisions of this chapter, under the provisions of the rules and regulations adopted by the state personnel board in accordance with chapter 41.06 RCW.

(2) The supervisor shall cause all conveyances to be inspected and tested at least once each year. Inspectors shall have the right during reasonable hours to enter into and upon any building or premises in the discharge of their official duties, for the purpose of making any inspection or testing any conveyance contained thereon or therein. Inspections and tests shall conform with the rules and regulations promulgated and adopted by the supervisor. All installations shall be inspected by the supervisor before any initial permit for operation shall be issued. Permits shall not be issued until the fees herein have been paid.

(3) If inspection shows a conveyance to be in an unsafe condition, the supervisor shall issue an inspection report in writing requiring the repairs or alterations to be made to the conveyance which are necessary to

render it safe, and may order the operation thereof discontinued until the repairs or alterations are made or the unsafe conditions are removed. [1970 ex.s. c 22 § 2; 1963 c 26 § 12.]

Schedule of fees, establishment: RCW 70.87.030.

70.87.140 Operation without permit enjoined. Whenever any conveyance is being operated without the permit herein required, the attorney general or the prosecuting attorney of the county may apply to the superior court of the county in which the conveyance is located for an injunction restraining the operation thereof until such condition is corrected. No bond shall be required from the division in such proceedings. [1963 c 26 § 14.]

70.87.150 Noncompliance with inspection report—Hearing to show cause. If all corrections stated on the inspection report are not complied with, a hearing before the supervisor may be held at the supervisor's request in accordance with the provisions of chapter 34.04 RCW, at which the owner, operator, or other person in charge of the conveyance shall appear and show cause why he should not comply with the report. Failure to do so, without sufficient reasons, will be prima facie evidence of noncompliance. [1963 c 26 § 15.]

70.87.160 Noncompliance with inspection report—Order pursuant to hearing—Rehearing—Judicial review as for safety orders. If it appears to the supervisor after hearing that the conveyance is unsafe and that the requirements contained in the inspection report should be complied with or that other things should be done to make such equipment safe, the supervisor may order or confirm the withholding of the permit and may make such requirements as he deems proper for repair or alterations and for the correction of such unsafe conditions. Such orders may thereafter be reheard by the supervisor or reviewed by the courts in the manner specified for safety orders of the division. [1963 c 26 § 16.]

Judicial review of safety orders: RCW 49.17.150.

70.87.170 Judicial review of orders in accordance with administrative procedure act. Any person aggrieved by any order of the supervisor may have the same reviewed by the courts in accordance with the provisions of chapter 34.04 RCW. [1963 c 26 § 17.]

70.87.180 Violations—Penalties. (1) The construction, installation, relocation, alteration, or operation of a conveyance by any person owning or having the custody, management or operation thereof without a permit except as provided in RCW 70.87.080 and 70.87.090 is a misdemeanor and shall be punishable by a fine not to exceed two hundred fifty dollars, or ninety days in the county jail. Each day of violation shall be a separate offense. No prosecution shall be maintained where the issuance or renewal of a permit has been requested but upon which no action has been taken by the supervisor.

(2) Every person who shall wilfully or continuously violate or fail to comply with any rule or regulation of

the division promulgated under authority of this chapter, shall be punished by a penalty of not more than two hundred fifty dollars. [1963 c 26 § 18.]

70.87.190 Accidents—Report and investigation—Cessation of use—Removal of damaged parts. The owner or his duly authorized agent shall promptly notify the supervisor of each and every accident to a person requiring the service of a physician or disability exceeding one day, and shall afford the supervisor every facility for investigating and inspecting such accident. The supervisor shall without delay, after being notified, make an inspection and shall have placed on file a full and complete report of such accident. Such report shall give in detail all material facts and information available and the cause or causes, so far as they can be determined. The report shall be open to public inspection at all reasonable hours. When an accident involves the failure or destruction of any part of the construction or the operating mechanism of a conveyance, the use of such device is forbidden until it has been made safe and until it has been reinspected and any repairs, changes, or alterations have been approved by the supervisor and a permit on such a form as he may prescribe has been issued by him. The removal of any part of the damaged construction or operating mechanism from the premises is forbidden until permission to do so has been granted by the supervisor. [1963 c 26 § 19.]

70.87.200 Exemptions. The provisions of this chapter shall not apply where:

(1) A conveyance is permanently removed from service and/or made effectively inoperative or to lifts, man hoists or material hoists which are erected temporarily for use during or for the duration of construction work only and are of such design that they must be operated by a workman stationed at the hoisting machine.

(2) Municipalities having in effect an elevator code prior to the adoption of the original act of 1963 may continue to assume jurisdiction over the operation, erection, installation, alteration or repair of elevators, escalators, dumbwaiters, moving walks, manlifts and parking elevators and may inspect, issue permits, collect fees and prescribe minimum requirements for the construction, design, use and maintenance of such conveyances providing such requirements are equal to or in conformity with the requirements of this chapter and to all rules and regulations pertaining to such conveyances as adopted and administered by the Washington state department of labor and industries. Upon the failure of any municipality to carry out the provisions of this chapter with regard to any conveyances or conveyance the Washington state department of labor and industries may assume jurisdiction over any such conveyances. A municipality upon electing not to maintain jurisdiction over certain conveyances located therein, may mutually enter into a written agreement with the Washington state department of labor and industries transferring exclusive jurisdiction of such conveyances to said department. [1969 ex.s. c 108 § 4; 1963 c 26 § 20.]

70.87.210 Disposition of revenue. All moneys received or collected under the terms of this chapter shall be deposited in the general fund. [1963 c 26 § 21.]

70.87.900 Severability—1963 c 26. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1963 c 26 § 22.]

**Chapter 70.88
CONVEYANCES FOR PERSONS IN
RECREATIONAL ACTIVITIES**

Sections

- 70.88.010 Safe and adequate facilities and equipment required of owner and operator—Operator not common carrier.
- 70.88.020 Plans, specifications to be submitted to state parks and recreation commission—Approval—Penalty.
- 70.88.030 Orders directing repairs, improvements, changes, etc.—Notice—Forbidding operation.
- 70.88.040 Penalty for violation of chapter or rules, etc., of parks and recreation commission.
- 70.88.050 Inspector of recreational devices—Employees.
- 70.88.060 Powers and duties of inspector—Condemnation of equipment—Annual inspection.
- 70.88.070 Costs of inspection—Lien—Disposition of funds.
- 70.88.080 State immunity from liability—Actions deemed exercise of police power.
- 70.88.090 Rules, regulations, and codes.
- 70.88.100 Judicial review.

70.88.010 Safe and adequate facilities and equipment required of owner and operator—Operator not common carrier. Every owner or operator of any recreational device designed and operated for the conveyance of persons which aids in promoting entertainment, pleasure, play, relaxation, or instruction, specifically including devices generally associated with winter sports activities such as ski lifts, ski tows, j-bars, t-bars, ski mobiles, chair lifts, and similar devices and equipment, shall construct, furnish, maintain, and provide safe and adequate facilities and equipment with which safely and properly to receive and transport all persons offered to and received by the owner or operator of such devices, and to promote the safety of such owner's or operator's patrons, employees and the public. The owner or operator of the devices and equipment covered by this section shall be deemed not to be a common carrier. [1965 ex.s. c 85 § 1; 1961 c 253 § 1; 1959 c 327 § 1.]

70.88.020 Plans, specifications to be submitted to state parks and recreation commission—Approval—Penalty. It shall be unlawful after the effective date of this chapter to construct or install any such recreational device as set forth in RCW 70.88.010 without first submitting plans and specifications for such device to the state parks and recreation commission and receiving the approval of the commission for such construction or installation. Violation of this section shall be a misdemeanor. [1959 c 327 § 2.]

Effective date—1959 c 327: The "effective date of this chapter" is midnight June 10, 1959, see preface 1959 session laws.

70.88.030 Orders directing repairs, improvements, changes, etc.—Notice—Forbidding operation. The state parks and recreation commission shall have the authority and the responsibility for the inspection of the devices set forth in RCW 70.88.010 and in addition shall have the following powers and duties:

(1) Whenever the commission, after hearing called upon its own motion or upon complaint, finds that additional apparatus, equipment, facilities or devices for use or in connection with the transportation or conveyance of persons upon the devices set forth in RCW 70.88.010, ought reasonably to be provided, or any repairs or improvements to, or changes in, any theretofore in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto, in order to promote the security and safety of the public or employees, it may make and serve an order directing such repairs, improvements, changes, or additions to be made.

(2) If the commission finds that the equipment, or appliances in connection therewith, or the apparatus, or other structures of the recreational device set forth in RCW 70.88.010 are defective, and that the operation thereof is dangerous to the employees of the owner or operator of such device or to the public, it shall immediately give notice to the owner or operator of such device of the repairs or reconstruction necessary to place the same in a safe condition, and may prescribe the time within which they shall be made. If, in its opinion, it is needful or proper, the commission may forbid the operation of the device until it is repaired and placed in a safe condition. [1959 c 327 § 3.]

70.88.040 Penalty for violation of chapter or rules, etc., of parks and recreation commission. Any violation of this chapter or the rules, regulations and codes of the state parks and recreation commission relating to public safety in the construction, operation and maintenance of the recreational devices provided for in this chapter shall be a misdemeanor. [1965 ex.s. c 85 § 2; 1959 c 327 § 4.]

70.88.050 Inspector of recreational devices—Employees. The state parks and recreation commission shall employ or retain a person qualified in engineering experience and training who shall be designated as the inspector of recreational devices, and may employ such additional employees as are necessary to properly administer this chapter. The inspector and such additional employees may be hired on a temporary basis or borrowed from other state departments, or the commission may contract with individuals or firms for such inspecting service on an independent basis. The commission shall prescribe the salary or other remuneration for such service. [1959 c 327 § 5.]

70.88.060 Powers and duties of inspector—Condemnation of equipment—Annual inspection. The inspector of recreational devices and his assistants shall inspect all equipment and appliances connected with the recreational devices set forth in RCW 70.88.010 and make such reports of his inspection to the commission

as may be required. He shall, on discovering any defective equipment, or appliances connected therewith, rendering the use of the equipment dangerous, immediately report the same to the owner or operator of the device on which it is found, and in addition report it to the commission. If in the opinion of the inspector the continued operation of the defective equipment constitutes an immediate danger to the safety of the persons operating or being conveyed by such equipment, the inspector may condemn such equipment and shall immediately notify the commission of his action in this respect: *Provided*, That inspection required by this chapter must be conducted at least once each year. [1959 c 327 § 6.]

70.88.070 Costs of inspection—Lien—Disposition of funds. The expenses incurred in connection with making inspections under this chapter shall be paid by the owner or operator of such recreational devices either by reimbursing the commission for the costs incurred or by paying directly such individuals or firms that may be engaged by the commission to accomplish the inspection service. Payment shall be made only upon notification by the commission of the amount due. No fee in excess of ten dollars an hour shall be charged and in no event shall the total cost for each inspection exceed the sum of two hundred and fifty dollars. In determining the costs to be assessed hereunder, the commission must approximate the reasonable costs necessary in order to accomplish the purposes of this chapter. The costs as assessed by the commission shall be a lien on the equipment of the owner or operator of the recreational devices so inspected. Such moneys collected by the commission hereunder shall be paid into the parks and parkways account of the general fund. [1961 c 253 § 2; 1959 c 327 § 7.]

70.88.080 State immunity from liability—Actions deemed exercise of police power. Inspections, rules, and orders of the department resulting from the exercise of the provisions of this chapter shall not in any manner be deemed to impose liability upon the state for any injury or damage resulting from the operation of the facilities regulated by this chapter, and all actions of the department and its personnel shall be deemed to be an exercise of the police power of the state. [1959 c 327 § 8.]

70.88.090 Rules, regulations, and codes. The state parks and recreation commission is empowered to adopt reasonable rules, regulations, and codes relating to public safety in the construction, operation and maintenance of the recreational devices provided for in this chapter. The rules, regulations and codes authorized hereunder shall be in accordance with established standards, if any, and shall not be discriminatory in their application. [1959 c 327 § 9.]

70.88.100 Judicial review. The procedure for review of the orders or actions of the state parks and recreation commission, its agents or employees, shall be the

same as that contained in RCW 81.04.170, 81.04.180, and 81.04.190. [1959 c 327 § 10.]

Chapter 70.89 SAFETY GLAZING MATERIAL

Sections	
70.89.005	Purpose.
70.89.010	Safety glazing material defined—Types—Tests—Definitions.
70.89.021	Safety glazing material for use in hazardous locations—Labeling requirements.
70.89.031	Sale, fabrication, assembly, installation of other than safety glazing materials in hazardous locations unlawful.
70.89.040	Penalty.
70.89.050	Employees not liable.
70.89.060	Local ordinances superseded.
70.89.070	Enforcement of chapter.
70.89.900	Severability—1963 c 128.
70.89.910	Construction, effective date, prospective application—1973 1st ex.s. c 2.

70.89.005 Purpose. The purpose of this chapter is to protect the consumer by reducing the high incidence of accidental injuries and deaths resulting from the use of ordinary annealed glass or substitutes therefor in hazardous locations. The legislature intends to provide to the homeowner, his family and guests, and to the general public, greater safety by prescribing the labeling and use of safety glazing material in hazardous locations in residential, commercial, industrial, and public buildings. [1973 1st ex.s. c 2 § 1.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.010 Safety glazing material defined—Types—Tests—Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Safety glazing material" means glazing materials, such as tempered glass, laminated glass, or wire glass which meet the test requirements of the American national standards institute standard ANSI-97.1-1972 and such additional requirements as may be prescribed by the director of the department of labor and industries after notice and hearing as required by chapter 34.04 RCW (the administrative procedure act), and which are so constructed, treated or combined with other materials as to minimize the likelihood of injury to persons by these safety glazing materials when they may be cracked or broken.

Materials other than glass which have properties supported by performance data may be approved by the director for use as glazing material.

(2) "Hazardous locations" means those structural elements, glazed or to be glazed in industrial, commercial and public buildings, known as framed or unframed glass entrance doors; and those structural elements, glazed or to be glazed in residential buildings and other structures used as dwellings, industrial buildings, commercial buildings, and public buildings, known as sliding glass doors, storm doors, shower doors, bathtub enclosures, and those fixed glazed panels immediately adjacent to entrance and exit doors which may be mistaken for doors; and any other structural elements, glazed or to be glazed, wherein the use of other than

safety glazing materials would constitute an unreasonable hazard as the director of the department of labor and industries may determine after notice and hearings as required by chapter 34.04 RCW (the administrative procedure act); whether or not the glazing in such doors, panels, enclosures and other structural elements is transparent: *Provided, however,* That the replacement of opaque, nontransparent panels in buildings which are completed prior to the effective date of this amendatory act shall not be subject to the provisions of *the act.

(3) "Commercial buildings" means buildings known as wholesale and retail stores and storerooms, and office buildings.

(4) "Public buildings" means buildings known as hotels, hospitals, motels, sanitariums, nursing homes, theatres, stadiums, gymnasiums, amusement park buildings, schools and other buildings used for educational purposes, museums, restaurants, bars, and other buildings of public assembly.

(5) "Residential buildings" means buildings, known as homes, apartments, and dormitories used as dwellings for one or more families or persons.

(6) "Other structures used as dwellings" means mobile homes, manufactured or industrialized housing and lodging homes.

(7) "Industrial buildings" means buildings known as factories.

(8) "Commercial entrance and exit door" means a hinged, pivoting, revolving, or sliding door which is glazed or to be glazed and used alone or in combination with other doors on the interior or exterior wall of a commercial or public building as a means of ingress or egress.

(9) "Primary residential entrance and exit door" means a door (other than doors covered by subsection (10) of this section) which is glazed or to be glazed and used in the exterior wall of a residential building as a means of ingress or egress.

(10) "Storm or combination door" means a door which is glazed or to be glazed, and used in tandem with a primary residential or commercial entrance and exit door to protect the primary residential or commercial entrance or exit door against weather elements and to improve indoor climate control.

(11) "Bathtub enclosure" means a sliding, pivoting, or hinged door and fixed panels which are glazed or to be glazed and used to form a barrier between the bathtub and the rest of the room areas.

(12) "Shower enclosure" means a hinged, pivoting, or sliding door and fixed panels which are glazed or to be glazed and used to form a barrier between the shower stall and the rest of the room area.

(13) "Sliding glass door units" means an assembly of glazed or to be glazed panels contained in an overall frame installed in residential, commercial or public buildings, and which assembly is so designed that one or more of the panels is movable in a horizontal direction to produce or close off an opening for use as a means of ingress or egress.

(14) "Fixed flat glazed panels immediately adjacent to entrance or exit doors" means the first fixed flat

glazed panel on either or both sides of interior or exterior doors, between eighteen and forty-eight inches in width, within six feet horizontally of the nearest vertical edge of the door, but shall not include any glass panel more than eighteen inches above the finished floor walking surface.

(15) "Glazing" means the act of installing and securing glass or other glazing material into prepared openings in structural elements such as doors, enclosures, and panels.

(16) "Glazed" means the accomplished act of glazing.

(17) "Director" means the director of the department of labor and industries of the state of Washington. [1973 1st ex.s. c 2 § 2; 1963 c 128 § 1.]

***Reviser's note:** "the act" apparently refers to 1973 1st ex.s. c 2 which consists of RCW 70.89.005, 70.89.021, 70.89.031, 70.89.050-70.89.070 and 70.89.910, the amendments to RCW 70.89.010 and 70.89.040, and to the repeal of RCW 70.89.020 and 70.89.030.

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.021 Safety glazing material for use in hazardous locations—Labeling requirements. (1) All safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the state of Washington shall be permanently labeled by such means as etching, sandblasting, firing of ceramic material, hot-die stamping, on the safety glazing material, or by other suitable means. Each light of safety glazing material installed in a hazardous location within the state, shall have attached a transparent label which shall identify the labeler, whether the manufacturer or installer, and state that "safety glazing material" has been utilized in such installation. The label shall be legible and visible from the inside of the building after installation and shall specify that the label shall not be removed.

The label must be legible and visible after installation.

(2) Such safety glazing labeling shall not be used on other than safety glazing materials.

(3) Permanent labeling of wire glass shall not be required where the seller or installer of such wire glass furnishes to each buyer thereof a certificate stating that such wire glass meets the test requirements set forth in RCW 70.89.010, as now or hereafter amended, when such alternate method is approved by the director of the department of labor and industries. [1973 1st ex.s. c 2 § 3.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.031 Sale, fabrication, assembly, installation of other than safety glazing materials in hazardous locations unlawful. It shall be unlawful within the state of Washington to knowingly sell, fabricate, assemble, glaze or install glazing materials other than safety glazing materials in, or for use in, any hazardous location. [1973 1st ex.s. c 2 § 4.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.040 Penalty. The violation of any provision of this chapter shall constitute a misdemeanor. [1973 1st ex.s. c 2 § 8; 1963 c 128 § 4.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.050 Employees not liable. No liability under this chapter shall be created as to workmen who are employees of a contractor, subcontractor, or other employer responsible for compliance with this chapter. [1973 1st ex.s. c 2 § 5.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.060 Local ordinances superseded. This chapter shall supersede any local, municipal or county ordinance or parts thereof relating to the subject matter hereof. [1973 1st ex.s. c 2 § 6.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.070 Enforcement of chapter. Each city, county, or department, agency, or other authority of the state of Washington which inspects the new construction or remodeling of residential, commercial, industrial, or public structures shall in their respective jurisdictions be responsible for the enforcement of this chapter and any regulations made pursuant thereto. [1973 1st ex.s. c 2 § 7.]

Effective date—1973 1st ex.s. c 2: See RCW 70.89.910.

70.89.900 Severability—1963 c 128. If any provision of this chapter, or its application to any person or circumstance is held to be invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1963 c 128 § 5.]

70.89.910 Construction, effective date, prospective application—1973 1st ex.s. c 2. It is the intent of the legislature that the application of *this act shall be prospective only. The provisions of *this 1973 amendatory act shall not take effect until January 1, 1974, and shall not apply to contracts awarded on or before the effective date of *this act: *Provided*, That except for replacement or new installations of materials *this 1973 amendatory act shall not apply to buildings or construction completed prior to the effective date of *this act. [1973 1st ex.s. c 2 § 10.]

***Reviser's note:** "this act", "this 1973 amendatory act", see note following RCW 70.89.010.

Chapter 70.90 SWIMMING POOLS

Sections

70.90.010	Definitions.
70.90.020	Construction, alteration—Plans and specifications to be approved by director.
70.90.030	Rules and regulations.
70.90.040	Enforcement—Penalty.
70.90.900	Application of chapter.

70.90.010 Definitions. (1) The term "swimming pool" as used in this chapter shall mean an artificial pool of water used for swimming or recreational bathing, together with buildings and appurtenances in connection therewith, and shall be construed as including all pools of water used for swimming or recreational bathing in which it is necessary to employ such measures as the addition of clean water or disinfectant or both for the purpose of maintaining water quality standards.

(2) The term "wading pool" shall mean any artificial pool of water for wading purposes.

(3) The term "spray pool" shall mean a pool or artificially constructed depression for use by children, into which water is sprayed but is not allowed to pond in the bottom of the pool.

(4) The term "health officer" shall mean the city, county or district health officer.

(5) The term "director" shall mean the director of health of the state of Washington.

(6) The term "public pool" shall include any swimming pool owned or operated by the state of Washington or any of its political subdivisions or is a pool generally available to the general public upon the payment of a specific admission charge for the use of the same, and shall include pools maintained by hotels, motels or private clubs as an additional facility for members or guests where the same is fifteen hundred square feet or more in surface area.

(7) The term "semipublic pool" shall mean a pool provided by a hotel, motel or private club as an additional facility for members or guests where the same is less than fifteen hundred square feet in surface area.

(8) The term "private pool" shall mean a swimming pool, wading pool or spray pool maintained by an individual for the use of his family and friends. [1957 c 57 § 1.]

70.90.020 Construction, alteration—Plans and specifications to be approved by director. No municipality, person, firm or corporation shall construct a public or semipublic swimming pool, nor make changes in any public or semipublic swimming pool already built, or in the appurtenances thereof, until the plans and specifications therefor shall first have been submitted to and received the approval of the director. The director may stipulate as a condition of such approval such modifications or conditions not inconsistent with this chapter as the public health or safety may require. [1957 c 57 § 2.]

70.90.030 Rules and regulations. The director is authorized and empowered to make any rules and regulations not inconsistent herewith relative to water quality, disinfection, sanitation and sanitary control of public and semipublic swimming pools, wading pools and spray pools as are reasonably necessary to the protection of the public health and safety: *Provided*, That such regulations shall not require the installation of overflow troughs or scum gutters in semipublic pools provided other suitable devices of suitable number, type and location, as prescribed by the director, shall be

provided therefor, nor shall said regulations require recirculation equipment producing a complete turnover of the contents of semipublic pools at a greater rate than once every twelve hours. [1957 c 57 § 3.]

70.90.040 Enforcement—Penalty. The health officer of every city, county or district is empowered to enforce the provisions of this chapter and the needful rules and regulations promulgated by the director pursuant hereto, and the violation of any such rules or regulations shall be a misdemeanor punishable by a fine of not more than three hundred dollars. [1957 c 57 § 4.]

70.90.900 Application of chapter. The provisions of this chapter shall not apply to private pools. [1957 c 57 § 5.]

Chapter 70.92

PUBLIC BUILDINGS—PROVISION FOR AGED AND HANDICAPPED

Sections

- 70.92.010 Specifications for public buildings to make provision for the aged and handicapped.
- 70.92.020 Specifications for public buildings to make provision for the aged and handicapped—Buildings to which applicable.
- 70.92.030 Standards to be adopted, kept current—Exceptions, when—Authority to enforce higher specifications.
- 70.92.040 Remodeling or rehabilitation of existing buildings—Application to.
- 70.92.050 Approval of administrative authority before contract awarded.
- 70.92.060 Responsibility for enforcement.

American national standard specifications for making buildings and facilities accessible to and usable by handicapped persons: RCW 19.27.030(5).

70.92.010 Specifications for public buildings to make provision for the aged and handicapped. It is the intent of the legislature that hereafter, and notwithstanding the provisions of any existing law to the contrary, every plan and specification for the erection of any public building by the state or any agency or political subdivision thereof, or plan or specification for any building erected in part through the use of public funds, and to be used by the public, shall make provision for the following:

(1) Access into and within said buildings to accommodate the aging, as well as physically handicapped persons;

(2) Toilet facilities designed for use by the physically handicapped; and

(3) Those facilities specified by the rules and regulations issued in accordance with law by the respective administrative authorities designated in RCW 70.92.060. [1967 c 35 § 1.]

70.92.020 Specifications for public buildings to make provision for the aged and handicapped—Buildings to which applicable. The standards and specifications set forth in this chapter shall apply to all buildings and facilities used by the public which are constructed, remodeled or rehabilitated by the use of state, county or municipal funds, in whole or in part, or the funds, in

whole or in part, of any subdivision of the state. All such buildings and facilities constructed in this state after June 8, 1967 shall conform to each of the standards and specifications prescribed herein, excepting in the case of those buildings or facilities for which contracts for the planning or design have been awarded prior to June 8, 1967, and unless the administrative authority determines, after considering all circumstances applying to the building, that full compliance is impracticable. This chapter shall apply to temporary or emergency construction as well as permanent buildings. [1967 c 35 § 2.]

70.92.030 Standards to be adopted, kept current—Exceptions, when—Authority to enforce higher specifications. The rules and regulations duly promulgated by each respective administrative authority specified in RCW 70.92.060 shall be the minimum standards and specifications required by this chapter, and shall be in conformity with the most approved methods for providing facilities required by this chapter. The booklet entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" (U.S. Patent A117.1-1961), approved October 1961, by the American Standards Association, Incorporated, shall be considered and used as far as is practicable in determining such approved methods.

Each administrative authority enumerated in RCW 70.92.060 shall, as soon as practicable after June 8, 1967, obtain an authentic copy of the standards referred to in the first paragraph hereof and promulgate the necessary rules, regulations and standards to effectuate this chapter. Such administrative authority shall annually thereafter obtain a new set of such standards including therein any modifications and changes that have been made during the previous year in order to make such revisions as it deems necessary to keep its rules, regulations and standards current. Compliance with such rules, regulations and standards shall be prima facie evidence of compliance with the provisions of this chapter.

In cases of practical difficulty, unnecessary hardship or extreme differences, the administrative authorities responsible for the enforcement of this chapter may grant exceptions from the literal requirements of the standard specifications required by this chapter to permit the use of other methods or materials when in the opinion of the administrative authorities substantial compliance with the provisions of this chapter will be secured.

Nothing in this chapter shall be construed to limit the authority or power of any county, city, town or political subdivision of the state to enact and enforce under power and authority given by law, any ordinance, rule or regulation requiring equal, higher or better standards and specifications than those required by this chapter. [1967 c 35 § 3.]

70.92.040 Remodeling or rehabilitation of existing buildings—Application to. (1) Existing public buildings undergoing major remodeling or rehabilitation, after June 8, 1967, shall meet the requirements of this chapter except where the administrative authority determines that the full compliance is impracticable. However, those buildings and facilities for which contracts for the planning or design have been awarded prior to June 8, 1967 shall not be required to meet the requirements of this chapter.

(2) The standards and specifications shall be applicable only to those portions or parts of the building being remodeled or rehabilitated. [1967 c 35 § 4.]

70.92.050 Approval of administrative authority before contract awarded. Approval of the administrative authority shall be secured before the awarding of construction contracts for any building covered by this chapter. [1967 c 35 § 5.]

70.92.060 Responsibility for enforcement. The responsibility for enforcement of this chapter shall be as follows:

(1) Where state school funds are utilized, enforcement responsibility shall vest in the superintendent of public instruction.

(2) Where state funds are utilized, enforcement responsibility shall vest in the state agency having the statutory authority for the design and construction of buildings covered by this chapter.

(3) Where funds of counties, municipalities or other political subdivisions of the state are utilized, enforcement responsibility shall vest in the respective governing bodies thereof. [1967 c 35 § 6.]

Chapter 70.92A

PUBLIC ACCOMMODATIONS—PROVISION FOR PHYSICALLY HANDICAPPED

Sections

- 70.92A.010 Specifications for public accommodations to make provision for physically handicapped.
- 70.92A.020 Specifications for public accommodations to make provision for physically handicapped—Accommodations to which applicable.
- 70.92A.030 Minimum standards and specifications—Exceptions.
- 70.92A.040 Remodeling or rehabilitation of existing buildings—Application to.
- 70.92A.050 Responsibility for enforcement.
- 70.92A.060 Handicap symbol—Display—Signs showing location of entrance for handicapped.

American national standard specifications for making buildings and facilities accessible to and usable by handicapped persons: RCW 19.27.030(5).

70.92A.010 Specifications for public accommodations to make provision for physically handicapped. It is the intent of the legislature that hereafter, and notwithstanding any existing law to the contrary, every plan and specification for the erection of any public accommodation shall make provision for the following:

(1) Access into and within said building to accommodate the aging, as well as physically handicapped persons;

(2) Toilet facilities designed for use by the physically handicapped; and

(3) Any additional facilities specified in the latest edition of "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped". [1971 ex.s. c 219 § 1.]

70.92A.020 Specifications for public accommodations to make provision for physically handicapped—Accommodations to which applicable. The standards and specifications set forth in this chapter shall apply to all buildings, structures and improved areas used primarily as a public accommodation by the general public, which are constructed, remodeled or rehabilitated by the use of private funds. For the purpose of this chapter a "public accommodation" shall mean a building, structure or improved area which is used primarily by the general public as a place of gathering or amusement including, but not limited to, theatres, restaurants, hotels, and stadiums. All such buildings and facilities constructed in this state after August 9, 1971 shall conform to the standards and specifications prescribed herein, excepting in the case of those buildings or facilities for which contracts for the planning or design have been awarded prior to August 9, 1971, and unless the administrative authority determines, after considering all circumstances applying to the building, structure, or improved area that full compliance is impracticable. This chapter shall apply to temporary or emergency construction as well as permanent buildings. [1971 ex.s. c 219 § 2.]

70.92A.030 Minimum standards and specifications—Exceptions. (1) The minimum standards and specifications required by this chapter shall be those set forth in the booklet entitled "American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped" (U.S. Patent A117.1-1961), approved October 31, 1961, by the American Standards Association, Incorporated, or in the latest published edition of such booklet: *Provided*, That in no event shall any standard be required which would exceed the standards for publicly funded buildings.

(2) In cases of practical difficulty, unnecessary hardship or extreme differences, the administrative authorities responsible for the enforcement of this chapter may grant exceptions from the literal requirements of the standard specifications set forth in this chapter to permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection is thereby secured: *Provided*, That this chapter shall not limit the authority or power of any county, city, town or other political subdivision of the state to enact and enforce under power and authority given by law, any ordinance, rule or regulation requiring equal, higher, or better standards and specifications than those required by this chapter. [1971 ex.s. c 219 § 3.]

70.92A.040 Remodeling or rehabilitation of existing buildings—Application to. (1) Existing buildings, structures and/or improved areas undergoing major remodeling or rehabilitation, after August 9, 1971, shall meet the requirements of this chapter except where the administrative authority determines that full compliance is impracticable. However, those buildings and facilities for which contracts for the planning or design have been awarded prior to August 9, 1971 shall not be required to meet the requirements of this chapter.

(2) The standards and specifications shall be applicable only to those portions or parts of the building being remodeled or rehabilitated. [1971 ex.s. c 219 § 4.]

70.92A.050 Responsibility for enforcement. The responsibility for enforcement of this chapter shall lie with the building department of each county, city, town, or political subdivision of the state. [1971 ex.s. c 219 § 5.]

70.92A.060 Handicap symbol—Display—Signs showing location of entrance for handicapped. All buildings built in accordance with the standards and specifications set forth in this chapter, or containing facilities that are in compliance therewith, shall display the following symbol, which is white on a blue background



indicating the location of such facilities designed for the handicapped. When a building contains an entrance other than the main entrance which is ramped or level for use by handicapped persons, a sign showing its location shall be posted at or near the main entrance which shall be visible from the adjacent public sidewalk or way. [1974 1st ex.s. c 96 § 11.]

State building code: Chapter 19.27 RCW.

Chapter 70.93 MODEL LITTER CONTROL ACT

Sections	
70.93.010	Legislative findings.
70.93.020	Declaration of purpose.
70.93.030	Definitions.
70.93.040	Administrative procedure act—Application to chapter.
70.93.050	Enforcement of chapter.
70.93.060	Littering prohibited—Penalties.
70.93.070	Collection of fines and forfeitures.
70.93.080	Notice to public—Contents of chapter—Required.
70.93.090	Litter receptacles—Use of anti-litter symbol—Distribution—Placement—Violations—Penalties.
70.93.100	Litter bags—Design and distribution by department authorized—Violations—Penalties.
70.93.110	Removal of litter—Responsibility.
70.93.120	Litter assessment—Imposed—Amount—Collection.
70.93.130	Litter assessment—Application to certain products.
70.93.140	Litter assessment—Powers and duties of department of revenue—Guidelines.
70.93.150	"Sold within this state"—"Sales of the business within this state"—Defined.
70.93.160	Application of chapters 82.04 and 82.32 RCW to chapter—Exceptions.
70.93.170	Litter assessment—Exemptions.
70.93.180	Litter control account—Creation—Composition.
70.93.190	Litter control account—Distribution of funds—Authorization.
70.93.200	Department of ecology—Administration of anti-litter program—Guidelines.
70.93.210	Anti-litter campaign—Industrial cooperation requested.
70.93.230	Violations of chapter—Penalties.
70.93.900	Severability—1971 ex.s. c 307.
70.93.910	Alternative to Initiative 40—Placement on ballot—Force and effect of chapter.

Reviser's note: Throughout chapter 70.93 RCW, the term "this 1971 amendatory act" has been changed to "this chapter"; "this 1971 amendatory act" [1971 ex.s. c 307] consists of this chapter, the 1971 amendment to RCW 46.61.655 and the repeal of RCW 9.61.120, 9.66.060, 9.66.070 and 46.61.650.

70.93.010 Legislative findings. Recognizing the rapid population growth of the state of Washington and the ever increasing mobility of its people, as well as the fundamental need for a healthful, clean and beautiful environment; and further recognizing that the proliferation and accumulation of litter discarded throughout this state impairs this need and constitutes a public health hazard; and further recognizing that there is an imperative need to anticipate, plan for, and accomplish effective litter control, there is hereby enacted this "Model Litter Control Act". [1971 ex.s. c 307 § 1.]

70.93.020 Declaration of purpose. The purpose of this chapter is to accomplish litter control throughout this state by delegating to the department of ecology the authority to conduct a permanent and continuous program to control and remove litter from this state to the maximum practical extent possible. Every other department of state government and all local governmental units and agencies of this state shall cooperate with the department of ecology in the administration and enforcement of this chapter. The intent of this chapter is to add to and to coordinate existing litter control and removal efforts and not terminate or supplant such efforts. [1971 ex.s. c 307 § 2.]

70.93.030 Definitions. As used in this chapter unless the context indicates otherwise:

- (1) "Department" means the department of ecology;
- (2) "Director" means the director of the department of ecology;
- (3) "Disposable package or container" means all packages or containers defined as such by rules and regulations adopted by the department of ecology;
- (4) "Litter" means all waste material including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing;
- (5) "Litter bag" means a bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person. It is not necessarily limited to the state approved litter bag but must be similar in size and capacity;
- (6) "Litter receptacle" means those containers adopted by the department of ecology and which may be standardized as to size, shape, capacity, and color and which shall bear the state anti-litter symbol, as well as any other receptacles suitable for the depositing of litter;
- (7) "Person" means any industry, public or private corporation, copartnership, association, firm, individual, or other entity whatsoever;
- (8) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks;
- (9) "Watercraft" means any boat, ship, vessel, barge, or other floating craft;
- (10) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests. [1971 ex.s. c 307 § 3.]

70.93.040 Administrative procedure act—Application to chapter. In addition to his other powers and duties, the director shall have the power to propose and to adopt pursuant to chapter 34.04 RCW rules and regulations necessary to carry out the provisions, purposes, and intent of this chapter. [1971 ex.s. c 307 § 4.]

70.93.050 Enforcement of chapter. The director may designate trained employees of the department to be vested with police powers to enforce and administer the provisions of this chapter and all rules and regulations adopted thereunder. The director shall also have authority to contract with other state and local governmental agencies having law enforcement capabilities for services and personnel reasonably necessary to carry out the enforcement provisions of this chapter. In addition, state patrol officers, game protectors and deputy game protectors, fire wardens, deputy fire wardens and forest rangers, sheriffs and marshals and their deputies, and police officers, and those employees of the department of ecology and the parks and recreation commission vested with police powers all shall enforce the

provisions of this chapter and all rules and regulations adopted thereunder and are hereby empowered to issue citations to and/or arrest without warrant, persons violating any provision of this chapter or any of the rules and regulations adopted hereunder. All of the foregoing enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this chapter and rules and regulations adopted hereunder. In addition, mailing by registered mail of such warrant, citation, or other process to his last known place of residence shall be deemed as personal service upon the person charged. [1971 ex.s. c 307 § 5.]

70.93.060 Littering prohibited—Penalties. No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

- (1) When such property is designated by the state or by any of its agencies or political subdivisions for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;
- (2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said private or public property or waters.

Any person violating the provisions of this section shall be guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars for each offense, and, in addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any public place or any private property with prior permission of the legal owner upon which it is established by competent evidence that such person has deposited litter, any or all litter deposited thereon by anyone prior to the date of execution of sentence. [1971 ex.s. c 307 § 6.]

70.93.070 Collection of fines and forfeitures. The director shall prescribe the procedures for the collection of fines and bail forfeitures including the imposition of additional penalty charges for late payment of fines. [1971 ex.s. c 307 § 7.]

70.93.080 Notice to public—Contents of chapter—Required. Pertinent portions of this chapter shall be posted along the public highways of this state and in all campgrounds and trailer parks, at all entrances to state parks, forest lands, and recreational areas, at all public beaches, and at other public places in this state where persons are likely to be informed of the existence and content of this chapter and the penalties for violating its provisions. [1971 ex.s. c 307 § 8.]

70.93.090 Litter receptacles—Use of anti-litter symbol—Distribution—Placement—Violations—Penalties. The department shall design and the director shall adopt by rule or regulation one or more types of litter receptacles which are reasonably uniform as to size, shape, capacity and color, for wide and extensive distribution throughout the public places of this state. Each such litter receptacle shall bear an anti-litter symbol as designed and adopted by the department. In addition, all litter receptacles shall be designed to attract attention and to encourage the depositing of litter.

Litter receptacles of the uniform design shall be placed along the public highways of this state and at all parks, campgrounds, trailer parks, drive-in restaurants, gasoline service stations, tavern parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches and bathing areas, and such other public places within this state as specified by rule or regulation of the director adopted pursuant to chapter 34.04 RCW. The number of such receptacles required to be placed as specified herein shall be determined by a formula related to the need for such receptacles.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles of the uniform design are required by this section to procure and place such receptacles at their own expense on the premises in accord with rules and regulations adopted by the department.

Any person who fails to place such litter receptacles on the premises in the numbers required by rule or regulation of the department, violating the provisions of this section or rules or regulations adopted thereunder shall be subject to a fine of ten dollars for each day of violation. [1971 ex.s. c 307 § 9.]

70.93.100 Litter bags—Design and distribution by department authorized—Violations—Penalties. The department may design and produce a litter bag bearing the state-wide anti-litter symbol and a statement of the penalties prescribed herein for littering in this state. As soon as possible after May 21, 1971, such litter bags may be distributed by the department of motor vehicles at no charge to the owner of every licensed vehicle in this state at the time and place of license renewal. The department of ecology may make such litter bags available to the owners of water craft in this state and may also provide such litter bags at no charge at points of entry into this state and at visitor centers to the operators of incoming vehicles and watercraft. The owner of any vehicle or watercraft who fails to keep and use a litter bag in his vehicle or watercraft shall be guilty of a violation of this section and shall be subject to a fine as provided in this chapter. [1971 ex.s. c 307 § 10.]

70.93.110 Removal of litter—Responsibility. Responsibility for the removal of litter from receptacles placed at parks, beaches, campgrounds, trailer parks, and other public places shall remain upon those state and local agencies performing litter removal. Removal

of litter from litter receptacles placed on private property which is used by the public shall remain the responsibility of the owner of such private property. [1971 ex.s. c 307 § 11.]

70.93.120 Litter assessment—Imposed—Amount—Collection. There is hereby levied and there shall be collected by the department of revenue from every person engaging within this state in business as a manufacturer and/or making sales at wholesale and/or making sales at retail, an annual litter assessment equal to the value of products manufactured and sold within this state, including by-products, multiplied by one and one-half hundredths of one percent in the case of manufacturers, and equal to the gross proceeds of the sales of the business within this state multiplied by one and one-half hundredths of one percent in the case of sales at wholesale and/or at retail. [1971 ex.s. c 307 § 12.]

70.93.130 Litter assessment—Application to certain products. Because it is the express purpose of this chapter to accomplish effective litter control within the state of Washington and because it is a further purpose of this chapter to allocate a portion of the cost of administering it to those industries whose products including the packages, wrappings, and containers thereof, are reasonably related to the litter problem, in arriving at the amount upon which the assessment is to be calculated only the value of products or the gross proceeds of sales of products falling into the following categories shall be included:

- (1) Food for human or pet consumption.
- (2) Groceries.
- (3) Cigarettes and tobacco products.
- (4) Soft drinks and carbonated waters.
- (5) Beer and other malt beverages.
- (6) Wine.
- (7) Newspapers and magazines.
- (8) Household paper and paper products.
- (9) Glass containers.
- (10) Metal containers.
- (11) Plastic or fiber containers made of synthetic material.
- (12) Cleaning agents and toiletries.
- (13) Nondrug drugstore sundry products. [1971 ex.s. c 307 § 13.]

70.93.140 Litter assessment—Powers and duties of department of revenue—Guidelines. The department of revenue by rule and regulation made pursuant to chapter 34.04 RCW may, if such is required, define the categories (1) through (13) as set forth in RCW 70.93-.130. In making any such definitions, the department of revenue shall be guided by the following standards:

- (1) It is the purpose of this chapter to accomplish effective control of litter within this state;
- (2) It is the purpose of this chapter to allocate a portion of the cost of administration of this chapter to those industries manufacturing and/or selling products and the packages, wrappings, or containers thereof which are reasonably related to the litter problem within this state. [1971 ex.s. c 307 § 14.]

70.93.150 "Sold within this state"—"Sales of the business within this state"—**Defined.** "Sold within this state" or "sales of the business within this state" as used in RCW 70.93.120 shall mean all sales of retailers engaged in business within this state and all sales of products for use or consumption within this state in the case of manufacturers and wholesalers. [1971 ex.s. c 307 § 15.]

70.93.160 Application of chapters 82.04 and 82.32 RCW to chapter—Exceptions. All of the provisions of chapters 82.04 and 82.32 RCW such as they apply are incorporated herein except RCW 82.04.220 through 82.04.290, and 82.04.330. [1971 ex.s. c 307 § 16.]

70.93.170 Litter assessment—Exemptions. The litter assessment herein provided for shall not be applied to the value of products or gross proceeds of the sales of any animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, if the person performs only the growing or raising function of such animal, bird, or insect. In all other instances, the assessment shall be applied. [1971 ex.s. c 307 § 17.]

70.93.180 Litter control account—Creation—Composition. There is hereby created an account within the general fund to be known as the "litter control account". All assessments, fines, bail forfeitures, and other funds collected or received pursuant to this chapter shall be deposited in the litter control account and used for the administration and implementation of this chapter. [1971 ex.s. c 307 § 18.]

70.93.190 Litter control account—Distribution of funds—Authorization. The department shall allocate funds annually for the study of available research and development in the field of litter control, removal, and disposal, as well as study methods for implementation in this state of said research and development. In addition, such fund may be used for the development of public educational programs concerning the litter problem. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the director. [1971 ex.s. c 307 § 19.]

70.93.200 Department of ecology—Administration of anti-litter program—Guidelines. In addition to the foregoing, the department of ecology shall:

(1) Serve as the coordinating agency between the various industry organizations seeking to aid in the anti-litter effort;

(2) Recommend to the governing bodies of all local governments that they adopt ordinances similar to the provisions of this chapter;

(3) Cooperate with all local governments to accomplish coordination of local anti-litter efforts;

(4) Encourage, organize, and coordinate all voluntary local anti-litter campaigns seeking to focus the attention of the public on the programs of this state to control and remove litter;

(5) Investigate the availability of, and apply for funds available from any private or public source to be used in the program outlined in this chapter. [1971 ex.s. c 307 § 20.]

70.93.210 Anti-litter campaign—Industrial cooperation requested. To aid in the state-wide anti-litter campaign, the state legislature requests that the various industry organizations which are active in anti-litter efforts provide active cooperation with the department of ecology so that additional effect may be given to the anti-litter campaign of the state of Washington. [1971 ex.s. c 307 § 21.]

70.93.230 Violations of chapter—Penalties. Every person convicted of a violation of this chapter for which no penalty is specially provided for shall be punished by a fine of not more than ten dollars for each such violation. [1971 ex.s. c 307 § 23.]

70.93.900 Severability—1971 ex.s. c 307. If any provision of this 1971 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected. [1971 ex.s. c 307 § 25.]

70.93.910 Alternative to Initiative 40—Placement on ballot—Force and effect of chapter. This 1971 amendatory act constitutes an alternative to Initiative 40. The secretary of state is directed to place this 1971 amendatory act on the ballot in conjunction with Initiative 40 at the next general election.

This 1971 amendatory act shall continue in force and effect until the secretary of state certifies the election results on this 1971 amendatory act. If affirmatively approved at the general election, this 1971 amendatory act shall continue in effect thereafter. [1971 ex.s. c 307 § 27.]

Reviser's note: Chapter 70.93 RCW [1971 ex.s. c 307] was approved and validated at the November 7, 1972 general election as Alternative Measure 40B.

Chapter 70.94 WASHINGTON CLEAN AIR ACT

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Pollution Disclosure Act of 1971: Chapter 90.52 RCW.

Tax exemptions and credits for air pollution control facilities: Chapter 82.34 RCW.

70.94.011 Declaration of public policies and purpose—Division of state into two major areas. It is declared to be the public policy of the state to secure and maintain such levels of air quality as will protect human health and safety and comply with the requirements of the federal clean air act, and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of its inhabitants, promote the economic and social development of the state, and facilitate the enjoyment of the natural attractions of the state. The problems and effects of air pollution are frequently regional and inter-jurisdictional in nature, and are dependent upon the existence of urbanization and industrialization in areas having common topography and recurring weather conditions conducive to the buildup of air contaminants.

It is also declared as public policy that regional air pollution control programs are to be encouraged and supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

It is also declared to be the public policy of the state to provide for the people of the populous metropolitan regions in the state the means of obtaining air pollution control not adequately provided by existing agencies of local government. For reasons of the present and potential dramatic growth in population, urbanization, and industrialization, the special problem of air resource management, encompassing both corrective and preventive measures for the control of air pollution cannot be adequately met by the individual towns, cities, and counties of many metropolitan regions.

In addition, the state is divided into two major areas, each having unique characteristics as to natural climatic and topographic features which may result in the different potentials for the accumulation and buildup of air contaminant concentrations. These two major areas are the area lying west of the Cascade Mountain crest and the area lying east of the Cascade Mountain crest. Within each of these major areas are regions which, because of the climate and topography and present and potential urbanization and industrial development may, through definitive evaluation be classed as regional air pollution areas.

To these ends it is the purpose of this chapter to provide for a coordinated state-wide program of air pollution prevention and control, for an appropriate distribution of responsibilities between the state, regional, and local units of government, and for cooperation across jurisdictional lines in dealing with problems of air pollution. [1973 1st ex.s. c 193 § 1; 1969 ex.s. c 168 § 1; 1967 c 238 § 1.]

70.94.025 Pollution control hearings board of the state of Washington as affecting chapter 70.94 RCW. See chapter 43.21B RCW.

70.94.030 Definitions. 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 meanings:

(1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

(3) "Person" means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality or government agency.

(4) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(5) "Board" means the board of directors of an authority.

(6) "Control officer" means the air pollution control officer of any authority.

(7) "State board" means the state air pollution control board, or any department or agency which by law shall succeed to its powers, duties and functions.

(8) "Emission" means a release into the outdoor atmosphere of air contaminants.

(9) "Department" means the state department of health.

(10) "Ambient air" means the surrounding outside air.

(11) "Multicounty authority" means an authority which consists of two or more counties.

(12) "Emission standard" means a limitation on the release of a contaminant or multiple contaminants into the ambient air.

(13) "Air quality standard" means an established concentration, exposure time and frequency of occurrence of a contaminant or multiple contaminants in the ambient air which shall not be exceeded.

(14) "Air quality objective" means the concentration and exposure time of a contaminant or multiple contaminants in the ambient air below which undesirable effects will not occur. [1969 ex.s. c 168 § 2; 1967 ex.s. c 61 § 1; 1967 c 238 § 2; 1957 c 232 § 3.]

70.94.040 Causing or permitting air pollution unlawful—Exception. Except where specified in a variance permit, as provided in RCW 70.94.181, it shall be unlawful for any person knowingly to cause air pollution or knowingly permit it to be caused in violation of this chapter, or of any ordinance, resolution, rule or regulation validly promulgated hereunder. [1967 c 238 § 3; 1957 c 232 § 4.]

70.94.053 Air pollution control authorities created—Activated authorities, composition, meetings—Delineation of air pollution regions, considerations—Reports to legislature. (1) In each

county of the state there is hereby created an air pollution control authority, which shall bear the name of the county within which it is located. The boundaries of each authority shall be coextensive with the boundaries of the county within which it is located. An authority shall include all incorporated and unincorporated areas of the county within which it is located.

(2) All authorities which are presently or may hereafter be within counties of the first class, class A or class AA, are hereby designated as activated authorities and shall carry out the duties and exercise the powers provided in this chapter. Those authorities hereby activated which encompass contiguous counties located in one or the other of the two major areas determined in RCW 70.94.011 are declared to be and directed to function as a multicounty authority.

(3) Except as provided in RCW 70.94.232, all other air pollution control authorities are hereby designated as inactive authorities.

(4) The boards of those authorities designated as activated authorities by this chapter shall be comprised of such appointees and/or county commissioners as is provided in RCW 70.94.100. The first meeting of the boards of those authorities designated as activated authorities by this chapter shall be on or before sixty days after June 8, 1967.

(5) The state board and the department of health are directed to conduct the necessary evaluations and delineate appropriate air pollution regions throughout the state, taking into consideration:

(a) The natural climatic and topographic features affecting the potential for buildup of air contaminant concentrations.

(b) The degree of urbanization and industrialization and the existence of activities which are likely to cause air pollution.

(c) The county boundaries as related to the air pollution regions and the practicality of administering air pollution control programs.

The state board and the department are directed to report to the 1969 and succeeding legislative sessions with respect to the further need for activating or combining air pollution control authorities. [1967 c 238 § 4.]

70.94.055 Air pollution control authority may be activated by certain counties, when. The board of county commissioners of any county other than a first class, class A or class AA county may activate an air pollution control authority following a public hearing on its own motion, or upon a filing of a petition signed by one hundred property owners within the county. If the board of county commissioners determines as a result of the public hearing that:

(1) Air pollution exists or is likely to occur; and

(2) The city or town ordinances or county resolutions, or their enforcement, are inadequate to prevent or control air pollution, they shall by resolution activate an air pollution control authority or combine with a contiguous county or counties to form a multicounty air pollution control authority. [1967 c 238 § 5.]

70.94.057 Multicounty authority may be formed by contiguous counties—Name. The boards of county commissioners of two or more contiguous counties may, by joint resolution, combine to form a multicounty air pollution control authority. Boundaries of such authority shall be coextensive with the boundaries of the counties forming the authority.

The name of the multicounty authority shall bear the names of the counties making up such multicounty authority or a name adopted by the board of such multicounty authority. [1967 c 238 § 6.]

70.94.068 Merger of active and inactive authorities to form multicounty or regional authority—Procedure. The respective boards of county commissioners of two or more contiguous counties may merge any combination of their several inactive or activated authorities to form one activated multicounty authority. Upon a determination that the purposes of this chapter will be served by such merger, each board of county commissioners may adopt the resolution providing for such merger. Such resolution shall become effective only when a similar resolution is adopted by the other contiguous county or counties comprising the proposed authority. The boundaries of such authority shall be coextensive with the boundaries of the counties within which it is located. [1969 ex.s. c 168 § 3; 1967 c 238 § 11.]

70.94.069 Merger of active and inactive authorities to form multicounty or regional authority—Reorganization of board of directors—Rules and regulations. Whenever there occurs a merger of an inactive authority with an activated authority or authorities, or of two activated authorities to form a multicounty authority, the board of directors shall be reorganized as provided in RCW 70.94.100, 70.94.110, and 70.94.120.

In the case of the merger of two or more activated authorities the rules and regulations of each authority shall continue in effect and shall be enforced within the jurisdiction of each until such time as the board of directors adopts rules and regulations applicable to the newly formed multicounty authority.

In the case of the merger of an inactive authority with an activated authority or authorities, upon approval of such merger by the board or boards of county commissioners of the county or counties comprising the existing activated authority or authorities, the rules and regulations of the activated authority or authorities shall remain in effect until superseded by the rules and regulations of the multicounty authority as provided in RCW 70.94.230. [1969 ex.s. c 168 § 4; 1967 c 238 § 12.]

70.94.070 Resolutions activating authorities—Contents—Filings—Effective date of operation. The resolution or resolutions activating an air pollution authority shall specify the name of the authority and participating political bodies; the authority's principal place of business; the territory included within it; and the effective date upon which such authority shall begin to transact business and exercise its powers. In addition, such resolution or resolutions may specify the

amount of money to be contributed annually by each political subdivision, or a method of dividing expenses of the air pollution control program. Upon the adoption of a resolution or resolutions calling for the activation of an authority or the merger of an inactive or activated authority or several activated authorities to form a multicounty authority, the governing body of each shall cause a certified copy of each such ordinance or resolution to be filed in the office of the secretary of state of the state of Washington. From and after the date of filing with the secretary of state a certified copy of each such resolution, or resolutions, or the date specified in such resolution or resolutions, whichever is later, the authority may begin to function and may exercise its powers.

Any authority activated by the provisions of this chapter shall cause a certified copy of all information required by this section to be filed in the office of the secretary of state of the state of Washington. [1969 ex.s. c 168 § 5; 1967 c 238 § 13; 1957 c 232 § 7.]

70.94.081 Powers and duties of authorities. An activated authority shall be deemed a municipal corporation; have right to perpetual succession; adopt and use a seal; may sue and be sued in the name of the authority in all courts and in all proceedings; and, may receive, account for, and disburse funds, employ personnel, and acquire or dispose of any interest in real or personal property within or without the authority in the furtherance of its purposes. [1969 ex.s. c 168 § 6; 1967 c 238 § 14.]

70.94.091 Excess tax levy authorized—Election, procedure, expense. An activated authority shall have the power to levy additional taxes in excess of the constitutional and/or statutory tax limitations for any of the authorized purposes of such activated authority, not in excess of twenty-five cents per thousand dollars of assessed value a year when authorized so to do by the electors of such authority by a three-fifths majority of those voting on the proposition at a special election, to be held in the year in which the levy is made, in the manner set forth in Article VII, section 2 (a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended. Nothing herein shall be construed to prevent holding the foregoing special election at the same time as that fixed for a general election. The expense of all special elections held pursuant to this section shall be paid by the authority. [1973 1st ex.s. c 195 § 84; 1969 ex.s. c 168 § 7; 1967 c 238 § 15.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

70.94.092 Adoption of budget—Contents—"Supplemental income"—Emergency expenditures. On or before the first Tuesday in September of each year, each activated authority shall adopt a budget for the following calendar year. The budget shall contain an estimate of all revenues to be collected during the following budget year, including any surplus funds remaining unexpended from the preceding year. The re-

maining funds required to meet budget expenditures, if any, shall be designated as "supplemental income" and shall be obtained from the component cities, towns, and counties in the manner provided in this chapter. The affirmative vote of three-fourths of all members of the board shall be required to authorize emergency expenditures. [1969 ex.s. c 168 § 8; 1967 c 238 § 16.]

70.94.093 Methods for determining proportion of supplemental income to be paid by component cities, towns and counties—Payment. (1) Each component city or town shall pay such proportion of the supplemental income to the authority as determined by either one of the following prescribed methods or by a combination of fifty percent of one and fifty percent of the other as provided in subsection (1)(c) of this section:

(a) Each component city or town shall pay such proportion of the supplemental income as the assessed valuation of property within its limits bears to the total assessed valuation of taxable property within the activated authority.

(b) Each component city or town shall pay such proportion of the supplemental income as the total population of such city or town bears to the total population of the activated authority. The population of the city or town shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board or commission authorized to make such a census, estimate or survey.

(c) A combination of the methods prescribed in (a) and (b) of this subsection: *Provided*, That such combination shall be of fifty percent of the method prescribed in (a) of this subsection and fifty percent of the method prescribed in (b) of this subsection.

(2) Each component county shall pay such proportion of such supplemental income to the authority as determined by either one of the following prescribed methods or by a combination of fifty percent of one and fifty percent of the other as prescribed in subsection (2)(c) of this section:

(a) Each component county shall pay such proportion of such supplemental income as the assessed valuation of the property within the unincorporated area of such county lying within the activated authority bears to the total assessed valuation of taxable property within the activated authority.

(b) Each component county shall pay such proportion of the supplemental income as the total population of the unincorporated area of such county bears to the total population of the activated authority. The population of the county shall be determined by the most recent census, estimate or survey by the federal bureau of census or any state board or commission authorized to make such a census, estimate or survey.

(c) A combination of the methods prescribed in (a) and (b) of this subsection: *Provided*, That such combination shall be of fifty percent of the method prescribed in (a) of this subsection and fifty percent of the method prescribed in (b) of this subsection.

(3) In making such determination of the assessed valuation of property in the component cities, towns and

counties, the board shall use the last available assessed valuations. The board shall certify to each component city, town and county, prior to the fourth Monday in June of each year, the share of the supplemental income to be paid by such component city, town or county for the next calendar year. The latter shall then include such amount in its budget for the ensuing calendar year, and during such year shall pay to the activated authority, in equal quarterly installments, the amount of its supplemental share. [1969 ex.s. c 168 § 9; 1967 c 238 § 17.]

70.94.094 Designation of authority treasurer and auditor—Duties. The treasurer of each component city, town or county shall create a separate fund into which shall be paid all money collected from taxes or from any other available sources, levied by or obtained for the activated authority on property or on any other available sources in such city, town or county and such money shall be forwarded quarterly by the treasurer of each such city, town or county to the treasurer of the county designated by the board as the authority treasurer. The treasurer of the county so designated to serve as treasurer of the authority shall establish and maintain such funds as may be authorized by the board. Money shall be disbursed from such funds upon warrants drawn by the auditor of the county designated by the board as the authority auditor as authorized by the board. The respective county shall be reimbursed by the board for services rendered by the treasurer and auditor of the respective county in connection with the receipt and disbursement of such funds. [1969 ex.s. c 168 § 10; 1967 c 238 § 18.]

70.94.095 Assessed valuation of taxable property, certification by county assessors. It shall be the duty of the assessor of each component county to certify annually to the board the aggregate assessed valuation of all taxable property in all incorporated and unincorporated areas situated in any activated authority as the same appears from the last assessment roll of his county. [1969 ex.s. c 168 § 11; 1967 c 238 § 19.]

70.94.096 Authorization to borrow money. An activated authority shall have the power when authorized by a majority of all members of the board to borrow money from any component city, town or county and such cities, towns and counties are hereby authorized to make such loans or advances on such terms as may be mutually agreed upon by the board and the legislative bodies of any such component city, town or county to provide funds to carry out the purposes of the activated authority. [1969 ex.s. c 168 § 12; 1967 c 238 § 20.]

70.94.100 Board of directors of authority—Composition—Term. (1) The governing body of each authority shall be known as the board of directors.

(2) In the case of an authority comprised of one county the board shall be comprised of two appointees of the city selection committee as hereinafter provided, at least one of whom shall represent the city having the

most population in the county, and two county commissioners to be designated by the board of county commissioners. In the case of an authority comprised of two or three counties, the board shall be comprised of one appointee of the city selection committee of each county as hereinafter provided, who shall represent the city having the most population in such county, and one county commissioner from each county to be designated by the board of county commissioners of each county making up the authority. In the case of an authority comprised of four or five counties, the board shall be comprised of one appointee of the city selection committee of each county as hereinafter provided who shall represent the city having the most population in such county, and one county commissioner from each county making up the authority. In the case of an authority comprised of six or more counties, the board shall be comprised of one county commissioner from each county to be designated by the board of county commissioners of each county making up the authority, and one appointee from each city with over one hundred thousand population to be appointed by the mayor and city council of such city.

(3) If the board of an authority otherwise would consist of an even number, the members selected as above provided shall agree upon and elect an additional member who shall be either a member of the governing body of one of the towns, cities or counties comprising the authority, or a private citizen residing in the authority. All board members shall hold office at the pleasure of the appointing body. [1969 ex.s. c 168 § 13; 1967 c 238 § 21; 1957 c 232 § 10.]

70.94.110 City selection committees. There shall be a separate and distinct city selection committee for each county making up an authority. The membership of such committee shall consist of the mayor of each incorporated city and town within such county. A majority of the members of each city selection committee shall constitute a quorum. [1967 c 238 § 22; 1963 c 27 § 1; 1957 c 232 § 11.]

70.94.120 City selection committees—Meetings, notice—Recording officer. The city selection committee of each county which is included within an authority shall meet within one month after the activation of such authority for the purpose of making its initial appointments to the board of such authority and thereafter whenever necessary for the purpose of making succeeding appointments. All meetings shall be held upon at least two weeks written notice given by the county auditor to each member of the city selection committee of each county and he shall give such notice upon request of any member of such committee. A similar notice shall be given to the general public by a publication of such notice in a newspaper of general circulation in such authority. The county auditor shall act as recording officer, maintain its records and give appropriate notice of its proceedings and actions. [1969 ex.s. c 168 § 14; 1967 c 238 § 23; 1957 c 232 § 12.]

70.94.130 Board of directors—Powers, quorum, officers, compensation. The board shall exercise all powers of the authority except as otherwise provided. The board shall conduct its first meeting within thirty days after all of its members have been appointed or designated as provided in RCW 70.94.100. A majority of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary. Any member of the board may designate a regular alternate to serve on the board in his place with the same authority as the member when he is unable to attend. Each member of the board, or his representative, shall receive from the authority twenty-five dollars per day compensation (but not to exceed one thousand dollars per year) for each full day spent in the performance of his duties under this chapter, plus the actual and necessary expenses incurred by him in such performance. The board may appoint an executive director, and any other personnel, and shall determine their salaries, and pay same, together with any other proper indebtedness, from authority funds. [1969 ex.s. c 168 § 15; 1967 c 238 § 24; 1957 c 232 § 13.]

70.94.141 Powers and duties of city, town, county or board of activated authority. The board of any activated authority in addition to any other powers vested in them by law, shall have power to:

(1) Adopt, amend and repeal its own ordinances, resolutions, or rules and regulations, as the case may be, implementing this chapter and consistent with it, after consideration at a public hearing held in accordance with chapter 42.32 RCW.

(2) Hold hearings relating to any aspect of or matter in the administration of this chapter not prohibited by the provisions of chapter 62, Laws of 1970 ex. sess. and in connection therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath.

(3) Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in chapter 62, Laws of 1970 ex. sess.

(4) Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere.

(5) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within its jurisdiction.

(7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter.

(8) Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control.

(9) Collect and disseminate information and conduct educational and training programs relating to air pollution.

(10) Advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups.

(11) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system for the control thereof, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with this chapter, ordinances, resolutions, rules and regulations in force pursuant thereto, or any other provision of law.

(12) Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out any of the functions of this chapter. [1970 ex.s. c 62 § 56; 1969 ex.s. c 168 § 16; 1967 c 238 § 25.]

Reviser's note: (1) RCW 42.32.010 and 42.32.020 were repealed by 1971 ex.s. c 250 § 15; later enactment see chapter 42.30 RCW.

(2) "chapter 62, Laws of 1970 ex. sess.", see notes following RCW 43.21A.010.

Savings—Effective date—Severability—1970 ex.s. c 62: See notes following RCW 43.21A.010.

70.94.142 Subpoena powers—Witnesses, expenses and mileage—Rules and regulations. In connection with the subpoena powers given in RCW 70.94.141(2):

(1) In any hearing held under RCW 70.94.181, 70.94.221 and 70.94.333, the board or the state board, and their authorized agents:

(a) shall issue a subpoena upon the request of any party and, to the extent required by rule or regulation, upon a statement or showing of general relevance and reasonable scope of the evidence sought;

(b) may issue a subpoena upon their own motion.

(2) The subpoena powers given in RCW 70.94.141(2) shall be state-wide in effect.

(3) Witnesses appearing under the compulsion of a subpoena in a hearing before the board or the state board shall be paid the same fees and mileage that are provided for witnesses in the courts of this state. Such fees and mileage, and the cost of duplicating records required to be produced by subpoena issued upon the motion of the board or state board, shall be paid by the board or state board. Such fees and mileage, and the cost of producing records required to be produced by subpoena issued upon the request of a party, shall be paid by that party.

(4) If an individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the board or state board shall file its written report thereof and proof of service of its subpoena, in any court of competent jurisdiction in the county where the examination, hearing or

investigation is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it and, upon being satisfied that the subpoena is within the jurisdiction of the board or state board and otherwise in accordance with law, shall punish him as if the failure or refusal related to a subpoena from or testimony in that court.

(5) The state board may make such rules and regulations as to the issuance of its own subpoenas as are not inconsistent with the provisions of this chapter. [1969 ex.s. c 168 § 17; 1967 c 238 § 26.]

70.94.143 Federal aid. Any authority exercising the powers and duties prescribed in this chapter may make application for, receive, administer, and expend any federal aid, under federal legislation from any agency of the federal government, for the prevention and control of air pollution or the development and administration of programs related to air pollution control and prevention, as permitted by RCW 70.94.141(12): *Provided*, That any such application shall be submitted to and approved by the state board. The state board shall adopt rules and regulations establishing standards for such approval and shall approve any such application, if it is consistent with this chapter, and any other applicable requirements of law. [1969 ex.s. c 168 § 18; 1967 c 238 § 27.]

70.94.151 Classification of air contaminant sources—Registration—Fee, when. (1) The board of any activated authority or the state board, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the state board or board of the authority, require registration and reporting shall register therewith and make reports containing information as may be required by such state board or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. The state board or board may require that such registration be accompanied by a fee and may determine the amount of such fee for such class or classes: *Provided*, That the amount of the fee shall only be to compensate for the costs of administering such registration program: *Provided further*, That any such registration made with either the

board or the state board shall preclude a further registration with any other board or the state board. [1969 ex.s. c 168 § 19; 1967 c 238 § 28.]

70.94.152 Notice may be required of construction of new contaminant source—Submission of plans—Approval, disapproval—Emission control. (1) The department of ecology or board of any authority may require notice of the construction, installation, or establishment of any new air contaminant sources except single family and duplex dwellings. The department of ecology or board may require such notice to be accompanied by a fee and determine the amount of such fee: *Provided*, That the amount of the fee may not exceed the cost of reviewing the plans, specifications, and other information and administering such notice: *Provided further*, That any such notice given to either the board or to the department of ecology shall preclude a further notice to be given to any other board or to the department of ecology. Within thirty days of its receipt of such notice, the department of ecology or board may require, as a condition precedent to the construction, installation, or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications, and such other information as it deems necessary in order to determine whether the proposed construction, installation, or establishment will be in accord with applicable rules and regulations in force pursuant to this chapter, and will provide all known available and reasonable methods of emission control. If on the basis of plans, specifications, or other information required pursuant to this section the department of ecology or board determines that the proposed construction, installation, or establishment will not be in accord with this chapter or the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto, or will not provide all known available and reasonable means of emission control, it shall issue an order for the prevention of the construction, installation, or establishment of the air contaminant source or sources. If on the basis of plans, specifications, or other information required pursuant to this section, the department of ecology or board determines that the proposed construction, installation, or establishment will be in accord with this chapter, and the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto and will provide all known available and reasonable methods of emission control, it shall issue an order of approval of the construction, installation, and establishment of the air contaminant source or sources, which order may provide such conditions of operation as are reasonably necessary to assure the maintenance of compliance with this chapter and the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto.

(2) For the purposes of this chapter, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction or installation or establishment of a new air contaminant source. The determination, under subsection (1) of this section, of whether a proposed construction, installation, or establishment will be

in accord with this chapter and the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto shall include a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.

(3) Nothing in this section shall be construed to authorize the department of ecology or board to require the use of emission control equipment or other equipment, machinery, or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted pursuant to subsection (1) hereof shall be maintained in good working order.

(5) The absence of an ordinance, resolution, rule, or regulation, or the failure to issue an order pursuant to this section shall not relieve any person from his obligation to comply with any emission control requirements or with any other provision of law. [1973 1st ex.s. c 193 § 2; 1969 ex.s. c 168 § 20; 1967 c 238 § 29.]

70.94.155 Control of emissions—Schedules of compliance. Whenever any regulation relating to emission standards or other requirements for the control of emissions is adopted which provides for compliance with such standards or requirements no later than a specified time after the date of adoption of the regulation, the appropriate activated air pollution control authority or, if there be none, the department of ecology shall, by regulatory order, issue to air contaminant sources subject to the standards or requirements, schedules of compliance setting forth timetables for the achievement of compliance as expeditiously as practicable but in no case later than the time specified in the regulation. Interim dates in such schedules for the completion of steps of progress toward compliance shall be as enforceable as the final date for full compliance therein. [1973 1st ex.s. c 193 § 3.]

70.94.170 Control officer. Any activated authority which has adopted an ordinance, resolution, or valid rules and regulations as provided herein for the control and prevention of air pollution shall appoint a control officer, who shall observe and enforce the provisions of this chapter and all orders, ordinances, resolutions, or rules and regulations of such activated authority pertaining to the control and prevention of air pollution. [1969 ex.s. c 168 § 21; 1967 c 238 § 30; 1957 c 232 § 17.]

70.94.181 Variances—Application for—Considerations—Limitations—Renewals—Review. (1) Any person who owns or is in control of any plant, building, structure, establishment, process or equipment may apply to the department of ecology where it has regulatory authority under RCW 70.94.390, 70.94.395, 70.94.410, and 70.94.420, or board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the department of ecology or board may

require. The department of ecology or board may grant such variance, but only after public hearing or due notice, if it finds that:

(a) The emissions occurring or proposed to occur do not endanger public health or safety; and

(b) Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(2) No variance shall be granted pursuant to this section until the department of ecology or board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(3) Any variance or renewal thereof shall be granted within the requirements of subsection (1) and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

(a) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the department of ecology or board may prescribe.

(b) If the application for variance shows that there is no automobile fragmentizer within a reasonable distance of the wrecking yard for which the variance is sought, a variance will be granted for a period not to exceed three years for commercial burning of automobile hulks, subject to such conditions as the department of ecology may impose as to climatic conditions and hours during which burning of such hulks may be carried out: *Provided, however,* That any variance granted hereunder shall be of no force and effect after July 1, 1970.

(c) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the department of ecology or board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

(d) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in item (a), (b) and (c) of this subparagraph, it shall be for not more than one year.

(4) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the department of ecology or board on account of the variance, no renewal thereof shall be granted unless following a public hearing on the complaint on due notice the state board or board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the

expiration of the variance. Immediately upon receipt of an application for renewal, the department of ecology or board shall give public notice of such application in accordance with rules and regulations of the department of ecology or board.

(5) A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the department of ecology or board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the department of ecology or board may obtain judicial review thereof under the provisions of chapter 34.04 RCW as now or hereafter amended.

(6) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of *RCW 70.94.415 to any person or his property.

(7) An application for a variance, or for the renewal thereof, submitted to the department of ecology or board pursuant to this section shall be approved or disapproved by the department or board within sixty-five days of receipt unless the applicant and the department of ecology or board agree to a continuance. [1974 1st ex.s. c 59 § 1; 1969 ex.s. c 168 § 22; 1967 c 238 § 31.]

*Reviser's note: RCW 70.94.415 was repealed by 1971 ex.s. c 194 § 7.

70.94.200 Investigation of conditions by control officer or director of health—Entering private, public property. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, a control officer, the director of the state department of health or their duly authorized representatives, shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing two families or less. No person shall refuse entry or access to any control officer, the director of health, or their duly authorized representatives, who requests entry for the purpose of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such inspection. [1967 c 238 § 32; 1957 c 232 § 20.]

70.94.205 Confidentiality of records and information. Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the department of ecology or the board of any authority pursuant to any sections in chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the department of ecology or board. Nothing herein shall be construed to prevent the use of records or information by the department of ecology or board in compiling or publishing analyses or summaries

relating to the general condition of the outdoor atmosphere: *Provided*, That such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section: *Provided further*, That emission data furnished to or obtained by the department of ecology or board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the department of ecology or board. [1973 1st ex.s. c 193 § 4; 1969 ex.s. c 168 § 23; 1967 c 238 § 33.]

70.94.211 Violations—Notice—Action by governing body, board or control officer—Hearing—Action by board. Whenever the board or the control officer has reason to believe that any provision of this chapter or any ordinance, resolution, rule or regulation relating to the control or prevention of air pollution has been violated, such board or control officer may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the ordinance, resolution, rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the board or the control officer may require that the alleged violator or violators appear before the board for a hearing, or in addition to or in place of an order or hearing, the board may initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435. [1974 1st ex.s. c 69 § 4; 1970 ex.s. c 62 § 57; 1969 ex.s. c 168 § 24; 1967 c 238 § 34.]

Savings—Effective date—Severability—1970 ex.s. c 62: See notes following RCW 43.21A.010.

70.94.221 Order final unless appealed to pollution control hearings board. Any order issued by the board or by the control officer, shall become final unless such order is appealed to the hearings board as provided in chapter 43.21B RCW. [1970 ex.s. c 62 § 58; 1969 ex.s. c 168 § 25; 1967 c 238 § 35.]

Savings—Effective date—Severability—1970 ex.s. c 62: See notes following RCW 43.21A.010.

70.94.222 Order—Finality—Review (as amended by 1970 ex.s. c 41 § 2). Any order issued by the board after a hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of chapter 34.04 RCW as now or hereafter amended. When such a petition is filed, the superior court shall initiate a hearing pursuant to RCW 34.04.130 within ninety days after the receipt of the petition requesting judicial review. Every appeal from a decision of the superior court shall be heard by the appropriate appellate court as soon as possible. Such appeal shall be considered a case involving issues of broad public import requiring prompt and ultimate determination. [1970 ex.s. c 41 § 2; 1969 ex.s. c 168 § 26; 1967 c 238 § 36.]

Reviser's note: RCW 70.94.222 was amended twice in the 1970 extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections twice amended in the same session, see RCW 1.12.025.

70.94.222 Order—Finality—Review (as amended by 1970 ex.s. c 62 § 59). Any order issued by the board after a hearing shall become final unless no later than thirty days after the issuance of such order, a notice of appeal is filed with the hearings board as provided

in chapter 43.21B RCW. [1970 ex.s. c 62 § 59; 1969 ex.s. c 168 § 26; 1967 c 238 § 36.]

Reviser's note: RCW 70.94.222 was amended twice in the 1970 extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections twice amended in the same session, see RCW 1.12.025.

Savings—Effective date—Severability—1970 ex.s. c 62: See notes following RCW 43.21A.010.

70.94.223 Order—Stay pending final determination. Any order of the control officer or board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

Nothing in this chapter shall prevent the control officer or board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means. [1969 ex.s. c 168 § 27; 1967 c 238 § 37.]

70.94.230 Rules of authority supersede local rules, regulations, etc.—Exceptions. The rules and regulations hereafter adopted by an authority under the provisions of this chapter shall supersede the existing rules, regulations, resolutions and ordinances of any of the component bodies included within said authority in all matters relating to the control and enforcement of air pollution as contemplated by this chapter: *Provided, however,* That existing rules, regulations, resolutions and ordinances shall remain in effect until such rules, regulations, resolutions and ordinances are superseded as provided in this section: *Provided further,* That nothing herein shall be construed to supersede any local county, or city ordinance or resolution, or any provision of the statutory or common law pertaining to nuisance; nor to affect any aspect of employer–employee relationship relating to conditions in a place of work, including without limitation, statutes, rules or regulations governing industrial health and safety standards or performance standards incorporated in zoning ordinances or resolutions of the component bodies where such standards relating to air pollution control or air quality containing requirements not less stringent than those of the authority. [1969 ex.s. c 168 § 28; 1967 c 238 § 38; 1957 c 232 § 23.]

70.94.231 Dissolution of prior districts—Continuation of rules and regulations until superseded. Upon the date that an authority begins to exercise its powers and functions, all districts formed as a district under chapter 70.94 RCW prior to June 8, 1967 which previously were wholly or partially composed of one or more cities or towns located within such activated authority shall be considered to be dissolved but its rules and regulations in force on such date shall remain in effect until superseded by the rules and regulations of the authority as provided in RCW 70.94.230. In such event, the board of any such district shall proceed to wind up the affairs of the district in the same manner as if the district were

dissolved as provided in RCW 70.94.260. [1969 ex.s. c 168 § 29; 1967 c 238 § 39.]

70.94.232 Local or regional control program considered activated authority—Construction of prior ordinances, resolutions, rules or regulations. (1) Any local or regional air pollution control program formed as a district under chapter 70.94 RCW prior to June 8, 1967 which is composed of one or more counties and the cities and towns therein, and whose boundaries are coextensive with the boundaries of one or more counties, shall, upon June 8, 1967, be considered an activated authority, provided that within six months of June 8, 1967 the board of directors shall be reorganized to conform to the provisions of RCW 70.94.100, 70.94.110 and 70.94.120.

(2) Nothing in this chapter except those sections which do so expressly shall be construed to supersede or nullify the ordinances, resolutions, rules or regulations of any local or regional air pollution control program in operation on June 8, 1967, but such local or regional programs shall be subject to the provisions of RCW 70.94.230, 70.94.231, 70.94.232, 70.94.380, 70.94.395, 70.94.400 and *70.94.415. [1967 c 238 § 40.]

***Reviser's note:** RCW 70.94.415 was repealed by 1971 ex.s. c 194 § 7.

70.94.240 Air pollution control advisory council. The board of any authority shall appoint an air pollution control advisory council to advise and consult with such board, and the control officer in effectuating the purposes of this chapter. The council shall consist of five appointed members who are residents of the authority and who are preferably skilled and experienced in the field of air pollution control, two of whom shall serve as representatives of industry. The chairman of the board of any such authority shall serve as ex officio member of the council and be its chairman. Each member of the council shall receive from the authority per diem and travel expenses in an amount not to exceed that provided for the state board in this chapter (but not to exceed one thousand dollars per year) for each full day spent in the performance of his duties under this chapter. [1969 ex.s. c 168 § 30; 1967 c 238 § 41; 1957 c 232 § 24.]

70.94.260 Dissolution of district—Deactivation of authority. A district formed under chapter 70.94 RCW prior to June 8, 1967 may be dissolved or an authority may be deactivated prior to the term provided in the original or subsequent agreement by the participating cities and towns comprising such district or the county or counties comprising such authority upon the adoption by the board, following a hearing held upon ten days notice, to said cities, towns, and counties, of a resolution for dissolution or deactivation and upon the approval by the governing body of each city or town comprising the district or the board of county commissioners of each county comprising the authority. In such event, the board shall proceed to wind up the affairs of the district or authority and pay all indebtedness thereof. Any surplus of funds shall be paid over to

the cities or towns comprising the district or to the counties comprising the authority in proportion to their last contribution. Upon the completion of the process of closing the affairs of the district or authority, the board shall by resolution entered in its minutes declare the district dissolved or the authority deactivated and a certified copy of such resolution shall be filed with the secretary of state and the district thereupon shall be deemed dissolved or the authority shall be deemed inactive. [1969 ex.s. c 168 § 31; 1967 c 238 § 43; 1957 c 232 § 26.]

70.94.305 Powers, duties and functions of state air pollution control board, executive director thereof, transferred to department of ecology. See RCW 43.21A.060.

70.94.331 Powers and duties of state board. (1) The state board shall have all the powers as provided in RCW 70.94.141.

(2) The state board, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapter 42.32 RCW and chapter 34.04 RCW shall:

(a) Adopt rules and regulations establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, but in no event may less stringent standards be enacted by an authority without the prior approval of the state board after public hearing and due notice to interested parties;

(c) Adopt by rule and regulation air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonable foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The state board is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The state board is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

(6) The state board shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The state board shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The state board shall have the power to require the addition to or deletion of a county from an existing authority in order to carry out the purposes of this chapter: *Provided, however,* That no such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.04 RCW. [1969 ex.s. c 168 § 34; 1967 c 238 § 46.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.332 Violations—Notice—Action by department. Whenever the department has reason to believe that any provision of this chapter or any rule or regulation adopted by the state board or being enforced by the state board under RCW 70.94.410 relating to the control or prevention of air pollution has been violated, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or the rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the department may require that the alleged violator or violators appear before the state board or a duly appointed hearing officer for a hearing at a time and place specified in the notice given at least twenty days prior to such hearing and answer the charges complained of, or in addition to or in place of an order or hearing, the department may initiate action pursuant to RCW 70.94.425, 70.94.430, and 70.94.435. [1967 c 238 § 47.]

70.94.333 Orders of department—Hearings—Judicial review. (1) Any order issued by the department shall become final unless, no later than twenty days after the date the notice and order are served, the person aggrieved by the order petitions for a hearing before the state board. Upon receipt of the petition, the state board shall hold a hearing after not less than twenty days prior notice to petitioning parties.

(2) If, after a hearing held as a result of a petition to the state board by a person aggrieved by an order, the state board finds that a violation has occurred or is occurring, it shall affirm or modify the order previously issued, or if the finding made is that no violation has occurred or is occurring, the order shall be rescinded. If, after a hearing held in lieu of an order, the state board finds that a violation has occurred or is occurring, it shall issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective actions

as may be appropriate. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the emissions.

(3) An order issued by the state board after a hearing shall become final unless no later than thirty days after the issuance and service of such order, a petition requesting judicial review is filed in the superior court of the county in which the violation is alleged to have occurred or is alleged to be likely to occur. Review shall be conducted without a jury *de novo* on the record in the superior court.

(4) The reviewing court may affirm or reverse the decision of the governing body or board. In addition, any party may move the court to remand the case to the state board, in the interests of justice, for the purpose of adducing additional specified and material evidence, and findings thereon: *Provided*, That such party shall show reasonable grounds for the failure to adduce such evidence previously before the state board.

(5) Any order of the department or the state board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the superior court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

(6) Nothing in this chapter shall prevent the department or the state board from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(7) Any hearing held under RCW 70.94.181 or 70.94.333 by the state board shall be conducted in accord with RCW 34.04.090 through 34.04.130. [1967 c 238 § 48.]

70.94.334 Appointment of hearing officer—Powers and duties. (1) In all instances where the department of ecology or board of any authority is permitted or required to hold hearings under the provisions of this chapter, such hearings shall be held before the department of ecology or board of any authority, or the state board or board of any authority may appoint a hearing officer.

(2) A duly appointed hearing officer shall have all the powers, rights, and duties of the department of ecology or board of any authority relating to the conduct of hearings. [1973 1st ex.s. c 193 § 5; 1969 ex.s. c 168 § 35; 1967 c 238 § 49.]

70.94.340 Quarterly reports, special studies by director—Distribution. The state director of health shall prepare quarterly reports over his signature, with the approval of the members of the state board. Such reports shall be distributed to the legislative council and interested parties including the affected units of local government. When deemed necessary as the result of a test or survey, the director with the approval of the state board may transmit copies of special studies and recommendations to affected governmental entities. [1961 c 188 § 5.]

70.94.350 Contracts, agreements for use of personnel by director—Reimbursement—Merit system regulations waived. The director of health is authorized to contract for or otherwise agree to the use of personnel of municipal corporations or other agencies or private persons; and the director of health is further authorized to reimburse such municipal corporations or agencies for the employment of such personnel. Merit system regulations or standards for the employment of personnel may be waived for personnel hired under contract as provided for in this section. The director of health shall provide, within available appropriations, for the scientific, technical, legal, administrative, and other necessary services and facilities for the functioning of the state board. The necessary staff, services, and facilities shall be administered through an appropriate organizational unit of the department of health under the direction of the executive director of the state board. [1967 c 238 § 45; 1961 c 188 § 6.]

70.94.370 Powers and rights of governmental units and persons are not limited by act or recommendations. No provision of this chapter or any recommendation of the state board or of any local or regional air pollution program is a limitation:

(1) On the power of any city, town or county to declare, prohibit and abate nuisances.

(2) On the power of the director of the state department of health to provide for the protection of the public health under any authority presently vested in that office or which may be hereafter prescribed by law.

(3) On the power of a state agency in the enforcement, or administration of any provision of law which it is specifically permitted or required to enforce or administer.

(4) On the right of any person to maintain at any time any appropriate action for relief against any air pollution. [1967 c 238 § 59; 1961 c 188 § 8.]

70.94.380 Emission control requirements. (1) Every activated authority operating an air pollution control program shall have requirements for the control of emissions which are no less stringent than those adopted by the state board for the geographic area in which such air pollution control program is located. Less stringent requirements than compelled by this section may be included in a local or regional air pollution control program only after approval by the state board following demonstration to the satisfaction of the state board that the proposed requirements are consistent with the purposes of this chapter: *Provided*, That such approval shall be preceded by public hearing, of which notice has been given in accordance with chapter 42.32 RCW. The state board, upon receiving evidence that conditions have changed or that additional information is relevant to a decision with respect to the requirements for emission control, may, after public hearing on due notice, withdraw any approval previously given to a less stringent local or regional requirement.

Nothing in this chapter shall be construed to prevent a local or regional air pollution control district or authority from adopting and enforcing more stringent

emission control requirements than those adopted by the state board and applicable within the jurisdiction of the local or regional air pollution control district or authority. [1969 ex.s. c 168 § 36; 1967 c 238 § 50.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.385 State financial aid—Application for—Requirements. (1) Any authority may apply to the state board for state financial aid. The state board shall by rule and regulation establish the ratio of state funds to the local funds taking into consideration available federal and state funds. Any such aid shall be expended from the general fund from such appropriations as the legislature may provide for this purpose: *Provided*, That federal funds shall be utilized to the maximum unless otherwise approved by the state board: *Provided further*, That the ratio of state funds to local funds of the previous year shall not be changed without a public hearing held by the state board.

(2) Before any such application is approved and financial aid is given or approved by the state board, the authority shall demonstrate to the satisfaction of the state board that it is fulfilling the requirements of RCW 70.94.380, or, if the state board has not adopted ambient air quality standards and objectives as permitted by RCW 70.94.331, the authority shall demonstrate to the satisfaction of the state board that it is acting in good faith and doing all that is possible and reasonable to control and prevent air pollution within its jurisdictional boundaries and to carry out the purposes of this chapter.

(3) The state board shall adopt rules and regulations requiring the submission of such information by each authority including the submission of its proposed budget and a description of its program in support of the application for state financial aid as necessary to enable the state board to determine the need for state aid. [1969 ex.s. c 168 § 37; 1967 c 238 § 51.]

70.94.390 Hearing upon activation of authority—Finding—Assumption of jurisdiction by state board—Expenses. The state board may, at any time and on its own motion, hold a hearing to determine if the activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist in any area of the state. Notice of such hearing shall be conducted in accordance with chapter 42.32 RCW and chapter 34.04 RCW. If at such hearing the state board finds that air pollution exists or is likely to occur in a particular area, and that the purposes of this chapter and the public interest will be best served by the activation of an authority it shall designate the boundaries of such area and set forth in a report to the appropriate county or counties recommendations for the activation of an authority: *Provided*, That if at such hearing the state board determines that the activation of an authority is not practical or feasible for the reason that a local or regional air pollution control program cannot be successfully established or operated due to unusual circumstances and conditions, but that the control and/or prevention of

air pollution is necessary for the purposes of this chapter and the public interest, it may assume jurisdiction and so declare by order. Such order shall designate the geographic area in which, and the effective date upon which, the state board will exercise jurisdiction for the control and/or prevention of air pollution. The state board shall exercise its powers and duties in the same manner as if it had assumed authority under RCW 70.94.410.

All expenses incurred by the state board in the control and prevention of air pollution in any county pursuant to the provisions of RCW 70.94.390 and 70.94.410 shall constitute a claim against such county. The state board shall certify the expenses to the auditor of the county, who promptly shall issue his warrant on the county treasurer payable out of the current expense fund of the county. In the event that the amount in the current expense fund of the county is not adequate to meet the expenses incurred by the state board, the state board shall certify to the state treasurer that they have a prior claim on any money in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer as provided in RCW 82.08.170. In the event that the amount in the "liquor excise tax fund" that is to be apportioned to that county by the state treasurer is not adequate to meet the expenses incurred by the state board, the state board shall certify to the state treasurer that they have a prior claim on any excess funds from the liquor revolving fund that are to be distributed to that county as provided in RCW 66.08.190 through 66.08.220. All moneys that are collected as provided in this section shall be placed in the general fund in the account of the state air pollution control board. [1969 ex.s. c 168 § 38; 1967 c 238 § 52.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.395 Control of particular types or classes of air contaminant sources—Assumption by state board—Hearing—Standards. If the state board finds, after public hearing upon due notice to all interested parties, that the emissions from a particular type or class of air contaminant source should be regulated on a state-wide basis in the public interest and for the protection of the welfare of the citizens of the state, it may adopt and enforce rules and regulations to control and/or prevent the emission of air contaminants from such source: *Provided*, That an authority may, after public hearing and a finding by the board of a need for more stringent rules and regulations than those adopted by the state board under this section, propose the adoption of such rules and regulations by the state board for the control of emissions from the particular type or class or air contaminant source within the geographical area of the authority. The state board shall hold a public hearing and shall adopt the proposed rules and regulations within the area of the requesting authority, unless it finds that the proposed rules and regulations are inconsistent with the rules and regulations adopted by the state board under this section: *Provided, further*, That when such standards are adopted by the state board it shall delegate to the authority all powers necessary for

their enforcement at the request of the authority: *Provided*, That the state board may delegate the responsibility for the enforcement of such rules and regulations to any authority which it deems capable of enforcing such regulations: *Provided further*, That if after public hearing the state board finds that the regulation on a state-wide basis of a particular type of class of air contaminant source is no longer required for the public interest and the protection of the welfare of the citizens of the state, the state board may relinquish exclusive jurisdiction over such source. [1969 ex.s. c 168 § 39; 1967 c 238 § 53.]

70.94.400 Order activating authority—Filing—Hearing—Amendment of order. If, at the end of ninety days after the state board issues a report as provided for in RCW 70.94.390, to appropriate county or counties recommending the activation of an authority such county or counties have not performed those actions recommended by the state board, and the state board is still of the opinion that the activation of an authority is necessary for the prevention, abatement and control of air pollution which exists or is likely to exist, then the state board may, at its discretion, issue an order activating an authority. Such order, a certified copy of which shall be filed with the secretary of state, shall specify the participating county or counties and the effective date by which the authority shall begin to function and exercise its powers. Any authority activated by order of the state board shall choose the members of its board as provided in RCW 70.94.100 and begin to function in the same manner as if it had been activated by resolutions of the county or counties included within its boundaries. The state board may, upon due notice to all interested parties, conduct a hearing in accordance with chapter 42.32 RCW and chapter 34.04 RCW within six months after the order was issued to review such order and to ascertain if such order is being carried out in good faith. At such time the state board may amend any such order issued if it is determined by the state board that such order is being carried out in bad faith or the state board may take the appropriate action as is provided in RCW 70.94.410. [1969 ex.s. c 168 § 40; 1967 c 238 § 54.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.405 Hearing on effectiveness of prevention and control program—Report. At any time after an authority has been activated for no less than one year, the state board may, on its own motion, conduct a hearing held in accordance with chapter 42.32 RCW and chapter 34.04 RCW, as now or hereafter amended to determine whether or not the air pollution prevention and control program of such authority is being carried out in good faith and is as effective as possible under the circumstances: *Provided*, That no such hearing shall be held within one year of June 8, 1967. If at such hearing the board finds that such authority is not carrying out its air pollution control or prevention program in good faith, or is not doing all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction, it shall set

forth in a report to the appropriate authority: (1) Its recommendations as to how air pollution prevention and/or control might be more effectively accomplished; and (2) guidelines which will assist the authority in carrying out the recommendations of the state board. [1969 ex.s. c 168 § 41; 1967 c 238 § 55.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.410 Assumption of control by state board, when—Reestablishment of program—Withdrawal of state board. (1) If, after thirty days from the time that the state board issues a report or order to an authority under RCW 70.94.400 and 70.94.405, such authority has not taken any action which indicates that it is attempting in good faith to implement the recommendations or actions of the state board as set forth in the report or order, the state board may, by order, declare as null and void any or all ordinances, resolutions, rules or regulations of such authority relating to the control and/or prevention of air pollution, and at such time the state board shall become the sole body with authority to make and enforce rules and regulations to the control and/or prevention of air pollution within the geographical area of such authority. In this connection the state board may assume all those powers which are given to it by law to effectuate the purposes of this chapter. The state board may, by order, continue in effect and enforce those provisions of the ordinances, resolutions, or rules and regulations of such authority which are not less stringent than those requirements which the state board may have found applicable to the area under RCW 70.94.331 until such time as the board adopts its own rules and regulations. Any rules and regulations promulgated and any enforcement action, as provided in RCW 70.94.333, taken by the state board shall be subject to the provisions of chapter 34.04 RCW as it now appears or may hereinafter be amended and subject to RCW 70.94.425 and 70.94.435 to the extent that they are not inconsistent with chapter 34.04 RCW.

(2) No provision of this chapter is intended to prohibit any authority from reestablishing its air pollution control program which meets with the approval of the state board and which complies with the purposes of this chapter and with applicable rules and regulations and orders of the state board.

(3) Nothing in this chapter shall prevent the state board from withdrawing the exercise of its jurisdiction over an authority upon its own motion: *Provided*, That the state board has found at a hearing held in accordance with chapter 42.32 RCW and chapter 34.04 RCW as now or hereafter amended, that the air pollution prevention and control program of such authority will be carried out in good faith or that such program will do all that is possible and reasonable to control and/or prevent air pollution within the geographical area over which it has jurisdiction. Upon the withdrawal of the state board, the state board shall prescribe certain recommendations as to how air pollution prevention and/or control is to be effectively accomplished and guidelines which will assist the authority in carrying out the recommendations of the state board. [1969 ex.s. c 168 § 42; 1967 c 238 § 56.]

Reviser's note: See note (1) following RCW 70.94.141.

70.94.420 Cooperation by state departments and agencies—Potential pollution sources—Permits. (1) It is declared to be the intent of the legislature of the state of Washington that any state department or agency having jurisdiction over any building, installation, or other property shall cooperate with the state board and with air pollution control agencies in preventing and/or controlling the pollution of the air in any area insofar as the discharge of the matter from or by such building, installation, or other property may cause or contribute to pollution of the air in such area. Such state department or agency shall comply with the provisions of this chapter and with any ordinance, resolution, rule or regulation issued hereunder in the same manner as any other person subject to such laws, rules or regulations.

(2) In addition to its other powers and duties prescribed by law, the state board may establish classes of potential pollution sources for which any state department or agency having jurisdiction over any building, installation, or other property, which is not located within the geographical boundaries of any authority which has an air pollution control and/or prevention program in effect, shall, before discharging any matter into the air, obtain a permit from the state board for such discharge, such permits to be issued for a specified period of time to be determined by the state board and subject to revocation if the state board finds that such discharge is endangering the health and welfare of any persons. Such permits may also be required for any such building, installation, or other property which is located within the geographical boundaries of any authority which has an air pollution control and prevention program in effect if the standards set by the state board for state departments and agencies are more stringent than those of the authority. In connection with the issuance of any permits under this section, there shall be submitted to the state board such plans, specifications, and other information as it deems relevant thereto and under such other conditions as it may prescribe. [1969 ex.s. c 168 § 44; 1967 c 238 § 58.]

70.94.425 Restraining orders—Injunctions. Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation or order issued thereunder, the governing body or board or the state board, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order. [1967 c 238 § 60.]

70.94.430 Penalties. Any person who violates any of the provisions of this chapter, or any ordinance, resolution, rule or regulation in force pursuant thereto, other than RCW 70.94.205, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine

of not more than two hundred fifty dollars, or by imprisonment for not more than ninety days, or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

Any person who wilfully violates any of the provisions of this chapter or any ordinance, resolution, rule or regulation in force pursuant thereto shall be guilty of a gross misdemeanor. Each day upon which such wilful violation occurs shall constitute a separate offense. Upon conviction the offender shall be punished by a fine of not less than one hundred dollars for each offense.

Any person who wilfully violates RCW 70.94.205 or any other provision of *this act shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for a term of not more than one year or by both fine and imprisonment. [1973 1st ex.s. c 176 § 1; 1967 c 238 § 61.]

***Reviser's note:** "this act" apparently consists of the amendments to RCW 70.94.430 and 70.94.431 by 1973 1st ex.s. c 176.

70.94.431 Additional or alternative penalty—Enforcement. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of chapter 70.94 RCW or any of the rules and regulations of the department or the board shall incur a penalty in the form of a fine in an amount not to exceed two hundred fifty dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the director or his designee or the control officer of the authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the hearings board as provided for in chapter 43.21B RCW. When a request is made for a hearing, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid to the department or the board within thirty days after it becomes due and payable, and a request for a hearing has not been made, the attorney general, upon the request of the director or his designee, or the attorney for the local authority, upon request of the board or control officer, shall bring an action to recover such penalty in the superior court of the county in which the violation occurred. All penalties recovered under this section by the state board shall be paid into the state treasury and credited to the general fund or, if recovered by the authority, shall be paid into the treasury of the authority and credited to its funds.

To secure the penalty incurred under this section, the state or the authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW 60.36.050.

In all actions brought in the superior court for the recovery of penalties hereunder, the procedure and rules of evidence shall be the same as in an ordinary civil action. [1973 1st ex.s. c 176 § 2; 1969 ex.s. c 168 § 53.]

70.94.435 Additional means for enforcement of chapter. As an additional means of enforcing this chapter, the governing body or board may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter or of any ordinance, resolution, rule or regulation adopted pursuant hereto, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of this chapter or the ordinances, resolutions, rules or regulations, or order issued pursuant thereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the superior court as provided in RCW 70.94.425. [1967 c 238 § 62.]

70.94.440 Short title. This chapter may be known and cited as the "Washington Clean Air Act". [1967 c 238 § 63.]

70.94.445 Air pollution control facilities—Tax exemptions and credits. See chapter 82.34 RCW.

70.94.510 Policy to cooperate with federal government. It is declared to be the policy of the state of Washington through the state air pollution control board to cooperate with the federal government in order to insure the coordination of the provisions of the federal and state clean air acts, and the state air pollution control board is authorized and directed to implement and enforce the provisions of this chapter in carrying out this policy as follows:

(1) To accept and administer grants from the federal government for carrying out the provisions of this chapter.

(2) To take all action necessary to secure to the state the benefits of the federal clean air act. [1969 ex.s. c 168 § 45.]

70.94.600 Reports of authorities to state board—Contents. All authorities in the state shall submit quarterly reports to the state board detailing the current status of air pollution control regulations in the authority and, by county, the progress made toward bringing all sources in the authority into compliance with authority standards and with district minimum standards. [1969 ex.s. c 168 § 52.]

70.94.650 Burning permits for weed abatement, instruction or agriculture activities—Issuance—Activities exempted from requirement. Any person who proposes to set fires in the course of the following:

- (1) Weed abatement,
- (2) Instruction in methods of fire fighting (except forest fires), or
- (3) Disease prevention relating to agricultural activities, shall, prior to carrying out the same, obtain a permit from an air pollution control authority or the department of ecology, as appropriate. Each such authority and the department of ecology shall, by rule or ordinance, establish a permit system to carry out the provisions of this section except as provided in RCW 70.94.660. General criteria of state-wide applicability for ruling on such permits shall be established by the department, by rule or regulation, after consultation with the various air pollution control authorities. Permits shall be issued under this section based on seasonal operations or by individual operations, or both: *Provided*, That all permits so issued shall be conditioned to insure that the public interest in air, water, and land pollution and safety to life and property is fully considered. In addition to any other requirements established by the department to protect air quality pursuant to other laws, applicants for permits must show that the setting of fires as requested is the most reasonable procedure to follow in safeguarding life or property under all circumstances or is otherwise reasonably necessary to successfully carry out the enterprise the applicant is engaged in. All burning permits will be designed to minimize air pollution insofar as practical. Nothing in this section shall relieve the applicant from obtaining permits, licenses or other approvals required by any other law: *Provided further*, That an application for a permit to set fires in the course of agricultural burning for controlling diseases, insects, and development of physiological conditions conducive to increased crop yield, shall be granted within fourteen days from the date such application is filed: *Provided*, That nothing herein shall prevent a householder from setting fire in the course of burning leaves, clippings or trash when otherwise permitted locally. Nothing contained herein shall prohibit Indian campfires or the sending of smoke signals if part of a religious ritual. [1971 ex.s. c 232 § 1.]

70.94.654 Delegation of permit issuance and enforcement to counties. Whenever the department of ecology shall find that any county which is outside the jurisdictional boundaries of an activated air pollution control authority is capable of effectively administering the issuance and enforcement of permits for any or all of the kinds of burning identified in RCW 70.94.650(1) and (3) and desirous of doing so, the department of ecology may delegate all powers necessary for the issuance and enforcement of permits for any or all of the kinds of burning to the county: *Provided*, That such delegation may be withdrawn by the department of ecology upon a finding that the county is not effectively administering the permit program. [1973 1st ex.s. c 193 § 6.]

70.94.656 Open burning of field and turf grasses grown for seed—Alternatives—Studies—Funding—Procedures—Limitations. It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Prior to the issuance of any permit for such burning under RCW 70.94.650, there shall be collected a fee not to exceed fifty cents per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in a special grass seed burning research account, hereby created, in the general fund. The department shall allocate moneys annually from this account for the support of any approved study or studies as provided for in this subsection. For the conduct of any such study or studies, the department may contract with public or private entities: *Provided*, That whenever the department of ecology shall conclude that sufficient reasonably available alternates to open burning have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved, and any money remaining therein shall revert to the general fund.

(2) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(3) Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(4) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions. [1973 1st ex.s. c 193 § 7.]

70.94.660 Burning permits for abating or prevention of forest fire hazards, instruction or silvicultural operations—Issuance. The department of natural resources shall have the responsibility for issuing and regulating

burning permits required by it relating to the following activities declared to be for the protection of life or property and/or in the public welfare:

- (1) Abating a forest fire hazard;
- (2) Prevention of a fire hazard;
- (3) Instruction of public officials in methods of forest fire fighting; and
- (4) Any silvicultural operation to improve the forest lands of the state. [1971 ex.s. c 232 § 2.]

Burning permits, issuance, air pollution a factor: RCW 76.04.150, 76.04.170.

Disposal of forest debris: RCW 76.04.310.

70.94.670 Burning permits for abating or prevention of forest fire hazards, instruction or silvicultural operations—Conditions for issuance and use of permits—Air quality standards to be met—Alternate methods to lessen forest debris. The department of natural resources in granting burning permits for fires for the purposes set forth in RCW 70.94.660 shall condition the issuance and use of such permits to comply with air quality standards established by the department of ecology after full consultation with the department of natural resources. Such burning shall not cause the state air quality standards for suspended particulate matter to be exceeded in the ambient air up to two thousand feet above ground level over critical areas designated by the department of ecology, otherwise subject to air pollution from other sources. Air quality standards for suspended particulate matter shall be established and published by the department of ecology which shall also establish a procedure for advising the department of natural resources when the air exceeds or threatens to exceed the standards over such critical areas. The suspended particulate matter shall be quantitatively measured by the department of ecology or the appropriate local air pollution control authority at established primary air mass stations or primary ground level monitoring stations over such designated areas. The department of natural resources shall set forth smoke dispersal objectives designed to minimize any air pollution from smoke from such burning and the procedures necessary to meet those objectives.

The department of natural resources shall encourage more intense utilization in logging to reduce forest fire hazards and shall encourage development and use of procedures and equipment to burn forest debris in a manner that will produce less smoke. The department of natural resources shall, whenever practical, encourage development and use of alternative acceptable disposal methods. Such alternative methods shall be evaluated as to the relative impact on air, water and land pollution, and their financial feasibility. [1971 ex.s. c 232 § 3.]

70.94.680 Extension of burning permit requirements. The department of natural resources may extend burning permit requirements to cover the types of burning set forth in RCW 70.94.650 through 70.94.700 during the period from October 15 through March 15 in order to protect the air quality, and shall extend such requirements if the department of ecology deems such

action necessary to avoid an air pollution emergency where there is a high danger that normal operations at air contaminant sources in the area will be detrimental to the public health or safety. [1971 ex.s. c 232 § 4.]

70.94.690 Cooperation between department of natural resources and state, local, or regional air pollution authorities—Withholding of permits. In the regulation of outdoor burning not included in RCW 70.94.660 requiring permits from the department of natural resources, said department and the state, local, or regional air pollution control authorities will cooperate in regulating such burning so as to minimize insofar as possible duplicate inspections and separate permits while still accomplishing the objectives and responsibilities of the respective agencies.

Permits shall be withheld by the department of natural resources when so requested by the department of ecology if a forecast, alert, warning or emergency condition exists as defined in the episode criteria of the department of ecology. [1971 ex.s. c 232 § 5.]

70.94.700 Rules and regulations. The department of natural resources and the department of ecology may adopt rules and regulations necessary to implement their respective responsibilities under the provisions of RCW 70.94.650 through 70.94.700. [1971 ex.s. c 232 § 6.]

70.94.710 Air pollution episodes—Legislative finding—Declaration of policy. The legislature finds that whenever meteorological conditions occur which reduce the effective volume of air into which air contaminants are introduced, there is a high danger that normal operations at air contaminant sources in the area affected will be detrimental to public health or safety. Whenever such conditions, herein denominated as air pollution episodes, are forecast, there is a need for rapid short-term emission reduction in order to avoid adverse health or safety consequences.

Therefore, it is declared to be the policy of this state that an episode avoidance plan should be developed and implemented for the temporary reduction of emissions during air pollution episodes.

It is further declared that power should be vested in the governor to issue emergency orders for the reduction or discontinuance of emissions when such emissions and weather combine to create conditions imminently dangerous to public health and safety. [1971 ex.s. c 194 § 1.]

70.94.715 Air pollution episodes—Episode avoidance plan—Contents—Source emission reduction plans—Authority—Considered orders. The department of ecology is hereby authorized to develop an episode avoidance plan providing for the phased reduction of emissions wherever and whenever an air pollution episode is forecast. Such an episode avoidance plan shall conform with any applicable federal standards and shall be effective state-wide. The episode avoidance

plan may be implemented on an area basis in accordance with the occurrence of air pollution episodes in any given area.

The department of ecology may delegate authority to adopt source emission reduction plans and authority to implement all stages of occurrence up to and including the warning stage, and all intermediate stages up to the warning stage, in any area of the state, to the air pollution control authority with jurisdiction therein.

The episode avoidance plan, which shall be established by regulation in accordance with chapter 34.04 RCW, shall include, but not be limited to the following:

(1) The designation of episode criteria and stages, the occurrence of which will require the carrying out of preplanned episode avoidance procedures. The stages of occurrence shall be (a) forecast, (b) alert, (c) warning, (d) emergency, and such intermediate stages as the department shall designate. "Forecast" means the presence of meteorological conditions that are conducive to accumulation of air contaminants and is the first stage of an episode. "Alert" means concentration of air contaminants at levels at which short-term health effects may occur, and is the second stage of an episode. "Warning" means concentrations are continuing to degrade, contaminant concentrations have reached a level which, if maintained, can result in damage to health, and additional control actions are needed and is the third level of an episode. "Emergency" means the air quality is posing an imminent and substantial endangerment to public health and is the fourth level of an episode;

(2) The requirement that persons responsible for the operation of air contaminant sources prepare and obtain approval from the director of source emission reduction plans, consistent with good operating practice and safe operating procedures, for reducing emissions during designated episode stages;

(3) Provision for the director of the department of ecology or his authorized representative, or the air pollution control officer if implementation has been delegated, on the satisfaction of applicable criteria, to declare and terminate the forecast, alert, warning and all intermediate stages, up to the warning episode stage, such declarations constituting orders for action in accordance with applicable source emission reduction plans;

(4) Provision for the governor to declare and terminate the emergency stage and all intermediate stages above the warning episode stage, such declarations constituting orders in accordance with applicable source emission reduction plans;

(5) Provisions for enforcement by state and local police, personnel of the departments of ecology and social and health services, and personnel of local air pollution control agencies; and

(6) Provisions for reduction or discontinuance of emissions immediately, consistent with good operating practice and safe operating procedures, under an air pollution emergency as provided in RCW 70.94.720.

Source emission reduction plans shall be considered orders of the department and shall be subject to appeal to the pollution control hearings board according to the

procedure in chapter 43.21B RCW. [1971 ex.s. c 194 § 2.]

70.94.720 Air pollution episodes—Declaration of air pollution emergency by governor. Whenever the governor finds that emissions from the operation of one or more air contaminant sources is causing imminent danger to public health or safety, he may declare an air pollution emergency and may order the person or persons responsible for the operation of such air contaminant source or sources to reduce or discontinue emissions consistent with good operating practice, safe operating procedures and source emission reduction plans, if any, adopted by the department of ecology or any local air pollution control authority to which the department of ecology has delegated authority to adopt emission reduction plans. Orders authorized by this section shall be in writing and may be issued without prior notice or hearing. In the absence of the governor, any findings, declarations and orders authorized by this section may be made and issued by his authorized representative. [1971 ex.s. c 194 § 3.]

70.94.725 Air pollution episodes—Restraining orders, temporary injunctions to enforce orders—Procedure. Whenever any order has been issued pursuant to RCW 70.94.710 through 70.94.730, the attorney general, upon request from the governor, the director of the department of ecology, an authorized representative of either, or the attorney for a local air pollution control authority upon request of the control officer, shall petition the superior court of the county in which is located the air contaminant source for which such order was issued for a temporary restraining order requiring the immediate reduction or discontinuance of emissions from such source.

Upon request of the party to whom a temporary restraining order is directed, the court shall schedule a hearing thereon at its earliest convenience, at which time the court may withdraw the restraining order or grant such temporary injunction as is reasonably necessary to prevent injury to the public health or safety. [1971 ex.s. c 194 § 4.]

70.94.730 Air pollution episodes—Orders to be effective immediately. Orders issued to declare any stage of an air pollution episode avoidance plan under RCW 70.94.715, and to declare an air pollution emergency, under RCW 70.94.720, and orders to persons responsible for the operation of an air contaminant source to reduce or discontinue emissions, according to RCW 70.94.715 and 70.94.720 shall be effective immediately and shall not be stayed pending completion of review. [1971 ex.s. c 194 § 5.]

70.94.740 Limited outdoor burning—Policy. It is the policy of the state to achieve and maintain high levels of air quality and to this end to minimize to the greatest extent reasonably possible the burning of outdoor fires. Consistent with this policy, the legislature declares that such fires should be allowed only on a

limited basis under strict regulation and close control. [1972 ex.s. c 136 § 1.]

70.94.745 Limited outdoor burning—Program. It shall be the responsibility and duty of the department of natural resources, department of ecology, fire districts and local air pollution control authorities to establish, through regulations, ordinances or policy, a limited burning program for the people of this state, consisting of a one-permit system, until such time as an alternate technology or method of disposing of the organic refuse described in this chapter shall have been developed which is reasonably economical and less harmful to the environment. It is the policy of this state to encourage the fostering and development of such alternate method or technology. [1972 ex.s. c 136 § 2.]

70.94.750 Limited outdoor burning—Fires permitted. The following outdoor fires described in this section may be burned subject to the provisions of the program established pursuant to RCW 70.94.755 for any area and subject to city ordinances, county resolutions, and rules and regulations of fire districts and laws and rules and regulations enforced by the department of natural resources:

(1) Fires consisting of leaves, clippings, prunings and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by the property owner or his designee.

(2) Fires consisting of residue of a natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects or agricultural pursuits for pest or disease control; provided the fires described in this subsection may be prohibited in those areas having a general population density of one thousand or more persons per square mile. [1972 ex.s. c 136 § 3.]

70.94.755 Limited outdoor burning—Establishment of program. Each activated air pollution control authority, and the department of ecology in those areas outside the jurisdictional boundaries of an activated air pollution control authority, shall establish, through regulations, ordinances or policy, a program implementing the limited burning policy authorized by RCW 70.94.740 through 70.94.765. [1972 ex.s. c 136 § 4.]

70.94.760 Limited outdoor burning—Construction. Nothing contained in RCW 70.94.740 through 70.94.765 is intended to alter or change the provisions of RCW 70.94.660, 70.94.710 through 70.94.730, and 76.04.150 through 76.04.170. [1972 ex.s. c 136 § 5.]

70.94.765 Limited outdoor burning—Authority of local air pollution control authority or department of ecology to allow outdoor fires not restricted. Nothing in RCW 70.94.740 through 70.94.765 shall be construed as prohibiting a local air pollution control authority or the department of ecology in those areas outside the jurisdictional boundaries of an activated pollution control

authority from allowing the burning of outdoor fires. [1972 ex.s. c 136 § 6.]

70.94.770 Burning wood by resident of single family residence. Except as provided in RCW 70.94.775 and 70.94.780, nothing in this chapter or in regulations implementing this chapter shall prevent a resident of a single family residence from burning wood, so long as it has not been treated by an application of prohibitive material or substances, and natural vegetation in the course of maintaining or improving the grounds of such residence: *Provided*, That the department of ecology or board of any authority may set conditions for such burning so as to reduce the impact on air quality. [1973 1st ex.s. c 193 § 8.]

70.94.775 Outdoor burning—Fires prohibited—Exceptions. No person shall cause or allow any outdoor fire:

(1) Containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation which normally emits dense smoke or obnoxious odors except as provided in RCW 70.94.650: *Provided*, That agricultural heating devices which otherwise meet the requirements of this chapter shall not be considered outdoor fires under this section;

(2) During a forecast, alert, warning or emergency condition as defined in RCW 70.94.715;

(3) In any area which has been designated by the department of ecology or board of an activated authority as an area exceeding or threatening to exceed state or federal ambient air quality standards, or after July 1, 1976, state ambient air quality goals for particulates, except instructional fires permitted by RCW 70.94.650(2). [1974 1st ex.s. c 164 § 1; 1973 2nd ex.s. c 11 § 1; 1973 1st ex.s. c 193 § 9.]

70.94.780 Outdoor burning—Regulation and prohibition. In addition to any other powers granted to them by law, the fire protection agency authorized to issue burning permits may regulate or prohibit outdoor burning in order to prevent or abate the nuisances caused by such burning. [1973 1st ex.s. c 193 § 10.]

70.94.785 Plans approved pursuant to federal clean air act—Enforcement authority. Notwithstanding any provision of the law to the contrary, except RCW 70.94.660 through 70.94.690, the department of ecology, upon its approval of any plan (or part thereof) required or permitted under the federal clean air act, shall have the authority to enforce all regulatory provisions within such plan (or part thereof): *Provided*, That departmental enforcement of any such provision which is within the power of an activated authority to enforce shall be initiated only, when with respect to any source, the authority is not enforcing the provisions and then only after written notice is given the authority. [1973 1st ex.s. c 193 § 11.]

70.94.901 Construction—1967 c 238. This 1967 amendatory act shall not be construed to create in any way nor to enlarge, diminish or otherwise affect in any way any private rights in any civil action for damages. Any determination that there has been a violation of the provisions of this 1967 amendatory act or of any ordinance, rule, regulation or order issued pursuant thereto, shall not create by reason thereof any presumption or finding of fact or of law for use in any lawsuit brought by a private citizen. [1967 c 238 § 65.]

70.94.902 Construction, repeal of RCW 70.94.061–70.94.066—Saving. The following acts or parts of acts are each repealed:

(1) Section 7, chapter 238, Laws of 1967, and RCW 70.94.061;

(2) Section 8, chapter 238, Laws of 1967, and RCW 70.94.062;

(3) Section 9, chapter 238, Laws of 1967, and RCW 70.94.064; and

(4) Section 10, chapter 238, Laws of 1967, and RCW 70.94.066.

Such repeals shall not be construed as affecting any authority in existence on April 24, 1969, nor as affecting any action, activities or proceedings initiated by such authority prior hereto, nor as affecting any civil or criminal proceedings instituted by such authority, nor any rule, regulation, resolution, ordinance, or order promulgated by such authority, nor any administrative action taken by such authority, nor the term of office, or appointment or employment of any person appointed or employed by such authority. [1969 ex.s. c 168 § 46.]

70.94.911 Severability—1967 c 238. If any phrase, clause, subsection or section of this 1967 amendatory act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid. [1967 c 238 § 64.]

70.94.950 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

Chapter 70.95 SOLID WASTE MANAGEMENT

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70.95.010 Legislative finding. The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment. [1969 ex.s. c 134 § 1.]

70.95.020 Purpose. The purpose of this chapter is to establish a comprehensive state-wide program for solid waste handling which will prevent land, air, and water pollution and conserve the natural and economic resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling;

(4) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs. [1969 ex.s. c 134 § 2.]

70.95.030 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "City" means every incorporated city and town.

(2) "Committee" means the solid waste advisory committee.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology.

(5) "Disposal site" means the location where any final treatment, utilization, processing, or depository of solid waste occurs.

(6) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(7) "Jurisdictional health department" means city, county, city-county, or district public health department.

(8) "Person" means individual, firm, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(9) "Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities.

(10) "Solid waste handling" means the storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes. [1970 ex.s. c 62 § 60; 1969 ex.s. c 134 § 3.]

Solid waste disposal, powers and duties of state board of health as to environmental contaminants: RCW 43.20.050.

70.95.040 Solid waste advisory committee—Created—Membership—Chairman—Meetings—Expenses and per diem. There is created a solid waste advisory committee to provide consultation to the department of environmental quality concerning matters covered by this chapter. The committee shall advise on the development of programs and regulations for solid waste management, and shall supply recommendations concerning methods by which existing solid waste management practices and the laws authorizing them may be supplemented and improved.

The committee shall consist of seven members, including the assistant director for the division of solid waste management within the department. The remaining six members shall be appointed by the director with due regard to the interests of the public, local government, agriculture, industry, public health, and the refuse removal industry. The term of appointment shall be determined by the director. The committee shall elect its own chairman and meet at least four times a year, in accordance with such rules of procedure as it shall establish. Members shall receive no compensation for their services but shall be reimbursed twenty-five dollars per diem for each day or portion thereof spent serving as members of the committee and shall be paid their necessary traveling expenses while engaged in business of the committee as prescribed in chapter 43.03 RCW, as now or hereafter amended. [1969 ex.s. c 134 § 4.]

70.95.050 Solid waste advisory committee—Staff services and facilities. The department shall furnish necessary staff services and facilities required by the solid waste advisory committee. [1969 ex.s. c 134 § 5.]

70.95.060 Standards for solid waste handling—Areas. The department in accordance with procedures prescribed by the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended, may adopt such minimum functional standards for solid waste handling as it deems appropriate. The department in adopting such standards may classify areas of the state with respect to population density, climate, geology, and other relevant factors bearing on solid waste disposal standards. [1969 ex.s. c 134 § 6.]

70.95.070 Review of standards prior to adoption—Revisions, additions and modifications—Factors. The solid waste advisory committee shall review prior to adoption and shall recommend revisions, additions, and modifications to the minimum functional standards governing solid waste handling relating, but not limited to, the following:

- (1) Vector production and sustenance.
- (2) Air pollution (coordinated with regulations of the environmental quality department).
- (3) Pollution of surface and ground waters (coordinated with the regulations of the environmental quality department).
- (4) Hazards to service or disposal workers or to the public.
- (5) Prevention of littering.
- (6) Adequacy and adaptability of disposal sites to population served.
- (7) Design and operation of disposal sites.
- (8) Salvaging. [1969 ex.s. c 134 § 7.]

70.95.080 County comprehensive solid waste management plan—Joint plans—Duties of cities. Each county within the state, in cooperation with the various cities located within such county, shall prepare a coordinated, comprehensive solid waste management plan. Such plan may cover two or more counties.

Each city shall:

- (1) Prepare and deliver to the county auditor of the county in which it is located its plan for its own solid waste management for integration into the comprehensive county plan; or
- (2) Enter into an agreement with the county pursuant to which the city shall participate in preparing a joint city-county plan for solid waste management; or
- (3) Authorize the county to prepare a plan for the city's solid waste management for inclusion in the comprehensive county plan.

Two or more cities may prepare a plan for inclusion in the county plan. With prior notification of its home county of its intent, a city in one county may enter into an agreement with a city in an adjoining county, or with an adjoining county, or both, to prepare a joint plan for solid waste management to become part of the comprehensive plan of both counties.

After consultation with representatives of the cities and counties, the department shall establish a schedule for the development of the comprehensive plans for solid waste management. In preparing such a schedule, the department shall take into account the probable cost of such plans to the cities and counties. [1969 ex.s. c 134 § 8.]

70.95.090 Contents of each county and city solid waste management comprehensive plan. Each county and city solid waste management plan shall include the following:

- (1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.
- (2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.
- (3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:
 - (a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;
 - (b) Take into account the comprehensive land use plan of each jurisdiction;
 - (c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and
 - (d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.
- (4) A program for surveillance and control.
- (5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

- (a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his place of business and the area covered by his operation;
- (b) Any city solid waste operation within the county and the boundaries of such operation;
- (c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;
- (d) The projected solid waste collection needs for the respective jurisdictions for the next six years. [1971 ex.s. c 293 § 1; 1969 ex.s. c 134 § 9.]

Certain provisions not to detract from commission powers, duties and functions: RCW 80.01.300.

70.95.100 Submission of plans to department—Recommended revisions. Each comprehensive county solid waste management plan shall be submitted to the department for technical review and approval. The department may recommend revisions essential to the achievement of effective solid waste management and the purposes of this chapter. [1969 ex.s. c 134 § 10.]

70.95.110 Maintenance of plans—Review. The comprehensive county solid waste handling plans and any city solid waste handling plans prepared in accordance with RCW 70.95.080 shall be maintained in a current condition and reviewed and revised periodically by counties and cities as may be required by the department of environmental quality. Upon each review such plans shall be extended to show long-range needs for solid waste handling facilities for twenty years in the future, and a revised construction and capital acquisition program for six years in the future. Each revised solid waste handling plan shall be submitted to the department of environmental quality. [1969 ex.s. c 134 § 11.]

70.95.120 Technical assistance. The department shall provide to counties and cities technical assistance in the preparation, review and revision of solid waste handling plans required by this chapter. [1969 ex.s. c 134 § 12.]

70.95.130 Financial aid to counties and cities. Any county may apply to the department on a form prescribed thereby for financial aid for the preparation of the comprehensive county plan for solid waste management required by RCW 70.95.080. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction.

The department shall allocate to the counties and cities applying for financial aid for planning, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.

The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, and the local justification of their proposed expenditures. [1969 ex.s. c 134 § 13.]

70.95.140 Matching requirements. Counties and cities shall match their planning aid allocated by the director by an amount not less than twenty-five percent of the estimated cost of such planning. Any federal planning aid made directly to a county or city shall not be considered either a state or local contribution in determining local matching requirements. Counties and cities may meet their share of planning costs by cash and contributed services. [1969 ex.s. c 134 § 14.]

70.95.150 Contracts with counties to assure proper expenditures. Upon the allocation of planning funds as provided in RCW 70.95.130, the department shall enter into a contract with each county receiving a planning grant. The contract shall include such provisions as the

director may deem necessary to assure the proper expenditure of such funds including allocations made to cities. The sum allocated to a county shall be paid to the treasurer of such county. [1969 ex.s. c 134 § 15.]

70.95.160 County, city or jurisdictional board of health regulations. Each county, or any city, or jurisdictional board of health shall adopt regulations or ordinances governing solid waste handling implementing the comprehensive solid waste management plan covering storage, collection, transportation, treatment, utilization, processing and final disposal including the issuance of permits. Such regulations or ordinances shall assure that solid waste storage and disposal facilities are located, maintained, and operated in a manner so as properly to protect the public health, prevent air and water pollution, and avoid the creation of nuisances. Such regulations or ordinances may be more stringent than the minimum functional standards adopted by the department. Regulations or ordinances adopted by counties, cities, or jurisdictional boards of health shall be filed with the department of environmental quality. [1969 ex.s. c 134 § 16.]

70.95.170 Permit for solid waste disposal site or facilities—Required. After approval of the comprehensive solid waste plan by the department no solid waste disposal site or disposal site facilities shall be maintained, established, substantially altered, expanded, or improved until the county, city, or other person operating such site has obtained a permit from the jurisdictional health department pursuant to the provisions of RCW 70.95.180. [1969 ex.s. c 134 § 17.]

70.95.180 Permit for solid waste disposal site or facilities—Applications, fee. (1) Applications for permits to operate new or existing solid waste disposal sites shall be on forms prescribed by the department of environmental quality and shall contain a description of the proposed and existing facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local and state regulations.

(2) Upon receipt of an application for a permit to establish, alter, expand, improve, or continue in use a solid waste disposal site, the jurisdictional health department shall refer one copy of the application to the department of environmental quality which shall report its findings to the jurisdictional health department.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether an existing or proposed site and facilities meet all applicable laws and regulations, and conforms with the approved comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved

within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid. [1969 ex.s. c 134 § 18.]

70.95.190 Permit for solid waste disposal site or facilities—Renewal. Every permit for a solid waste disposal site shall be renewed annually on a date to be established by the jurisdictional health department having jurisdiction of the site. Prior to renewing a permit, the health department shall conduct such inspections as it deems necessary to assure that the solid waste disposal site and facilities located on the site meet minimum functional standards of the department of environmental quality and applicable local regulations. [1969 ex.s. c 134 § 19.]

70.95.200 Permit for solid waste disposal site or facilities—Suspension. Any permit for a solid waste disposal site issued as provided herein shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste disposal facilities located on the site are being operated in violation of this chapter, or the regulations of the department or local laws and regulations. [1969 ex.s. c 134 § 20.]

70.95.210 Hearing—Appeal. Whenever the jurisdictional health department denies a permit or suspends a permit for a solid waste disposal site, it shall, upon request of the applicant or holder of the permit, grant a hearing on such denial or suspension within thirty days after the request therefor is made. Notice of the hearing shall be given all interested parties including the county or city having jurisdiction over the site and the department of environmental quality. Within thirty days after the hearing, the health officer shall notify the applicant or the holder of the permit in writing of his determination and the reasons therefor. Any party aggrieved by such determination may appeal to the department of environmental quality by filing with the director a notice of appeal within thirty days after receipt of notice of the determination of the health officer. The department shall hold a hearing in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended. [1969 ex.s. c 134 § 21.]

70.95.220 Financial aid to jurisdictional health departments—Applications—Allocations. Any jurisdictional health department may apply to the department for financial aid for the enforcement of rules and regulations promulgated under this chapter. Such application shall contain such information, including budget and program description, as may be prescribed by regulations of the department.

After receipt of such applications the department may allocate available funds according to criteria established by regulations of the department considering population, urban development, the number of the disposal sites, and geographical area.

The sum allocated to a jurisdictional health department shall be paid to the treasury from which the operating expenses of the health department are paid, and shall be used exclusively for inspections and administrative expenses necessary to enforce applicable regulations. [1969 ex.s. c 134 § 22.]

70.95.230 Financial aid to jurisdictional health departments—Matching funds requirements. The jurisdictional health department applying for state assistance for the enforcement of this chapter shall match such aid allocated by the department in an amount not less than twenty-five percent of the total amount spent for such enforcement activity during the year. The local share of enforcement costs may be met by cash and contributed services. [1969 ex.s. c 134 § 23.]

70.95.240 Unlawful to dump or deposit solid waste without permit. After the adoption of regulations or ordinances by any county, city, or jurisdictional board of health providing for the issuance of permits as provided in RCW 70.95.160, it shall be unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state except at a solid waste disposal site for which there is a valid permit: *Provided*, That nothing herein shall prohibit a person from dumping or depositing solid waste resulting from his own activities onto or under the surface of ground owned or leased by him when such action does not violate statutes or ordinances, or create a nuisance. Any person violating this section shall be guilty of a misdemeanor. [1969 ex.s. c 134 § 24.]

70.95.250 Name appearing on waste material—Presumption. Whenever solid wastes dumped in violation of RCW 70.95.240 contain three or more items bearing the name of one individual, there shall be a rebuttable presumption that the individual whose name appears on such items committed the unlawful act of dumping. [1969 ex.s. c 134 § 25.]

70.95.260 Powers and duties of department. The department shall in addition to its other powers and duties:

(1) Cooperate with the appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out the provisions of this chapter.

(2) Coordinate the development of a solid waste management plan for all areas of the state in cooperation with local government, the planning and community affairs agency or its successor, and other appropriate state and regional agencies. The plan shall relate to solid waste management for twenty years in the future and shall be reviewed biennially, revised as necessary, and extended so that perpetually the plan

shall look to the future for twenty years as a guide in carrying out a state coordinated solid waste management program.

(3) Provide technical assistance to any person as well as to cities, counties, and industries.

(4) Initiate, conduct, and support research, demonstration projects, and investigations, and coordinate research programs pertaining to solid waste management systems.

(5) May, under the provisions of the Administrative Procedure Act, chapter 34.04 RCW, as now or hereafter amended, from time to time promulgate such rules and regulations as are necessary to carry out the purposes of this chapter. [1969 ex.s. c 134 § 26.]

70.95.900 Authority and responsibility of utilities and transportation commission not changed. Nothing in this act shall be deemed to change the authority or responsibility of the Washington utilities and transportation commission to regulate all intrastate carriers. [1969 ex.s. c 134 § 27.]

70.95.910 Severability—1969 ex.s. c 134. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected. [1969 ex.s. c 134 § 28.]

Chapter 70.95A POLLUTION CONTROL—MUNICIPAL BONDING AUTHORITY

Sections

- 70.95A.010 Legislative declaration—Liberal construction.
- 70.95A.020 Definitions.
- 70.95A.030 Municipalities—Powers.
- 70.95A.040 Municipalities—Revenue bonds for pollution control facilities—Authorized—Sale, conditions—Form, terms.
- 70.95A.050 Revenue bonds—Security—Scope—Default—Authorization proceedings.
- 70.95A.060 Facilities—Leases authorized.
- 70.95A.070 Facilities—Revenue bonds—Refunding provisions.
- 70.95A.080 Revenue bonds—Disposition of proceeds.
- 70.95A.090 Facilities—Sale or lease—Certain restrictions on municipalities not applicable.
- 70.95A.100 Facilities—Department of ecology certification.
- 70.95A.910 Construction—1973 c 132.
- 70.95A.920 Severability—1973 c 132.
- 70.95A.930 Acquisitions by port districts under RCW 53.08.040—Prior rights or obligations.

70.95A.010 Legislative declaration—Liberal construction. The legislature finds:

(1) That environmental damage seriously endangers the public health and welfare;

(2) That such environmental damage results from air, water, and other resources pollution and from solid waste disposal, noise and other environmental problems;

(3) That to abate or control such environmental damage antipollution devices, equipment, and facilities must be acquired, constructed and installed;

(4) That the method of financing provided in this chapter is in the public interest and serves a public purpose in protecting and promoting the health and

welfare of the citizens of the cities, towns, counties, and port districts and of this state by abating or controlling and preventing environmental damage.

This chapter shall be liberally construed to accomplish the intentions expressed in this section. [1973 c 132 § 2.]

70.95A.020 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Municipality" shall mean any city, town, county, or port district in the state;

(2) "Facility" or "facilities" shall mean any land, building, structure, machinery, system, fixture, appurtenance, equipment or any combination thereof, or any interest therein, and all real and personal properties deemed necessary in connection therewith whether or not now in existence, which is used or to be used by any person, corporation or municipality in furtherance of the purpose of abating, controlling or preventing pollution;

(3) "Pollution" shall mean any form of environmental pollution, including but not limited to water pollution, air pollution, land pollution, solid waste disposal, thermal pollution, radiation contamination, or noise pollution;

(4) "Governing body" shall mean the body or bodies in which the legislative powers of the municipality are vested;

(5) "Mortgage" shall mean a mortgage or a mortgage and deed of trust or other security device; and

(6) "Department" shall mean the state department of ecology. [1973 c 132 § 3.]

70.95A.030 Municipalities—Powers. In addition to any other powers which it may now have, each municipality shall have the following powers:

(1) To acquire, whether by construction, purchase, devise, gift or lease, or any one or more of such methods, one or more facilities which shall be located within, or partially within the municipality;

(2) To lease, lease with option to purchase, sell or sell by installment sale, any or all of the facilities upon such terms and conditions as the governing body may deem advisable but which shall at least fully reimburse the municipality for all debt service on any bonds issued to finance the facilities and for all costs incurred by the municipality in financing and operating the facilities and as shall not conflict with the provisions of this chapter;

(3) To issue revenue bonds for the purpose of defraying the cost of acquiring or improving any facility or facilities or refunding any bonds issued for such purpose and to secure the payment of such bonds as provided in this chapter. Revenue bonds may be issued in one or more series or issues where deemed advisable, and each such series or issue may have the same or different maturity dates, interest rates, priorities on revenues available for payment of such bonds and priorities on security available for assuring payment thereof, and such other differing terms and conditions as are deemed necessary and are not in conflict with the provisions of this chapter. [1973 c 132 § 4.]

70.95A.040 Municipalities—Revenue bonds for pollution control facilities—Authorized—Sale, conditions—Form, terms. (1) All bonds issued by a municipality under the authority of this chapter shall be secured solely by revenues derived from the lease or sale of the facility. Bonds and interest coupons issued under the authority of this chapter shall not constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds.

(2) The bonds referred to in subsection (1) of this section, may (a) be executed and delivered at any time and from time to time, (b) be in such form and denominations, (c) be of such tenor, (d) be in registered or bearer form either as to principal or interest or both, and may provide for conversion between registered and coupon bonds of varying denominations, (e) be payable in such installments and at such time or times not exceeding forty years from their date, (f) be payable at such place or places, (g) bear interest at such rate or rates as may be determined by the governing body, payable at such place or places within or without this state and evidenced in such manner, (h) be redeemable prior to maturity, with or without premium, and (i) contain such provisions not inconsistent herewith, as shall be deemed for the best interest of the municipality and provided for in the proceedings of the governing body whereunder the bonds shall be authorized to be issued.

(3) Any bonds issued under the authority of this chapter, may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof from the proceeds of the sale of said bonds or from the revenues of the facilities.

(4) All bonds issued under the authority of this chapter, and all interest coupons applicable thereto shall be investment securities within the meaning of the uniform commercial code and shall be deemed to be issued by a political subdivision of the state. [1973 c 132 § 5.]

70.95A.050 Revenue bonds—Security—Scope—Default—Authorization proceedings. (1) The principal of and interest on any bonds issued under the authority of this chapter (a) shall be secured by a pledge of the revenues derived from the sale or lease of the facilities out of which such bonds shall be made payable, (b) may be secured by a mortgage covering all or any part of the facilities, (c) may be secured by a pledge or assignment of the lease of such facilities, or (d) may be secured by a trust agreement or such other security device as may be deemed most advantageous by the governing body.

(2) The proceedings under which the bonds are authorized to be issued under the provisions of this chapter, and any mortgage given to secure the same may contain any agreements and provisions customarily

contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting (a) the fixing and collection of rents for any facilities covered by such proceedings or mortgage, (b) the terms to be incorporated in the lease of such facilities, (c) the maintenance and insurance of such facilities, (d) the creation and maintenance of special funds from the revenues of such facilities, and (e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage or trust agreement, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this chapter: *Provided*, That in making any such agreements or provisions a municipality shall not have the power to obligate itself except with respect to the facilities and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under the provisions of this chapter and any mortgage securing such bonds may provide that, in the event of a default in the payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the facilities in accordance with such proceedings or the provisions of such mortgage.

(4) Any mortgage made under the provisions of this chapter, to secure bonds issued thereunder, may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and the mortgaged property sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or any charge upon their general credit or against their taxing powers.

(5) The proceedings authorizing the issuance of bonds hereunder may provide for the appointment of a trustee or trustees for the protection of the holders of the bonds, whether or not a mortgage is entered into as security for such bonds. Any such trustee may be a bank with trust powers or a trust company and shall be located in the United States, within or without the state of Washington, shall have the immunities, powers and duties provided in said proceedings, and may, to the extent permitted by such proceedings, hold and invest funds deposited with it in direct obligations of the United States, obligations guaranteed by the United States or certificates of deposit of a bank (including the trustee) which are continuously secured by such obligations of or guaranteed by the United States. Any bank acting as such trustee may, to the extent permitted by such proceedings, buy bonds issued hereunder to the

same extent as if it were not such trustee. Said proceedings may provide for one or more co-trustees, and any co-trustee may be any competent individual over the age of twenty-one years or a bank having trust powers or trust company within or without the state. The proceedings authorizing the bonds may provide that some or all of the proceeds of the sale of the bonds, the revenues of any facilities, the proceeds of the sale of any part of a facility, of any insurance policy or of any condemnation award be deposited with the trustee or a co-trustee and applied as provided in said proceedings. [1973 c 132 § 6.]

70.95A.060 Facilities—Leases authorized. Prior to the issuance of the bonds authorized by this chapter, the municipality may lease the facilities to a lessee or lessees under an agreement providing for payment to the municipality of such rentals as will be sufficient (a) to pay the principal of and interest on the bonds issued to finance the facilities, (b) to pay the taxes on the facilities, (c) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (d) unless the agreement of lease obligates the lessees to pay for the maintenance and insurance of the facilities, to pay the costs of maintaining the facilities in good repair and keeping the same properly insured. Subject to the limitations of this chapter, the lease or extensions or modifications thereof may contain such other terms and conditions as may be mutually acceptable to the parties, and notwithstanding any other provisions of law relating to the sale of property owned by municipalities, such lease may contain an option for the lessees to purchase the facilities on such terms and conditions with or without consideration as may be mutually acceptable to the parties. [1973 c 132 § 7.]

70.95A.070 Facilities—Revenue bonds—Refunding provisions. Any bonds issued under the provisions of this chapter and at any time outstanding may at any time and from time to time be refunded by a municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be so refunded, together with any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith: *Provided*, That an issue of refunding bonds may be combined with an issue of additional revenue bonds on any facilities. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby: *Provided further*, That the holders of any bonds to be so refunded shall not be compelled without their consent to surrender their bonds for payment or exchange except on the terms expressed on the face thereof. Any refunding bonds issued under the authority of this chapter shall be subject to the provisions contained in RCW 70.95A.040 and may

be secured in accordance with the provisions of RCW 70.95A.050. [1973 c 132 § 8.]

70.95A.080 Revenue bonds—Disposition of proceeds. The proceeds from the sale of any bonds issued under authority of this chapter shall be applied only for the purpose for which the bonds were issued: *Provided*, That any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold: *And provided further*, That if for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring or improving any facilities shall be deemed to include the following: The actual cost of acquiring or improving real estate for any facilities; the actual cost of construction of all or any part of the facilities which may be constructed, including architects' and engineers' fees, all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition or improvements; and the interest on such bonds for a reasonable time prior to construction, during construction, and for a time not exceeding six months after completion of construction. [1973 c 132 § 9.]

70.95A.090 Facilities—Sale or lease—Certain restrictions on municipalities not applicable. The facilities shall be constructed, reconstructed, and improved and shall be leased, sold or otherwise disposed of in the manner determined by the governing body in its sole discretion and any requirement of competitive bidding, lease performance bonds or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of a municipality is not applicable to any action taken under authority of this chapter. [1973 c 132 § 10.]

70.95A.100 Facilities—Department of ecology certification. Upon request by a municipality or by a user of the facilities the department of ecology may in relation to chapter 54, Laws of 1972 ex. sess. and this chapter issue its certificate stating that the facilities (1) as designed are in furtherance of the purpose of abating, controlling or preventing pollution, and/or (2) as designed or as operated meet state and local requirements for the control of pollution. This section shall not be construed as modifying the provisions of RCW 82.34.030; chapter 70.94 RCW; or chapter 90.48 RCW. [1973 c 132 § 11.]

70.95A.910 Construction—1973 c 132. Nothing in this chapter shall be construed as a restriction or limitation upon any powers which a municipality might otherwise have under any laws of this state, but shall be construed as cumulative. [1973 c 132 § 12.]

70.95A.920 Severability—1973 c 132. If any provision of this 1973 act or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this

1973 act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. [1973 c 132 § 13.]

70.95A.930 Acquisitions by port districts under RCW 53.08.040—Prior rights or obligations. All acquisitions by port districts pursuant to RCW 53.08.040 may, at the option of a port commission, be deemed to be made under this chapter, or under both: *Provided*, That nothing contained in this chapter shall impair rights or obligations under contracts entered into before March 19, 1973. [1973 c 132 § 14.]

Chapter 70.95B DOMESTIC WASTE TREATMENT PLANTS— CERTIFICATION AND REGULATION OF OPERATORS

Sections

70.95B.010	Legislative declaration.
70.95B.020	Definitions.
70.95B.030	Waste treatment plant operators—Certification required.
70.95B.040	Administration of chapter—Rules and regulations—Director's duties.
70.95B.050	Waste treatment plants—Classification.
70.95B.060	Criteria and guidelines.
70.95B.070	Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Per diem and expenses.
70.95B.080	Certificates—When examination not required.
70.95B.090	Certificates—Issuance and renewal conditions.
70.95B.100	Certificates—Revocation procedures.
70.95B.110	Administration of chapter—Powers and duties of director.
70.95B.120	Violations.
70.95B.130	Certificates—Reciprocity with other states.
70.95B.140	Penalties for violations—Injunctions.
70.95B.150	Administration of chapter—Receipts—Payment to general fund.
70.95B.900	Effective date—1973 c 139.

Reviser's note: Chapter 139, Laws of 1973 has been codified as chapter 70.95B RCW which appears to be in accordance with code organization. Section 16 of chapter 139 had directed that the chapter be added to Title 43 RCW. For other laws pertaining to environmental protection and pollution control, see chapters 70.93, 70.94, 70.95, 70.95A, and 90.48 RCW.

70.95B.010 Legislative declaration. The legislature declares that competent operation of waste treatment plants plays an important part in the protection of the environment of the state and therefore it is of vital interest to the public. In order to protect the public health and to conserve and protect the water resources of the state, it is necessary to provide for the classifying of all domestic wastewater treatment plants; to require the examination and certification of the persons responsible for the supervision and operation of such systems; and to provide for the promulgation of rules and regulations to carry out this chapter. [1973 c 139 § 1.]

70.95B.020 Definitions. As used in this chapter unless context requires another meaning:

- (1) "Director" means the director of the department of ecology.
- (2) "Department" means the department of ecology.

(3) "Board" means the water and wastewater operator certification board of examiners established by RCW 70.95B.070.

(4) "Certificate" means a certificate of competency issued by the director stating that the operator has met the requirements for the specified operator classification of the certification program.

(5) "Waste treatment plant" means a facility used in the collection, transmission, storage, pumping, treatment or discharge of any liquid or waterborne waste, whether of domestic origin or a combination of domestic, commercial or industrial waste, and which by its design requires the presence of an operator for its operation. It shall not include any facility used exclusively by a single family residence nor septic tanks with subsoil absorption nor industrial wastewater works.

(6) "Operator" means an individual employed or appointed by any county, sewer district, municipality, public or private corporation, company, institution, person, or the state of Washington who is designated by the employing or appointing officials as the person on-site in responsible charge of the actual operation of a waste treatment plant.

(7) "Nationally recognized association of certification authorities" shall mean that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems and wastewater facilities and certification of operators, facilitates reciprocity between state programs and assists authorities in establishing new certification programs and updating existing ones. [1973 c 139 § 2.]

70.95B.030 Waste treatment plant operators—Certification required. As provided for in this chapter, the operator in responsible charge of the day-to-day operation of a waste treatment plant shall be certified. When a waste treatment plant is normally operated for more than one shift, the man responsible for each shift operation shall also be certified. Operating personnel not required to be certified by this chapter are encouraged to become certified hereunder on a voluntary basis. [1973 c 139 § 3.]

70.95B.040 Administration of chapter—Rules and regulations—Director's duties. The director, with the approval of the board, shall adopt and enforce such rules and regulations as may be necessary for the administration of this chapter. The rules and regulations shall include, but not be limited to, provisions for the qualification and certification of operators for different classifications of waste treatment plants. [1973 c 139 § 4.]

70.95B.050 Waste treatment plants—Classification. The director shall classify all waste treatment plants with regard to the size, type, and other conditions affecting the complexity of such treatment plants and the skill, knowledge, and experience required of an operator to supervise the operation of such facilities to

protect the public health and the state's water resources. [1973 c 139 § 5.]

70.95B.060 Criteria and guidelines. The director is authorized when taking action pursuant to RCW 70.95B.040 and 70.95B.050 to consider generally applicable criteria and guidelines developed by a nationally recognized association of certification authorities. [1973 c 139 § 6.]

70.95B.070 Board of examiners for wastewater operator certification—Created—Members—Qualifications—Terms—Powers and duties—Per diem and expenses. For the purpose of carrying out the provisions of this chapter, a board of examiners for wastewater operator certification shall be appointed. This board may serve in a common capacity for the certification of both water and wastewater plant and system operators. One member shall be named from the department of ecology, by its director to serve at his pleasure, and one member from the department of social and health services by its secretary, to serve at his pleasure, and one member who is required to employ a certified operator and who holds the position of city manager, city engineer, director of public works, superintendent of utilities, or an equivalent position who will be appointed by the governor. The governor shall also appoint two members who are operators holding a certificate of at least the second highest operator classification for wastewater plant operators established by regulation of the director, and if authorized in a water supply system operator certification act, two members who are operators holding a certificate of at least the second highest classification for waterworks operators established pursuant to such act.

The employer representative shall be appointed for an initial one-year term and the operators for initial terms of two and three years respectively. Thereafter, the members appointed by the governor shall serve for a three-year period. Vacancies shall be filled for the remainder for an unexpired term by the appointing authorities.

This board shall assist in the development of rules and regulations, shall prepare, administer and evaluate examinations of operator competency as required in this chapter, and shall recommend the issuance of [or] revocation of certificates. The board shall determine when and where the examinations shall be held. The examination shall be held at least three times annually.

Each member appointed by the governor shall serve without compensation, but shall be reimbursed twenty-five dollars per diem for each day or portion thereof he performs assigned services as a board member, and shall be paid his necessary traveling expenses while engaged in the business of the board as prescribed in chapter 43.03 RCW as now or hereafter amended. [1973 c 139 § 7.]

70.95B.080 Certificates—When examination not required. Certificates shall be issued without examination under the following conditions:

(1) Certificates, in appropriate classifications, shall be issued without application fee to operators who, on July 1, 1973, hold certificates of competency attained by examination under the voluntary certification program sponsored jointly by the state department of social and health services, health services division, and the Pacific Northwest pollution control association.

(2) Certificates, in appropriate classifications, shall be issued to persons certified by a governing body or owner to have been the operator in responsible charge of a waste treatment plant on July 1, 1973. A certificate so issued will be valid only for the existing plant.

(3) A nonrenewable certificate, temporary in nature, may be issued for a period not to exceed twelve months, to an operator to fill a vacated position required to have a certified operator. Only one such certificate may be issued subsequent to each instance of vacation of any such position. [1973 c 139 § 8.]

70.95B.090 Certificates—Issuance and renewal conditions. The issuance and renewal of a certificate shall be subject to the following conditions:

(1) A certificate shall be issued if the operator has satisfactorily passed a written examination, or has met the requirements of RCW 70.95B.080, and has met the requirements specified in the rules and regulations as authorized by this chapter, and has paid the department an application fee of ten dollars.

(2) The term for all certificates shall be from the first of January of the year of issuance until the thirty-first of December of the same year. Every certificate shall be renewed annually upon the payment of a five dollar renewal fee and satisfactory evidence presented to the director that the operator demonstrates continued professional growth in the field.

(3) An individual who fails to renew the certificate before the end of certification year, upon notice by the director shall have his certificate suspended for thirty days. If, during the suspension period, the renewal is not completed, the director shall give notice of revocation to the employer and to the operator and the certificate will be revoked ten days after such notice is given. An operator whose certificate has been revoked must reapply for certification and will be requested to meet the requirements of a new applicant. [1973 c 139 § 9.]

70.95B.100 Certificates—Revocation procedures. The director may, with the recommendation of the board and after a hearing before the same, revoke a certificate found to have been obtained by fraud or deceit, or for gross negligence in the operation of a waste treatment plant, or for violating the requirements of this chapter or any lawful rule, order or regulation of the department. No person whose certificate is revoked under this section shall be eligible to apply for a certificate for one year from the effective date of this final order or revocation. [1973 c 139 § 10.]

70.95B.110 Administration of chapter—Powers and duties of director. To carry out the provisions and purposes of this chapter, the director is authorized and empowered to:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms and conditions as he deems appropriate with other state, federal, or interstate agencies, municipalities, education institutions, or other organizations or individuals.

(2) Receive financial and technical assistance from the federal government and other public or private agencies.

(3) Participate in related programs of the federal government, other states, interstate agencies, or other public or private agencies or organizations.

(4) Upon request, furnish reports, information, and materials relating to the certification program authorized by this chapter to federal, state, or interstate agencies, municipalities, education institutions, and other organizations and individuals.

(5) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds appropriated or otherwise provided for the purpose of carrying out the provisions of this chapter. [1973 c 139 § 11.]

70.95B.120 Violations. On and after one year following July 1, 1973, it shall be unlawful for any person, firm, corporation, municipal corporation, or other governmental subdivision or agency to operate a waste treatment plant unless the operator of the plant or system is duly certified by the director under the provisions of this chapter or any lawful rule, order, or regulation of the department. It shall also be unlawful for any person to perform the duties of an operator as defined in this chapter, or in any lawful rule, order, or regulation of the department, without being duly certified under the provisions of this chapter. [1973 c 139 § 12.]

70.95B.130 Certificates—Reciprocity with other states. On or after July 1, 1973, certification of operators by any state which, as determined by the director, accepts certifications made or certification requirements deemed satisfied pursuant to the provisions of this chapter, shall be accorded reciprocal treatment and shall be recognized as valid and sufficient within the purview of this chapter, if in the judgment of the director the certification requirements of such state are substantially equivalent to the requirements of this chapter or any rules or regulations promulgated hereunder.

In making determinations pursuant to this section, the director shall consult with the board and may consider any generally applicable criteria and guidelines developed by the nationally recognized association of certification authorities. [1973 c 139 § 13.]

70.95B.140 Penalties for violations—Injunctions. Any person, including any firm, corporation, municipal corporation, or other governmental subdivision or agency violating any provisions of this chapter or the rules and regulations adopted hereunder, is guilty of a misdemeanor. Each day of operation in such violation of this chapter or any rules or regulations adopted hereunder shall constitute a separate offense. Upon

conviction, violators shall be fined an amount not exceeding one hundred dollars for each offense. It shall be the duty of the prosecuting attorney or the attorney general, as appropriate, to secure injunctions of continuing violations of any provisions of this chapter or the rules and regulations adopted hereunder. [1973 c 139 § 14.]

70.95B.150 Administration of chapter—Receipts—Payment to general fund. All receipts realized in the administration of this chapter shall be paid into the general fund. [1973 c 139 § 15.]

70.95B.900 Effective date—1973 c 139. This 1973 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 on July 1, 1973. [1973 c 139 § 17.]

Chapter 70.96 ALCOHOLISM

Sections	
70.96.085	Powers and duties of department—Assistance in development and operation of public or private facilities.
70.96.092	Approval of facilities, plans or programs prerequisite to receiving state financial assistance.
70.96.094	Approval of facilities, plans or programs prerequisite to receiving state financial assistance—Financial support from other sources required before state approval given.
70.96.095	Cities and counties—Sharing in use of facilities or programs maintained by other city or county.
70.96.096	Cities and counties—Eligibility for liquor taxes and profits—Support of alcoholism program required.
70.96.150	Inability to contribute to cost no bar to admission.
70.96.160	County alcoholism administrative board—Members—Qualifications—Terms—Powers, duties—Executive director.

Reviser's note: The law relating to alcoholism embodied in this chapter was first enacted by chapter 136, Laws of 1957 and codified as chapter 71.16 RCW which latter act was repealed and reenacted by chapter 28, Laws of 1959 as chapter 72.03 RCW; the latter enactment was in turn repealed and reenacted by chapter 85, Laws of 1959 codified herein, in which the powers and duties relating to alcoholism were transferred from the department of institutions to the department of health. The department of health was abolished by RCW 43.20A.500, and the research, educational, and treatment program for the rehabilitation of alcoholics was transferred to the department of social and health services by RCW 43.20A.180.

Alcoholism treatment benefit provisions

group disability contracts: RCW 48.21.160–48.21.190.

health care services contracts: RCW 48.44.240.

70.96.085 Powers and duties of department—Assistance in development and operation of public or private facilities. The department of health is authorized to provide financial assistance and consultative services to assist in the development, establishment, construction, maintenance, and operation of community, public, or private nonprofit facilities throughout the state for the referral, care, custody, treatment, recovery and rehabilitation of alcoholics. [1965 ex.s. c 143 § 1.]

Liquor revolving fund, disbursement to universities and department of health: RCW 66.08.180.

70.96.092 Approval of facilities, plans or programs prerequisite to receiving state financial assistance. All facilities, plans, or programs receiving financial assistance under RCW 70.96.085 shall be approved by the department of social and health services before any state funds are used to provide such financial assistance. Whenever such facilities, plans, or programs have not been approved as required or do not receive the required approval, the funds set aside for such facility, plan, or program shall be made available for allocation to facilities, plans, or programs which have received the required approval of the department. In addition, whenever there is an excess of funds set aside for a particular approved facility, plan or program, the excess shall be made available for allocation to other approved facilities, plans, or programs. [1971 ex.s. c 104 § 1.]

70.96.094 Approval of facilities, plans or programs prerequisite to receiving state financial assistance—Financial support from other sources required before state approval given. Except as hereinafter provided, the secretary of social and health services shall not approve any facility, plan, or program for financial assistance under RCW 70.96.085 unless at least ten percent of the amount expended for such facility, plan or program is provided from local public or private sources. When deemed necessary to maintain public standards of care in the facility, plan, or program, the secretary may require such facility, plan, or program to provide up to fifty percent of the total expended for such program through fees, gifts, contributions or volunteer services, the value of such gifts, contributions and volunteer services to be determined by the secretary. [1971 ex.s. c 104 § 2.]

70.96.095 Cities and counties—Sharing in use of facilities or programs maintained by other city or county. Any city, town or county not having its own facility or program for the treatment and rehabilitation of alcoholics may share in the use of a facility or program maintained by another city or county so long as it contributes no less than two percent of its share of liquor taxes and profits to the support of the same. [1972 ex.s. c 77 § 1.]

70.96.096 Cities and counties—Eligibility for liquor taxes and profits—Support of alcoholism program required. In order to be eligible to receive its share of liquor taxes and profits, each city and county shall be required to devote no less than two percent of such share of liquor taxes and profits to the support of an alcoholism program approved by the alcoholism administrative board authorized by RCW 70.96.160 and the secretary of the state department of social and health services. [1973 1st ex.s. c 155 § 3; 1972 ex.s. c 77 § 2.]

Liquor revolving fund disbursements: RCW 66.08.180.

70.96.150 Inability to contribute to cost no bar to admission. The department shall not refuse admission for diagnosis, evaluation, guidance or treatment to any applicant because it is determined that the applicant is financially unable to contribute fully or in part to the cost of any services or facilities available under the program on alcoholism. [1959 c 85 § 15.]

70.96.160 County alcoholism administrative board—Members—Qualifications—Terms—Powers, duties—Executive director. Any county or combination of counties acting jointly by agreement, hereinafter referred to as "county", may create an alcoholism administrative board. Such board shall be composed of not less than seven nor more than fifteen members, who shall be representative of the community, shall include at least two recovered alcoholics, and shall include consumer and minority group representation. No more than four elected or appointed city or county officials may serve on such board at the same time. Members of the board shall serve three year terms and until their successors are appointed and qualified. They shall not be compensated for the performance of their duties as members of the board, but may be paid subsistence rates and mileage in the amounts prescribed by RCW 36.17.030 as now or hereafter amended.

The alcoholism administrative board, the county and the department of social and health services shall, in the area of alcoholism prevention, treatment and education, and the administration, planning and funding thereof, have the same duties, responsibilities, powers, liabilities and authorities as are provided by chapter 71.24 RCW with respect to the mental health administrative board, the county and the department of social and health services.

An executive director of the board may be appointed by the county commissioners subject to the approval of the board. Applicants for such position need not be residents of the county, city or state, and may be employed on a full or part time basis. [1973 1st ex.s. c 155 § 2.]

Chapter 70.96A UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT

Sections

- 70.96A.010 Declaration of policy.
- 70.96A.020 Definitions.
- 70.96A.030 Alcoholism program.
- 70.96A.040 Program authority.
- 70.96A.050 Duties of department.
- 70.96A.060 Interdepartmental coordinating committee.
- 70.96A.070 Citizens advisory council—Qualifications—Duties.
- 70.96A.080 Comprehensive program for treatment—Regional facilities.
- 70.96A.090 Standards for public and private treatment facilities—Enforcement procedures—Penalties.
- 70.96A.100 Acceptance for treatment—Rules.
- 70.96A.110 Voluntary treatment of alcoholics.
- 70.96A.120 Treatment and services for intoxicated persons and persons incapacitated by alcohol.
- 70.96A.140 Involuntary commitment of alcoholics.
- 70.96A.150 Records of alcoholics and intoxicated persons.
- 70.96A.160 Visitation and communication with patients.
- 70.96A.170 Emergency service patrol—Establishment—Rules.

- 70.96A.180 Payment for treatment—Financial ability of patients.
 70.96A.190 Criminal laws limitations.
 70.96A.200 Transfer of property and funds to department of social and health services.
 70.96A.210 Transfer of appropriations.
 70.96A.220 Duties of director of program planning and fiscal management regarding transfer of equipment, funds and appropriations.
 70.96A.900 Short title.
 70.96A.910 Application and construction.
 70.96A.920 Severability—1972 ex.s. c 122.
 70.96A.930 Section, subsection headings not part of law.

Reviser's note: Throughout this chapter "this act" has been translated to "this chapter" This act [1972 ex.s. c 122] consists of chapter 70.96A RCW, the amendment of RCW 9.87.010, 71.24.030 and the repeal of RCW 9.68.040, 70.96.010-70.96.030, 70.96.040-70.96.080, 70.96.090, 70.96.100-70.96.140, 70.96.900, and 71.08.010-71.08.090.

70.96A.010 Declaration of policy. It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. [1972 ex.s. c 122 § 1.]

Effective date—1972 ex.s. c 122. "Chapter 122, Laws of 1972 extraordinary session shall be effective January 1, 1975." [1973 c 92 § 1; 1972 ex.s. c 122 § 31.] This applies to chapter 70.96A RCW, to the amendment of RCW 9.87.010 and 71.24.030, and to the repeal of RCW 9.68.040, 70.96.010-70.96.030, 70.96.040-70.96.080, 70.96.090, 70.96.100-70.96.140, 70.96.900, and 71.08.010-71.08.090.

Progress report: "The department of social and health services shall make and deliver a written progress report on the implementation of the uniform alcoholism and intoxication treatment act every ninety days up to the effective date of the act, January 1, 1975 to the appropriate committee of the legislative council, or its successor." [1973 c 92 § 2.]

Alcoholism treatment benefit provisions
group disability contracts: RCW 48.21.160-48.21.190.
health care services contracts: RCW 48.44.240.

70.96A.020 Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;
- (2) "Approved treatment facility" means a treatment agency operating under the direction and control of the department of social and health services or providing treatment under this chapter through a contract with the department under RCW 70.96A.080(6) and meeting the standards prescribed in RCW 70.96A.090(1) and approved under RCW 70.96A.090(3);
- (3) "Secretary" means the secretary of the department of social and health services;
- (4) "Department" means the department of social and health services;
- (5) "Director" means the director of the division of alcoholism;
- (6) "Emergency service patrol" means a patrol established under RCW 70.96A.170;
- (7) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, has his judgment so

impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment and constitutes a danger to himself, to any other person, or to property;

(8) "Incompetent person" means a person who has been adjudged incompetent by the superior court;

(9) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient and emergency services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics, persons incapacitated by alcohol, and intoxicated persons. [1972 ex.s. c 122 § 2.]

70.96A.030 Alcoholism program. A discrete program of alcoholism is established within the department of social and health services, to be administered by a qualified person who has training and experience in handling alcoholism problems or the organization or administration of treatment services for persons suffering from alcoholism problems. [1972 ex.s. c 122 § 3.]

70.96A.040 Program authority. The department, in the operation of the alcoholism program may:

- (1) Plan, establish, and maintain treatment programs as necessary or desirable;
- (2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or furnished to alcoholics, persons incapacitated by alcohol, or intoxicated persons;
- (3) Solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;
- (4) Administer or supervise the administration of the provisions relating to alcoholics and intoxicated persons of any state plan submitted for federal funding pursuant to federal health, welfare, or treatment legislation;
- (5) Coordinate its activities and cooperate with alcoholism programs in this and other states, and make contracts and other joint or cooperative arrangements with state, local, or private agencies in this and other states for the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons and for the common advancement of alcoholism programs;
- (6) Keep records and engage in research and the gathering of relevant statistics;
- (7) Do other acts and things necessary or convenient to execute the authority expressly granted to it; and

(8) Acquire, hold, or dispose of real property or any interest therein, and construct, lease, or otherwise provide treatment facilities for alcoholics, persons incapacitated by alcohol, and intoxicated persons. [1972 ex.s. c 122 § 4.]

70.96A.050 Duties of department. The department shall:

(1) Develop, encourage, and foster state-wide, regional, and local plans and programs for the prevention of alcoholism and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons in cooperation with public and private agencies, organizations, and individuals and provide technical assistance and consultation services for these purposes;

(2) Coordinate the efforts and enlist the assistance of all public and private agencies, organizations, and individuals interested in prevention of alcoholism and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons;

(3) Cooperate with public and private agencies in establishing and conducting programs to provide treatment for alcoholics, persons incapacitated by alcohol, and intoxicated persons who are clients of the correctional system.

(4) Cooperate with the superintendent of public instruction, state board of education, schools, police departments, courts, and other public and private agencies, organizations and individuals in establishing programs for the prevention of alcoholism and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons, and preparing curriculum materials thereon for use at all levels of school education;

(5) Prepare, publish, evaluate, and disseminate educational material dealing with the nature and effects of alcohol;

(6) Develop and implement, as an integral part of treatment programs, an educational program for use in the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons, which program shall include the dissemination of information concerning the nature and effects of alcohol;

(7) Organize and foster training programs for persons engaged in treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons;

(8) Sponsor and encourage research into the causes and nature of alcoholism and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons, and serve as a clearing house for information relating to alcoholism;

(9) Specify uniform methods for keeping statistical information by public and private agencies, organizations, and individuals, and collect and make available relevant statistical information, including number of persons treated, frequency of admission and readmission, and frequency and duration of treatment;

(10) Advise the governor in the preparation of a comprehensive plan for treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons for inclusion in the state's comprehensive health plan;

(11) Review all state health, welfare, and treatment plans to be submitted for federal funding under federal

legislation, and advise the governor on provisions to be included relating to alcoholism, persons incapacitated by alcohol, and intoxicated persons;

(12) Assist in the development of, and cooperate with, alcohol education and treatment programs for employees of state and local governments and businesses and industries in the state;

(13) Utilize the support and assistance of interested persons in the community to encourage alcoholics voluntarily to undergo treatment;

(14) Cooperate with public and private agencies in establishing and conducting programs designed to deal with the problem of persons operating motor vehicles while intoxicated;

(15) Encourage general hospitals and other appropriate health facilities to admit without discrimination alcoholics, persons incapacitated by alcohol, and intoxicated persons and to provide them with adequate and appropriate treatment; and

(16) Encourage all health and disability insurance programs to include alcoholism as a covered illness. [1972 ex.s. c 122 § 5.]

70.96A.060 Interdepartmental coordinating committee. (1) An interdepartmental coordinating committee is established, composed of the superintendent of public instruction or his designee, the director of the department of motor vehicles or his designee, the executive secretary of the Washington state law enforcement training commission or his designee, and one or more designees (not to exceed three) of the secretary of the department of social and health services. The committee shall meet at least twice annually at the call of the secretary, or his designee, who shall be its chairman. The committee shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as a permanent liaison among the departments engaged in activities affecting alcoholics, persons incapacitated by alcohol, and intoxicated persons. The committee shall assist the secretary and director in formulating a comprehensive plan for prevention of alcoholism and for treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons.

(2) In exercising its coordinating functions, the committee shall assure that:

(a) The appropriate state agencies provide or assure all necessary medical, social, treatment, and educational services for alcoholics, persons incapacitated by alcohol, and intoxicated persons and for the prevention of alcoholism, without unnecessary duplication of services;

(b) The several state agencies cooperate in the use of facilities and in the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons; and

(c) All state agencies adopt approaches to the prevention of alcoholism and the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons consistent with the policy of this chapter. [1972 ex.s. c 122 § 6.]

70.96A.070 Citizens advisory council—Qualifications—Duties. Pursuant to the provisions of RCW 43.20A.360, there shall be a citizens advisory council composed of not less than seven nor more than fifteen members, at least two of whom shall be recovered alcoholics and two of whom shall be members of recognized organizations involved with problems of alcoholism. The remaining members shall be broadly representative of the community, shall include representation from business and industry, organized labor, the judiciary, and minority groups, chosen for their demonstrated concern with alcoholism problems. Members shall be appointed by the secretary. In addition to advising the department in carrying out the purposes of this chapter, the council shall develop and propose to the secretary for his consideration the rules and regulations for the implementation of the alcoholism programs of the department. The secretary shall thereafter adopt such rules and regulations as shall, in his judgment properly implement the alcoholism programs of the department consistent with the welfare of those to be served, the legislative intent and the public good. [1973 1st ex.s. c 155 § 1; 1972 ex.s. c 122 § 7.]

Effective date—1972 ex.s. c 122: See note following RCW 70.96A.010.

70.96A.080 Comprehensive program for treatment—Regional facilities. (1) The department shall establish by all appropriate means, including contracting for services, a comprehensive and coordinated program for the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons.

(2) The program shall include, but not necessarily be limited to:

(a) Emergency treatment provided by a facility affiliated with or part of the medical service of a general hospital or licensed medical institution:

(b) Inpatient treatment;

(c) Intermediate treatment; and

(d) Outpatient and follow-up treatment.

(3) The department shall provide for adequate and appropriate treatment for alcoholics, persons incapacitated by alcohol, and intoxicated persons admitted under RCW 70.96A.110 through 70.96A.140. Treatment may not be provided at a jail or prison except for inmates.

(4) All appropriate public and private resources shall be coordinated with and utilized in the program if possible.

(5) The department shall prepare, publish, and distribute annually a list of all approved public and private treatment facilities.

(6) The department may contract for the use of any facility as an approved public treatment facility if the secretary, subject to the policies of the department, considers this to be an effective and economical course to follow. [1972 ex.s. c 122 § 8.]

70.96A.090 Standards for public and private treatment facilities—Enforcement procedures—Penalties.

(1) The department shall establish standards for approved treatment facilities that must be met for a treatment facility to be approved as a public or private treatment facility, and fix the fees to be charged by the department for the required inspections. The standards may concern the health standards to be met and standards of services and treatment to be afforded patients.

(2) The department periodically shall inspect approved public and private treatment facilities at reasonable times and in a reasonable manner.

(3) The department shall maintain a list of approved public and private treatment facilities at reasonable times and in a reasonable manner.

(4) Each approved public and private treatment facility shall file with the department on request, data, statistics, schedules, and information the department reasonably requires. An approved public or private treatment facility that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may be removed from the list of approved treatment facilities, and its approval revoked or suspended.

(5) The division, after holding a hearing, may suspend, revoke, limit, or restrict an approval, or without hearing, refuse to grant an approval, for failure to meet the provisions of this chapter, or the standards established thereunder.

(6) The superior court may restrain any violation of this section, review any denial, restriction, or revocation of approval, and grant other relief required to enforce its provisions.

(7) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him to enter and inspect at reasonable times, and examine the books and accounts of, any approved public or private treatment facility refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter. [1972 ex.s. c 122 § 9.]

70.96A.100 Acceptance for treatment—Rules. The secretary shall adopt and may amend and repeal rules for acceptance of persons into the treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons. In establishing the rules, the secretary shall be guided by the following standards:

(1) If possible a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment. [1972 ex.s. c 122 § 10.]

70.96A.110 Voluntary treatment of alcoholics. (1) An alcoholic may apply for voluntary treatment directly to an approved treatment facility. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian, or other legal representative may make the application.

(2) Subject to rules adopted by the secretary, the administrator in charge of an approved treatment facility may determine who shall be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the secretary, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

(3) If a patient receiving inpatient care leaves an approved treatment facility, he shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic who requires help, the department may arrange for assistance in obtaining supportive services and residential facilities.

(4) If a patient leaves an approved public treatment facility, with or against the advice of the administrator in charge of the facility, the department may make reasonable provisions for his transportation to another facility or to his home. If he has no home he should be assisted in obtaining shelter. If he is less than fourteen years of age or an incompetent person the request for discharge from an inpatient facility shall be made by a parent, legal guardian, or other legal representative or by the minor or incompetent if he was the original applicant. [1972 ex.s. c 122 § 11.]

70.96A.120 Treatment and services for intoxicated persons and persons incapacitated by alcohol. (1) An intoxicated person may come voluntarily to an approved treatment facility for treatment. A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved treatment facility or other health facility.

(2) Except for a person who may be apprehended for possible violation of laws not relating to alcoholism or intoxication and except for a person who may be apprehended for possible violation of laws relating to driving or being in physical control of a vehicle while intoxicated and except for a person who may wish to avail himself of the provisions of RCW 46.20.308, a person who appears to be incapacitated by alcohol and who is in a public place or who has threatened, attempted, or inflicted physical harm on another, shall be

taken into protective custody by the police or the emergency service patrol and as soon as practicable, but in no event beyond eight hours brought to an approved treatment facility for treatment. If no approved treatment facility is readily available he shall be taken to an emergency medical service customarily used for incapacitated persons. The police or the emergency service patrol, in detaining the person and in taking him to an approved treatment facility, is taking him into protective custody and shall make every reasonable effort to protect his health and safety. In taking the person into protective custody, the detaining officer or member of an emergency patrol may take reasonable steps including reasonable force if necessary to protect himself. A taking into protective custody under this section is not an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

(3) A person who comes voluntarily or is brought to an approved treatment facility shall be examined by a qualified person. He may then be admitted as a patient or referred to another health facility, which provides emergency medical treatment, where it appears that such treatment may be necessary. The referring approved treatment facility shall arrange for his transportation.

(4) A person who is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (a) once he is no longer incapacitated by alcohol, and (b) if he remains incapacitated by alcohol for more than forty-eight hours after admission as a patient, unless a petition is filed under RCW 70.96A.140, as now or hereafter amended. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

(5) A person who is not admitted to an approved treatment facility, is not referred to another health facility, and has no funds, may be taken to his home, if any. If he has no home, the approved treatment facility shall assist him in obtaining shelter.

(6) If a patient is admitted to an approved treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, his request shall be respected.

(7) The police or members of the emergency service, who in good faith act in compliance with this chapter are performing in the course of their official duty and are not criminally or civilly liable therefor.

(8) If the person in charge of the approved treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment. [1974 1st ex.s. c 175 § 1; 1972 ex.s. c 122 § 12.]

70.96A.140 Involuntary commitment of alcoholics. (1) When the person in charge of a treatment facility, or his designee, receives information alleging that a person is incapacitated as a result of alcoholism, the person in charge, or his designee, after investigation and evaluation of the specific facts alleged and of the reliability

and credibility of the information, may file a petition for commitment of such person with the superior court or district court. The petition shall allege that the person is an alcoholic who is incapacitated by alcohol, or that the person is an alcoholic who has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the petitioning facility or the department is not eligible to be the certifying physician.

(2) Upon filing the petition, the court shall fix a date for a hearing no less than five and no more than ten days after the date the petition was filed unless the person petitioned against is presently being detained by the facility, pursuant to RCW 70.96A.120, as now or hereafter amended, in which case the hearing shall be held within forty-eight hours of the filing of the petition: *Provided, however,* That the above specified forty-eight hours shall be computed by including Saturdays but excluding Sundays and holidays: *Provided further,* That, the court may, upon motion of the person whose commitment is sought, or upon motion of petitioner with written permission of the person whose commitment is sought, or his counsel and, upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served by the treatment facility on the person whose commitment is sought, his next of kin, a parent or his legal guardian if he is a minor, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(3) At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person shall be present unless the court believes that his presence is likely to be injurious to him; in this event the court may deem it appropriate to appoint a guardian ad litem to represent him throughout the proceeding. If deemed advisable, the court may examine the person out of courtroom. If the person has refused to be examined by a licensed physician, he shall be given an opportunity to be examined by a court appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him to the department for a period of not more than five days for purposes of a diagnostic examination.

(4) If after hearing all relevant evidence, including the results of any diagnostic examination, the court finds that grounds for involuntary commitment have been

established by clear, cogent, and convincing proof, it shall make an order of commitment to an approved treatment facility. It shall not order commitment of a person unless it determines that an approved treatment facility is able to provide adequate and appropriate treatment for him and the treatment is likely to be beneficial.

(5) A person committed under this section shall remain in the facility for treatment for a period of thirty days unless sooner discharged. At the end of the thirty day period, he shall be discharged automatically unless the facility, before expiration of the period, files a petition for his recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days unless sooner discharged. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the facility shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) A person recommitted under subsection (5) of this section who has not been discharged by the facility before the end of the ninety day period shall be discharged at the expiration of that period unless the facility, before expiration of the period, obtains a court order on the grounds set forth in subsection (1) of this section for recommitment for a further period not to exceed ninety days. If a person has been committed because he is an alcoholic likely to inflict physical harm on another, the facility shall apply for recommitment if after examination it is determined that the likelihood still exists. Only two recommitment orders under subsections (5) and (6) of this section are permitted.

(7) Upon the filing of a petition for recommitment under subsections (5) or (6) of this section, the court shall fix a date for hearing no less than five and no more than ten days after the date the petition was filed: *Provided,* That, the court may, upon motion of the person whose commitment is sought and upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served by the treatment facility on the person whose commitment is sought, his next of kin, the original petitioner under subsection (1) of this section if different from the petitioner for recommitment, one of his parents or his legal guardian if he is a minor, and his attorney and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsection (3) of this section.

(8) The facility shall provide for adequate and appropriate treatment of a person committed to its custody. A person committed under this section may be transferred from one approved public treatment facility to another if transfer is medically advisable.

(9) A person committed to the custody of a facility for treatment shall be discharged at any time before the end of the period for which he has been committed and he shall be discharged by order of the court if either of the following conditions are met:

(a) In case of an alcoholic committed on the grounds of likelihood of infliction of physical harm upon another, that he is no longer an alcoholic or the likelihood no

longer exists; or further treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(b) In case of an alcoholic committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists.

(10) The court shall inform the person whose commitment or recommitment is sought of his right to contest the application, be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and have counsel appointed by the court or provided by the court, if he wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him regardless of his wishes. The person shall, if he is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment or recommitment is sought shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(11) A person committed under this chapter may at any time seek to be discharged from commitment by writ of habeas corpus in a court of competent jurisdiction.

(12) The venue for proceedings under this section is the place in which person to be committed resides or is present. [1974 1st ex.s. c 175 § 2; 1972 ex.s. c 122 § 14.]

70.96A.150 Records of alcoholics and intoxicated persons. (1) The registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(2) Notwithstanding subsection (1) of this section, the secretary may receive information from patients' records for purposes of research into the causes and treatment of alcoholism, and the evaluation of alcoholism and treatment programs. Information under this subsection shall not be published in a way that discloses patients' names or otherwise discloses their identities. [1972 ex.s. c 122 § 15.]

70.96A.160 Visitation and communication with patients. (1) Subject to reasonable rules regarding hours of visitation which the secretary may adopt, patients in any approved treatment facility shall be granted opportunities for adequate consultation with counsel, and for continuing contact with family and friends consistent with an effective treatment program.

(2) Neither mail nor other communication to or from a patient in any approved treatment facility may be intercepted, read, or censored. The secretary may adopt reasonable rules regarding the use of telephone by patients in approved treatment facilities. [1972 ex.s. c 122 § 16.]

70.96A.170 Emergency service patrol—Establishment—Rules. (1) The state and counties, cities and other municipalities may establish or contract for emergency service patrols which are to be under the administration of the appropriate jurisdiction. A patrol consists of persons trained to give assistance in the streets and in other public places to persons who are intoxicated. Members of an emergency service patrol shall be capable of providing first aid in emergency situations and may transport intoxicated persons to their homes and to and from treatment facilities.

(2) The secretary shall adopt rules pursuant to chapter 34.04 RCW for the establishment, training, and conduct of emergency service patrols. [1972 ex.s. c 122 § 17.]

70.96A.180 Payment for treatment—Financial ability of patients. (1) If treatment is provided by an approved treatment facility or emergency treatment is provided by a facility under RCW 70.96A.080(2)(a), and the patient has not paid or is unable to pay the charge therefor, the facility is entitled to any payment (a) received by the patient or to which he may be entitled because of the services rendered, and (b) from any public or private source available to the facility because of the treatment provided to the patient.

(2) A patient in a facility, or the estate of the patient, or a person obligated to provide for the cost of treatment and having sufficient financial ability, is liable to the facility for cost of maintenance and treatment of the patient therein in accordance with rates established.

(3) The secretary shall adopt rules governing financial ability that take into consideration the income, savings and other personal and real property of the person required to pay, and any support being furnished by him to any person he is required by law to support. [1972 ex.s. c 122 § 18.]

70.96A.190 Criminal laws limitations. (1) No county, municipality, or other political subdivision may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) No county, municipality, or other political subdivision may interpret or apply any law of general application to circumvent the provision of subsection (1) of this section.

(3) Nothing in this chapter affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons; nor shall evidence of intoxication affect, other than as a defense, the application of any law, ordinance, resolution, or rule to conduct otherwise establishing the elements of an offense. [1972 ex.s. c 122 § 19.]

70.96A.200 Transfer of property and funds to department of social and health services. Upon the taking effect of this act, the responsible head of each agency transferred in whole or in part to the department of social and health services by *this act, shall deliver to the department of social and health services all books, documents, records, papers, files, or other writings, all cabinets, furniture, office equipment, motor vehicles, and other tangible property and all funds in its custody or under its control, used or held in the exercise of the powers and the performance of the duties and functions so transferred, along with all pending business before such agency: *Provided*, That, if the books, documents, records, papers, files and other writings pertaining to a function transferred by *this act to the department from agencies not abolished by this chapter are considered by the head of the agency from which such transfer is made to be essential to the performance of duties retained by such agency, the agency head may deliver to the division of alcoholism certified copies of such books, documents, records, papers, files and other writings. [1972 ex.s. c 122 § 23.]

***Reviser's note:** "this act", see note following RCW 70.96A.020.

Effective date—1972 ex.s. c 122: See note following RCW 70.96A.010.

70.96A.210 Transfer of appropriations. Appropriations for the exercise of powers, duties and functions transferred to the department of social and health services from agencies that are not abolished by this chapter shall be transferred to and made available to the department in accordance with the provisions of RCW 70.96A.220. [1972 ex.s. c 122 § 24.]

70.96A.220 Duties of director of program planning and fiscal management regarding transfer of equipment, funds and appropriations. The transfer of equipment, funds and appropriations from agencies that are not abolished by *this act to the department of social and health services, as provided in the office of program planning and fiscal management, shall be accomplished in accordance with apportionments among the several agencies by the director of the office of program planning and fiscal management, who shall have due consideration to the total of the appropriations to the several agencies, the size and nature of the functions to be transferred and the feasibility of segregating such equipment to the various functions. The director of the office of program planning and fiscal management shall certify such apportionments to the agencies affected and to the state auditor, the state treasurer and department of general administration, each of whom shall make the appropriate transfers and adjustments in their funds and appropriation accounts and equipment records in accordance with such certification. [1972 ex.s. c 122 § 25.]

***Reviser's note:** "this act", see note following RCW 70.96A.020.

70.96A.900 Short title. This chapter may be cited as the "Uniform Alcoholism and Intoxication Treatment Act". [1972 ex.s. c 122 § 21.]

70.96A.910 Application and construction. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it. [1972 ex.s. c 122 § 22.]

70.96A.920 Severability—1972 ex.s. c 122. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. [1972 ex.s. c 122 § 20.]

70.96A.930 Section, subsection headings not part of law. Section or subsection headings as used in this chapter do not constitute any part of the law. [1972 ex.s. c 122 § 27.]

Chapter 70.98 NUCLEAR ENERGY AND RADIATION

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70.98.900	Severability—1961 c 207.
70.98.910	Effective date—1961 c 207.
70.98.920	Section headings not part of law.

Joint committee on nuclear energy: Chapter 44.38 RCW.

Nuclear, thermal power facilities, joint city, public utility district, electrical companies development: Chapter 54.44 RCW.

Nuclear energy promotion and development, powers and duties of department of commerce and economic development: RCW 43.31-280-43.31.330.

70.98.010 Declaration of policy. It is the policy of the state of Washington in furtherance of its responsibility to protect the public health and safety and to encourage, insofar as consistent with this responsibility, the industrial and economic growth of the state:

(1) To institute and maintain a regulatory program for sources of ionizing radiation so as to provide for (a) compatibility with the standards and regulatory programs of the federal government, (b) a single, effective system of regulation within the state, and (c) a system consonant insofar as possible with those of other states; and

(2) To institute and maintain a program to encourage widespread participation in the development and utilization of sources of ionizing radiation and atomic energy for peaceful purposes to the maximum extent consistent with the health and safety of the public. [1961 c 207 § 1.]

70.98.020 Purpose. It is the purpose of this chapter to effectuate the policies set forth in RCW 70.98.010 by providing for:

(1) A program of effective regulation of sources of ionizing radiation for the protection of the occupational and public health and safety;

(2) A program to promote an orderly regulatory pattern within the state, among the states and between the federal government and the state and facilitate inter-governmental cooperation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized;

(3) A program to establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct, source, and special nuclear materials;

(4) A program to permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public. [1965 c 88 § 1; 1961 c 207 § 2.]

70.98.030 Definitions. (1) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(2) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(3) (a) "General license" means a license effective pursuant to regulations promulgated by the state radiation control agency, without the filing of an application, to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing, byproduct, source, special nuclear materials, or other radioactive material occurring naturally or produced artificially.

(b) "Specific license" means a license, issued after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, special nuclear materials, or other radioactive materials occurring naturally or produced artificially.

(4) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Atomic Energy Commission, or any successor thereto, and other than federal government agencies licensed by the United States Atomic Energy Commission, or any successor thereto.

(5) "Source material" means (a) uranium, thorium, or any other material which the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such; or (b) ores containing one or more of the foregoing materials, in such concentration as the governor declares by order to be source material after the United States Atomic Energy Commission, or any successor thereto, has determined the material in such concentration to be source material.

(6) "Special nuclear material" means (a) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the governor declares by order to be special nuclear material after the United States Atomic Energy Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (b) any material artificially enriched by any of the foregoing, but does not include source material.

(7) "Registration" means registration with the state department of health by any person possessing a source of ionizing radiation in accordance with rules, regulations and standards adopted by the department of health.

(8) "Radiation source" means any type of device or substance which is capable of producing or emitting ionizing radiation. [1965 c 88 § 2; 1961 c 207 § 3.]

70.98.040 Nuclear energy promotion and development. The department of commerce and economic development through the division of nuclear energy development, known as the office of nuclear energy development, is hereby designated as the agency of state government for the promotion and development of nuclear energy in this state and shall, in addition to the powers and duties otherwise imposed by law, have the following general powers and duties:

(1) To advise the governor and the legislature with regard to the status of nuclear energy research, development, and education, and to make recommendations to the governor and the legislature designed to assure increasing progress in this field within the state.

(2) To advise and assist the governor and the legislature in developing and promoting a state policy for nuclear energy research, development, and education.

(3) To sponsor or conduct studies, collect and disseminate information, and issue periodic reports with regard to nuclear energy research, development, and education and proposals for further progress in the field of nuclear energy, and the power to acquire land and facilities for such purposes is specifically delegated to the department.

(4) To foster and support research and education relating to nuclear energy through contracts or other appropriate means of assistance.

(5) To gather, maintain, and disseminate available information concerning appropriate sites throughout the state and the advantages of locating nuclear energy industries within the state.

(6) To keep the public informed with respect to nuclear energy development within the state and the activities of the state relating thereto. [1965 c 10 § 4; 1961 c 207 § 4.]

Reviser's note: The act which contained the 1965 amendment to this section (1965 c 10) also contained construction and severability sections. These sections are codified as RCW 43.31.310, 43.31.320 and 43.31.330.

Additional powers and duties of department of commerce and economic development as to nuclear energy promotion and development: RCW 43.31.300.

Division of nuclear energy development: RCW 43.31.040.

70.98.050 State radiation control agency. (1) The department of social and health services is designated as the state radiation control agency, hereinafter referred to as the agency, and shall be the state agency having sole responsibility for administration of the regulatory, licensing and radiation control provisions of this chapter.

(2) The secretary of social and health services shall be director of the agency, hereinafter referred to as the secretary, who shall perform the functions vested in the agency pursuant to the provisions of this chapter.

(3) The agency shall appoint a state radiological control officer, and in accordance with the laws of the state, fix his compensation and prescribe his powers and duties.

(4) The agency shall for the protection of the occupational and public health and safety:

(a) Develop programs for evaluation of hazards associated with use of ionizing radiation;

(b) Develop programs with due regard for compatibility with federal programs for regulation of byproduct, source, and special nuclear materials;

(c) Formulate, adopt, promulgate, and repeal codes, rules and regulations relating to control of sources of ionizing radiation;

(d) Advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions, and with groups concerned with control of sources of ionizing radiation;

(e) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(f) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to control of sources of ionizing radiation;

(g) Collect and disseminate information relating to control of sources of ionizing radiation; including:

(i) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations;

(ii) Maintenance of a file of registrants possessing sources of ionizing radiation requiring registration under the provisions of this chapter and any administrative or judicial action pertaining thereto; and

(iii) Maintenance of a file of all rules and regulations relating to regulation of sources of ionizing radiation, pending or promulgated, and proceedings thereon.

(h) In connection with any contested case as defined by RCW 34.04.010 or any other administrative proceedings as provided for in this chapter, have the power to issue subpoenas in order to compel the attendance of necessary witnesses and/or the production of records or documents. [1971 ex.s. c 189 § 10; 1970 ex.s. c 18 § 16; 1965 c 88 § 3; 1961 c 207 § 5.]

70.98.070 Advisory council on nuclear energy and radiation. (1) There is created an advisory council on nuclear energy and radiation, hereinafter referred to as the council, consisting of seven members appointed by the governor and serving at his pleasure. Membership on the advisory council shall include, but not be limited to, representatives from industry, labor, the healing arts, research and education. In addition the secretary of social and health services and the directors of the department of labor and industries, department of agriculture, department of commerce and economic development, and the chairman of the interagency committee for outdoor recreation, or their successors, shall serve as ex officio members of the council. The governor shall designate from his appointees a member to serve as chairman of the council.

Members shall receive a compensatory per diem of twenty-five dollars for each day or portion thereof actually spent in attending their duties as members of the board and, in addition, they shall receive reimbursement for travel expenses as provided in RCW 43.03.060 as now or hereafter amended.

(2) The council shall:

(a) Review and evaluate policies and programs of the state relating to ionizing radiation.

(b) Make recommendations to the governor and furnish such advice as may be required on matters relating to development, utilization, and regulation of sources of ionizing radiation.

(c) Make an annual report to the governor.

(d) Review, after any agency, agencies, board or commission has held any public hearing required by this chapter or chapter 34.04 RCW prior to promulgation and filing with the code reviser, the proposed rules and regulations of the state radiation control agency and all other boards, agencies, and commissions of this state relating to use and control of sources of ionizing radiation to determine that such rules and regulations are consistent with rules and regulations of other agencies, boards, and commissions of the state. Proposed rules and regulations shall not be filed with the code reviser until sixty days after submission to the council unless the council waives all or any part of such sixty day period.

(e) When the council determines that any proposed rules or regulations or parts thereof are inconsistent with rules and regulations of other agencies, boards, or commissions of the state, the council will so advise the governor and the appropriate agency, agencies, boards or commissions, and consult with them in an effort to resolve any such inconsistencies.

(f) Have the power to employ, compensate, and prescribe the powers and duties of such individuals as may be necessary to properly carry out the duties of the

council from whatever funds which may be made available to the council for such purpose, including the power to employ an executive secretary to perform the administrative functions of the council. [1970 ex.s. c 18 § 18; 1969 c 44 § 1; 1965 c 88 § 4; 1961 c 207 § 7.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

70.98.080 Rules and regulations—Licensing requirements and procedure—Registration of sources of ionizing radiation—Exemptions from registration or licensing. (1) The agency shall provide by rule or regulation for general or specific licensing of byproduct, source, special nuclear materials, or devices or equipment utilizing such materials, or other radioactive material occurring naturally or produced artificially. Such rule or regulation shall provide for amendment, suspension, or revocation of licenses. Such rule or regulation shall provide that:

(a) Each application for a specific license shall be in writing and shall state such information as the agency, by rule or regulation, may determine to be necessary to decide the technical, insurance, and financial qualifications, or any other qualification of the applicant as the agency may deem reasonable and necessary to protect the occupational and public health and safety. The agency may at any time after the filing of the application, and before the expiration of the license, require further written statements and shall make such inspections as the agency deems necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended, or revoked. In no event shall the agency grant a specific license to any applicant who has never possessed a specific license issued by a recognized state or federal authority until the agency has conducted an inspection which insures that the applicant can meet the rules, regulations and standards adopted pursuant to this chapter. All applications and statements shall be signed by the applicant or licensee. The agency may require any applications or statements to be made under oath or affirmation;

(b) Each license shall be in such form and contain such terms and conditions as the agency may by rule or regulation prescribe;

(c) No license issued under the authority of this chapter and no right to possess or utilize sources of ionizing radiation granted by any license shall be assigned or in any manner disposed of; and

(d) The terms and conditions of all licenses shall be subject to amendment, revision, or modification by rules, regulations or orders issued in accordance with the provisions of this chapter.

(2) The agency may require registration of all sources of ionizing radiation.

(3) The agency may exempt certain sources of ionizing radiation or kinds of uses or users from the registration or licensing requirements set forth in this section when the agency makes a finding after approval of the technical advisory board that the exemption of such sources of ionizing radiation or kinds of uses or users

will not constitute a significant risk to the health and safety of the public.

(4) In promulgating rules and regulations pursuant to this chapter the agency shall, insofar as practical, strive to avoid requiring dual licensing, and shall provide for such recognition of other state or federal licenses as the agency shall deem desirable, subject to such registration requirements as the agency may prescribe. [1965 c 88 § 5; 1961 c 207 § 8.]

70.98.090 Inspection. The agency or its duly authorized representative shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this chapter and rules and regulations issued thereunder, except that entry into areas under the exclusive jurisdiction of the federal government, or security areas under the direct or indirect jurisdiction of the federal government, shall be effected only with the concurrence of the federal government or its duly designated representative. [1961 c 207 § 9.]

70.98.100 Records. (1) The agency shall require each person who possesses or uses a source of ionizing radiation to maintain necessary records relating to its receipt, use, storage, transfer, or disposal and such other records as the agency may require which will permit the determination of the extent of occupational and public exposure from the radiation source. Copies of these records shall be submitted to the agency on request. These requirements are subject to such exemptions as may be provided by rules.

(2) The agency may by rule and regulation establish standards requiring that personnel monitoring be provided for any employee potentially exposed to ionizing radiation and may provide for the reporting to any employee of his radiation exposure record. [1961 c 207 § 10.]

70.98.110 Federal-state agreements—Authorized—Effect as to federal licenses. (1) The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to sources of ionizing radiation and the assumption thereof by this state pursuant to this chapter.

(2) Any person who, on the effective date of an agreement under subsection (1) above, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this chapter which shall expire either ninety days after the receipt from the state radiation control agency of a notice of expiration of such license or on the date of expiration specified in the federal license, whichever is earlier. [1965 c 88 § 6; 1961 c 207 § 11.]

70.98.120 Inspection agreements and training programs. (1) The agency is authorized to enter into an agreement or agreements with the federal government, other states, or interstate agencies, whereby this state

will perform on a cooperative basis with the federal government, other states, or interstate agencies, inspections or other functions relating to control of sources of ionizing radiation.

(2) The agency may institute training programs for the purpose of qualifying personnel to carry out the provisions of this chapter and may make said personnel available for participation in any program or programs of the federal government, other states, or interstate agencies in furtherance of the purposes of this chapter. [1961 c 207 § 12.]

70.98.130 Administrative procedure. In any proceeding under this chapter for the issuance or modification or repeal of rules and regulations relating to control of sources of ionizing radiation, the agency shall comply with the requirements of RCW 34.04.020.

Notwithstanding any other provision of this chapter, whenever the agency finds that an emergency exists requiring immediate action to protect the public health, safety, or general welfare, the agency may, in accordance with RCW 34.04.030 without notice or hearing, issue a regulation or order reciting the existence of such emergency and require that such action be taken as is necessary to meet the emergency. As specified in RCW 34.04.030, such regulations or orders shall be effective immediately. [1961 c 207 § 13.]

70.98.140 Injunction proceedings. Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule, regulation, or order issued thereunder, the attorney general upon the request of the agency, after notice to such person and opportunity to comply, may make application to the appropriate court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the agency that such person has engaged in, or is about to engage in, any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted. [1961 c 207 § 14.]

70.98.150 Prohibited uses. It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own, or possess any source of ionizing radiation unless licensed by or registered with, or exempted by the agency in accordance with the provisions of this chapter. [1965 c 88 § 7; 1961 c 207 § 15.]

70.98.160 Impounding of materials. The agency shall have the authority in the event of an emergency to impound or order the impounding of sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of this chapter or any rules or regulations issued thereunder. [1961 c 207 § 16.]

70.98.170 Prohibition—Fluoroscopic x-ray shoefitting devices. The operation or maintenance of any x-ray, fluoroscopic, or other equipment or apparatus employing roentgen rays, in the fitting of shoes or other footwear or in the viewing of bones in the feet is prohibited. This prohibition does not apply to any licensed physician, surgeon, podiatrist, or any person practicing a licensed healing art, or any technician working under the direct and immediate supervision of such persons. [1973 c 77 § 27; 1961 c 207 § 17.]

70.98.180 Exemptions. This chapter shall not apply to the following sources or conditions:

(1) Radiation machines during process of manufacture, or in storage or transit: *Provided*, That this exclusion shall not apply to functional testing of such machines.

(2) Any radioactive material while being transported in conformity with regulations adopted by any federal agency having jurisdiction therein, and specifically applicable to the transportation of such radioactive materials.

(3) No exemptions under this section are granted for those quantities or types of activities which do not comply with the established rules and regulations promulgated by the Atomic Energy Commission, or any successor thereto. [1965 c 88 § 8; 1961 c 207 § 18.]

70.98.190 Professional uses. Nothing in this chapter shall be construed to limit the kind or amount of radiation that may be intentionally applied to a person for diagnostic or therapeutic purposes by or under the immediate direction of a licensed practitioner of the healing arts acting within the scope of his professional license. [1961 c 207 § 19.]

70.98.200 Penalties. Any person who violates any of the provisions of this chapter or rules, regulations, or orders in effect pursuant thereto shall be guilty of a gross misdemeanor. [1961 c 207 § 20.]

70.98.210 Recommended legislation. The agency and the council shall study, formulate, and recommend to the legislature from time to time specific recommendations to further the purposes of this chapter. [1961 c 207 § 24.]

70.98.900 Severability—1961 c 207. If any part, or parts, of this act shall be held unconstitutional, the remaining provisions shall be given full force and effect, as completely as if the part held unconstitutional had not been included herein, if any such remaining part or parts can then be administered for the declared purposes of this act. [1961 c 207 § 21.]

70.98.910 Effective date—1961 c 207. The provisions of this act relating to the control of byproduct, source and special nuclear materials shall become effective on the effective date of the agreement between the federal government and this state as authorized in RCW 70.98.110. All other provisions of this act shall

become effective on the 30th day of June, 1961. [1961 c 207 § 23.]

70.98.920 Section headings not part of law. Section headings as used in this chapter do not constitute any part of the law. [1961 c 207 § 25.]

Chapter 70.100

EYE PROTECTION—PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS

Sections

- 70.100.010 "Eye protection areas" defined.
 70.100.020 Wearing of eye protection devices required—Furnishing of—Costs.
 70.100.030 Standard requirement for eye protection devices.
 70.100.040 Superintendent of public instruction to circulate instruction manual to public and private educational institutions.

70.100.010 "Eye protection areas" defined. As used in this chapter:

"Eye protection areas" means areas within vocational or industrial arts shops, science or other school laboratories, or schools within state institutional facilities as designated by the state superintendent of public instruction in which activities take place involving:

- (1) Hot molten metals or other molten materials;
- (2) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
- (3) Heat treatment, tempering or kiln firing of any metal or other materials;
- (4) Gas or electric arc welding, or other forms of welding processes;
- (5) Corrosive, caustic, or explosive materials;
- (6) Custodial or other service activity potentially hazardous to the eye: *Provided*, That nothing in this chapter shall supersede regulations heretofore or hereafter established by the department of labor and industries respecting such activity; or
- (7) Any other activity or operation involving mechanical or manual work in any area that is potentially hazardous to the eye. [1969 ex.s. c 179 § 1.]

70.100.020 Wearing of eye protection devices required—Furnishing of—Costs. Every person shall wear eye protection devices when participating in, observing, or performing any function in connection with any courses or activities taking place in eye protection areas of any private or public school, college, university, or other public or private educational institution in this state, as designated by the superintendent of public instruction. The governing board or authority of any public school shall furnish the eye protection devices prescribed in RCW 70.100.030 without cost to all teachers and students in grades K–12 engaged in activities potentially dangerous to the human eye, and the governing body of each institution of higher education and vocational technical institute shall furnish such eye protection devices free or at cost to all teachers and students similarly engaged at the institutions of higher education and vocational technical institutes. Eye protection devices shall be furnished on a loan basis to all

visitors observing activities hazardous to the eye. [1969 ex.s. c 179 § 2.]

70.100.030 Standard requirement for eye protection devices. Eye protection devices, which shall include plano safety spectacles, plastic face shields or goggles, shall comply with the U.S.A. Standard Practice for Occupational and Educational Eye and Face Protection, Z87.1–1968 or later revisions thereof. [1969 ex.s. c 179 § 3.]

70.100.040 Superintendent of public instruction to circulate instruction manual to public and private educational institutions. The superintendent of public instruction, after consulting with the department of labor and industries, and the division of vocational education shall prepare and circulate to each public and private educational institution in this state within six months of the date of passage of this chapter, a manual containing instructions and recommendations for the guidance of such institutions in implementing the eye safety provisions of this chapter. [1969 ex.s. c 179 § 4.]

Chapter 70.104

PESTICIDES—HEALTH HAZARDS

Sections

- 70.104.010 Declaration.
 70.104.020 "Pesticide" defined.
 70.104.030 Powers and duties of department of social and health services.
 70.104.040 Pesticide emergencies—Authority of department of agriculture not infringed upon.
 70.104.050 Investigation of human exposure to pesticides.
 70.104.060 Technical assistance, consultations and services to physicians and agencies authorized.

70.104.010 Declaration. The department of social and health services has responsibility to protect and enhance the public health and welfare. As a consequence, it must be concerned with both natural and artificial environmental factors which may adversely affect the public health and welfare. Dangers to the public health and welfare related to the use of pesticides require specific legislative recognition of departmental authority and responsibility in this area. [1971 ex.s. c 41 § 1.]

70.104.020 "Pesticide" defined. For the purposes of this chapter pesticide means, but is not limited to:

(1) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed and any other form of plant or animal life or virus, except virus on or in living man or other animal, which is normally considered to be a pest or which the director of agriculture may declare to be a pest; or

(2) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; or

(3) Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to

the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used; or

(4) Any fungicide, rodenticide, herbicide, insecticide, and nematocide. [1971 ex.s. c 41 § 2.]

70.104.030 Powers and duties of department of social and health services. (1) The department of social and health services shall investigate all suspected human cases of pesticide poisoning and such cases of suspected pesticide poisoning of animals that may relate to human illness. In order to adequately investigate such cases, the department of social and health services shall have the power to:

(a) Take all necessary samples and human or animal tissue specimens for diagnostic purposes: *Provided*, That tissue, if taken from a living human, shall be taken from a living human only with the consent of a person legally qualified to give such consent;

(b) Secure any and all such information as may be necessary to adequately determine the nature and causes of any case of pesticide poisoning.

(2) The state department of social and health services shall, by rule and regulation adopted pursuant to the Administrative Procedure Act, chapter 34.04 RCW, as it now exists or is hereafter amended, and, in any event, with due notice and a hearing for the adoption of permanent rules, establish procedures for the prevention of any recurrence of poisoning and the department shall immediately notify the department of agriculture and other appropriate agencies of the results of its investigation for such action as the department of agriculture or such other agencies deem appropriate. The notification of such investigations and their results may include recommendations for further action by the appropriate department or agency. [1971 ex.s. c 41 § 3.]

70.104.040 Pesticide emergencies—Authority of department of agriculture not infringed upon. (1) In any case where an emergency relating to pesticides occurs that represents a hazard to the public due to toxicity of the material, the quantities involved or the environment in which the incident takes place, such emergencies including but not limited to fires, spillage, and accidental contamination, the person or agent of such person having actual or constructive control of the pesticides involved shall immediately notify the department of social and health services by telephone or the fastest available method.

(2) Upon notification or discovery of any pesticide emergency the department of social and health services shall:

(a) Make such orders and take such actions as are appropriate to assume control of the property and to dispose of hazardous substances, prevent further contamination, and restore any property involved to a nonhazardous condition. In the event of failure of any individual to obey and carry out orders pursuant to this section, the department of social and health services shall have all power and authority to accomplish those things necessary to carry out such order. Any expenses incurred by the department of social and health services

as a result of intentional failure of any individual to obey its lawful orders shall be charged as a debt against such individual.

(3) In any case where the department of social and health services has assumed control of property pursuant to this chapter, such property shall not be reoccupied or used until such time as written notification of its release for use is received from the secretary of the department of social and health services or his designee. Such action shall take into consideration the economic hardship, if any, caused by having the department assume control of property, and release shall be accomplished as expeditiously as possible. Nothing in this chapter shall prevent a farmer from continuing to process his crops and/or animals provided that it does not endanger the public health.

(4) The department shall recognize the pesticide industry's responsibility and active role in minimizing the effect of pesticide emergencies and shall provide for maximum utilization of these services.

(5) Nothing in this chapter shall be construed in any way to infringe upon or negate the authority and responsibility of the department of agriculture in its application and enforcement of the Washington Pesticide Act, chapter 15.57 RCW and the Washington Pesticide Application Act, chapter 17.21 RCW. The department of social and health services shall work closely with the department of agriculture in the enforcement of this chapter and shall keep it appropriately advised. [1971 ex.s. c 41 § 4.]

Reviser's note: Chapter 15.57 RCW was repealed in its entirety by 1971 ex.s. c 190 § 47. Later enactment, see chapter 15.58 RCW.

70.104.050 Investigation of human exposure to pesticides. The department of social and health services shall investigate human exposure to pesticides, and in order to carry out such investigations shall have authority to secure and analyze appropriate specimens of human tissue and samples representing sources of possible exposure. [1971 ex.s. c 41 § 5.]

70.104.060 Technical assistance, consultations and services to physicians and agencies authorized. In order effectively to prevent human illness due to pesticides and to carry out the requirements of this chapter, the department of social and health services is authorized to provide technical assistance and consultation regarding health effects of pesticides to physicians and other agencies, and is authorized to operate an analytical chemical laboratory and may provide analytical and laboratory services to physicians and other agencies to determine pesticide levels in human and other tissues, and appropriate environmental samples. [1971 ex.s. c 41 § 6.]

Chapter 70.106

HAZARDOUS SUBSTANCES AND ARTICLES (WASHINGTON POISON PREVENTION ACT OF 1974)

Sections

70.106.010 Purpose.

70.106.020	Short title.
70.106.030	Definitions—Construction.
70.106.040	"Director" defined.
70.106.050	"Sale" defined.
70.106.060	"Household substance" defined.
70.106.070	"Package" defined.
70.106.080	"Special packaging" defined.
70.106.090	"Labeling" defined.
70.106.100	Standards for packaging.
70.106.110	Exceptions from packaging standards.
70.106.120	Adoption of rules and regulations under federal poison prevention packaging act.
70.106.130	Technical advisory committee.
70.106.140	Penalties.
70.106.900	Severability—1974 1st ex.s. c 49.
70.106.905	Saving—1974 1st ex.s. c 49.
70.106.910	Chapter cumulative and nonexclusive.

70.106.010 Purpose. The purpose of this chapter is to provide for special packaging to protect children from personal injury, serious illness or death resulting from handling, using or ingesting household substances, and to provide penalties. [1974 1st ex.s. c 49 § 1.]

70.106.020 Short title. This 1974 act shall be cited as the Washington Poison Prevention Act of 1974. [1974 1st ex.s. c 49 § 2.]

70.106.030 Definitions—Construction. The definitions in RCW 70.106.040 through 70.106.090 unless the context otherwise requires shall govern the construction of this chapter. [1974 1st ex.s. c 49 § 3.]

70.106.040 "Director" defined. "Director" means the director of the department of agriculture of the state of Washington, or his duly authorized representative. [1974 1st ex.s. c 49 § 4.]

70.106.050 "Sale" defined. "Sale" means to sell, offer for sale, hold for sale, handle or use as an inducement in the promotion of a household substance or the sale of another article or product. [1974 1st ex.s. c 49 § 5.]

70.106.060 "Household substance" defined. "Household substance" means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household and which is:

(1) A "hazardous substance", which means (a) any substance or mixture of substances or product which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; (b) any substances which the director by regulation finds to meet the requirements of subsection (1)(a) of this section; (c) any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the director determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this chapter in order to protect

the public health, safety or welfare; and (d) any toy or other article intended for use by children which the director by regulation determines presents an electrical, mechanical or thermal hazard.

(2) A pesticide as defined in the Washington Pesticide Control Act, chapter 15.58 RCW as now or hereafter amended;

(3) A food, drug, or cosmetic as those terms are defined in the Uniform Washington Food, Drug and Cosmetic Act, chapter 69.04 RCW as now or hereafter amended; or

(4) A substance intended for use as fuel when stored in portable containers and used in the heating, cooking, or refrigeration system of a house; or

(5) Any other substance which the director may declare to be a household substance subsequent to a hearing as provided for under the provisions of chapter 34.04 RCW, Administrative Procedure Act, for the adoption of rules. [1974 1st ex.s. c 49 § 6.]

70.106.070 "Package" defined. "Package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of RCW 70.106.110(1)(b), also means any outer container or wrapping used in the retail display of any such substance to consumers. Such term does not include:

(1) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(2) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping. [1974 1st ex.s. c 49 § 7.]

70.106.080 "Special packaging" defined. "Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time. [1974 1st ex.s. c 49 § 8.]

70.106.090 "Labeling" defined. "Labeling" means all labels and other written, printed, or graphic matter upon any household substance or its package, or accompanying such substance. [1974 1st ex.s. c 49 § 9.]

70.106.100 Standards for packaging. (1) The director may establish in accordance with the provisions of this chapter, by regulation, standards for the special packaging of any household substance if he finds that:

(a) The degree or nature of the hazard to children in the availability of such substance, by reason of its packaging is such that special packaging is required to protect children from serious personal injury or serious

illness resulting from handling, using or ingesting such substance; and

(b) The special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(2) In establishing a standard under this section, the director shall consider:

(a) The reasonableness of such standard;

(b) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(c) The manufacturing practices of industries affected by this chapter; and

(d) The nature and use of the household substance.

(3) In carrying out the provisions of this chapter, the director shall publish his findings, his reasons therefor, and citation of the sections of statutes which authorize his action.

(4) Nothing in this chapter authorizes the director to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in RCW 70.106.110(1)(b), labeling. In the case of a household substance for which special packaging is required pursuant to a regulation under this section, the director may in such regulation prohibit the packaging of such substance in packages which he determines are unnecessarily attractive to children.

(5) The director shall cause the regulations promulgated under this chapter to conform with the requirements or exemptions of the Federal Hazardous Substances Act and with the regulations or interpretations promulgated pursuant thereto. [1974 1st ex.s. c 49 § 10.]

70.106.110 Exceptions from packaging standards. (1) For the purpose of making any household substance which is subject to a standard established under RCW 70.106.100 readily available to elderly or handicapped persons unable to use such substance when packaged in compliance with such standard, the manufacturer or packer, as the case may be, may package any household substance, subject to such a standard, in packaging of a single size which does not comply with such standard if:

(a) The manufacturer or packer also supplies such substance in packages which comply with such standard; and

(b) The packages of such substance which do not meet such standard bear conspicuous labeling stating: "This package for households without young children"; except that the director may by regulation prescribe a substitute statement to the same effect for packaging too small to accommodate such labeling.

(2) In the case of a household substance which is subject to such a standard and which is dispensed pursuant to an order of a physician, dentist, or other licensed medical practitioner authorized to prescribe, such substance may be dispensed in noncomplying packages only when directed in such order or when requested by the purchaser.

(3) In the case of a household substance subject to such a standard which is packaged under subsection (1) of this section in a noncomplying package, if the director determines that such substance is not also being supplied by a manufacturer or packer in popular size packages which comply with such standard, he may, after giving the manufacturer or packer an opportunity to comply with the purposes of this chapter, by order require such substance to be packaged by such manufacturer or packer exclusively in special packaging complying with such standard if he finds, after opportunity for hearing, that such exclusive use of special packaging is necessary to accomplish the purposes of this chapter. [1974 1st ex.s. c 49 § 11.]

70.106.120 Adoption of rules and regulations under federal poison prevention packaging act. One of the purposes of this chapter is to promote uniformity with the Poison Prevention Packaging Act of 1970 and rules and regulations adopted thereunder. In accordance with such declared purpose, all of the special packaging rules and regulations adopted under the Poison Prevention Packaging Act of 1970 (84 Stat. 1670; 7 U.S.C. Sec. 135; 15 U.S.C. Sec. 1261, 1471-1476; 21 U.S.C. Sec. 343, 352, 353, 362) on July 24, 1974, are hereby adopted as rules and regulations applicable to this chapter. In addition, any rule or regulation adopted hereafter under said Federal Poison Prevention Act of 1970 concerning special packaging and published in the federal register shall be deemed to have been adopted under the provisions of this chapter. The director may, however, within thirty days of the publication of the adoption of any such rule or regulation under the Federal Poison Prevention Packaging Act of 1970, give public notice that a hearing will be held to determine if such regulations shall not be applicable under the provisions of this chapter. Such hearing shall be conducted in accord with the provisions of chapter 34.04 RCW, Administrative Procedure Act, as now enacted or hereafter amended. [1974 1st ex.s. c 49 § 12.]

70.106.130 Technical advisory committee. For the purpose of carrying out the provisions of this chapter the director shall, within one hundred eighty days of July 24, 1974, appoint a technical advisory committee and appoint a chairman thereof, said committee to consist of one representative from each of the following:

(1) The secretary of the department of social and health services;

(2) The pharmacy board;

(3) A hospital specializing in child welfare and poison care;

(4) The packaging closures industry;

(5) University of Washington medical school;

(6) University of Washington school of pharmacy;

(7) A specialist in pesticide and chemical handling and control from Washington State University;

(8) The public;

(9) The dairy and food division of the department of agriculture; and

(10) A member of the Washington state society of pediatrics or its designee.

Members of the technical advisory committee who are not regular full time employees of a public agency or institution shall receive twenty-five dollars per diem for each day or major portion thereof plus reimbursement for actual travel expenses incurred in the performance of their duties in the same manner as provided for state officials generally in chapter 43.03 RCW as now or hereafter amended. [1974 1st ex.s. c 49 § 13.]

70.106.140 Penalties. Any person violating the provisions of this chapter or rules adopted hereunder is guilty of a misdemeanor and is guilty of a gross misdemeanor for any subsequent offense, however, any offense committed more than five years after a previous conviction shall be considered a first offense. [1974 1st ex.s. c 49 § 16.]

70.106.900 Severability—1974 1st ex.s. c 49. If any provision of this 1974 act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby. [1974 1st ex.s. c 49 § 14.]

70.106.905 Saving—1974 1st ex.s. c 49. The enactment of this 1974 act shall not have the effect of terminating, or in any way modifying any liability, civil or criminal, which shall already be in existence on July 24, 1974. [1974 1st ex.s. c 49 § 15.]

70.106.910 Chapter cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy. [1974 1st ex.s. c 49 § 17.]

Chapter 70.107 NOISE CONTROL

Sections

70.107.010	Purpose.
70.107.020	Definitions.
70.107.030	Powers and duties of department.
70.107.040	Technical advisory committee.
70.107.050	Civil penalties.
70.107.060	Other rights, remedies, powers, duties and functions— Local control—Approval—Procedure.
70.107.070	Rules relating to motor vehicles—Violations— Penalty.
70.107.080	Exemptions.
70.107.900	Construction—Severability—1974 1st ex.s. c 183.
70.107.910	Short title.

70.107.010 Purpose. The legislature finds that inadequately controlled noise adversely affects the health, safety and welfare of the people, the value of property, and the quality of the environment. Antinoise measures of the past have not adequately protected against the invasion of these interests by noise. There is a need, therefore, for an expansion of efforts state-wide directed toward the abatement and control of noise, considering the social and economic impact upon the community and the state. The purpose of this chapter is

to provide authority for such an expansion of efforts, supplementing existing programs in the field. [1974 1st ex.s. c 183 § 1.]

70.107.020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means director of the department of ecology.
- (3) "Local government" means county or city government or any combination of the two.
- (4) "Noise" means the intensity, duration and character of sounds from any and all sources.
- (5) "Person" means any individual, corporation, partnership, association, governmental body, state, or other entity whatsoever. [1974 1st ex.s. c 183 § 2.]

70.107.030 Powers and duties of department. The department is empowered as follows:

(1) The department, after consultation with state agencies expressing an interest therein, shall adopt, by rule, maximum noise levels permissible in identified environments in order to protect against adverse affects of noise on the health, safety and welfare of the people, the value of property, and the quality of environment: *Provided*, That in so doing the department shall take also into account the economic and practical benefits to be derived from the use of various products in each such environment, whether the source of the noise or the use of such products in each environment is permanent or temporary in nature, and the state of technology relative to the control of noise generated by all such sources of the noise or the products.

(2) At any time after the adoption of maximum noise levels under subsection (1) of this section the department shall, in consultation with state agencies and local governments expressing an interest therein, adopt rules, consistent with the Federal Noise Control Act of 1972 (86 Stat. 1234; 42 U.S.C. Sec. 4901-4918 and 49 U.S.C. Sec. 1431), for noise abatement and control in the state designed to achieve compliance with the noise level adopted in subsection (1) of this section, including reasonable implementation schedules where appropriate, to insure that the maximum noise levels are not exceeded and that application of the best practicable noise control technology and practice is provided. These rules may include, but shall not be limited to:

(a) Performance standards setting allowable noise limits for the operation of products which produce noise;

(b) Use standards regulating, as to time and place, the operation of individual products which produce noise above specified levels considering frequency spectrum and duration: *Provided*, The rules shall provide for temporarily exceeding those standards for stated purposes; and

(c) Public information requirements dealing with disclosure of levels and characteristics of noise produced by products.

(3) The department may, as desirable in the performance of its duties under this chapter, conduct surveys,

studies and public education programs, and enter into contracts.

(4) The department is authorized to apply for and accept moneys from the federal government and other sources to assist in the implementation of this chapter.

(5) The legislature recognizes that the operation of motor vehicles on public highways as defined in RCW 46.09.020 contributes significantly to environmental noise levels and directs the department, in exercising the rule-making authority under the provisions of this section, to give first priority to the adoption of motor vehicle noise performance standards.

(6) Noise levels and rules adopted by the department pursuant to this chapter shall not be effective prior to March 31, 1975. [1974 1st ex.s. c 183 § 3.]

70.107.040 Technical advisory committee. The director shall name a technical advisory committee to assist the department in the implementation of this chapter. Committee members shall be entitled to reimbursement as provided in RCW 43.03.050 and 43.03.060, as now or hereafter amended. [1974 1st ex.s. c 183 § 4.]

70.107.050 Civil penalties. (1) Any person who violates any rule adopted by the department under this chapter shall be subject to a civil penalty not to exceed one hundred dollars. All violations of this chapter shall be administered pursuant to the provisions of chapter 34.04 RCW, the state administrative procedure act.

Penalties shall become due and payable thirty days from the date of receipt of a notice of penalty unless within such time said notice is appealed to the pollution control hearings board pursuant to the provisions of chapter 43.21B RCW and procedural rules adopted thereunder. In cases in which appeals are timely filed, penalties sustained by the pollution control hearings board shall become due and payable on the issuance of said board's final order in the appeal.

(2) Whenever penalties incurred pursuant to this section have become due and payable but remain unpaid, the attorney general shall, upon request of the director, bring an action in the name of the state of Washington, in the superior court of Thurston county or in the county in which the violation occurred for recovery of penalties incurred. In all such actions the procedures and rules of evidence shall be the same as in any other civil action. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund. [1974 1st ex.s. c 183 § 5.]

70.107.060 Other rights, remedies, powers, duties and functions—Local control—Approval—Procedure.

(1) Nothing in this chapter shall be construed to deny, abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(2) Nothing in this chapter shall deny, abridge or alter any powers, duties and functions relating to noise abatement and control now or hereafter vested in any state agency, nor shall this chapter be construed as granting jurisdiction over the industrial safety and health of employees in work places of the state, as now

or hereafter vested in the department of labor and industries.

(3) No local government shall adopt resolutions, ordinances, rules or regulations concerned with the control of noise which shall be effective prior to adoption of maximum noise levels and the rules adopted by the department pursuant to this chapter or January 31, 1975, whichever occurs sooner. Such resolutions, ordinances, rules, or regulations must be consistent with RCW 70.107.060(4).

(4) Standards and other control measures adopted by the department under this chapter shall be exclusive except as hereinafter provided. A local government may impose limits or control sources differing from those adopted or controlled by the department upon a finding that such requirements are necessitated by special conditions. No such noise limiting requirements of local government shall be valid unless first approved by the department. If disapproved the local government may appeal the decision to the pollution control hearings board which shall decide the appeal on the basis of the provisions of this chapter, and the applicable regulations, together with such briefs, testimony, and oral argument as the hearings board in its discretion may require. In the determination of whether to grant any such approval, the department shall give consideration to the reasonableness and practicability of compliance with particular attention to the situation of stationary sources, the noise producing operations of which are conducted at or near jurisdictional boundaries.

(5) In carrying out the rule-making authority provided in this chapter, the department shall follow the procedures of the administrative procedure act, chapter 34.04 RCW, and shall take care that no rules adopted purport to exercise any powers preempted by the United States under federal law. [1974 1st ex.s. c 183 § 6.]

70.107.070 Rules relating to motor vehicles—Violations—Penalty. Any rule adopted under this chapter relating to the operation of motor vehicles on public highways shall be administered according to testing and inspection procedures adopted by rule by the state commission on equipment. Violation of any motor vehicle performance standard adopted pursuant to this chapter shall be a misdemeanor, enforced by such authorities and in such manner as violations of chapter 46.37 RCW. Violations subject to the provisions of this section shall be exempt from the provisions of RCW 70.107.050. [1974 1st ex.s. c 183 § 7.]

70.107.080 Exemptions. The department shall, in the exercise of rule-making power under this chapter, provide exemptions or specially limited regulations relating to recreational shooting and emergency or law enforcement equipment where appropriate in the interests of public safety.

The department in the development of rules under this chapter, shall consult and take into consideration the land use policies and programs of local government. [1974 1st ex.s. c 183 § 8.]

70.107.900 Construction—Severability—1974 1st ex.s. c 183. (1) This chapter shall be liberally construed to carry out its broad purposes.

(2) If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1974 1st ex.s. c 183 § 11.]

70.107.910 Short title. This chapter shall be known and may be cited as the "Noise Control Act of 1974". [1974 1st ex.s. c 183 § 12.]

Chapter 70.108 OUTDOOR MUSIC FESTIVALS

Sections

70.108.010	Legislative declaration.
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Reviser's note: Throughout chapter 70.108 RCW the references to "this act" have been changed to "this chapter". "This act" [1971 ex.s. c 302] consists of this chapter, the 1971 amendments to RCW 9.40-.110-9.40.130, 9.41.010, 9.41.070, 26.44.050, 70.74.135, 70.74.270, 70.74.280, and to RCW 9.27.015 and 9.91.110.

70.108.010 Legislative declaration. The legislature hereby declares it to be the public interest, and for the protection of the health, welfare and property of the residents of the state of Washington to provide for the orderly and lawful conduct of outdoor music festivals by assuring that proper sanitary, health, fire, safety, and police measures are provided and maintained. This invocation of the police power is prompted by and based upon prior experience with outdoor music festivals where the enforcement of the existing laws and regulations on dangerous and narcotic drugs, indecent exposure, intoxicating liquor, and sanitation has been rendered most difficult by the flagrant violations thereof by a large number of festival patrons. [1971 ex.s. c 302 § 19.]

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

70.108.020 Definitions. For the purposes of this chapter the following words and phrases shall have the indicated meanings:

(1) "Outdoor music festival" or "music festival" or "festival" means an assembly of persons gathered primarily for outdoor, live or recorded musical entertainment, where the predicted attendance is two thousand persons or more and where the duration of the program is five hours or longer: *Provided*, That this definition shall not be applied to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established places of assembly for assemblies which do not exceed by more than two hundred fifty people the maximum seating capacity of the structure where the assembly is held: *Provided, further*, That this definition shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed under other laws or regulations of the state.

(2) "Promoter" means any person or other legal entity issued a permit to conduct an outdoor music festival.

(3) "Applicant" means the promoter who has the right of control of the conduct of an outdoor music festival who applies to the appropriate legislative authority for a license to hold an outdoor music festival.

(4) "Issuing authority" means the legislative body of the local governmental unit where the site for an outdoor music festival is located.

(5) "Participate" means to knowingly provide or deliver to the festival site supplies, materials, food, lumber, beverages, sound equipment, generators, or musical entertainment and/or to attend a music festival. A person shall be presumed to have knowingly provided as that phrase is used herein after he has been served with a court order. [1971 ex.s c 302 § 21.]

70.108.030 Permits—Required—Compliance with rules and regulations. No person or other legal entity shall knowingly allow, conduct, hold, maintain, cause to be advertised or permit an outdoor music festival unless a valid permit has been obtained from the issuing authority for the operation of such music festival as provided for by this chapter. One such permit shall be required for each outdoor music festival. A permit may be granted for a period not to exceed sixteen consecutive days and a festival may be operated during any or all of the days within such period. Any person, persons, partnership, corporation, association, society, fraternal or social organization, failing to comply with the rules, regulations or conditions contained in this chapter shall be subject to the appropriate penalties as prescribed by this chapter. [1971 ex.s. c 302 § 22.]

70.108.040 Application for permit—Contents—Filing. Application for an outdoor music festival permit shall be in writing and filed with the clerk of the issuing authority wherein the festival is to be held. Said application shall be filed not less than ninety days prior to the first scheduled day of the festival and shall be accompanied with a permit fee in the amount of two thousand five hundred dollars. Said application shall include:

(1) The name of the person or other legal entity on behalf of whom said application is made: *Provided*, That a natural person applying for such permit shall be eighteen years of age or older;

(2) A financial statement of the applicant;

(3) The nature of the business organization of the applicant;

(4) Names and addresses of all individuals or other entities having a ten percent or more proprietary interest in the festival;

(5) The principal place of business of applicant;

(6) A legal description of the land to be occupied, the name and address of the owner thereof, together with a document showing the consent of said owner to the issuance of a permit, if the land be owned by a person other than the applicant;

(7) The scheduled performances and program;

(8) Written confirmation from the local health officer that he has reviewed and approved plans for site and development in accordance with rules, regulations and standards adopted by the state board of health. Such rules and regulations shall include criteria as to the following and such other matters as the state board of health deems necessary to protect the public's health:

(a) Submission of plans

(b) Site

(c) Water supply

(d) Sewage disposal

(e) Food preparation facilities

(f) Toilet facilities

(g) Solid waste

(h) Insect and rodent control

(i) Shelter

(j) Dust control

(k) Lighting

(l) Emergency medical facilities

(m) Emergency air evacuation

(n) Attendant physicians

(o) Communication systems

(9) A written confirmation from the appropriate law enforcement agency from the area where the outdoor music festival is to take place, showing that traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant meeting the following conditions:

(a) One person for each two hundred persons reasonably expected to be in attendance at any time during the event for purposes of traffic and crowd control.

(b) The names and addresses of all traffic and crowd control personnel shall be provided to the appropriate law enforcement authority: *Provided*, That not less than twenty percent of the traffic and crowd control personnel shall be commissioned police officers or deputy sheriffs: *Provided further*, That on and after February 25, 1972 any commissioned police officer or deputy sheriff who is employed and compensated by the promoter of an outdoor music festival shall not be eligible and shall not receive any benefits whatsoever from any public pension or disability plan of which he is a member for the time he is so employed or for any injuries received during the course of such employment.

(c) During the hours that the festival site shall be open to the public there shall be at least one regularly commissioned police officer employed by the jurisdiction wherein the festival site is located for every one thousand persons in attendance and said officer shall be on duty within the confines of the actual outdoor music festival site.

(d) All law enforcement personnel shall be charged with enforcing the provisions of this chapter and all existing statutes, ordinances and regulations.

(10) A written confirmation from the appropriate law enforcement authority that sufficient access roads are available for ingress and egress to the parking areas of the outdoor music festival site and that parking areas are available on the actual site of the festival or immediately adjacent thereto which are capable of accommodating one auto for every four persons in estimated attendance at the outdoor music festival site.

(11) A written confirmation from the department of natural resources, where applicable, and the office of the state fire marshal that all fire prevention requirements have been complied with.

(12) A written statement of the applicant that all state and local law enforcement officers, fire control officers and other necessary governmental personnel shall have free access to the site of the outdoor music festival.

(13) A statement that the applicant will abide by the provisions of this chapter.

(14) The verification of the applicant warranting the truth of the matters set forth in the application to the best of the applicant's knowledge, under the penalty of perjury. [1972 ex.s. c 123 § 1; 1971 ex.s. c 302 § 23.]

70.108.050 Approval or denial of permit—Corrections—Procedure—Judicial review. Within fifteen days after the filing of the application the issuing authority shall either approve or deny the permit to the applicant. Any denial shall set forth in detail the specific grounds therefor. The applicant shall have fifteen days after the receipt of such denial or such additional time as the issuing authority shall grant to correct the deficiencies set forth and the issuing authority shall within fifteen days after receipt of such corrections either approve or deny the permit. Any denial shall set forth in detail the specific grounds therefor.

After the applicant has filed corrections and the issuing authority has thereafter again denied the permit, the applicant may within five days after receipt of such second denial seek judicial review of such denial by filing a petition in the superior court for the county of the issuing authority. The review shall take precedence over all other civil actions and shall be conducted by the court without a jury. The court shall, upon request, hear oral argument and receive written briefs and shall either affirm the denial or order that the permit be issued. An applicant may not use any other procedure to obtain judicial review of a denial. [1972 ex.s. c 123 § 2; 1971 ex.s. c 302 § 24.]

70.108.060 Reimbursement of expenses incurred in reviewing request. Any local agency requested by an applicant to give written approval as required by RCW

70.108.040 may within fifteen days after the applicant has filed his application apply to the issuing authority for reimbursement of expenses reasonably incurred in reviewing such request. Upon a finding that such expenses were reasonably incurred the issuing authority shall reimburse the local agency therefor from the funds of the permit fee. The issuing authority shall prior to the first scheduled date of the festival return to the applicant that portion of the permit fee remaining after all such reimbursements have been made. [1971 ex.s. c 302 § 25.]

70.108.070 Cash deposit—Surety bond—Insurance. After the application has been approved the promoter shall deposit with the issuing authority, a cash deposit or surety bond. The bond or deposit shall be used to pay any costs or charges incurred to regulate health or to clean up afterwards outside the festival grounds or any extraordinary costs or charges incurred to regulate traffic or parking. The bond or other deposit shall be returned to the promoter when the issuing authority is satisfied that no claims for damage or loss will be made against said bond or deposit, or that the loss or damage claimed is less than the amount of the deposit, in which case the uncommitted balance thereof shall be returned: *Provided*, That the bond or cash deposit or the uncommitted portion thereof shall be returned not later than thirty days after the last day of the festival.

In addition, the promoter shall be required to furnish evidence that he has in full force and effect a liability insurance policy in an amount of not less than one hundred thousand dollars bodily injury coverage per person covering any bodily injury negligently caused by any officer or employee of the festival while acting in the performance of his or her duties. The policy shall name the issuing authority of the permit as an additional named insured.

In addition, the promoter shall be required to furnish evidence that he has in full force and effect a one hundred thousand dollar liability property damage insurance policy covering any property damaged due to negligent failure by any officer or employee of the festival to carry out duties imposed by this chapter. The policy shall have the issuing authority of the permit as an additional named insured. [1972 ex.s. c 123 § 3; 1971 ex.s. c 302 § 26.]

70.108.080 Revocation of permits. Revocation of any permit granted pursuant to this chapter shall not preclude the imposition of penalties as provided for in this chapter and the laws of the state of Washington. Any permit granted pursuant to the provisions of this chapter to conduct a music festival shall be summarily revoked by the issuing authority when it finds that by reason of emergency the public peace, health, safety, morals or welfare can only be preserved and protected by such revocation.

Any permit granted pursuant to the provisions of this chapter to conduct a music festival may otherwise be revoked for any material violation of this chapter or the laws of the state of Washington after a hearing held

upon not less than three days notice served upon the promoter personally or by certified mail.

Every permit issued under the provisions of this chapter shall state that such permit is issued as a measure to protect and preserve the public peace, health, safety, morals and welfare, and that the right of the appropriate authority to revoke such permit is a consideration of its issuance. [1971 ex.s. c 302 § 27.]

70.108.090 Drugs prohibited. No person, persons, partnership, corporation, association, society, fraternal or social organization to whom a music festival permit has been granted shall, during the time an outdoor music festival is in operation, knowingly permit or allow any person to bring upon the premises of said music festival, any narcotic or dangerous drug as defined by chapters 69.33 or 69.40 RCW, or knowingly permit or allow narcotic or dangerous drug to be consumed on the premises, and no person shall take or carry onto said premises any narcotic or dangerous drug. [1971 ex.s. c 302 § 28.]

70.108.100 Proximity to schools, churches, homes. No music festival shall be operated in a location which is closer than one thousand yards from any schoolhouse or church, or five hundred yards from any house, residence or other human habitation unless waived by occupants. [1971 ex.s. c 302 § 29.]

70.108.110 Age of patrons. No person under the age of sixteen years shall be admitted to any outdoor music festival without the escort of his or her parents or legal guardian and proof of age shall be provided upon request. [1971 ex.s. c 302 § 30.]

70.108.120 Permits—Posting—Transferability. Any permit granted pursuant to this chapter shall be posted in a conspicuous place on the site of the outdoor music festival and such permit shall be not transferable or assignable without the consent of the issuing authority. [1971 ex.s. c 302 § 31.]

70.108.130 Penalty. Any person who shall wilfully fail to comply with the rules, regulations and conditions set forth in this chapter or who shall aid or abet such a violation or failure to comply, shall be deemed guilty of a gross misdemeanor. [1971 ex.s. c 302 § 32.]

70.108.140 Inspection of books and records. The department of revenue shall be allowed to inspect the books and records of any outdoor music festival during the period of operation of the festival and after the festival has concluded for the purpose of determining whether or not the tax laws of this state are complied with. [1972 ex.s. c 123 § 4.]

70.108.150 Firearms—Penalty. It shall be unlawful for any person, except law enforcement officers, to carry, transport or convey, or to have in his possession or under his control any firearm while on the site of an outdoor music festival.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction

thereof shall be punished by a fine of not less than one hundred dollars and not more than two hundred dollars or by imprisonment in the county jail for not less than ten days and not more than ninety days or by both such fine and imprisonment. [1972 ex.s. c 123 § 5.]

70.108.160 Preparations—Completion requirements. All preparations required to be made by the provisions of this chapter on the music festival site shall be completed thirty days prior to the first day scheduled for the festival. Upon such date or such earlier date when all preparations have been completed, the promoter shall notify the issuing authority thereof, and the issuing authority shall make an inspection of the festival site to determine if such preparations are in reasonably full compliance with plans submitted pursuant to RCW 70.108.040. If a material violation exists the issuing authority shall move to revoke the music festival permit in the manner provided by RCW 70.108.080. [1972 ex.s. c 123 § 6.]

70.108.170 Local regulations and ordinances not precluded. Nothing in this chapter shall be construed as precluding counties, cities and other political subdivisions of the state of Washington from enacting ordinances or regulations for the control and regulation of outdoor music festivals nor shall this chapter repeal any existing ordinances or regulations. [1972 ex.s. c 123 § 7.]

Chapter 70.110 FLAMMABLE FABRICS—CHILDREN'S SLEEPWEAR

Sections

70.110.010	Short title.
70.110.020	Legislative finding.
70.110.030	Definitions.
70.110.040	Compliance required.
70.110.050	Attorney general or prosecuting attorneys authorized to bring actions to restrain or prevent violations.
70.110.060	Penalties.
70.110.070	Strict liability.
70.110.080	Personal service of process—Jurisdiction of courts.
70.110.900	Provisions additional.
70.110.910	Severability—1973 1st ex.s. c 211.

70.110.010 Short title. This chapter may be known and cited as the "Flammable Fabrics Act". [1973 1st ex.s. c 211 § 1.]

70.110.020 Legislative finding. The legislature hereby finds and declares that fabric related burns from children's sleepwear present an immediate and serious danger to the infants and children of this state. The legislature therefore declares it to be in the public interest, and for the protection of the health, property, and welfare of the residents of this state to herein provide for flammability standards for children's sleepwear. [1973 1st ex.s. c 211 § 2.]

70.110.030 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Person" means an individual, partnership, corporation, association, or any other form of business enterprise, and every officer thereof.

(2) "Children's sleepwear" means any product of wearing apparel from infant size up to and including size fourteen which is sold or intended for sale for the primary use of sleeping or activities related to sleeping, such as nightgowns, pajamas, and similar or related items such as robes, but excluding diapers and underwear.

(3) "Fabric" means any material (except fiber, filament, or yarn for other than retail sale) woven, knitted, felted, or otherwise produced from or in combination with any material or synthetic fiber, film, or substitute therefor which is intended for use, or which may reasonably be expected to be used, in children's sleepwear.

(4) The term "infant size up to and including size six-x" means the sizes defined as infant through and including six-x in Department of Commerce Voluntary Standards, Commercial Standard 151-50, "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers, and Children", Commercial Standard 153, "Body Measurements for the Sizing of Apparel for Girls", and Commercial Standard 155, "Body Measurements for the Sizing of Boys' Apparel".

(5) "Fabric related burns" means burns that would not have been incurred but for the fact that sleepwear worn at the time of the burns did not comply with commercial standards promulgated by the secretary of commerce of the United States in March, 1971, identified as Standard for the Flammability of Children's Sleepwear (DOC FF 3-71) 36 F.R. 14062 and by the Flammable Fabrics Act 15 U.S.C. 1193. [1973 1st ex.s. c 211 § 3.]

70.110.040 Compliance required. It shall be unlawful to manufacture for sale, sell, or offer for sale any new and unused article of children's sleepwear which does not comply with the standards established in the Standard for the Flammability of Children's Sleepwear (DOC FF 3-71), 36 F.R. 14062 and the Flammable Fabrics Act, 15 U.S.C. 1191-1204. [1973 1st ex.s. c 211 § 4.]

70.110.050 Attorney general or prosecuting attorneys authorized to bring actions to restrain or prevent violations. The attorney general or the prosecuting attorney of any county within the state may bring an action in the name of the state against any person to restrain and prevent any violation of this chapter. [1973 1st ex.s. c 211 § 5.]

70.110.060 Penalties. Any violation of this chapter is punishable, upon conviction, by a fine not exceeding five thousand dollars or by confinement in the county jail for not exceeding one year, or both. [1973 1st ex.s. c 211 § 6.]

70.110.070 Strict liability. Any person who violates RCW 70.110.040 shall be strictly liable for fabric-related burns. [1973 1st ex.s. c 211 § 7.]

70.110.080 Personal service of process—Jurisdiction of courts. Personal service of any process in an action under this chapter may be made upon any person outside the state if such person has violated any provision of this chapter. Such person shall be deemed to have thereby submitted himself to the jurisdiction of the courts of this state within the meaning of RCW 4.28.180 and 4.28.185, as now or hereafter amended. [1973 1st ex.s. c 211 § 8.]

70.110.900 Provisions additional. The provisions of this chapter shall be in addition to and not a substitution for or limitation of any other law. [1973 1st ex.s. c 211 § 9.]

70.110.910 Severability—1973 1st ex.s. c 211. If any provision of this chapter, or its application to any person or circumstance is held invalid the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 211 § 10.]

TITLE 71

MENTAL ILLNESS AND INEBRIACY

Chapters

- 71.02** Mental illness—Commitment procedure.
- 71.05** Mental illness.
- 71.06** Sexual psychopaths and psychopathic delinquents.
- 71.12** Private establishments.
- 71.16** Mental retardation facilities and community mental health centers.
- 71.20** State and local services for mentally retarded and developmentally disabled.
- 71.24** Community mental health services act.
- 71.28** Mental health and retardation services—Interstate contracts.
- 71.98** Construction.

Children's center for research and training in mental retardation: RCW 28B.20.410–28B.20.414.

County hospitals: Chapter 36.62 RCW.

Division of mental health: Chapter 72.06 RCW.

Harrison Memorial Hospital: RCW 72.29.010.

Interstate compact on mental health: Chapter 72.27 RCW.

Jurisdiction over Indians concerning mental illness: Chapter 37.12 RCW.

Narcotics addicts: Chapter 69.32 RCW.

Nonresident insane, feeble-minded, epileptics, sexual psychopaths, and psychopathic delinquents: Chapter 72.25 RCW.

State hospitals for mentally ill: Chapter 72.23 RCW.

State institutions: Title 72 RCW.

- 71.02.412 Departmental assessment of charges—Determination of ability to pay—Standards—Rules and regulations.
- 71.02.413 Departmental assessment of charges—Notice of finding of responsibility—Period—Appeals—Judicial review.
- 71.02.414 Departmental assessment of charges—Judgment for accrued amounts.
- 71.02.415 Departmental assessment of charges—Modification or vacation of findings of responsibility.
- 71.02.416 Departmental assessment of charges—Reimbursement from property subsequently acquired.
- 71.02.417 Departmental assessment of charges—Responsibility under prior laws.
- 71.02.490 Authority over patient—Federal agencies, private establishments.
- 71.02.900 Construction and purpose—1959 c 25.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

Criminally insane procedures, rights and responsibilities: Chapter 10.77 RCW.

Guardianship of estate or person: Chapters 11.88 and 11.92 RCW.

Mental illness: Chapter 71.05 RCW.

Nonresident insane, feeble-minded, and epileptics: Chapter 72.25 RCW.

Procedure as to insane convicts: RCW 72.08.110.

State hospitals for mentally ill: Chapter 72.23 RCW.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

Voluntary patients: RCW 72.23.070 through 72.23.120.

Chapter 71.02 MENTAL ILLNESS—COMMITMENT PROCEDURE

(SUCCESSOR LAW: SEE CHAPTER 71.05 RCW)

Sections

- 71.02.310 Hospitalization charges—Continuation of responsibility, existing cases.
- 71.02.320 Hospitalization charges—Due date—Collection.
- 71.02.330 Hospitalization charges—Modification of order requiring payment.
- 71.02.340 Hospitalization charges—Modification of order to require payment by relative.
- 71.02.350 Hospitalization charges—Transportation charges—Collection.
- 71.02.360 Hospitalization charges—Collection—Statutes of limitation.
- 71.02.370 Hospitalization charges—Collection—Prosecuting attorneys to assist.
- 71.02.380 Hospitalization charges—Criminally insane—Liability.
- 71.02.390 Hospitalization charges—Advance remittances.
- 71.02.400 Hospitalization charges—Cancellation.
- 71.02.410 Hospitalization charges—Including charges for outpatient services, transportation costs—How computed.
- 71.02.411 Departmental assessment of charges—Responsibility for cost of hospitalization and outpatient services.

71.02.310 Hospitalization charges—Continuation of responsibility, existing cases. Patients' estates and relatives now responsible for the payment of maintenance charges upon the taking effect of this chapter shall remain so responsible hereunder. [1959 c 25 § 71.02.310. Prior: 1951 c 139 § 27.]

71.02.320 Hospitalization charges—Due date—Collection. Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges. [1967 ex.s. c 127 § 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56.]

71.02.330 Hospitalization charges—Modification of order requiring payment. The superior court may, upon petition, modify any existing order entered pursuant to RCW 71.02.230, where it is shown that the petitioner is unable to continue payment of hospitalization charges. A hearing may be had on such petition in the nature of proceedings supplemental to execution in civil actions. Such petition must be served on the department at least

ten days prior to hearings. [1959 c 25 § 71.02.330. Prior: 1951 c 139 § 58.]

Proceedings supplemental to execution: Chapter 6.32 RCW.

71.02.340 Hospitalization charges—Modification of order to require payment by relative. The department may apply for modification of any existing order where it is shown that there exists some relative within the classification set forth in RCW 71.02.230 who is able to pay hospitalization charges. Such relative must be served with notice of such petition in the same manner as summons is served in civil action. [1959 c 25 § 71.02.340. Prior: 1951 c 139 § 59.]

Service of summons: RCW 4.28.080.

71.02.350 Hospitalization charges—Transportation charges—Collection. The department shall have the right to collect hospitalization and transportation charges from a patient's estate or person legally responsible for the support of a patient without the entry of any order to such effect under RCW 71.02.230. If the person administering the patient's estate or the person responsible for the support of the patient is unable to pay such charges he shall petition the court for an order declaring such inability pursuant to RCW 71.02.330. [1959 c 25 § 71.02.350. Prior: 1951 c 139 § 60.]

71.02.360 Hospitalization charges—Collection—Statutes of limitation. No statutes of limitations shall run against the state of Washington for hospitalization charges: *Provided, however,* That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims. [1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61.]

Period of limitation for claims against guardianship estate: RCW 11.92.035.

Period of limitation for claims against probate estate: RCW 11.40.010.

71.02.370 Hospitalization charges—Collection—Prosecuting attorneys to assist. The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges. [1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64.]

71.02.380 Hospitalization charges—Criminally insane—Liability. Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges unless an order is obtained pursuant to RCW 71.02.330. [1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62.]

Criminally insane, reimbursement for costs: RCW 10.77.250.

71.02.390 Hospitalization charges—Advance remittances. Advance remittances of such hospitalization charges may be held by the department in a suspense account for a period not to exceed ninety days in order to make prompt refunds in cases of overpayment. Moneys in such account shall be deposited in such bank or banks as the department may select, and any such depository shall furnish suitable surety bond or collateral for their safekeeping. Such funds shall be

transmitted to the state treasurer for deposit in the general fund after being held for the above purpose. [1959 c 25 § 71.02.390. Prior: 1951 c 139 § 57.]

71.02.400 Hospitalization charges—Cancellation. The department shall have authority to cancel accrued hospitalization charges to the extent of one hundred dollars or less, when a patient has deceased or has been discharged. [1959 c 25 § 71.02.400. Prior: 1951 c 139 § 63.]

71.02.410 Hospitalization charges—Including charges for outpatient services, transportation costs—How computed. Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: *Provided,* That a schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department. [1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52.]

71.02.411 Departmental assessment of charges—Responsibility for cost of hospitalization and outpatient services. Any person admitted or committed to a state hospital for the mentally ill under the provisions of Title 71 RCW or RCW 72.23.070, or chapter 10.76 RCW, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary of the department of social and health services, or his designee, in accordance with RCW 71.02.410: *Provided,* That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable. [1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

71.02.412 Departmental assessment of charges—Determination of ability to pay—Standards—Rules and regulations. The department of institutions is authorized to investigate the financial condition of each person liable under the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or

charges for outpatient services, in accordance with the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 71.02.410, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417. [1967 ex.s. c 127 § 5.]

Reviser's note: The references to "RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417" appearing in this section and in RCW 71.02.413, 71.02.416 and 71.02.100 constitute a literal translation of the session law phrases "this 1967 amendatory act" or "this act".

"RCW 71.02.230" was repealed by section 66, chapter 142, Laws of 1973 1st ex. sess.

71.02.413 Departmental assessment of charges—Notice of finding of responsibility—Period—Appeals—Judicial review. In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the monthly charges for hospitalization, and/or charges for outpatient services, a notice of finding of responsibility shall be served on such person or persons and the legal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay per month not to exceed the monthly costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410, or as otherwise limited by the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417. The responsibility for the payment to the department of social and health services shall commence thirty days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible either personally, or, by registered or certified mail, enclosing a form for acknowledgment of service with return postage prepaid. If service is by mailing and a form of acknowledgment of service is not executed and returned to the department, then personal service must be made for the finding of responsibility to be effective. An appeal may be made to the secretary of social and health services, or his designee within thirty days from the date of posting of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary of social and health services by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution

of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by a hearing examiner appointed by the secretary, and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the hearing examiner shall make findings of fact and his conclusions and recommended determination of responsibility. Thereafter, the secretary, or his designee, may either affirm, reject or modify the findings, conclusions and determination of responsibility made by the hearing examiner. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW. [1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6.]

Reviser's note: "RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417", see note following RCW 71.02.412.

71.02.414 Departmental assessment of charges—Judgment for accrued amounts. Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the director of institutions enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court. [1967 ex.s. c 127 § 7.]

71.02.415 Departmental assessment of charges—Modification or vacation of findings of responsibility. The director, or his designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the director, or his designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility. [1967 ex.s. c 127 § 8.]

71.02.416 Departmental assessment of charges—Reimbursement from property subsequently acquired. The provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417 shall not be construed as prohibiting or preventing the department of institutions from obtaining reimbursement from any person liable under RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417 for the reimbursement of the state of the full amount of the accrued charges for the costs of hospitalization, and/or the costs of outpatient services, to the

extent of the liability as provided by this chapter, from any property acquired subsequent to and regardless of the initial findings of responsibility. [1967 ex.s. c 127 § 9.]

Reviser's note: "RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417", see note following RCW 71.02.412.

71.02.417 Departmental assessment of charges—Responsibility under prior laws. All persons admitted or committed to a state hospital under the provisions of Title 71 RCW or RCW 72.23.070, or chapter 10.76 RCW and their responsible relatives and their estates, whose ability to pay hospitalization charges has been determined under prior laws shall not be affected by the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417 until a finding of responsibility shall have been made and become final in accordance with the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417. [1967 ex.s. c 127 § 10.]

Reviser's note: "RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417", see note following RCW 71.02.412.

71.02.490 Authority over patient—Federal agencies, private establishments. The United States veterans' administration, or other United States government agency, or the chief officer of a private facility shall have the same powers as are conferred upon the superintendent of a state hospital with reference to retention, transfer, parole, or discharge of mentally ill persons ordered hospitalized in their facilities. [1959 c 25 § 71.02.490. Prior: 1951 c 139 § 26.]

Commitment to veterans administration or other federal agency: RCW 73.36.165.

71.02.900 Construction and purpose—1959 c 25. The provisions of this chapter shall be liberally construed so that persons who are in need of care and treatment for mental illness shall receive humane care and treatment and be restored to normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary, and with as little formality as possible, still preserving all rights and all privileges of the person as guaranteed by the Constitution. [1959 c 25 § 71.02.900. Prior: 1951 c 139 § 1; 1949 c 198 § 1; Rem. Supp. 1949 § 6953-1.]

Chapter 71.05 MENTAL ILLNESS

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Commitment of mentally ill, voluntary, review of condition and status: RCW 72.23.070.

Minors, commitment procedure, requirements, rights, etc.: RCW 72.23.070.

71.05.010 Legislative intent. The provisions of this chapter are intended by the legislature:

(1) To end inappropriate, indefinite commitment of mentally disordered persons and to eliminate legal disabilities that arise from such commitment;

- (2) To provide prompt evaluation and short term treatment of persons with serious mental disorders;
- (3) To safeguard individual rights;
- (4) To provide continuity of care for persons with serious mental disorders;
- (5) To encourage the full use of all existing agencies, professional personnel, and public funds to prevent duplication of services and unnecessary expenditures;
- (6) To encourage, whenever appropriate, that services be provided within the community. [1973 1st ex.s. c 142 § 6.]

71.05.020 Definitions. For the purposes of this chapter:

- (1) "Gravely disabled" means a condition in which a person, as a result of a mental disorder is in danger of serious physical harm resulting from a failure to provide for his essential human needs;
- (2) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions;
- (3) "Likelihood of serious harm" means either (a) a substantial risk that physical harm will be inflicted by an individual upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on one's self, or (b) a substantial risk that physical harm will be inflicted by an individual upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm;
- (4) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;
- (5) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;
- (6) "Public agency" means any evaluation and treatment facility of, or operated directly by, federal, state, county, or municipal government, or a combination of such governments;
- (7) "Private agency" means any person, partnership, corporation, or association not defined as a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility;
- (8) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;
- (9) "Department" means the department of social and health services of the state of Washington;
- (10) "Secretary" means the secretary of the department of social and health services, or his designee;
- (11) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;

(12) "Professional person" shall mean a mental health professional, as above defined, and shall also mean a physician, registered nurse, and such others as may be

defined by rules and regulations adopted by the secretary pursuant to the provisions of this chapter;

(13) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association;

(14) "Psychologist" means a person with an earned graduate degree in psychology or a graduate degree deemed its equivalent under rules and regulations adopted by the secretary or who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(15) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree from a graduate school deemed equivalent under rules and regulations adopted by the secretary;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and short term inpatient care to persons suffering from a mental disorder, and which is certified as such by the department of social and health services: *Provided*, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: *Provided further*, That a facility which is part of, or operated by, the department of social and health services or any federal agency will not require certification: *And provided further*, That no correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter. [1973 1st ex.s. c 142 § 7.]

71.05.030 Commitment laws applicable. Persons suffering from a mental disorder may not be involuntarily committed for treatment of such disorder except pursuant to provisions of this chapter, chapter 10.76 RCW or its successor, chapter 71.06 RCW, transfer pursuant to RCW 72.68.031 through 72.68.037, or pursuant to court ordered evaluation and treatment not to exceed ninety days pending a criminal trial or sentencing. [1974 1st ex.s. c 145 § 4; 1973 2nd ex.s. c 24 § 2; 1973 1st ex.s. c 142 § 8.]

71.05.040 No detention or judicial commitment—Epileptic—Mentally deficient or retarded—Senile—Chronic alcoholic or drug abuse impaired. Persons who are epileptics, mentally deficient, mentally retarded, impaired by chronic alcoholism or drug abuse, or senile shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or constitutes a likelihood of serious harm to self or others: *Provided*, That a person shall not be subject to the provisions of this chapter if proceedings have been initiated under the provisions of the Washington Uniform Alcoholism and Intoxication Treatment Act, chapter 70.96A RCW. [1974 1st ex.s. c 145 § 5; 1973 1st ex.s. c 142 § 9.]

71.05.050 Voluntary application for mental health services—Rights—Review of condition and status—Detention. Nothing in this chapter shall be construed to limit the right of any person to apply voluntarily to any public or private agency or practitioner for treatment of a mental disorder, either by direct application or by referral. Any person voluntarily admitted for inpatient treatment to any public or private agency shall be released immediately upon his request. Any person voluntarily admitted for inpatient treatment to any public or private agency shall orally be advised of the right to immediate release and further advised of such rights in writing as are secured to them pursuant to this chapter and their rights of access to attorneys, courts, and other legal redress. Their condition and status shall be reviewed at least once each one hundred eighty days for evaluation as to the need for further treatment and/or possible release, at which time they shall again be advised of their right to release upon request: *Provided however,* That if the staff of any public or private agency regards a person voluntarily admitted as dangerous to himself or others or gravely disabled as defined by *this act, they may detain such person for a reasonable length of time, sufficient to notify the designated county mental health professional of such person's condition to enable such mental health professional to authorize such person being further held in custody or transported to an evaluation and treatment center pursuant to the provisions of *this act. [1974 1st ex.s. c 145 § 6; 1973 1st ex.s. c 142 § 10.]

***Reviser's note:** The term "this act" first appeared in the amendment to this section by 1974 1st ex.s. c 145 § 6. 1974 1st ex.s. c 145 consists of amendments to RCW 71.05.030-71.05.050, 71.05.120, 71.05.150-71.05.210, 71.05.230-71.05.260, 71.05.280-71.05.320, 71.05.340, 71.05.360, 71.05.370, 71.05.390, 71.05.440, 71.05.480, 71.05.510, 71.12.560, 72.23.010 and 72.23.070.

71.05.060 Rights of persons complained against. A person subject to confinement resulting from any petition or proceeding pursuant to the provisions of this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter. [1973 1st ex.s. c 142 § 11.]

71.05.070 Prayer treatment. The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination. [1973 1st ex.s. c 142 § 12.]

71.05.080 Effect on pending proceedings and on persons previously committed. Except as herein provided, the provisions of this chapter shall not in themselves impair any action taken in any proceeding pending under statutes in effect prior to January 1, 1974, nor shall they apply retroactively to terminate the detention of any person previously committed pursuant to statutes in effect prior to January 1, 1974. One hundred twenty days after January 1, 1974, the provisions of RCW 71.05.320(2) shall apply to all persons previously committed pursuant to chapter 71.02 RCW. [1973 1st ex.s. c 142 § 13.]

71.05.090 Choice of physicians. Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services. [1973 2nd ex.s. c 24 § 3; 1973 1st ex.s. c 142 § 14.]

71.05.100 Financial responsibility. In addition to the responsibility provided for by RCW 71.02.411, any person, or his estate, or his spouse, or the parents of a minor person who is involuntarily detained pursuant to this chapter for the purpose of treatment and evaluation outside of a facility maintained and operated by the department of social and health services shall be responsible for the cost of such care and treatment. In the event that an individual is unable to pay for such treatment or in the event payment would result in a substantial hardship upon the individual or his family, then the county of residence of such person shall be responsible for such costs. If it is not possible to determine the county of residence of the person, the cost shall be borne by the county where the person was originally detained. The department of social and health services shall, pursuant to chapter 34.04 RCW, adopt standards as to (1) inability to pay in whole or in part, (2) a definition of substantial hardship, and (3) appropriate payment schedules. Such standards shall be applicable to all county mental health administrative boards. Financial responsibility with respect to department services and facilities shall continue to be as provided in chapter 71.02 RCW. [1973 2nd ex.s. c 24 § 4; 1973 1st ex.s. c 142 § 15.]

71.05.110 Compensation of appointed counsel. Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) If such person is indigent pursuant to such standards, the costs of such services shall be borne by the county in which the proceeding is held, subject however to the responsibility for costs provided in RCW 71.05.320(2). [1973 1st ex.s. c 142 § 16.]

71.05.120 Exemptions from liability. No officer of a public or private agency, nor the superintendent, professional person in charge, his professional designee, or attending staff of any such agency, nor any public official performing functions necessary to the administration of this chapter, nor peace officer responsible for detaining a person pursuant to this chapter shall be civilly or criminally liable for detaining or releasing a person pursuant to *this 1974 amendatory act at or before the end of the period for which he was admitted or committed for evaluation or treatment: *Provided,* That such duties were performed in good faith and without gross negligence. [1974 1st ex.s. c 145 § 7; 1973 2nd ex.s. c 24 § 5; 1973 1st ex.s. c 142 § 17.]

***Reviser's note:** "this 1974 amendatory act" [1974 1st ex.s. c 145], see note following RCW 71.05.050.

71.05.130 Duty of prosecuting attorney. In any judicial proceeding for involuntary commitment or detention, or in any proceeding challenging such commitment or detention, the prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention. [1973 1st ex.s. c 142 § 18.]

71.05.140 Records maintained. A record of all applications, petitions, and proceedings under this chapter shall be maintained by the county clerk in which the application, petition, or proceeding was initiated. [1973 1st ex.s. c 142 § 19.]

71.05.150 Detention of mentally disordered persons for evaluation and treatment—Procedure. (1) (a) When a mental health professional designated by the county receives information alleging that a person, as a result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, such mental health professional, after investigation and evaluation of the specific facts alleged, and of the reliability and credibility of the person or persons, if any, providing information to initiate detention, may summon such person to appear at an evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period. The mental health professional shall also designate, at the time of the summons, from a list provided by the court, an attorney who will be appointed, if any is to be appointed, and state the name, business address, and telephone number of this attorney in the summons.

(b) The summons shall state a date and time to appear not less than twenty-four hours after the service of the summons. The summons shall state the address of the evaluation and treatment facility to which such person is to report and the business address and phone number of the mental health professional designated by the county. The summons shall state that if the person named in the summons fails to appear at the evaluation and treatment facility at or before the date and time stated in the summons, such person may be involuntarily taken into custody. Accompanying the summons to such person shall be a copy of the petition for initial detention and a notice of rights.

(c) If such mental health professional decides to summon such person for up to a seventy-two hour evaluation and treatment period, the mental health professional must file in court the summons, the petition for initial detention, and all documentary evidence. The mental health professional shall then serve or cause to be served on such person, his guardian, and conservator, if any, a copy of the summons together with a notice of rights and a petition for initial detention. After service on such person the mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The

mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time specified on the summons if such person is not released prior to the expiration of such period.

(d) If the person summoned appears on or before the date and time specified, the evaluation and treatment facility shall admit such person as required by RCW 71.05.170. If the person summoned fails to appear on or before the date and time specified, the evaluation and treatment facility shall immediately notify the mental health professional designated by the county who may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. Should the mental health professional notify a peace officer authorizing him to take a person into custody under the provisions of this subsection, he shall file with the court a copy of such authorization and a notice of detention. At the time such person is taken into custody there shall commence to be served on such person, his guardian, and conservator, if any, a copy of the original summons together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) When a mental health professional designated by the county receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm to himself or others, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(3) A peace officer may take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility pursuant to subsection (1)(d) of this section.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause such person to be taken into custody and immediately delivered to an evaluation and treatment facility:

(a) Only pursuant to subsections (1)(d) and (2) of this section; or

(b) When he has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm to others or himself.

(5) Persons delivered to evaluation and treatment facilities by peace officers pursuant to subsection (4)(b) of this section may be held by the facility for a period of up to twelve hours: *Provided*, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated county mental health professional must file a supplemental petition for detention, and commence service on the designated attorney for the detained person. [1974 1st ex.s. c 145 § 8; 1973 1st ex.s. c 142 § 20.]

71.05.160 Petition for initial detention. Any facility receiving a person pursuant to RCW 71.05.150 shall require a petition for initial detention stating the circumstances under which the person's condition was made known and stating that such officer or person has evidence, as a result of his personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm to himself or others, or that he is gravely disabled, and stating the specific facts known to him as a result of his personal observation or investigation, upon which he bases the belief that such person should be detained for the purposes and under the authority of this chapter.

If a person is involuntarily placed in an evaluation and treatment facility pursuant to RCW 71.05.150, on the next judicial day following the initial detention, the mental health professional designated by the county shall file with the court and serve the designated attorney of the detained person the petition or supplemental petition for initial detention, proof of service of notice, and a copy of a notice of emergency detention. [1974 1st ex.s. c 145 § 9; 1973 1st ex.s. c 142 § 21.]

71.05.170 Acceptance of petition—Notice. Whenever the designated county mental health professional petitions for detention of a person whose actions constitute a likelihood of serious harm to himself or others, or who is gravely disabled, the facility providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The facility shall then evaluate the person's condition and admit or release such person in accordance with RCW 71.05.210. The facility shall notify in writing the court and the designated county mental health professional of the date and time of the initial detention of each person involuntarily detained in order that a probable cause hearing shall be held no later than seventy-two hours after detention. [1974 1st ex.s. c 145 § 10; 1973 1st ex.s. c 142 § 22.]

71.05.180 Detention period for evaluation and treatment. If the evaluation and treatment facility admits the person, it may detain him for evaluation and treatment for a period not to exceed seventy-two hours. The computation of such seventy-two hour period shall include Saturdays, but exclude Sundays and holidays. [1974 1st ex.s. c 145 § 11; 1973 1st ex.s. c 142 § 23.]

71.05.190 Persons not admitted—Transportation. If the person is not approved for admission by a facility providing seventy-two hour evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his place of residence or other appropriate place. [1974 1st ex.s. c 145 § 12; 1973 1st ex.s. c 142 § 24.]

71.05.200 Notice and statement of rights—Probable cause hearing. (1) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both he and, if possible, a responsible member of his

immediate family, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him into custody or by personnel of the evaluation and treatment facility where he is detained that unless he is released or voluntarily admits himself for treatment within seventy-two hours of the initial detention:

(a) That a judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain him after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that he is a mentally ill person whose mental disorder presents a likelihood of serious harm to others or himself or that he is gravely disabled;

(b) That he has a right to communicate immediately with an attorney; he has a right to have an attorney appointed to represent him before and at the probable cause hearing if he is indigent; and he has the right to be told the name and address of the attorney the mental health professional has designated pursuant to this chapter;

(c) That he has the right to remain silent and that any statement he makes may be used against him;

(d) That he has the right to present evidence and to cross-examine witnesses who testify against him at the probable cause hearing; and

(e) That he has the right to refuse medication beginning twenty-four hours prior to the probable cause hearing.

(2) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on said designated attorney.

(3) The judicial hearing described in subsection (1) of this section is hereby authorized, and shall be held according to the provisions of subsection (1) of this section and rules promulgated by the supreme court. [1974 1st ex.s. c 145 § 13; 1973 1st ex.s. c 142 § 25.]

71.05.210 Evaluation—Treatment and care—Release or other disposition. Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his admission, be examined and evaluated by a licensed physician and a mental health professional as defined in this chapter, and shall receive such treatment and care as his condition requires for the period that he is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency life-saving treatment, and the individual shall be informed at an appropriate time of his right to such refusal of treatment. Such person shall be detained up to seventy-

two hours, if, in the opinion of the professional person in charge of the facility, or his professional designee, the person presents a likelihood of serious harm to himself or others, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated county mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days. [1974 1st ex.s. c 145 § 14; 1973 1st ex.s. c 142 § 26.]

71.05.220 Property of committed person. At the time a person is involuntarily admitted to an evaluation and treatment facility, the professional person in charge or his designee shall take reasonable precautions to inventory and safeguard the personal property of the person detained. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this section, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without the consent of the patient or order of the court. [1973 1st ex.s. c 142 § 27.]

71.05.230 Procedures for additional treatment. A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of either involuntary intensive treatment or of a less restrictive alternative to involuntary intensive treatment if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that said condition is caused by mental disorder and either results in a likelihood of serious harm to the person detained or to others, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for, but has not accepted, voluntary treatment; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department of social and health services; and

(4) The professional staff of the agency or facility or the mental health professional designated by the county has filed a petition for fourteen day involuntary detention or a less restrictive alternative with the court. The petition must be signed either by two physicians or by one physician and a mental health professional who

have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his attorney and his guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary treatment after a probable cause hearing has been held pursuant to RCW 71.05.240. [1974 1st ex.s. c 145 § 15; 1973 1st ex.s. c 142 § 28.]

71.05.240 Probable cause hearing. If a petition is filed for fourteen day involuntary treatment, the court shall hold a probable cause hearing within seventy-two hours of the initial detention of such person. If requested by the detained person or his attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may also be continued subject to the conditions set forth in RCW 71.05.210 or subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours.

At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that such person, as the result of mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interests of such person or others, the court shall order that such person be detained for involuntary treatment not to exceed fourteen days in a facility certified to provide treatment by the department of social and health services. If the court finds that such person, as the result of a mental disorder, presents a likelihood of serious harm to others or himself, or is gravely disabled, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment for not to exceed fourteen days.

The court shall specifically state to such person and give such person notice in writing that if involuntary treatment beyond the fourteen day period is to be sought, such person will have the right to a full hearing or jury trial as required by RCW 71.05.310 [1974 1st ex.s. c 145 § 16; 1973 1st ex.s. c 142 § 29.]

71.05.250 Probable cause hearing—Detained person's rights—Waiver of physician-patient privilege—Records as evidence. At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

- (1) To present evidence on his behalf;
- (2) To cross-examine witnesses who testify against him;
- (3) To be proceeded against by the rules of evidence;
- (4) To remain silent;
- (5) To view and copy all petitions and reports in the court file.

The physician-patient privilege shall be deemed waived in proceedings under this chapter when a court of competent jurisdiction in its discretion determines that it is unreasonable for the petitioner seeking fourteen-day involuntary treatment to obtain a sufficient evaluation of the detained person by a psychiatrist or psychologist or other health professional and such waiver is necessary in the opinion of the court to protect either the detained person or the public.

Whenever the physician-patient privilege is deemed waived pursuant to this section, the waiver shall be limited to the introduction of relevant and competent medical records or testimony of an evaluation or treatment facility or its staff, a facility of the department of social and health services or its staff, or a facility certified for ninety-day treatment by the department of social and health services or its staff for the purpose of meeting evaluation requirements contained in chapter 10.77 RCW and chapter 71.12 RCW: *Provided however*, That the physician-patient privilege shall not be waived if the physician specifically identifies himself to the detained person as one who is communicating with that person for treatment only: *And provided further*, That the privilege shall not extend to incident reports involving the detained person.

The record maker shall not be required to testify in order to introduce medical records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contains opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination. [1974 1st ex.s. c 145 § 17; 1973 1st ex.s. c 142 § 30.]

71.05.260 Release—Exception. (1) Involuntary treatment ordered at the time of the probable cause hearing shall be for no more than fourteen days, and shall terminate sooner when, in the opinion of the professional person in charge of the facility or his professional designee, (a) the person no longer constitutes a likelihood of serious harm to himself or others, or (b) no longer is gravely disabled, or (c) is prepared to accept voluntary treatment upon referral, or (d) is to remain in the facility providing intensive treatment on a voluntary basis.

(2) A person who has been detained for fourteen days of intensive treatment shall be released at the end of the fourteen days unless one of the following applies: (a) Such person agrees to receive further treatment on a voluntary basis; or (b) such person is a patient to whom

RCW 71.05.280 is applicable. [1974 1st ex.s. c 145 § 18; 1973 1st ex.s. c 142 § 31.]

71.05.270 Temporary release. Nothing in this chapter shall prohibit the professional person in charge of a treatment facility, or his professional designee, from permitting a person detained for intensive treatment to leave the facility for prescribed periods during the term of the person's detention, under such conditions as may be appropriate. [1973 1st ex.s. c 142 § 32.]

71.05.280 Additional confinement—Grounds—Duration. At the expiration of the fourteen day period of intensive treatment, a person may be confined for further treatment pursuant to RCW 71.05.320 for an additional period, not to exceed ninety days if:

(1) Such person has threatened, attempted, or inflicted physical harm upon the person of another or himself after having been taken into custody for evaluation and treatment, and, as a result of mental disorder presents a likelihood of serious harm to others or himself; or

(2) Such person was taken into custody as a result of conduct in which he attempted or inflicted physical harm upon the person of another or himself, and continues to present, as a result of mental disorder, a likelihood of serious harm to others or himself; or

(3) Such person is in custody because he has committed acts constituting a felony, and as a result of a mental disorder, presents a substantial likelihood of repeating similar acts. In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the felony; or

(4) Such person is gravely disabled.

For the purposes of this chapter "custody" shall mean involuntary detention under the provisions of this chapter or chapter 10.76 RCW, uninterrupted by any period of unconditional release from a facility providing involuntary care and treatment. [1974 1st ex.s. c 145 § 19; 1973 1st ex.s. c 142 § 33.]

71.05.290 Petition—Affidavit. At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his professional designee or the designated county mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by two examining physicians, or by one examining physician and examining mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent (and the charges have been dismissed) without

prejudice pursuant to RCW 10.77.090(3) (or its successors), then the professional person in charge of the treatment facility or his professional designee may directly file a petition for ninety day treatment under RCW 71.05.280(1). No petition for initial detention or fourteen day detention is required before such a petition may be filed. [1974 1st ex.s. c 145 § 20; 1973 1st ex.s. c 142 § 34.]

71.05.300 Filing of petition—Service—Advice of rights. The petition for ninety day treatment shall be filed with the clerk of the superior court. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing, and shall notify the designated county mental health professional. The designated county mental health professional shall immediately notify the person detained, his attorney, if any, and his guardian or conservator, if any, and the prosecuting attorney shall provide a copy of the petition to such persons as soon as possible.

At the time set for appearance the detained person shall be brought before the court and the court shall advise him of his right to be represented by an attorney and of his right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person. The court shall also set a date for a full hearing on the petition as provided in RCW 71.05-.310. [1974 1st ex.s. c 145 § 21; 1973 1st ex.s. c 142 § 35.]

71.05.310 Time for hearing—Due process—Jury trial—Continuation of treatment. The court shall conduct a hearing on the petition for ninety day treatment within five judicial days of the first court appearance after the probable cause hearing unless the person named in the petition requests a jury trial, in which case trial shall commence within ten judicial days of the filing of the petition for ninety day treatment. The court may continue the hearing upon the written request of the person named in the petition or his attorney, which continuance shall not exceed ten additional judicial days. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.260.

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his attorney, the detained person shall be released. [1974 1st ex.s. c 145 § 22; 1973 1st ex.s. c 142 § 36.]

71.05.320 Remand for additional treatment—Duration—New petition—Grounds—Hearing. (1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services for a further period of intensive treatment not to exceed ninety days from the date of judgment.

If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him to the custody of the department of social and health services or to a facility certified for ninety day treatment by the department of social and health services or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment.

(2) Said person shall be released from involuntary treatment at the expiration of ninety days unless the superintendent or professional person in charge of the facility in which he is confined files a new petition for involuntary treatment on the grounds that the committed person:

(a) Has threatened, attempted, or inflicted physical harm upon the person of another during the current period of court ordered treatment and, as a result of mental disorder presents a likelihood of serious harm to others; or

(b) Was taken into custody as a result of conduct in which he attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder, a likelihood of serious harm to others; or

(c) Is in custody pursuant to RCW 71.05.290(3) and as a result of mental disorder presents a substantial likelihood of repeating similar acts; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in subsections (b) and (c) of this section was found by a judge or jury in a prior trial under *this act, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05-.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided herein above. Successive one

hundred eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment. No person committed as herein provided may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length. [1974 1st ex.s. c 145 § 23; 1973 1st ex.s. c 142 § 37.]

***Reviser's note:** "this act" [1974 1st ex.s. c 145], see note following RCW 71.05.050.

71.05.330 Early release—Notice to court. Nothing in this chapter shall prohibit the superintendent or professional person in charge of the hospital or facility in which the person is being involuntarily treated from releasing him prior to the expiration of the commitment period when, in the opinion of the superintendent or professional person in charge, the person being involuntarily treated no longer presents a likelihood of serious harm to others.

Whenever the superintendent or professional person in charge of a hospital or facility providing involuntary treatment pursuant to this chapter releases a person prior to the expiration of ninety days, the superintendent or professional person in charge shall in writing notify the court which committed the person for treatment. [1973 1st ex.s. c 142 § 38.]

71.05.340 Outpatient care—Conditional release—Procedures for revocation. (1) When in the opinion of the superintendent or the professional person in charge of the hospital or facility providing involuntary treatment, the committed person can be appropriately served by outpatient care prior to the expiration of the period of commitment, then such outpatient care may be required as a condition for early release for a period which, when added to the inpatient treatment period, shall not exceed the period of commitment. If the hospital or facility designated to provide outpatient care is other than the facility providing involuntary treatment, the outpatient facility so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated county mental health professional in the county in which the patient is to receive outpatient treatment, and to the court of original commitment.

(2) The hospital or facility designated to provide outpatient care or the secretary may modify the conditions for continued release when such modification is in the best interest of the person. Notification of such changes shall be sent to all persons receiving a copy of the original conditions.

(3) If the hospital or facility designated to provide outpatient care, the designated county mental health professional or the secretary determines that a conditionally released person is failing to adhere to the terms and conditions of his release, and because of that failure has become a substantial danger to himself or other persons, then, upon notification by the hospital or facility designated to provide outpatient care, or on his own

motion, the designated county mental health professional or the secretary may order that the conditionally released person be apprehended and taken into custody and temporarily detained in an evaluation and treatment facility in or near the county in which he is receiving outpatient treatment until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he had been conditionally released. The designated county mental health professional or the secretary may modify or rescind such order at any time prior to commencement of the court hearing. The court that originally ordered commitment shall be notified within two judicial days of a person's detention under the provisions of this section, and the designated county mental health professional or the secretary shall file his petition and order of apprehension and detention with the court and serve them upon the person detained. His attorney, if any, and his guardian or conservator, if any, shall receive a copy of such papers as soon as possible. Such person shall have the same rights with respect to notice, hearing, and counsel as for an involuntary treatment proceeding, except as specifically set forth in this section and except that there shall be no right to jury trial. The issues to be determined shall be whether the conditionally released person did or did not adhere to the terms and conditions of his release; and, if he failed to adhere to such terms and conditions, whether the conditions of release should be modified or the person should be returned to the facility. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or shall be returned for involuntary treatment on an inpatient basis subject to release at the end of the period for which he was committed for involuntary treatment, or otherwise in accordance with the provisions of this chapter. Such hearing may be waived by the person and his counsel and his guardian or conservator, if any, but shall not be waivable unless all such persons agree to waive, and upon such waiver the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

(4) The proceedings set forth in subsection (3) of this section may be initiated by the designated county mental health professional or the secretary on the same basis set forth therein without requiring or ordering the apprehension and detention of the conditionally released person, in which case the court hearing shall take place in not less than fifteen days from the date of service of the petition upon the conditionally released person.

Upon expiration of the period of commitment, or when the person is released from outpatient care, notice in writing to the court which committed the person for treatment shall be provided. [1974 1st ex.s. c 145 § 24; 1973 1st ex.s. c 142 § 39.]

71.05.350 Assistance to released persons. No indigent patient shall be conditionally released or discharged from involuntary treatment without suitable

clothing, and the superintendent of a state hospital shall furnish the same, together with such sum of money as he shall deem necessary for the immediate welfare of the patient. Such sum of money shall be the same as the amount required by RCW 72.02.100 to be provided to persons in need being released from correctional institutions. As funds are available, the secretary may provide payment to indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules and regulations to do so. [1973 1st ex.s. c 142 § 40.]

71.05.360 Rights of involuntarily detained persons.

(1) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter and shall retain all rights not denied him under this chapter.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment. [1974 1st ex.s. c 145 § 25; 1973 1st ex.s. c 142 § 41.]

71.05.370 Rights—Posting of list. Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(1) To wear his own clothes and to keep and use his own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(2) To keep and be allowed to spend a reasonable sum of his own money for canteen expenses and small purchases;

(3) To have access to individual storage space for his private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) Not to consent to the performance of shock treatment or surgery, except emergency life-saving surgery, upon him, and not to have shock treatment or non-emergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the person is present and represented by counsel, and the court shall appoint a psychiatrist, psychologist, or physician designated by such person or his counsel to testify on behalf of such person;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(9) Not to have psychosurgery performed on him under any circumstances. [1974 1st ex.s. c 145 § 26; 1973 1st ex.s. c 142 § 42.]

71.05.380 Rights of voluntarily committed persons.

All persons voluntarily entering or remaining in any facility, institution, or hospital providing evaluation and treatment for mental disorder shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.360 and 71.05.370. [1973 1st ex.s. c 142 § 43.]

71.05.390 Confidential information and records—

Disclosure. The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional;

(2) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation;

(3) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(4) For program evaluation and/or research: *Provided*, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, _____, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ _____"

(5) To the courts as necessary to the administration of this chapter.

(6) To law enforcement officers when requesting such information necessary to carry out the provisions of RCW 9.41.070 and Public Law 90-618.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who

was the subject of the proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained. [1974 1st ex.s. c 145 § 27; 1973 1st ex.s. c 142 § 44.]

71.05.400 Release of information to patient's next of kin, attorney, guardian, etc.—Notification of patient's death. (1) A public or private agency shall release to a patient's next of kin, attorney, guardian, or conservator, if any,

(a) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(b) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, guardian, or conservator; and such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(2) Upon the death of a patient, his next of kin, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. [1974 1st ex.s. c 115 § 1; 1973 2nd ex.s. c 24 § 6; 1973 1st ex.s. c 142 § 45.]

71.05.410 Notice of disappearance of patient. When a patient would otherwise be subject to the provisions of RCW 71.05.390 and disclosure is necessary for the protection of the patient or others due to his unauthorized disappearance from the facility, and his whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his professional designee. [1973 2nd ex.s. c 24 § 7; 1973 1st ex.s. c 142 § 46.]

71.05.420 Records of disclosure. When any disclosure of information or records is made as authorized by RCW 71.05.390 through 71.05.410, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed. [1973 1st ex.s. c 142 § 47.]

71.05.430 Statistical data. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary of the department of social and health services. [1973 1st ex.s. c 142 § 48.]

71.05.440 Action for unauthorized release of confidential information—Liquidated damages—Treble damages—Injunction. Any person may bring an action against an individual who has wilfully released confidential information or records concerning him in violation of the provisions of this chapter, for the greater of the following amounts:

(1) One thousand dollars; or

(2) Three times the amount of actual damages sustained, if any. It shall not be a prerequisite to recovery under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general, damages.

Any person may bring an action to enjoin the release of confidential information or records concerning him or his ward, in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

The court may award to the plaintiff, should he prevail in an action authorized by this section, reasonable attorney fees in addition to those otherwise provided by law. [1974 1st ex.s. c 145 § 28; 1973 1st ex.s. c 142 § 49.]

71.05.450 Competency—Effect—Statement of Washington law. Competency shall not be determined or withdrawn by operation of, or under the provisions of this chapter. No person shall be presumed incompetent or lose any civil rights as a consequence of receiving evaluation or treatment for mental disorder, either voluntarily or involuntarily, or certification or commitment pursuant to this chapter or any prior laws of this state dealing with mental illness. Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section. [1973 1st ex.s. c 142 § 50.]

71.05.460 Right to counsel. Every person involuntarily detained shall immediately be informed of his right to a hearing to review the legality of his detention and of his right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him. [1973 1st ex.s. c 142 § 51.]

71.05.470 Right to examination. A person challenging his detention or his attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he is financially able, bear

the cost of such expert information, otherwise such expert examination shall be at public expense. [1973 1st ex.s. c 142 § 52.]

71.05.480 Petitioning for release—Writ of habeas corpus. Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release. [1974 1st ex.s. c 145 § 29; 1973 1st ex.s. c 142 § 53.]

71.05.490 Present rights. Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974 from exercising a right available to him at or prior to January 1, 1974 for obtaining release from confinement. [1973 1st ex.s. c 142 § 54.]

71.05.500 Liability of applicant. Any person making or filing an application alleging that a person should be involuntarily detained, certified, committed, treated, or evaluated pursuant to this chapter shall not be rendered civilly or criminally liable where the making and filing of such application was in good faith. [1973 1st ex.s. c 142 § 55.]

71.05.510 Damages for excessive detention. Any individual who knowingly, wilfully or through gross negligence violates the provisions of this chapter by detaining a person for more than the allowable number of days shall be liable to the person detained in civil damages. It shall not be a prerequisite to an action under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general damages. [1974 1st ex.s. c 145 § 30; 1973 1st ex.s. c 142 § 56.]

71.05.520 Protection of rights—Staff. The department of social and health services shall have the responsibility to determine whether all rights of individuals recognized and guaranteed by the provisions of this chapter and the Constitutions of the state of Washington and the United States are in fact protected and effectively secured. To this end, the department shall assign appropriate staff who shall from time to time as may be necessary have authority to examine records, inspect facilities, attend proceedings, and do whatever is necessary to monitor, evaluate, and assure adherence to such rights. Such persons shall also recommend such additional safeguards or procedures as may be appropriate to secure individual rights set forth in this chapter and as guaranteed by the state and federal Constitutions. [1973 1st ex.s. c 142 § 57.]

71.05.530 Facilities part of comprehensive mental health program. Evaluation and treatment facilities authorized pursuant to this chapter may be part of the comprehensive community mental health services program conducted in counties pursuant to the Community Mental Health Services Act, chapter 71.24 RCW, and may receive funding pursuant to the provisions thereof. [1973 1st ex.s. c 142 § 58.]

71.05.540 Standards for public and private evaluation and treatment facilities, enforcement procedures—Penalties. (1) The department shall establish standards to be met by a public or private facility to be certified as an evaluation and treatment facility, and shall fix the fees to be paid by such facility to the department for the required inspections.

(2) The department shall periodically inspect certified evaluation and treatment facilities at reasonable times and in a reasonable manner.

(3) The department shall maintain an updated list of certified evaluation and treatment facilities.

(4) Each certified evaluation and treatment facility shall file with the department, on request, such data, statistics, schedules, and information as the department reasonably requires. A certified evaluation and treatment facility which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may be removed from the list of certified evaluation and treatment facilities and its certification revoked or suspended.

(5) The department may suspend, revoke, limit, or restrict a certification, or refuse to grant a certification for failure to conform to the law, applicable rules and regulations, or applicable standards.

(6) The superior court may restrain any evaluation and treatment facility from operating without certification or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.04 RCW, any denial, suspension, limitation, restriction, or revocation of certification, and grant other relief required to enforce the provisions of this chapter.

(7) Upon petition by the department, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him to enter at reasonable times, and examine the records, books, and accounts of any public or private evaluation and treatment facility refusing to consent to inspection or examination by the department.

(8) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter, and shall otherwise assure the effectuation of the purposes and intent of this chapter. [1973 1st ex.s. c 142 § 59.]

71.05.550 Recognition of county financial necessities. The department of social and health services, in planning and providing funding to counties pursuant to chapter 71.24 RCW, shall recognize the financial necessities imposed upon counties by implementation of this chapter and shall consider needs, if any, for additional community mental health services and facilities and reduction in commitments to state hospitals for the mentally ill accomplished by individual counties, in planning and providing such funding. The state shall provide financial assistance to the counties to enable the counties to meet all increased costs, if any, to the

counties resulting from their administration of the provisions of *this 1973 amendatory act. [1973 1st ex.s. c 142 § 60.]

***Reviser's note:** "this 1973 amendatory act" consists of this chapter, amendments to RCW 71.12.560, 71.12.570, 72.23.010, 72.23.070 and 72.23.100 by 1973 1st ex.s. c 142, and to the repeal of RCW 71.02-.010-71.02.300, 71.02.450, 71.02.650, 71.03.010-71.03.900, 71.12.580, 72.01.390, 72.01.400, 72.08.110, 72.23.140, 72.23.150, 72.23.220, 72.23-.270 and 72.25.040.

71.05.560 Adoption of rules and regulations. The department of social and health services shall adopt such rules and regulations as may be necessary to effectuate the intent and purposes of this chapter, which shall include but not be limited to evaluation of the quality of the program and facilities operating pursuant to this chapter, evaluation of the effectiveness and cost effectiveness of such programs and facilities, and procedures and standards for certification and other action relevant to evaluation and treatment facilities. [1973 1st ex.s. c 142 § 61.]

71.05.570 Rules of court. The supreme court of the state of Washington shall adopt such rules as it shall deem necessary with respect to the court procedures and proceedings provided for by this chapter. [1973 1st ex.s. c 142 § 62.]

71.05.900 Severability—1973 1st ex.s. c 142. If any provision of *this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 142 § 63.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 71.05.550.

71.05.910 Construction—1973 1st ex.s. c 142. Sections 6 through 63 of *this 1973 amendatory act shall constitute a new chapter in Title 71 RCW, and shall be considered the successor to those sections of chapter 71.02 RCW repealed by *this 1973 amendatory act. [1973 1st ex.s. c 142 § 64.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 71.05.550.

71.05.920 Section headings not part of the law. Section headings as used in sections 6 through 63 of *this 1973 amendatory act shall not constitute any part of law. [1973 1st ex.s. c 142 § 65.]

***Reviser's note:** "this 1973 amendatory act", see note following RCW 71.05.550.

71.05.930 Effective date—1973 1st ex.s. c 142. *This 1973 amendatory act shall take effect on January 1, 1974. [1973 1st ex.s. c 142 § 67.]

***Reviser's note:** "This 1973 amendatory act", see note following RCW 71.05.550.

Chapter 71.06 SEXUAL PSYCHOPATHS AND PSYCHOPATHIC DELINQUENTS

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Procedure as to psychopathic delinquents in custody of correctional institution: RCW 72.01.390, 72.01.400.

Telephone calls soliciting immoral acts: RCW 9.61.230-9.61.250.

71.06.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

"Psychopathic personality" means the existence in any person of such hereditary, congenital or acquired condition affecting the emotional or volitional rather than the intellectual field and manifested by anomalies of such character as to render satisfactory social adjustment of such person difficult or impossible.

"Sexual psychopath" means any person who is affected in a form of psychoneurosis or in a form of psychopathic personality, which form predisposes such person to the commission of sexual offenses in a degree constituting him a menace to the health or safety of others.

"Sex offense" means one or more of the following: Abduction, incest, rape, assault with intent to commit rape, indecent assault, contributing to the delinquency of a minor involving sexual misconduct, sodomy, indecent exposure, indecent liberties with children, carnal knowledge of children, soliciting or enticing or otherwise communicating with a child for immoral purposes,

vagrancy involving immoral or sexual misconduct, or an attempt to commit any of the said offenses.

"Psychopathic delinquent" means any minor who is psychopathic, and who is a habitual delinquent, if his delinquency is such as to constitute him a menace to the health, person, or property of himself or others, and the minor is not a proper subject for commitment to a state correctional school, a penal institution, to a state school for the mentally deficient as a mentally deficient person, or to a state hospital as a mentally ill person.

"Minor" means any person under eighteen years of age.

"Department" means department of social and health services.

"Court" means the superior court of the state of Washington.

"Superintendent" means the superintendent of a state institution designated for the custody, care and treatment of sexual psychopaths or psychopathic delinquents. [1971 ex.s. c 292 § 65; 1961 c 65 § 1; 1959 c 25 § 71.06.010. Prior: 1957 c 184 § 1; 1951 c 223 § 2; 1949 c 198 §§ 25 and 40; Rem. Supp. 1949 §§ 6953-25 and 6953-40.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

Solicitation of minor for immoral purposes: RCW 9.79.130.

71.06.020 Sexual psychopaths—Petition. Where any person is charged in the superior court in this state with a sex offense and it appears that such person is a sexual psychopath, the prosecuting attorney may file a petition in the criminal proceeding, alleging that the defendant is a sexual psychopath and stating sufficient facts to support such allegation. Such petition must be filed and served on the defendant or his attorney at least ten days prior to hearing on the criminal charge. [1959 c 25 § 71.06.020. Prior: 1951 c 223 § 3; 1949 c 198 § 26; Rem. Supp. 1949 § 6953-26.]

71.06.030 Procedure on petition—Effect of acquittal on criminal charge. The court shall proceed to hear the criminal charge. If the defendant is convicted or has previously pleaded guilty to such charge, judgment shall be pronounced, but the execution of the sentence may be deferred or suspended, as in other criminal cases, and the court shall then proceed to hear and determine the allegation of sexual psychopathy. Acquittal on the criminal charge shall not operate to suspend the hearing on the allegation of sexual psychopathy: *Provided*, That the provisions of RCW 71.06.140 authorizing transfer of a committed sexual psychopath to a correctional institution shall not apply to the committed sexual psychopath who has been acquitted on the criminal charge. [1967 c 104 § 1; 1959 c 25 § 71.06.030. Prior: 1951 c 223 § 4.]

71.06.040 Preliminary hearing—Evidence—Detention in hospital for observation. At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians who have examined the defendant. If the court finds that there are reasonable grounds to believe

the defendant is a sexual psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department. [1959 c 25 § 71.06.040. Prior: 1951 c 223 § 7.]

71.06.050 Preliminary hearing—Report of findings. Upon completion of said observation period the superintendent of the state hospital shall return the defendant to the court, together with a written report of his findings as to whether or not the defendant is a sexual psychopath and the facts upon which his opinion is based. [1959 c 25 § 71.06.050. Prior: 1951 c 223 § 6.]

71.06.060 Preliminary hearing—Commitment, or other disposition of charge. After the superintendent's report has been filed, the court shall determine whether or not the defendant is a sexual psychopath. If said defendant is found to be a sexual psychopath, the court shall commit him to the director of the department of institutions for designation of the facility for detention, care, and treatment of the sexual psychopath. If the defendant is found not to be a sexual psychopath, the court shall order the sentence to be executed, or may discharge the defendant as the case may merit. [1967 c 104 § 2; 1959 c 25 § 71.06.060. Prior: 1951 c 223 § 7.]

71.06.070 Preliminary hearing—Jury trial. A jury may be demanded to determine the question of sexual psychopathy upon hearing after return of the superintendent's report. Such demand must be in writing and filed with the court within ten days after filing of the petition alleging the defendant to be a sexual psychopath. [1959 c 25 § 71.06.070. Prior: 1951 c 223 § 14; 1949 c 198 § 38; Rem. Supp. 1949 § 6953-38.]

71.06.080 Preliminary hearing—Construction of chapter—Trial, evidence, law relating to criminally insane. Nothing in this chapter shall be construed as to affect the procedure for the ordinary conduct of criminal trials as otherwise set up by law. Nothing in this chapter shall be construed to prevent the defendant, his attorney or the court of its own motion, from producing evidence and witnesses at the hearing on the probable existence of sexual psychopathy or at the hearing after the return of the superintendent's report. Nothing in this chapter shall be construed as affecting the laws relating to the criminally insane or the insane criminal, nor shall this chapter be construed as preventing the defendant from raising the defense of insanity as in other criminal cases. [1959 c 25 § 71.06.080. Prior: 1951 c 223 § 15.]

Insanity plea: Chapter 10.76 RCW.

71.06.091 Post commitment proceedings, releases, and further dispositions. A sexual psychopath committed pursuant to RCW 71.06.060 shall be retained by the superintendent of the institution involved until in the superintendent's opinion he is safe to be at large, or until

he has received the maximum benefit of treatment, or is not amenable to treatment, but the superintendent is unable to render an opinion that he is safe to be at large. Thereupon, the superintendent of the institution involved shall so inform whatever court committed the sexual psychopath. The court then may order such further examination and investigation of such person as seems necessary, and may at its discretion, summon such person before it for further hearing, together with any witnesses whose testimony may be pertinent, and together with any relevant documents and other evidence. On the basis of such reports, investigation, and possible hearing, the court shall determine whether the person before it shall be released unconditionally from custody as a sexual psychopath, released conditionally, returned to the custody of the institution as a sexual psychopath, or returned to the department of institutions to serve the original sentence imposed upon him. The power of the court to grant conditional release for any such person before it shall be the same as its power to grant, amend and revoke probation as provided by chapter 9.95 RCW. When the sexual psychopath has entered upon the conditional release, the state board of prison terms and paroles shall supervise such person pursuant to the terms and conditions of the conditional release, as set by the court: *Provided*, That the superintendent of the institution involved shall never release the sexual psychopath from custody without a court release as herein set forth. [1967 c 104 § 3.]

71.06.100 Post commitment proceedings, releases, and further dispositions—Hospital record to be furnished court, board of prison terms and paroles. Where under RCW 71.06.091 the superintendent renders his opinion to the committing court, he shall provide the committing court, and, in the event of conditional release, the Washington state board of prison terms and paroles, with a copy of the hospital medical record concerning the sexual psychopath. [1967 c 104 § 4; 1959 c 25 § 71.06.100. Prior: 1951 c 223 § 10.]

71.06.120 Credit for time served in hospital. Time served by a sexual psychopath in a state hospital shall count as part of his sentence whether such sentence is pronounced before or after adjudication of his sexual psychopathy. [1959 c 25 § 71.06.120. Prior: 1951 c 223 § 13.]

71.06.130 Discharge pursuant to conditional release. Where a sexual psychopath has been conditionally released by the committing court, as provided by RCW 71.06.091 for a period of five years, the court shall review his record and when the court is satisfied that the sexual psychopath is safe to be at large, said sexual psychopath shall be discharged. [1967 c 104 § 5; 1959 c 25 § 71.06.130. Prior: 1951 c 223 § 12; 1949 c 198 § 28, part; Rem. Supp. 1949 § 6953–28, part.]

71.06.140 State hospitals for care of sexual psychopaths—Transfers to correctional institutions—Examinations, reports. The department may designate one or more state hospitals for the care and treatment of

sexual psychopaths: *Provided*, That a committed sexual psychopath who has been determined by the superintendent of such mental hospital to be a custodial risk, or a hazard to other patients may be transferred by the director of the department of institutions to one of the correctional institutions within the department of institutions which has psychiatric care facilities. A committed sexual psychopath who has been transferred to a correctional institution shall be observed and treated at the psychiatric facilities provided by the correctional institution. A complete psychiatric examination shall be given to each sexual psychopath so transferred at least twice annually. The examinations may be conducted at the correctional institution or at one of the mental hospitals. The examiners shall report in writing the results of said examinations, including recommendations as to future treatment and custody, to the superintendent of the mental hospital from which the sexual psychopath was transferred, and to the committing court, with copies of such reports and recommendations to the superintendent of the correctional institution. [1967 c 104 § 6; 1959 c 25 § 71.06.140. Prior: 1951 c 223 § 11; 1949 c 198 § 37; Rem. Supp. 1949 § 6953–37.]

71.06.150 Psychopathic delinquents—Petition—Filing. A petition alleging that a person is a psychopathic delinquent and requesting that such person be brought before the court for hearing may be filed in the superior court of the county wherein such person is found. Such petition shall be made under oath and shall state the facts upon which the allegation is based. Such petition may be filed by any of the following persons:

- (1) The parent, guardian, or other person charged with the support of the alleged psychopathic delinquent.
- (2) Any county prosecuting attorney.
- (3) Any duly appointed representative of the school district in which the alleged psychopathic delinquent resides.
- (4) Any official of a public or private welfare agency.
- (5) Any superintendent of a state institution.
- (6) Any person when so directed by the juvenile court or the criminal department of the superior court.

Where the person alleged to be a psychopathic delinquent is under the jurisdiction of the juvenile court, such petition shall be filed only under the order of such juvenile court. [1959 c 25 § 71.06.150. Prior: 1951 c 223 § 16; 1949 c 198 § 42; Rem. Supp. 1949 § 6953–42.]

Juvenile courts: Chapter 13.04 RCW.

71.06.160 Petition—Court may order filing. If a minor is brought before the juvenile court or is charged with a crime in a superior court and it appears to such court at any time prior to the execution of sentence that such minor is a psychopathic delinquent, the superior court or juvenile court may suspend proceedings, and, if a superior court, may direct the prosecuting attorney to file a petition under the provisions of this chapter, or if a juvenile court, may direct the juvenile court probation officer to file a petition under the provisions of this chapter. If the minor is found to be a psychopathic delinquent under this chapter, the court ordering such petition to be filed shall dismiss other pending

proceedings. If the minor is found not to be a psychopathic delinquent, he shall be returned to the superior court or juvenile court ordering filing of such petition for further proceedings. [1959 c 25 § 71.06.160. Prior: 1951 c 223 § 24; 1949 c 198 § 51; Rem. Supp. 1949 § 6953-51.]

71.06.170 Preliminary hearing—Time and place—Privacy. Upon filing of such petition the court shall fix a time and place for preliminary hearing, which shall give opportunity for the service of notice and the production and examination of witnesses. For the purpose of conducting hearings under this chapter, the court may be convened at any time and place within the county wherein the court resides and such hearing may be closed to the general public unless the guardian, attorney or guardian ad litem representing the alleged psychopathic delinquent demands an open hearing as in other civil actions. [1959 c 25 § 71.06.170. Prior: 1951 c 223 § 17; 1949 c 198 § 43; Rem. Supp. 1949 § 6953-43.]

71.06.180 Preliminary hearing—Detention pending preliminary hearing. The court at its discretion may issue a warrant of apprehension ordering the alleged psychopathic delinquent to be apprehended and detained pending preliminary hearing, which warrant shall be executed by the sheriff or other person designated by the court. Alleged psychopathic delinquents may be detained in county juvenile detention facilities or in the custody of some suitable person or agency at the discretion of the court. [1959 c 25 § 71.06.180. Prior: 1951 c 223 § 18; 1949 c 198 §§ 45 and 46; Rem. Supp. 1949 §§ 6953-45, 6953-46.]

71.06.190 Preliminary hearing—Scope of inquiry—Evidence. Upon preliminary hearing the court shall inquire into the mental condition, delinquency record, character, and personality of the alleged psychopathic delinquent, and for this purpose shall require the testimony of two duly licensed physicians who shall have examined the alleged psychopathic delinquent. Such physicians shall file a written report of their examination and shall testify as to whether or not the minor is a psychopathic delinquent, and the facts upon which such findings are based. The court, petitioner, or guardian, or guardian ad litem representing the alleged psychopathic delinquent may produce such witnesses as they may desire and subpoenas may issue for such purposes. [1959 c 25 § 71.06.190. Prior: 1951 c 223 § 19; 1949 c 198 § 47; Rem. Supp. 1949 § 6953-47.]

71.06.200 Observation at state hospital—Report of superintendent. If the court finds that there are reasonable grounds to believe that the minor filed against is a psychopathic delinquent, it shall order such person to be detained at the nearest state hospital for the purpose of observation and examination by the superintendent thereof. Such observation shall be for a period not to exceed ninety days. Upon completion of such observation and examination the superintendent of such state hospital shall so notify the committing court, which

shall cause the return of the alleged psychopathic delinquent and the superintendent shall file as promptly as possible his written report setting forth the facts upon which he bases his conclusion that the minor is or is not a psychopathic delinquent. [1959 c 25 § 71.06.200. Prior: 1951 c 223 § 20; 1949 c 198 § 48, part; Rem. Supp. 1949 § 6953-48, part.]

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

71.06.210 Hearing on petition—Evidence—Commitment. The court shall thereupon set a date for hearing on the petition, at which hearing the guardian, petitioner, attorney, or the court of its own motion, may produce additional witnesses and evidence and may require the attendance of the superintendent as a witness. Notice of such hearing shall be given pursuant to the provisions of RCW 71.06.170. If the court finds that the minor is a psychopathic delinquent, the court shall order such person committed to such institution as may be designated by the department for the custody, care and treatment of psychopathic delinquents, until released by the superintendent thereof, which order shall be executed by the sheriff or other person designated by the court. [1959 c 25 § 71.06.210. Prior: 1951 c 223 § 21; 1949 c 198 § 48, part; Rem. Supp. 1949 § 6953-48, part.]

71.06.220 Hearings are probate matters. Hearings held under the provisions of this chapter relative to psychopathic delinquents shall be handled as probate matters. [1959 c 25 § 71.06.220. Prior: 1951 c 223 § 26.]

Probate law and procedure: Title 11 RCW.

71.06.230 Jury trial. The alleged psychopathic delinquent shall have the right to trial by jury, but demand for such trial must be filed by the guardian or attorney representing the minor on or before the date of preliminary hearing. Where such demand is filed, the court shall set a date for trial and the jury shall determine the question of psychopathic delinquency but such jury trial shall be had only after return of the superintendent's report following the preliminary period of observation. If the jury finds the minor to be a psychopathic delinquent, the court shall order such minor committed as provided for in RCW 71.06.210. Such minor may be detained pending jury trial as provided for in RCW 71.06.180. [1959 c 25 § 71.06.230. Prior: 1951 c 223 § 22.]

71.06.240 Parole and discharge. Any persons committed under the provisions of this chapter may be paroled by the superintendent of the institution wherein such person is confined whenever the superintendent is of the opinion that such person has improved to an extent that he is no longer a menace to the health, lives or property of himself or others. Such opinion shall be certified to the committing court and unless within thirty days the court orders the return of such person, the superintendent may parole him upon such conditions as the superintendent may deem advisable. After five years

the superintendent shall review the record of such psychopathic delinquent, and if in his opinion such psychopathic delinquent remains safe to be at large, he shall discharge him. In addition, the superintendent may grant temporary visit paroles to psychopathic delinquents; such temporary visit paroles shall not exceed sixty days in duration, and at the expiration of such period the superintendent shall either return the psychopathic delinquent to the institution or grant a parole, as otherwise provided herein. The superintendent may grant temporary visit paroles on such conditions as he may deem advisable, but notice of such temporary visit parole shall be given to the sheriff of the county in which the psychopathic delinquent will be on temporary visit parole and the chief of police of any city or town said delinquent may be visiting. [1959 c 25 § 71.06.240. Prior: 1957 c 35 § 1; 1951 c 223 § 23; 1949 c 198 § 50; Rem. Supp. 1949 § 6953-50.]

71.06.250 State hospitals for care of psychopathic delinquents—Treatment—Laws applicable. The director may designate any existing state institutions or portion thereof for the care and treatment of psychopathic delinquents: *Provided, however,* That such institution shall provide psychiatric care and treatment. Psychopathic delinquents committed under this chapter shall be subject to all laws pertaining to the administration of the institution in which confined. [1959 c 25 § 71.06.250. Prior: 1951 c 223 § 25; 1949 c 198 § 48, part; Rem. Supp. 1949 § 6953-48, part.]

71.06.260 Hospitalization costs—Sexual psychopaths, psychopathic delinquents—By whom paid. At any time any person is committed as a sexual psychopath or psychopathic delinquent the court shall, after reasonable notice of the time, place and purpose of the hearing has been given to persons subject to liability under this section, inquire into and determine the financial ability of said person, or his parents if he is a minor, or other relatives to pay the cost of care, meals and lodging during his period of hospitalization. Such cost shall be determined by the department of institutions. Findings of fact shall be made relative to the ability to pay such cost and a judgment entered against the person or persons found to be financially responsible and directing the payment of said cost or such part thereof as the court may direct. The person committed, or his parents or relatives, may apply for modification of said judgment, or the order last entered by the court, if a proper showing of equitable grounds is made therefor. [1959 c 25 § 71.06.260. Prior: 1957 c 26 § 1; 1951 c 223 § 27.]

Chapter 71.12 PRIVATE ESTABLISHMENTS

Sections

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71.12.455 Definitions. As used in this chapter, "establishment" and "institution" mean and include every private hospital, sanitarium, home, or other place receiving or caring for any insane, alleged insane, mentally ill, or mentally incompetent person, or alcoholic. [1959 c 25 § 71.12.455. Prior: 1949 c 198 § 53; Rem. Supp. 1949 § 6953-52a. Formerly RCW 71.12.010, part.]

71.12.460 License to be obtained—Penalty. No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of health, and having paid the license fee provided in this chapter. Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same. [1959 c 25 § 71.12.460. Prior: 1949 c 198 § 54; Rem. Supp. 1949 § 6953-53.]

71.12.470 License application—Fees. Every application for a license shall be accompanied by a plan of the premises proposed to be occupied, describing the capacities of the buildings for the uses intended, the extent and location of grounds appurtenant thereto, and the number of patients proposed to be received therein, with such other information, and in such form, as the department requires. The application shall be accompanied by the proper license fee. The amount of the license fee for each fiscal year is fixed by the following schedule:

(1) For establishments licensed to receive not more than six patients, the fee is five dollars;

(2) For establishments licensed to receive more than six but not more than twenty-five patients, the fee is twenty-five dollars;

(3) For establishments licensed to receive more than twenty-five but not more than fifty patients, the fee is fifty dollars;

(4) For establishments licensed to receive more than fifty patients, the fee is seventy-five dollars.

In the case of the issuance of a license on or after the first day of January next succeeding the beginning of the fiscal year, the license fee for the remainder of the fiscal year is one-half the sum fixed for the entire fiscal year. The department shall require a license fee in situations where licensed establishments increase their number of patients during any fiscal year, based on a pro rata charge under the schedule set forth herein. No additional fee will be required in the event of an application for transfer of a license to another person to operate the same establishment. No additional license fee shall be required for the transfer of the license issued in the name of one person to operate an establishment at a certain location where an application is received to transfer that license to the same person to operate an establishment at a different location. [1959 c 25 § 71.12.470. Prior: 1949 c 198 § 56; Rem. Supp. 1949 § 6953-55.]

71.12.480 Examination of premises before granting license. The department of health shall not grant any such license until it has made an examination of the premises proposed to be licensed and is satisfied that they are substantially as described, and are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted. [1959 c 25 § 71.12.480. Prior: 1949 c 198 § 57; Rem. Supp. 1949 § 6953-56.]

71.12.485 Fire protection—Duties of state fire marshal. Standards for fire protection and the enforcement thereof, with respect to all establishments to be licensed hereunder, shall be the responsibility of the state fire marshal, who shall adopt such recognized standards as may be applicable to such establishments for the protection of life against the cause and spread of fire and fire hazards. The department of health, upon receipt of an application for a license, or renewal of a license, shall submit to the state fire marshal in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the state fire marshal or his deputy shall make an inspection of the establishment to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the state fire marshal, he shall promptly make a written report to the establishment and the department of health as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department of health, applicant or licensee shall notify the state fire

marshal upon completion of any requirements made by him, and the state fire marshal or his deputy shall make a reinspection of such premises. Whenever the establishment to be licensed meets with the approval of the state fire marshal, he shall submit to the department of health a written report approving same with respect to fire protection before a full license can be issued. The state fire marshal shall make or cause to be made inspections of such establishments at least annually. The department of health shall not license or continue the license of any establishment unless and until it shall be approved by the state fire marshal as herein provided.

In cities which have in force a comprehensive building code, the provisions of which are determined by the state fire marshal to be equal to the minimum standards of the state fire marshal for such establishments, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the state fire marshal or his deputy, and they shall jointly approve the premises before a full license can be issued. [1959 c 224 § 1.]

71.12.490 Expiration and renewal of license. All licenses issued under the provisions of this chapter shall expire on a date to be set by the state board of health, but no license issued pursuant to this chapter shall exceed twelve months in duration: *Provided*, That when the annual license renewal date of a previously licensed private establishment is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. Application for renewal of the license, accompanied by the necessary fee, shall be filed with the department of social and health services annually, not less than ten days prior to its expiration and if application is not so filed, the license shall be automatically canceled. [1971 ex.s. c 247 § 4; 1959 c 25 § 71.12.490. Prior: 1949 c 198 § 59; Rem. Supp. 1949 § 6953-58.]

71.12.500 Examination of premises as to compliance with license—Revocation, suspension of license. The department of health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend or revoke any such license after notice and hearing. [1959 c 25 § 71.12.500. Prior: 1949 c 198 § 58; Rem. Supp. 1949 § 6953-57.]

71.12.510 Examination and visitation in general. The department may at any time cause any establishment as defined in this chapter to be visited and examined. [1959 c 25 § 71.12.510. Prior: 1949 c 198 § 60; Rem. Supp. 1949 § 6953-59.]

71.12.520 Scope of examination. Each such visit may include an inspection of every part of each establishment. The representatives of the department of health

may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the department may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants. [1959 c 25 § 71.12.520. Prior: 1949 c 198 § 61; Rem. Supp. 1949 § 6953-60.]

71.12.530 Conference with management—Improvement. The representatives of the department of health may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto. [1959 c 25 § 71.12.530. Prior: 1949 c 198 § 62; Rem. Supp. 1949 § 6953-61.]

71.12.540 Recommendations to be kept on file—Records of inmates. The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, diagnosis, and date of discharge. [1959 c 25 § 71.12.540. Prior: 1949 c 198 § 63; Rem. Supp. 1949 § 6953-62.]

71.12.550 Local authorities may also prescribe standards. This chapter shall not prevent local authorities of any city, or city and county, within the reasonable exercise of the police power, from adopting rules and regulations, by ordinance or resolution, prescribing standards of sanitation, health and hygiene for establishments as defined in this chapter, which are not in conflict with the provisions of this chapter, and requiring a certificate by the local health officer, that the local health, sanitation and hygiene laws have been complied with before maintaining or conducting any such institution within such city or city and county. [1959 c 25 § 71.12.550. Prior: 1949 c 198 § 64; Rem. Supp. 1949 § 6953-63.]

71.12.560 Voluntary patients—Receipt authorized—Application—Report. The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in

charge for admission into the institution, hospital or sanitarium. After six months of continuous inpatient treatment as a voluntary patient in a private institution, hospital, or sanitarium, the person in charge shall forward to the office of the department of social and health services a record of the voluntary patient showing the name, residence, age, sex, place of birth, occupation, marital status, date of admission to the institution, hospital, or sanitarium, and such other information as may be required by rule of the department of social and health services. [1974 1st ex.s. c 145 § 1; 1973 1st ex.s. c 142 § 1; 1959 c 25 § 71.12.560. Prior: 1949 c 198 § 65; Rem. Supp. 1949 § 6953-64.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

Public and private facilities for mentally ill, commitment procedures, rights: RCW 72.23.070.

71.12.570 Communications by patients—Rights. No person in an establishment as defined in this chapter shall be restrained from sending written communications of the fact of his detention in such establishment to a friend, relative, or other person. The physician in charge of such person and the person in charge of such establishment shall send each such communication to the person to whom it is addressed. All persons in an establishment as defined by chapter 71.12 RCW shall have no less than all rights secured to involuntarily detained persons by RCW 71.05.360 and 71.05.370 and to voluntarily admitted or committed persons pursuant to RCW 71.05.050 and 71.05.380. [1973 1st ex.s. c 142 § 2; 1959 c 25 § 71.12.570. Prior: 1949 c 198 § 66; Rem. Supp. 1949 § 6953-65.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

71.12.590 Revocation of license for noncompliance—Exemption as to Christian Science establishments. Failure to comply with any of the provisions of RCW 71.12.550 through *71.12.580 shall constitute grounds for revocation of license: *Provided, however,* That nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any establishment, as defined in this chapter conducted in accordance with the practice and principles of the body known as Church of Christ, Scientist. [1959 c 25 § 71.12.590. Prior: 1949 c 198 § 68; Rem. Supp. 1949 § 6953-67.]

***Reviser's note:** RCW "71.12.580" was repealed by section 66, chapter 142, Laws of 1973.

71.12.640 Prosecuting attorney shall prosecute violations. The prosecuting attorney of every county shall, upon application by the department of health or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter. [1959 c 25 § 71.12.640. Prior: 1949 c 198 § 55; Rem. Supp. 1949 § 6953-54.]

Chapter 71.16
MENTAL RETARDATION FACILITIES AND
COMMUNITY MENTAL HEALTH CENTERS

Sections

- 71.16.010 State participation in federal programs.
71.16.020 Mental health and mental retardation advisory council—Authorized—Composition.
71.16.030 Mental health and mental retardation advisory council—Terms—Vacancies.
71.16.040 Mental health and mental retardation advisory council—Powers and duties.

Comprehensive community health centers, mental health and mental retardation facilities: Chapter 70.10 RCW.

71.16.010 State participation in federal programs. The governor is hereby authorized and empowered to take whatever action is necessary to enable the state to participate in the programs set forth in the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88-164) (the "federal law" herein). The governor through the designated agency is authorized and empowered to accept and disburse federal grants or federal matching or other funds or donations from any source, when made, granted or donated for a purpose covered by the federal law. [1965 c 75 § 1.]

71.16.020 Mental health and mental retardation advisory council—Authorized—Composition. As a part of the state plan for submission under the federal act, the governor may appoint a mental health and mental retardation advisory council, consisting of at least eleven members, as follows:

- (1) The director of the department of health;
- (2) The director of the department of institutions;
- (3) The director of the department of public assistance;
- (4) The superintendent of public instruction;
- (5) At least seven members to include representatives of nongovernment organizations or groups or citizens concerned with planning, operation or utilization of community mental health and mental retardation centers or other mental health or mental retardation facilities, and to include representatives of consumers of the services provided by such facilities. [1965 c 75 § 2.]

71.16.030 Mental health and mental retardation advisory council—Terms—Vacancies. As designated by the governor, three members appointed under RCW 71.16.020(5) shall serve for a term of two years from the time of their appointment and four members shall serve for a term of three years. Members appointed in addition to seven in number shall serve for a term of two years from the time of their appointment.

Each member appointed under RCW 71.16.020(5) shall hold office at the pleasure of the governor, notwithstanding the member's term. Any vacancy shall be filled by appointment by the governor under the provisions of RCW 71.16.020(5). [1965 c 75 § 3.]

71.16.040 Mental health and mental retardation advisory council—Powers and duties. The mental retardation and mental health advisory council shall advise and consult with the governor with respect to:

- (1) Programs for the construction of mental retardation facilities and community mental health centers;
- (2) The development of rules, regulations, and standards for the operation of such facilities; and
- (3) Development and review of plans for mental health and mental retardation.

The advisory council shall have any additional powers assigned to it by the governor necessary to obtain programs to meet the requirement of the federal act. [1965 c 75 § 4.]

Chapter 71.20
STATE AND LOCAL SERVICES FOR MENTALLY
RETARDED AND DEVELOPMENTALLY
DISABLED

Sections

- 71.20.010 Declaration of purpose.
71.20.015 "Developmentally disabled" defined.
71.20.020 Participation in federal programs authorized—Other aid.
71.20.030 Duties of state departments and agencies.
71.20.040 Community boards authorized—Composition—Expenses.
71.20.050 Designation of state agency to work with county authorities—Eligibility, application, for state funds.
71.20.060 Community board services.
71.20.070 Community mental retardation and other developmental disability programs—Services.
71.20.075 Confidentiality of information.
71.20.080 Consideration of applications for state aid—Rules and regulations.
71.20.090 Community boards may receive and spend grants and donations.
71.20.100 Expenditures of county funds subject to county fiscal laws.
71.20.110 Tax levy directed—Allocation of funds for federal matching funds purposes.

Agreements by department to pay others for care, treatment and maintenance of mentally retarded and developmentally disabled: RCW 72.33.800-72.33.815.

71.20.010 Declaration of purpose. It is declared to be the policy of the legislature of the state of Washington to authorize the state, as part of its program to promote mental health, to develop and coordinate state services for mentally retarded persons; to encourage research and staff training for state and local personnel working with mentally retarded persons; and to cooperate with communities to encourage the establishment and development of services to the mentally retarded through locally administered and locally controlled programs. The complexities of mental retardation require the services of many state departments as well as those of the community. Services should be planned and provided as a part of a continuum. A pattern of facilities, services and eligibility should be established which is sufficiently complete to meet the needs of each retarded person regardless of age or degree of handicap, and at each state of his life's development.

It is the intention of the legislature herein that there be established a central point of referral in the community for the mentally retarded and their families and the establishment of ongoing points of contact with the mentally retarded and their families so that they may have a place of entry for services and return as the need

may appear. Further, it is necessary to provide a link between the mentally retarded and sources in the community, including state departments, to the end that the mentally retarded and their families may have access to each of the facilities best suited to them throughout the life of the retarded person. [1967 ex.s. c 110 § 1.]

71.20.015 "Developmentally disabled" defined. Persons "developmentally disabled" as used in *this amendatory act are those persons having a "developmental disability" as defined in Public Law 91-517 [42 USCA 2691(1)] as now or hereafter amended. [1974 1st ex.s. c 71 § 2.]

***Reviser's note:** "this amendatory act" [1974 1st ex.s. c 71] consists of RCW 71.20.015, 71.20.075 and the amendments to RCW 71.20.040, 71.20.050, 71.20.060, 71.20.070, 71.20.090, 71.20.110, 72.33.800, 72.33.805, 72.33.810 and 72.33.815.

Severability—1974 1st ex.s. c 71: "If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 1st ex.s. c 71 § 13.] This applies to RCW 71.20.015, 71.20.075 and the amendments to RCW 71.20.040, 71.20.050, 71.20.060, 71.20.070, 71.20.090, 71.20.110, 72.33.800, 72.33.805, 72.33.810 and 72.33.815.

71.20.020 Participation in federal programs authorized—Other aid. The governor is authorized and empowered to take whatever action is necessary to enable the state to participate in the manner set forth in this chapter in any programs provided by any federal law and to designate the state agencies authorized to administer within this state the several federal acts providing federal moneys to assist in providing services and training in the state or local level for mentally retarded persons, and personnel working with such persons. Such state agencies are authorized and empowered to apply for and accept and disburse federal grants, matching funds, or other funds or gifts or donations from any source available for use by the state or by communities to provide more adequate services, training and rehabilitation of the mentally retarded. [1967 ex.s. c 110 § 2.]

71.20.030 Duties of state departments and agencies. Each state department or agency administering federal or state funds which provide services to the mentally retarded, or research or staff training in the field of mental retardation, shall consult with the mental retardation and mental health advisory council established pursuant to RCW 71.16.020 and shall:

(1) Investigate and determine the nature and extent of services within its legal authority which are presently available to mentally retarded persons in this state;

(2) Develop and prepare any state plan or application which may be necessary to establish the eligibility of the state or any community to participate in any program established by the federal government relating to mentally retarded persons;

(3) Cooperate with other state agencies providing services to the mentally retarded to determine the availability of services and facilities within the state, and to coordinate state and local services in order to maximize services to mentally retarded persons and their families;

(4) Review and approve proposed plans required to be submitted for the expenditure of funds in community mental retardation services submitted by any community under the provisions of this chapter;

(5) Provide consultant and staff training for state and local personnel working in the field of mental retardation. [1967 ex.s. c 110 § 3.]

71.20.040 Community boards authorized—Composition—Expenses. The county commissioners of any county or the boards of county commissioners of more than one county by joint action, are authorized to appoint a community board to plan services for the mentally retarded and other developmentally disabled, to provide directly or indirectly a continuum of care and services to mentally retarded and other developmentally disabled persons and their families, and to coordinate all of the local mental retardation and developmental disability services within the county or counties served by such community board. Members to be appointed to the board shall include but not be limited to representatives of public, private or voluntary agencies, and local governmental units which participate in a program for mentally retarded and other developmentally disabled persons, and private citizens knowledgeable or interested in services to the mentally retarded and other developmentally disabled in the community.

The board shall consist of not less than nine nor more than fifteen members who shall be appointed by the board or boards of county commissioners for three year terms, and until their successors are appointed and qualified. The members of the community board shall not be compensated for the performance of their duties as members of the community board, but may be paid subsistence rates and mileage in the amounts prescribed by *RCW 36.17.030 as now or hereafter amended. [1974 1st ex.s. c 71 § 3; 1967 ex.s. 110 § 4.]

***Reviser's note:** "RCW 36.17.030" was repealed by section 1, chapter 24, Laws of 1974 1st ex. sess.

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

71.20.050 Designation of state agency to work with county authorities—Eligibility, application, for state funds. The governor is authorized to designate a state department as the agency to work with the county commissioners and the community boards appointed by the commissioners to coordinate and provide local services for the mentally retarded and other developmentally disabled and their families. The department is authorized to promulgate rules and regulations establishing the eligibility of each community board for state funds to be used for the work of the board in coordinating and providing services to the mentally retarded and other developmentally disabled and their families. The application for state funds shall be made by the community board with the approval of the county commissioners or by the county commissioners on behalf of the community board. [1974 1st ex.s. c 71 § 4; 1967 ex.s. c 110 § 5.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

71.20.060 Community board services. The state agency designated by the governor pursuant to RCW 71.20.050 as now or hereafter amended may require by rule and regulation that in order to be eligible for state funds, community boards shall provide the following indirect services to the community:

(1) Serve as an information and referral agency within the community for mentally retarded and other developmentally disabled persons and their families;

(2) Coordinate all local services for the mentally retarded and other developmentally disabled and their families to insure the maximum utilization of all services available;

(3) Make comprehensive plans for present and future development and reasonable progress toward development of comprehensive plans for the coordination of all local services to the mentally retarded and other developmentally disabled. [1974 1st ex.s. c 71 § 5; 1967 ex.s. c 110 § 6.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

71.20.070 Community mental retardation and other developmental disability programs—Services. Community mental retardation and other developmental disability programs which may be provided directly by community boards authorized by RCW 71.20.040 as now or hereafter amended pursuant to rules and regulations adopted by the secretary of the department of social and health services may consist of any or all of the following services:

(1) Diagnostic and evaluation services of mentally retarded and other developmentally disabled persons;

(2) Medical and dental services for those mentally retarded and other developmentally disabled individuals unable to obtain private care;

(3) Psychiatric services of those mentally retarded and other developmentally disabled unable to obtain private care in cooperation with any existing community mental health program;

(4) Group training homes providing full or part time care, support and maintenance for mentally retarded and other developmentally disabled persons: *Provided*, That nothing contained in *this amendatory act shall be construed so as to prevent or limit state funding of group training homes or group homes pursuant to chapter 72.33 RCW, as now or hereafter amended;

(5) Facilities for vocational training and education of mentally retarded and other developmentally disabled persons;

(6) Day care centers for mentally retarded and other developmentally disabled persons;

(7) Informational service to the general public and educational services furnished by qualified personnel to schools, courts, health and welfare agencies and other appropriate public or private agencies or groups;

(8) Consultant services to public or private agencies for the promotion and coordination of services to the mentally retarded and other developmentally disabled;

(9) Family counseling services to families with mentally retarded and other developmentally disabled children;

(10) Recreation programs for mentally retarded and other developmentally disabled persons;

(11) Transportation services for the mentally retarded and other developmentally disabled persons;

(12) Legal services for the mentally retarded and other developmentally disabled persons and their families for aiding and insuring services to the mentally retarded or other developmentally disabled person unable to obtain private legal services;

(13) Home care services for the mentally retarded and other developmentally disabled persons;

(14) Any other services or facilities necessary to provide a continuum of care for the mentally retarded and other developmentally disabled persons not otherwise available. [1974 1st ex.s. c 71 § 6; 1967 ex.s. c 110 § 7.]

***Reviser's note:** "this amendatory act", see note following RCW 71.20.015.

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

71.20.075 Confidentiality of information. In order for the community board to coordinate and provide required services for the mentally retarded and other developmentally disabled persons pursuant to *this amendatory act, it shall be eligible to obtain such confidential information from public and/or private schools and the department of social and health services as is necessary to accomplish the purposes of *this amendatory act. Such information will be kept in accordance with state law and such rules and regulations promulgated by the secretary of the department of social and health services under chapter 34.04 RCW to permit the use of such information to coordinate and plan such services; all persons permitted access to or the use of such information must sign an oath of confidentiality, substantially as follows:

"As a condition of obtaining information from (fill in facility, agency, or person) I, -----, agree not to divulge, publish or otherwise make known to unauthorized persons or the public any information obtained in the course of using such confidential information, where release of such information may possibly make the person who received such services identifiable. I recognize that unauthorized release of confidential information may subject me to civil liability under provisions of state law." [1974 1st ex.s. c 71 § 1.]

***Reviser's note:** "this amendatory act", see note following RCW 71.20.015.

71.20.080 Consideration of applications for state aid—Rules and regulations. The state agency responsible for the administration of a state grant to a community board shall review the application from the community board or the board of county commissioners. The agency may approve such application if it meets the requirements of this chapter and the rules and regulations promulgated by the agency which establish the eligibility requirements to be met by the applicant in addition to the submission of a plan for coordination of services and for providing a continuum of such services as provided in RCW 71.20.060. The agency shall develop rules and regulations to assist in

determining the amount of the grant to be made to a community board. These rules and regulations shall take into consideration the population of the area served, the need of the area, and the ability of the community to provide funds for the continuum of care. [1967 ex.s. c 110 § 8.]

71.20.090 Community boards may receive and spend grants and donations. A community board provided for in RCW 71.20.040 as now or hereafter amended is authorized to receive and spend funds received from the state under this chapter, or any federal funds received through any state agency, or any gifts or donations received by it for the benefit of the mentally retarded or other developmentally disabled persons. [1974 1st ex.s. c 71 § 7; 1967 ex.s. c 110 § 9.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

71.20.100 Expenditures of county funds subject to county fiscal laws. Expenditures of county funds under this chapter shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. [1967 ex.s. c 110 § 10.]

71.20.110 Tax levy directed—Allocation of funds for federal matching funds purposes. In order to provide additional funds for the coordination of community mental retardation and other developmental disability services and to provide community mental retardation, other developmental disability, or mental health services, the board of county commissioners of each county in the state shall budget and levy annually a tax in a sum equal to the amount which would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property in the county to be used for such purposes: *Provided*, That all or part of the funds collected from the tax levied for the purposes of this section may be transferred to the state of Washington, department of social and health services, for the purpose of obtaining federal matching funds to provide and coordinate community mental retardation, other developmental disability, and mental health services. In the event a county elects to transfer such tax funds to the state for this purpose, the state shall grant these moneys and the additional funds received as matching funds to service-providing community agencies or community boards in the county which has made such transfer, pursuant to the plan approved by the county, as provided by chapters 71.16, 71.20, 71.24, and 71.28 RCW, all as now or hereafter amended. [1974 1st ex.s. c 71 § 8; 1973 1st ex.s. c 195 § 85; 1971 ex.s. c 84 § 1; 1970 ex.s. c 47 § 8; 1967 ex.s. c 110 § 16.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Chapter 71.24

COMMUNITY MENTAL HEALTH SERVICES ACT

Sections

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71.24.250	County commissioners may accept and expend gifts and grants.
71.24.900	Effective date—1967 ex.s. c 111.

Comprehensive community health centers: Chapter 70.10 RCW.

71.24.010 Short title—Purpose. This chapter shall be known as the community mental health services act. It is intended to encourage and to give financial assistance to local governments in the development of community mental health programs adequate in scope and quality to their needs. [1967 ex.s. c 111 § 1.]

71.24.020 Definitions. As used in this chapter:

(1) "Secretary" shall mean the secretary of the department of social and health services or such officer of the department as he may designate to carry out in whole or in part the administration of the provisions of this chapter.

(2) "Department" shall mean the department of social and health services.

(3) "Mental health needs", "mental health programs" and "mental health services" as used in this chapter shall include but not be limited to all those items set forth in RCW 71.24.030. [1971 ex.s. c 304 § 6; 1967 ex.s. c 111 § 2.]

71.24.030 Grants to counties—Programs and services—Inservice training. The secretary is authorized, pursuant to the provisions of this chapter and the rules and regulations promulgated to effectuate its purposes, to make grants to assist counties or combinations of counties in the establishment and operation of community mental health programs to provide one or more of the following services:

- (1) Outpatient diagnostic and treatment services.
- (2) Inpatient psychiatric services.
- (3) Rehabilitation services for patients with psychiatric illnesses.
- (4) Informational services to the general public and educational services furnished by qualified mental health personnel to schools, courts, health agencies, welfare agencies, probation departments and other appropriate public or private agencies or groups.
- (5) Consultant services to public or private agencies for the promotion and coordination of services that preserve mental health and for the early recognition and management of conditions that might develop into psychiatric illnesses.
- (6) Inpatient or outpatient care, treatment or rehabilitation services of persons using controlled substances in violation of chapter 69.50 RCW.

(7) Such services as are set forth in subsection (4) which pertain to the education and information about and prevention of problems of drug abuse.

Such inservice training as may be necessary in providing any of the foregoing services shall be proper items of expenditure in connection therewith. [1973 ex.s. c 155 § 5; 1972 ex.s. c 122 § 30; 1971 ex.s. c 304 § 7; 1967 ex.s. c 111 § 3.]

Effective date—1972 ex.s. c 122: See note following RCW 70.96A.010.

Drug and alcohol rehabilitation, education programs: Chapter 69.54 RCW.

71.24.040 Establishment of programs by county commissioners authorized—Joint county action. The board of county commissioners of any county, or the boards of county commissioners of two or more counties jointly by agreement, may by ordinance or resolution establish a community mental health program which shall be organized, operated, and financed according to the provisions of this chapter. [1967 ex.s. c 111 § 4.]

71.24.050 Methods of providing mental health services—Responsibility of supervisor or contractor. The board or boards of county commissioners, after receipt of recommendations from the community mental health program administrative board, may provide mental health services directly which shall be administered by a supervisor of community mental health services, or may contract for such services from a nonprofit corporation or corporations or secure such services through a local health department. Services obtained on contract from a nonprofit corporation or corporations or through a local health department shall be subject to the provisions of this chapter, except that those provisions requiring the appointment of a supervisor of community

mental health services shall be inapplicable. Such nonprofit corporation or corporations or local health departments shall be responsible for carrying out the duties of a supervisor of mental health services as set forth in RCW 71.24.090 and as otherwise provided in this chapter, or such part or parts of that responsibility which may be deemed appropriate in accordance with the services called for in the contract. [1967 ex.s. c 111 § 5.]

71.24.060 Community mental health program administrative boards—Appointment—Term—Composition—Expenses. Every county or combination of counties desirous of establishing a community mental health program shall, before it may come within the provisions of this chapter, establish a community mental health program administrative board which shall be composed of not less than nine nor more than fifteen members. The members of such administrative board shall be appointed by the board or boards of county commissioners of the county or counties establishing the community mental health program for three year terms and until their successors are appointed and qualified. Membership of the community mental health program administrative board shall be representative of the community and shall include consumer and minority group representation. No more than four elected or appointed city or county officials may serve on such administrative board at the same time. The members of the community mental health program administrative board shall not be compensated for the performance of their duties as members of the administrative board but may be paid subsistence rates and mileage in the amounts prescribed by RCW 36.17.030 as now or hereafter amended. [1971 ex.s. c 204 § 1; 1967 ex.s. c 111 § 6.]

71.24.070 Community mental health program administrative boards—Duties. The community mental health program administrative board shall:

(1) Review and evaluate the mental health needs, services, facilities and special problems of the area to be served by the community mental health program.

(2) Advise the county commissioners as to a program of community mental health services, which program shall reflect the fullest feasible utilization of already existing services, and, when appropriate, advise the county commissioners concerning the appointment of a supervisor of community mental health services.

(3) Receive and review all applications for financial support under the provisions of this chapter submitted by a nonprofit corporation, local health department, or supervisor of community mental health services and submit recommendations concerning these applications to the board or boards of county commissioners.

(4) After adoption of a program, supervise the financial and service components of the mental health program through the supervisor of community mental health services, or through a nonprofit corporation or

corporations or a local health department or any combination thereof in order to be assured that actual expenditures and programs remain consistent with the agreements contained in the application as provided.

(5) Submit annually to the county commissioners a report of the activities of the community mental health program, including a financial accounting of expenditures.

(6) Submit annually to the county commissioners for approval, a plan of proposed expenditures. [1967 ex.s. c 111 § 7.]

71.24.080 Supervisor of community mental health services—Appointment—Residence—Full or part time. The supervisor of community mental health services shall be appointed by the county commissioners of the county or combination of counties involved, subject to the approval of the community mental health program administrative board. Applicants for such position need not be residents of the county, city, or state, and may be employed on a full or part time basis. [1967 ex.s. c 111 § 8.]

71.24.090 Supervisor of community mental health services—Powers and duties. The supervisor of community mental health services shall have the following powers and duties:

(1) He shall serve as chief executive officer of the community mental health program.

(2) He shall exercise general supervision over mental health services furnished, operated, or supported.

(3) He shall recommend to the community mental health program administrative board the provision of services, establishment of facilities, contracts for services or facilities, and other matters necessary or desirable to accomplish the purposes of this chapter.

(4) He shall submit an annual report to the community mental health program administrative board reporting all activities of the community mental health program, including a financial accounting of expenditures and a proposed budget of anticipated expenditures for the ensuing year.

(5) He may carry on such studies as are appropriate for the discharge of his duties, including the treatment and prevention of psychiatric or emotional disorders. [1967 ex.s. c 111 § 9.]

71.24.100 Joint county agreements—Required provisions. Any agreement between the board of commissioners of two or more counties, for the establishment of a community mental health program shall provide:

(1) That each county shall bear a share of the cost of mental health services.

(2) That the treasurer of one participating county shall be the custodian of funds made available for the purposes of such mental health services, and that the treasurer may make payments from such funds upon audit by the appropriate auditing officer of the county for which he is treasurer. [1967 ex.s. c 111 § 10.]

71.24.110 Joint county agreements—Permissive provisions. Such agreement may also provide:

(1) For the joint supervision or operation of services and facilities or for the supervision or operation of service and facilities by one participating county under contract for the other participating counties.

(2) For the appointments of members of the community mental health program administrative board between or among participating counties.

(3) That for specified purposes, officers and employees of a community mental health program shall be considered to be officers and employees of one participating county only.

(4) For such other matters as are necessary or proper to effectuate the purposes of this chapter. [1967 ex.s. c 111 § 11.]

71.24.120 Contracts for services and facilities—Who may supply—Membership of supervisor in contracting organization. The board or boards of county commissioners may contract for services and facilities with any hospital, clinic, laboratory or other similar institution, or with a nonprofit corporation or corporations. Any such contract, when it has received prior approval from the director, may be entered into notwithstanding that the supervisor of community mental health services is a member of the medical or consultant staff of such hospital, clinic, laboratory, institution, or nonprofit corporation. [1967 ex.s. c 111 § 12.]

71.24.130 Proposed expenditure plan prerequisite to reimbursement by state—Review—Award. To establish eligibility for reimbursement by the department, a board or boards of county commissioners operating or administering a community mental health program shall submit annually to the director a plan for proposed expenditures. The director shall review such plan to determine compliance with the requirements established in this chapter, and, pursuant to the rules and regulations promulgated by the department, shall fix the amount subject to reimbursement. [1967 ex.s. c 111 § 13.]

71.24.140 Reimbursable expenditures. Expenditures incurred by the community mental health program for the items and services specified in RCW 71.24.030 shall, in accordance with the regulations of the director, be subject to reimbursement whether incurred by direct or joint operation of such services or whether such community mental health services are administered and operated contractually or through a local health department as provided by RCW 71.24.050. [1967 ex.s. c 111 § 14.]

71.24.150 Reimbursement by state to counties—Amount—Period. Except as hereinafter provided, there shall be paid to each county on account of expenditures made for a community mental health program subject to reimbursement by the department pursuant to the provisions of this chapter, not more than ninety percent of the amount expended for such program, exclusive of the expenditure of funds secured

by a community mental health program from federal sources. Where it is determined by the secretary to be necessary for the expansion of existing mental health services or for the development of new mental health services, as described in RCW 71.24.030, and after consultation with the department of revenue regarding the extent to which local funds for the support of mental health services have been exhausted, the state share in any community mental health program may exceed ninety percent of the total expenditures: *Provided*, That the state share shall be reduced to not more than ninety percent of the total expenditures within two years from the starting date of such new services. Reimbursement shall be made on a monthly basis, upon submission to the secretary such information as he may require: *Provided, further*, That when deemed necessary to maintain proper standards of care in the program, within rules and regulations promulgated by the secretary, the counties shall be required to provide up to fifty percent of the total expended for such program through fees, gifts, contributions, and volunteer services. [1971 ex.s. c 204 § 2; 1967 ex.s. c 111 § 15.]

71.24.160 Proof as to uses made of increases in state matching funds. The board or boards of county commissioners shall make satisfactory showing to the director that all increases in state matching funds distributed under the provisions of this chapter shall be used for expansion of existing services or for developing new services, and that such state matching funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to the effective date of this chapter. [1967 ex.s. c 111 § 16.]

71.24.165 Level of state financial support not to be less than amounts paid immediately prior to July 1, 1967. The department of institutions in making payments of state funds in accordance with the provisions of chapter 71.24 RCW, to counties for the support of community mental health programs which were financially supported by the state prior to July 1, 1967 shall pay to the counties not less than the amounts paid by the state to such preexisting programs immediately prior to July 1, 1967: *Provided*, That in the event appropriated funds to the department of institutions for the support of community mental health programs are insufficient to maintain community mental health programs of eligible counties at the same level prevailing during the previous biennium, then the department of institutions shall make pro rata reductions in the payment of state funds to all counties. [1969 c 61 § 1.]

71.24.190 Department to promulgate rules—Expenses for attending conferences. The department shall promulgate rules and regulations to effectuate the purposes of this chapter, the form, manner and time for the submission of proposed plans for approval as submitted by the county commissioners, and the form, manner and time for the submission of claims for state reimbursement. Reimbursement may be made for the expenses of per diem and travel to meetings by members of the community mental health program administrative

board, and for per diem and travel expenses of supervisors of community mental health services to conferences which may from time to time be called by the director. Such per diem and travel expenses may be paid in amounts prescribed by *RCW 36.17.030. [1967 ex.s. c 111 § 19.]

***Reviser's note:** "RCW 36.17.030" was repealed by section 1, chapter 24, Laws of 1974 1st ex. sess.

71.24.200 Expenditures of county funds subject to county fiscal laws. Expenditures of county funds under this chapter shall be subject to the provisions of chapter 36.40 RCW and other statutes relating to expenditures by counties. [1967 ex.s. c 111 § 20.]

71.24.210 Payment by patients for services. Community mental health programs shall require that patients make payment for community mental health services in accordance with their ability to pay, rendered pursuant to a plan submitted to the director, but not in excess of actual cost. [1967 ex.s. c 111 § 21.]

71.24.220 Reimbursement may be withheld for non-compliance with chapter or regulations. The director may withhold state reimbursement in whole or in part for any community mental health program in the event of a failure to comply with the provisions of this chapter or regulations made by the department pursuant thereto relating to the community mental health program or the administration thereof. [1967 ex.s. c 111 § 22.]

71.24.230 Department designated "state mental health authority"—Agreements with federal agencies. The department is designated as the "state mental health authority" and shall be authorized to enter into agreements with any agency of the United States government concerning the mental health program of the state. [1967 ex.s. c 111 § 23.]

71.24.240 County program plans to be approved by director prior to submittal to federal agency. In order to establish eligibility for funding under this chapter, any county or counties seeking to obtain federal funds for the support of any aspect of a community mental health program as defined in this chapter shall submit program plans to the director for prior review and approval before such plans are submitted to any federal agency. [1967 ex.s. c 111 § 24.]

71.24.250 County commissioners may accept and expend gifts and grants. The board or boards of county commissioners are authorized to accept and expend gifts and grants received from private, county, state, and federal sources. [1967 ex.s. c 111 § 25.]

71.24.900 Effective date—1967 ex.s. c 111. This act shall take effect on July 1, 1967. [1967 ex.s. c 111 § 26.]

Chapter 71.28

MENTAL HEALTH AND RETARDATION
SERVICES—INTERSTATE CONTRACTS

Sections

71.28.010 Contracts by boundary counties or cities therein.

71.28.010 Contracts by boundary counties or cities therein. Any county, or city within a county which is situated on the state boundaries is authorized to contract for mental health and/or retardation services with a county situated in either the states of Oregon or Idaho, located on the boundaries of such states with the state of Washington. [1967 c 84 § 1.]

Chapter 71.98
CONSTRUCTION

Sections

71.98.010 Continuation of existing law.
71.98.020 Title, chapter, section headings not part of law.
71.98.030 Invalidity of part of title not to affect remainder.
71.98.040 Repeals and saving.
71.98.050 Emergency—1959 c 25.

71.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1959 c 25 § 71.98.010.]

71.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1959 c 25 § 71.98.020.]

71.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1959 c 25 § 71.98.030.]

71.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Sections 1 through 7, pages 113 and 114, Laws of 1879;
- (2) Sections 1 through 4, pages 13 and 14, Laws of 1881;
- (3) Sections 1671 through 1677, chapter 113, Code of 1881;
- (4) Sections 1, 6 and 7, pages 32 and 33, Laws of 1883;
- (5) Sections 416 and 417, chapter 249, Laws of 1909;
- (6) Chapter 105, Laws of 1915;
- (7) Chapter 109, Laws of 1915;
- (8) Chapter 145, Laws of 1923;
- (9) Chapter 42, Laws of 1939;
- (10) Chapter 179, Laws of 1947;
- (11) Sections 1 through 19, 21 through 51 and 53 through 69, chapter 198, Laws of 1949;
- (12) Sections 1 through 5, 17 through 39, and 51 through 64, chapter 139, Laws of 1951;

- (13) Chapter 223, Laws of 1951;
- (14) Chapter 24, Laws of 1957;
- (15) Chapter 26, Laws of 1957;
- (16) Chapter 28, Laws of 1957;
- (17) Chapter 35, Laws of 1957;
- (18) Chapter 49, Laws of 1957;
- (19) Chapter 184, Laws of 1957.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder. [1959 c 25 § 71.98.040.]

71.98.050 Emergency—1959 c 25. This 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. [1959 c 25 § 71.98.050.]

TITLE 72

STATE INSTITUTIONS

Chapters

- 72.01 Administration.**
- 72.02 Adult corrections.**
- 72.04A Probation and parole.**
- 72.05 Children and youth services.**
- 72.06 Mental health.**
- 72.08 State penitentiary.**
- 72.12 State reformatory.**
- 72.13 Correctional institution for male felons—Reception and classification center.**
- 72.15 Washington correctional institution for women.**
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- 72.25 Nonresident insane, feeble-minded, sexual psychopaths, and psychopathic delinquents.**
- 72.27 Interstate compact on mental health.**
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- 72.36 Soldiers' and veterans' homes.**
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- 72.41 Board of trustees—School for the blind.**
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- 72.56 State institutions for children and youth.**
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- 72.62 Vocational education programs.**
- 72.64 Labor and employment of prisoners.**
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- 72.66 Furloughs for prisoners.**
- 72.68 Transfer, removal, transportation—Detention contracts.**
- 72.70 Western interstate corrections compact.**
- 72.98 Construction.**
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Adult vocational rehabilitation and placement: Chapter 28A.10 RCW.

Alcoholism: Chapter 70.96A RCW.

Central stores: RCW 43.19.1921, 43.19.1923.

Child welfare and day-care advisory committee and subcommittee, director member of: RCW 74.32.051, 74.32.053.

County hospitals: Chapter 36.62 RCW.

County jails: Chapter 36.63 RCW.

Director of institutions, membership on mental health and mental retardation advisory council: RCW 71.16.020.

Files of juveniles committed to department of institutions, destruction on attaining majority: RCW 13.04.250.

Hospitalization and medical aid for public employees and dependents—Premiums, governmental contributions authorized: RCW 41.04.180, 41.04.190.

Jurisdiction over Indians concerning mental illness: Chapter 37.12 RCW.

Juvenile courts and juvenile delinquents: Title 13 RCW.

Mental illness—Financial responsibility: Chapter 71.02 RCW.

Mental illness and inebriacy: Title 71 RCW.

Mental retardation facilities and community mental health centers: Chapter 71.16 RCW.

State institutions: State Constitution Art. 13.

Uniform interstate compact on juveniles: Chapter 13.24 RCW.

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Chapter 72.01 ADMINISTRATION

Sections

- 72.01.005 Department of institutions abolished.
- 72.01.010 Definitions.
- 72.01.042 Hours of labor for full time employees—Compensatory time—Premium pay.
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- 72.01.050 Director's powers and duties—Management of public institutions.
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- 72.01.090 Rules and regulations.
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- 72.01.290 Record of patients and inmates.
- 72.01.300 Accounting systems.
- 72.01.310 Political influence forbidden.
- 72.01.320 Biennial reports to legislature and governor—Contents.
- 72.01.370 Leaves of absence for inmates—Grounds.

- 72.01.380 Leaves of absence for inmates—Rules—Restrictions—Costs.
- 72.01.410 Transfer of child under sixteen convicted of crime amounting to felony.
- 72.01.420 Jails and detention facilities—Director to inspect, establish standards and procedures, recommend rules, report to legislature, etc.
- 72.01.430 Transfer of equipment, supplies, livestock between institutions—Notice—Conditions.
- 72.01.440 Destruction of files of juveniles committed to department of institutions upon attaining majority—Exceptions.
- 72.01.450 Use of facilities, equipment and personnel by school districts and institutions of higher learning authorized.
- 72.01.452 Use of facilities, equipment and personnel by state agencies, counties, cities or political subdivisions.
- 72.01.454 Use of facilities by community service organizations, nonprofit associations, etc.
- 72.01.458 Use of files and records for courses of education, instruction and training at institutions.
- 72.01.460 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands.
- 72.01.480 Agreements with nonprofit organizations to provide services for persons admitted or committed to institutions.
- 72.01.490 Authority of superintendents, business managers and officers of correctional institutions to take acknowledgments and administer oaths—Procedure.

Children's center for research and training in mental retardation, director as member of advisory committee: RCW 28B.20.412.

Counties may engage in probation and parole services: RCW 36.01.070.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111 and 11.08.120.

Law against discrimination: Chapter 49.60 RCW.

Out-of-state physicians, conditional license to practice in conjunction with institutions: RCW 18.71.095, 18.71.096.

Public employment: Title 41 RCW.

Social security benefits, payment to survivors or department of institutions: RCW 11.66.010.

State administrative departments and agencies: Chapter 43.17 RCW. State communications advisory committee, director as member: RCW 43.89.020.

Washington commodities to be used: Chapter 39.24 RCW.

72.01.005 Department of institutions abolished. See RCW 43.20A.500.

72.01.010 Definitions. As used in this title:

The word "department" after July 1, 1970 means the department of social and health services;

The word "director" after July 1, 1970 means the secretary of social and health services. [1970 ex.s. c 18 § 56; 1959 c 28 § 72.01.010. Prior: 1907 c 166 § 10; RRS § 10919. Formerly RCW 72.04.010.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.01.042 Hours of labor for full time employees—Compensatory time—Premium pay. The hours of labor for each full time employee transferred under the provisions of *this 1970 amendatory act from the department of institutions shall be a maximum of eight hours in any work day and forty hours in any work week.

Employees transferred under the provisions of *this 1970 amendatory act from the department of institutions and required to work in excess of the eight-hour maximum per day or the forty-hour maximum per

week shall be compensated by not less than equal hours of compensatory time off or, in lieu thereof, a premium rate of pay per hour equal to not less than one-hundred and seventy-sixth of the employee's gross monthly salary: *Provided*, That in the event that an employee is granted compensatory time off, such time off should be given within the calendar year and in the event that such an arrangement is not possible the employee shall be given a premium rate of pay: *Provided further*, That compensatory time and/or payment thereof shall be allowed only for overtime as is duly authorized and accounted for under rules and regulations established by the director of institutions prior to July 1, 1970 or as the same are hereinafter amended under rules and regulations promulgated hereunder. [1970 ex.s. c 18 § 60; 1953 c 169 § 1. Formerly RCW 43.19.255. Redesignated as RCW 72.01.042 and added to chapter 28, Laws of 1959 and Title 72 RCW by 1965 c 8 § 43.19.255.]

***Reviser's note:** "this 1970 amendatory act", see note following RCW 43.20A.010.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.01.043 Hours of labor for full time employees—Certain personnel excepted. RCW 72.01.042 shall not be applicable to the following designated personnel transferred from the department of institutions under the provisions of *this 1970 amendatory act: Administrative officers of the department; institutional superintendents, medical staff other than nurses, and business managers; and such professional, administrative and supervisory personnel as designated prior to July 1, 1970 by the department of institutions with the concurrence of the merit system board having jurisdiction. [1970 ex.s. c 18 § 61; 1953 c 169 § 2. Formerly RCW 43.19.256. Redesignated as RCW 72.01.043 and added to chapter 28, Laws of 1959 and Title 72 RCW by 1965 c 8 § 43.19.256.]

***Reviser's note:** "this 1970 amendatory act", see note following RCW 43.20A.010.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.01.050 Director's powers and duties—Management of public institutions. The director shall have full power to manage and govern the following public institutions.

The western state hospital, the eastern state hospital, the northern state hospital, the state penitentiary, the state reformatory, the state training school, the state school for girls, the state soldiers' home and colony, the Washington veterans' home, Lakeland Village, the Rainier school, the state school for the deaf, the state school for the blind, the state narcotic farm colony, the Fort Worden school for the care and custody of children and youth and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions. [1959 c 28 § 72.01.050. Prior: 1955 c 195 § 4(1); 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.020, part.]

Correctional institution for juveniles: Chapter 72.18 RCW.

Correctional institution for male felons—Reception and classification center: Chapter 72.13 RCW.

Fircrest school, Yakima Valley school, established: RCW 72.33.030.

72.01.060 Superintendents—Appointment—Terms—Salaries—Assistants. It shall be the duty of the director to appoint a chief executive officer for each public institution under his control, who shall devote his entire time to the duties of his office and whose title shall be "superintendent". Said appointment shall be for a term of four years, but the appointee may be removed by the director in his discretion.

No person shall be eligible for appointment as superintendent of a hospital for the mentally ill unless he has had three or more years experience as a practicing physician after receiving his diploma or license.

Except as otherwise provided in this title, the superintendent of each institution may appoint all assistants and employees required for the management of the institution placed in his charge, the number of such assistants and employees to be determined and fixed by the director. The superintendent of any institution may, at his pleasure, discharge any person therein employed. The director shall investigate all complaints made against the superintendent of any institution and also any complaint against any other officer or employee thereof, if it has not been investigated and reported upon by the superintendent.

The director may, after investigation, for good and sufficient reasons, order the discharge of any subordinate officer or employee of an institution.

Each superintendent shall receive such salary as is fixed by the director, who shall also fix the compensation of other officers and the employees of each institution. Such latter compensation shall be fixed on or before the first day of April of each year and no change shall be made in the compensation, so fixed, during the twelve months period commencing April 1st. [1959 c 28 § 72.01.060. Prior: 1907 c 166 § 5; 1901 c 119 § 6; RRS § 10902. Formerly RCW 72.04.020.]

Correctional institution for juveniles, superintendent: RCW 72.18.040.

Correctional institution for male felons—Reception and classification center, superintendent: RCW 72.13.040.

Fort Worden, appointment of superintendent, officers and employees: RCW 72.56.050.

Maple Lane School, appointment of superintendent and subordinate officers and employees: RCW 72.20.020.

State hospitals for mentally ill, superintendents: RCW 72.23.030.

State penitentiary, duties of superintendent: RCW 72.08.040.

State reformatory, appointment of physicians, subordinate officers, guards and employees: RCW 72.12.040.

State residential schools, superintendents' powers and duties: RCW 72.33.040.

State schools for blind and deaf, appointment of superintendent, discharge of employees: RCW 72.40.020.

Washington veterans' home, superintendent: RCW 72.36.020.

72.01.090 Rules and regulations. The department is authorized to make its own rules for the proper execution of its powers. It shall also have the power to adopt rules and regulations for the government of the public institutions placed under its control, and shall therein prescribe, in a manner consistent with the provisions of

this title, the duties of the persons connected with the management of such public institutions. [1959 c 28 § 72.01.090. Prior: 1907 c 166 § 7; 1901 c 119 § 9; RRS § 10905. Formerly RCW 72.04.060.]

72.01.100 Building plans and program. The director shall:

(1) Prepare topographic and architectural plans for the state institutions under his control;

(2) Establish a systematic building program providing for the grouping of buildings at the institutions;

(3) Prepare plans, specifications, and estimates of cost for all necessary repairs or betterments to buildings at the institutions, to accompany the estimates for the biennial budget;

(4) Supervise the erection, repair, and betterment of all such buildings. [1959 c 28 § 72.01.100. Prior: 1955 c 195 § 3(3), (4), (5), and (6); 1921 c 7 § 44; RRS § 10802. Formerly RCW 43.28.020, part.]

Reviser's note: For powers and duties of division of engineering and architecture of department of general administration pertaining to subject matter contained in this section, see RCW 43.19.450.

Buildings, earthquake standards: Chapter 70.86 RCW.

72.01.110 Construction or repair of buildings. The department may employ the services of competent architects for the preparation of plans and specifications for new buildings, or for repairs, changes, or additions to buildings already constructed, employ competent persons to superintend the construction of new buildings or repairs, changes, or additions to buildings already constructed and call for bids and award contracts for the erection of new buildings, or for repairs, changes, or additions to buildings already constructed: *Provided*, That the department may proceed with the erecting of any new building, or repairs, changes, or additions to any buildings already constructed, employing thereon the labor of the inmates of the institution, when in its judgment the improvements can be made in as satisfactory a manner and at a less cost to the state by so doing. [1959 c 28 § 72.01.110. Prior: 1901 c 119 § 12; RRS § 10909. Formerly RCW 72.04.100.]

Public works: Chapter 39.04 RCW.

72.01.120 Construction or repair of buildings—Award of contracts. When improvements are to be made under contract, notice of the call for the same shall be published in at least two newspapers of general circulation in the state for two weeks prior to the award being made. The contract shall be awarded to the lowest responsible bidder. The director is authorized to require such security as he may deem proper to accompany the bids submitted, and shall also fix the amount of the bond or other security that shall be furnished by the person or firm to whom the contract is awarded. The director shall have the power to reject any or all bids submitted, if for any reason it is deemed for the best interest of the state to do so, and to readvertise in accordance with the provisions hereof. The director shall also have the power to reject the bid of any person or firm who has had a prior contract, and who did not, in the opinion of the director, faithfully comply with the same. [1959 c 28 § 72.01.120. Prior: 1901 c 119 § 10, part; RRS § 10906.]

72.01.130 Destruction of buildings—Reconstruction. If any of the shops or buildings in which convicts are employed are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately under the direction of the department, by and with the advice and consent of the governor, and the expenses thereof shall be paid out of any unexpended funds appropriated to the department for any purpose, not to exceed one hundred thousand dollars: *Provided*, That if a specific appropriation for a particular project has been made by the legislature, only such funds exceeding the cost of such project may be expended for the purposes of this section. [1959 c 28 § 72.01.130. Prior: 1957 c 25 § 1; 1891 c 147 § 29; RRS § 10908. Formerly RCW 72.04.090.]

72.01.140 Agricultural and farm economy. The director shall:

(1) Make a survey, investigation, and classification of the lands connected with the state institutions under his control, and determine which thereof are of such character as to be most profitably used for agricultural, horticultural, dairying, and stock raising purposes, taking into consideration the costs of making them ready for cultivation, the character of the soil, its depth and fertility, the number of kinds of crops to which it is adapted, the local climatic conditions, the local annual rainfall, the water supply upon the land or available, the needs of all state institutions for the food products that can be grown or produced, and the amount and character of the available labor of inmates at the several institutions;

(2) Establish and carry on suitable farming operations at the several institutions under his control;

(3) Supply the several institutions with the necessary food products produced thereat;

(4) Exchange with, or furnish to, other institutions, food products at the cost of production;

(5) Sell and dispose of surplus food products produced. [1959 c 28 § 72.01.140. Prior: 1955 c 195 § 4(7), (8), (9), (10) and (11); 1921 c 7 § 39; RRS § 10797. Formerly RCW 43.28.020, part.]

72.01.150 Industrial economy. The director shall:

(1) Establish, install and operate, at the several state institutions under his control, such industries and industrial plants as may be most suitable and beneficial to the inmates thereof, and as can be operated at the least relative cost and the greatest relative benefit to the state, taking into consideration the needs of the state institutions for industrial products, and the amount and character of labor of inmates available at the several institutions;

(2) Supply the several institutions with the necessary industrial products produced thereat;

(3) Exchange with, or furnish to, other state institutions industrial products at prices to be fixed by the department, not to exceed in any case the price of such products in the open market;

(4) Sell and dispose of surplus industrial products produced, to such persons and under such rules, regulations, terms, and prices as may be in his judgment for the best interest of the state;

(5) Sell products of the plate mill to any department, to any state, county, or other public institution and to any governmental agency, of this or any other state under such rules, regulations, terms, and prices as may be in his judgment for the best interests of the state. [1959 c 28 § 72.01.150. Prior: 1955 c 195 § 4(12), (13), (14), (15) and (16); 1923 c 101 § 1; 1921 c 7 § 40; RRS § 10798. Formerly RCW 43.28.020, part.]

Institutional industries commission: Chapter 72.60 RCW.

72.01.160 Deposit of money—Institutional revolving account. The director shall have the power, and it shall be his duty, to cause all moneys or credits received from the sale or exchange of farm or industrial products produced or manufactured at the several institutions under the control of the department to be paid into the state treasury to the credit of a revolving account, to be known as the state institutional revolving account, from which account there shall be biennially appropriated for the benefit of the several institutions under the control of the department sufficient moneys to cover the estimated biennial contribution to such account of each of the said institutions. [1959 c 28 § 72.01.160. Prior: 1921 c 7 § 41; RRS § 10799. Formerly RCW 43.19.170.]

Disposition of receipts for products of penitentiary: RCW 72.08.070.

72.01.170 Health and sanitation. The director shall comply with all requirements of the director of health in relation to health and sanitation at the institutions under his control. [1959 c 28 § 72.01.170. Prior: 1955 c 195 § 4(17); 1921 c 7 § 36, part; RRS § 10794, part. Formerly RCW 43.28.020, part.]

Powers, duties, functions of director of health transferred to secretary of social and health services: RCW 43.20A.120.

72.01.180 Dietitian—Duties—Expenses. The director shall have the power to select a member of the faculty of the University of Washington, or the State College of Washington, skilled in scientific food analysis and dietetics, to be known as the state dietitian, who shall make and furnish to the department food analyses showing the relative food value, in respect to cost, of food products, and advise the department as to the quantity, comparative cost, and food values, of proper diets for the inmates of the state institutions under the control of the department. The state dietitian shall receive his actual and necessary traveling expenses while engaged in the performance of his duties. [1959 c 28 § 72.01.180. Prior: 1921 c 7 § 32; RRS § 10790. Formerly RCW 43.19.150.]

72.01.190 Fire protection. The director may enter into an agreement with a city or town adjacent to any state institution for fire protection for such institution. [1959 c 28 § 72.01.190. Prior: 1947 c 188 § 1; Rem. Supp. 1947 § 10898a. Formerly RCW 72.04.140.]

72.01.200 Employment of teachers. The several penal and reformatory institutions of the state may employ certificated teachers to carry on their educational work and all such teachers so employed shall be eligible to membership in the state teachers' retirement fund. [1959 c 28 § 72.01.200. Prior: 1947 c 211 § 1; Rem. Supp. 1947 § 10319-1. Formerly RCW 72.04.130.]

Educational facilities in youth institutions: RCW 72.05.140.

Teachers' retirement: Chapter 41.32 RCW.

72.01.210 Institutional chaplains—Appointment. The director is hereby directed and empowered to appoint chaplains for the state correctional institutions for convicted felons; and chaplains for the correctional institutions for juveniles found delinquent by the juvenile courts, and one chaplain, or more chaplains as may be approved by the director for other custodial, correctional and mental institutions. The chaplains so appointed shall have the qualifications and shall be compensated in an amount, as shall hereafter be recommended by the department and approved by the state personnel board. [1967 c 58 § 1; 1959 c 33 § 1; 1959 c 28 § 72.01.210. Prior: 1955 c 248 § 1. Formerly RCW 72.04.160.]

State personnel board: RCW 50.12.030.

72.01.220 Institutional chaplains—Duties. It shall be the duty of the chaplains at the respective institutions mentioned in RCW 72.01.210, under the direction of the department, to conduct religious services and to give religious and moral instruction to the inmates of the institutions, and to attend to their spiritual wants. They shall counsel with and interview the inmates concerning their social and family problems, and shall give assistance to the inmates and their families in regard to such problems. [1959 c 28 § 72.01.220. Prior: 1955 c 248 § 2. Formerly RCW 72.04.170.]

72.01.230 Institutional chaplains—Offices, chapels, supplies. The chaplains at the respective institutions mentioned in RCW 72.01.210 shall be provided with the offices and chapels at their institutions, and such supplies as may be necessary for the carrying out of their duties. [1959 c 28 § 72.01.230. Prior: 1955 c 248 § 3. Formerly RCW 72.04.180.]

72.01.240 Supervisor of chaplains. The director is hereby empowered to appoint one of the chaplains, authorized by RCW 72.01.210, to act as supervisor of chaplains for the department, in addition to his duties at one of the institutions designated in RCW 72.01.210. [1959 c 28 § 72.01.240. Prior: 1955 c 248 § 4. Formerly RCW 72.04.190.]

72.01.260 Outside ministers not excluded. Nothing contained in RCW 72.01.210 through 72.01.250 shall be so construed as to exclude ministers of any denomination from giving gratuitous religious or moral instruction to prisoners under such reasonable rules and regulations as the director may prescribe. [1959 c 28 § 72.01.260. Prior: 1929 c 59 § 2; Code 1881 § 3297; RRS § 10236-1. Formerly RCW 72.08.210.]

72.01.270 Gifts, acceptance of. The director shall have the power to receive, hold and manage all real and personal property made over to the department by gift, devise or bequest, and the proceeds and increase thereof shall be used for the benefit of the institution for which it is received. [1959 c 28 § 72.01.270. Prior: 1901 c 119 § 8; RRS § 10904. Formerly RCW 72.04.050.]

72.01.280 Quarters for personnel—Charges. The superintendent of each public institution and the assistant physicians, steward, accountant and chief engineer of each hospital for the mentally ill may be furnished with quarters, household furniture, board, fuel, and lights for themselves and their families, and the director may, when in his opinion any public institution would be benefited by so doing, extend this privilege to any officer at any of the public institutions under his control. The words "family" or "families" used in this section shall be construed to mean only the spouse and dependent children of an officer. Employees may be furnished with quarters and board for themselves. The director shall charge and collect from such officers and employees the full cost of the items so furnished, including an appropriate charge for depreciation of capital items. [1959 c 39 § 3; 1959 c 28 § 72.01.280. Prior: 1957 c 188 § 1; 1907 c 166 § 6; 1901 c 119 § 6; RRS § 10903. Formerly RCW 72.04.040.]

72.01.282 Quarters for personnel—Deposit of receipts. All moneys received by the director of institutions from charges made pursuant to RCW 72.01.280 shall be deposited by him in the state general fund. [1959 c 210 § 1.]

72.01.290 Record of patients and inmates. The department shall keep at its office, accessible only to the director and to proper officers and employees, and to other persons authorized by the director, a record showing the residence, sex, age, nativity, occupation, civil condition and date of entrance, or commitment of every person, patient, inmate or convict, in the several public institutions governed by the department, the date of discharge of every person from the institution, and whether such discharge is final: *Provided*, That in addition to this information the superintendents for the hospitals for the mentally ill shall also state the condition of the person at the time of leaving the institution. The record shall also state if the person is transferred from one institution to another and to what institution; and if dead the date and cause of death. This information shall be furnished to the department by the several institutions, and also such other obtainable facts as the department may from time to time require, not later than the fifth day of each month for the month preceding, by the chief executive officer of each public institution, upon blank forms which the department may prescribe. [1959 c 28 § 72.01.290. Prior: 1907 c 166 § 9; 1901 c 119 § 13; RRS § 10910. Formerly RCW 72.04.110.]

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

72.01.300 Accounting systems. The director shall have the power, and it shall be his duty, to install and maintain in the department a proper cost accounting system of accounts for each of the institutions under the control of the department, for the purpose of detecting and avoiding unprofitable expenditures and operations. [1959 c 28 § 72.01.300. Prior: 1921 c 7 § 43; RRS § 10801. Formerly RCW 43.19.160.]

72.01.310 Political influence forbidden. Any officer, including the director, or employee of the department or of the institutions under the control of the department, who, by solicitation or otherwise, exercises his influence, directly or indirectly, to influence other officers or employees of the state to adopt his political views or to favor any particular person or candidate for office, shall be removed from his office or position by the proper authority. [1959 c 28 § 72.01.310. Prior: 1901 c 119 § 15; RRS § 10917. Formerly RCW 72.04.150.]

72.01.320 Biennial reports to legislature and governor—Contents. The director shall examine into the conditions and needs of the several state institutions under his control and on or before the first day of December of the year preceding the session of the legislature report in writing to the governor the condition of each institution and what amount of money he deems advisable to appropriate for its maintenance and betterment, having reference to the probable growth of the institution, its general welfare and the purpose of its creation.

On or before the first Tuesday after the convening of each regular session of the legislature the director shall make to the governor and legislature a full report of the activities of his department, incorporating therein suggestions respecting legislation for the benefit of the several institutions under his control and in the interests of improved administration generally. Such report shall contain the reports made to the director by the executive officer of each institution or so much thereof as in his opinion may be proper. There shall be published in the report a complete list of the officers and employees of the department and the several institutions and the annual salary paid to each. [1959 c 28 § 72.01.320. Prior: 1955 c 195 § 5. (i) 1901 c 119 § 14; RRS § 10915. (ii) 1915 c 107 § 1, part; 1907 c 166 § 2, part; 1901 c 119 § 3, part; RRS § 10899, part. Formerly RCW 43.28.030.]

72.01.370 Leaves of absence for inmates—Grounds. The superintendents of the state penitentiary, the state reformatory, the state honor camps and such other penal institutions as may hereafter be established, may, subject to the approval of the director of the department of institutions, grant leaves of absence to inmates confined in such institutions to:

(1) Go to the bedside of the inmate's wife, husband, child, mother or father, or other member of the inmate's immediate family who is seriously ill;

(2) Attend the funeral of a member of the inmate's immediate family listed in subsection (1) of this section;

(3) Participate in athletic contests, and;

(4) Perform labor in connection with the industrial or agricultural programs of such institutions. [1959 c 40 § 1.]

72.01.380 Leaves of absence for inmates—Rules—Restrictions—Costs. The director of the department of institutions is authorized to make rules and regulations providing for the conditions under which inmates will be granted leaves of absence, and providing for safeguards to prevent escapes while on leave of absence: *Provided*, That leaves of absence granted to inmates under RCW 72.01.370 shall not allow or permit any inmate to go beyond the boundaries of this state. The director of the department of institutions shall also make rules and regulations requiring the reimbursement of the state from the inmate granted leave of absence, or his family, for the actual costs incurred arising from any leave of absence granted under the authority of RCW 72.01.370, subsections (1) and (2): *Provided further*, That no state funds shall be expended in connection with leaves of absence granted under RCW 72.01.370, subsections (1) and (2), unless such inmate and his immediate family are indigent and without resources sufficient to reimburse the state for the expenses of such leaves of absence. [1959 c 40 § 2.]

72.01.410 Transfer of child under sixteen convicted of crime amounting to felony. Whenever any child under the age of sixteen is convicted in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement in a correctional institution wherein adults are confined, the director of the department of institutions may transfer such child to a juvenile correctional institution under the supervision of the division of children and youth services of the department of institutions, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child arrives at the age of eighteen years, whereupon the child shall be returned to the institution of original commitment. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known. [1959 c 140 § 1.]

Child not to be confined with adult convicts: RCW 13.04.115.

Juvenile courts and juvenile delinquents: Title 13 RCW.

Male juveniles may be transferred to correctional institution: RCW 72.13.070.

Prisoners and incorrigible juvenile delinquents to be received at reformatory: RCW 72.12.050.

72.01.420 Jails and detention facilities—Director to inspect, establish standards and procedures, recommend rules, report to legislature, etc. The director of institutions shall make or cause to be made at least yearly an inspection of all jails and detention facilities, and shall in addition have the following powers and duties:

(1) To establish recommended procedures concerned with the safekeeping, health, and welfare of all prisoners committed to such jails and other local detention facilities;

(2) To prescribe minimum standards for the operation of jails and other local detention facilities, including the training of personnel;

(3) To have authority to recommend the rules and regulations for the control and discipline of the prisoners;

(4) To make such recommendations to the local sheriff and other officials for the improvement of the jail conditions in such area;

(5) To maintain adequate records of such jails and make annual reports to the legislature. [1961 c 171 § 32.]

City and county jail act of 1974: Chapter 36.63A RCW.

Jails and detention facilities: Chapters 36.63 and 72.64 RCW.

72.01.430 Transfer of equipment, supplies, livestock between institutions—Notice—Conditions. The director of the department of institutions, notwithstanding any provision of law to the contrary, is hereby authorized to transfer equipment, livestock and supplies between the several institutions within the department without reimbursement to the transferring institution excepting, however, any such equipment donated by organizations for the sole use of such transferring institutions. Whenever transfers of capital items are made between institutions of the department, notice thereof shall be given to the director of the department of general administration accompanied by a full description of such items with inventory numbers, if any. [1967 c 23 § 1; 1961 c 193 § 1.]

72.01.440 Destruction of files of juveniles committed to department of institutions upon attaining majority—Exceptions. See RCW 13.04.250.

72.01.450 Use of facilities, equipment and personnel by school districts and institutions of higher learning authorized. The director of institutions of the state of Washington is authorized to enter into agreements with any school district or any institution of higher learning for the use of the facilities, equipment and personnel of any state institution of the department, for the purpose of conducting courses of education, instruction or training in the professions and skills utilized by one or more of the institutions, at such times and under such circumstances and with such terms and conditions as may be deemed appropriate. [1970 ex.s. c 50 § 2; 1967 c 46 § 1.]

72.01.452 Use of facilities, equipment and personnel by state agencies, counties, cities or political subdivisions. The director is authorized to enter into an agreement with any agency of the state, a county, city or political subdivision of the state for the use of the facilities, equipment and personnel of any institution of the department for the purpose of conducting courses of education, instruction or training in any professional skill having a relationship to one or more of the functions or programs of the department. [1970 ex.s. c 50 § 3.]

72.01.454 Use of facilities by community service organizations, nonprofit associations, etc. The director may permit the use of the facilities of any state institution by any community service organization, nonprofit corporation, group or association for the purpose of conducting a program of education, training, entertainment or other purpose, for the residents of such institutions, if determined by the director to be beneficial to such residents or a portion thereof. [1970 ex.s. c 50 § 5.]

72.01.458 Use of files and records for courses of education, instruction and training at institutions. In any course of education, instruction or training conducted in any state institution of the department use may be made of selected files and records of such institution, notwithstanding the provisions of any statute to the contrary. [1970 ex.s. c 50 § 4.]

72.01.460 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands.

(1) Any lease of public lands with outdoor recreation potential authorized by the department of institutions shall be open and available to the public for compatible recreational use unless the department of institutions determines that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a departmental program. Any lessee may file an application with the department of institutions to close the leased land to any public use. The department shall cause written notice of the impending closure to be posted in a conspicuous place in the department's Olympia office, at the principal office of the institution administering the land, and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the department that posting is not necessary, the lessee shall desist from posting. Upon a determination by the department that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use any such posted land for recreational purposes.

(2) The department of institutions may insert the provisions of subsection (1) of this section in all leases hereafter issued. [1969 ex.s. c 46 § 2.]

72.01.480 Agreements with nonprofit organizations to provide services for persons admitted or committed to institutions. The director of the department of institutions is authorized to enter into agreements with any nonprofit corporation or association for the purpose of providing and coordinating voluntary and community based services for the treatment or rehabilitation of persons admitted or committed to any institution under the supervision of the department of institutions. [1970 ex.s. c 50 § 1.]

Severability—1970 ex.s. c 50: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1970 ex.s. c 50 § 8.] This applies to RCW 72.01.450–72.01.458, 72.01.480 and 72.40.031.

72.01.490 Authority of superintendents, business managers and officers of correctional institutions to take acknowledgments and administer oaths—Procedure. See RCW 64.08.090.

Chapter 72.02 ADULT CORRECTIONS

Sections

- 72.02.005 Division of adult corrections, powers, duties and functions transferred to department of social and health services.
- 72.02.040 Secretary acting for department exercises powers and duties.
- 72.02.100 Earnings, clothing, transportation and subsistence payments upon release of certain prisoners.
- 72.02.110 Weekly payments to certain released prisoners.

72.02.005 Division of adult corrections, powers, duties and functions transferred to department of social and health services. See RCW 43.20A.220.

72.02.040 Secretary acting for department exercises powers and duties. The secretary of social and health services acting for the department shall exercise all powers and perform all duties prescribed by law with respect to the administration of any adult correctional program by the department. [1970 ex.s. c 18 § 57; 1959 c 28 § 72.02.040. Prior: 1957 c 272 § 16. Formerly RCW 43.28.110.]

Effective date—**Severability**—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.02.100 Earnings, clothing, transportation and subsistence payments upon release of certain prisoners. Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the state board of prison terms and paroles, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of forty dollars for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of one hundred dollars to his place of residence or the place designated in his parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: *Provided*, That up to sixty additional dollars may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's parole officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with

suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to RCW 72.02.100 or 72.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses. [1971 ex.s. c 171 § 1.]

72.02.110 Weekly payments to certain released prisoners. As state, federal or other funds are available, the secretary of the department of social and health services or his designee is authorized, in his discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the state board of prison terms and paroles, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the probation and parole officer at the office of such probation or parole officer. In addition to the initial six weekly payments provided for in this section, a probation and parole officer and his district supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain employment: *Provided*, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he may continue to receive payments for two weeks after the date he becomes employed but payments made after he becomes employed shall be discontinued as of the date he is first paid for such employment: *Provided*, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of the department of social and health services may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year. [1971 ex.s. c 171 § 2.]

**Chapter 72.04A
PROBATION AND PAROLE**

Sections

- 72.04A.050 Transfer of certain powers and duties of board of prison terms and paroles to director.
- 72.04A.060 Transfer of employees.
- 72.04A.065 Transfer of powers, duties and functions of division of probation and parole to department of social and health services.
- 72.04A.070 Plans and recommendations for conditions of supervision of parolees.
- 72.04A.080 Parolees subject to supervision of division—Progress reports.
- 72.04A.090 Violations of parole or probation—Revision of parole conditions—Rearrest—Detention.
- 72.04A.100 Transfer of certain property, records, etc. of board of prison terms and paroles to director.
- 72.04A.110 Transfer of appropriations.

Counties may provide probation and parole services: RCW 36.01.070. Duties of supervisor as to parole and probation: Chapter 9.95 RCW. Prison terms and parole board: Chapter 9.95 RCW. Provisions relating to parole and probation: Chapter 9.95 RCW. Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

72.04A.050 Transfer of certain powers and duties of board of prison terms and paroles to director. The powers and duties of the state board of prison terms and paroles, relating to (1) the supervision of parolees of any of the state penal institutions, (2) the supervision of persons placed on probation by the courts, and (3) duties with respect to persons conditionally pardoned by the governor, are transferred to the director of institutions who shall hereafter exercise such powers and perform such duties through the division of probation and parole of the department of institutions.

This section shall not be construed as affecting any of the remaining powers and duties of the board of prison terms and paroles including, but not limited to, the following:

- (1) The fixing of minimum terms of confinement of convicted persons, or the reconsideration of its determination of minimum terms of confinement;
- (2) Determining when and under what conditions a convicted person may be released from custody on parole, and the revocation or suspension of parole or the modification or revision of the conditions of the parole, of any convicted person. [1967 c 134 § 7.]

72.04A.060 Transfer of employees. All employees of the board of prison terms and paroles who are employed in connection with the exercise of the powers and performance of the duties herein transferred to the director of institutions shall, upon July 1, 1967, be transferred to the department of institutions.

All such employees on permanent status shall be certified as employees of the department of institutions on permanent status and all such employees on probationary status shall be certified as employees of the department of institutions on probationary status. All such employees transferred herein shall continue to be governed in accordance with chapter 41.06 RCW, the state civil service law.

The board of prison terms and paroles shall retain in its employ and under its jurisdiction those employees

necessary to the performance of its remaining powers and duties and any doubts in this respect shall be resolved by the state personnel board. The board of prison terms and paroles may hire additional employees on a temporary basis or may borrow such employees from other state departments or enter into agreements with other state departments for the pro rata remuneration of employees of other departments whose services are temporarily required by the board. [1967 c 134 § 8.]

72.04A.065 Transfer of powers, duties and functions of division of probation and parole to department of social and health services. See RCW 43.20A.220.

72.04A.070 Plans and recommendations for conditions of supervision of parolees. The director of institutions through the supervisor of the division of probation and parole of the department of institutions shall cause to be prepared plans and recommendations for the conditions of supervision under which each inmate of any state penal institutions who is eligible for parole may be released from custody. Such plans and recommendations shall be submitted to the board of prison terms and paroles which may, at its discretion, approve, reject, or revise or amend such plans and recommendations for the conditions of supervision of release of inmates on parole, and, in addition, the board may stipulate any special conditions of supervision to be carried out by a probation and parole officer. [1967 c 134 § 9.]

72.04A.080 Parolees subject to supervision of division—Progress reports. Each inmate hereafter released on parole shall be subject to the supervision of the division of probation and parole of the department of institutions, and the probation and parole officers of the division shall be charged with the preparation of progress reports of parolees and to give guidance and supervision to such parolees within the conditions of a parolee's release from custody. Copies of all progress reports prepared by the probation and parole officers shall be supplied to the board of prison terms and paroles for their files and records. [1967 c 134 § 10.]

72.04A.090 Violations of parole or probation—Revision of parole conditions—Rearrest—Detention. Whenever a parolee breaches a condition or conditions under which he was granted parole, or violates any law of the state or rules and regulations of the board of prison terms and paroles, any probation and parole officer may arrest, or cause the arrest and suspension of parole of, such parolee without a warrant, pending a determination by the board. The facts and circumstances of such conduct of the parolee shall be reported by the probation and parole officer, with recommendations, to the board of prison terms and paroles, who may order the revocation or suspension of parole, revise or modify the conditions of parole or take such other action as may be deemed appropriate in accordance with RCW 9.95.120. The board of prison terms and paroles, after consultation with the director of the department of institutions, shall make all rules and regulations

concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the board of prison terms and paroles to perform its functions under this section.

The probation and parole officers shall have like authority and power regarding the arrest and detention of a probationer who has breached a condition or conditions under which he was granted probation by the superior court, or violates any law of the state, pending a determination by the superior court.

In the event a probation and parole officer shall arrest or cause the arrest and suspension of parole of a parolee or probationer in accordance with the provisions of this section, such parolee or probationer shall be confined and detained in the county jail of the county in which the parolee or probationer was taken into custody, and the sheriff of such county shall receive and keep in the county jail, where room is available, all prisoners delivered thereto by the probation and parole officer, and such parolees shall not be released from custody on bail or personal recognizance, except upon approval of the board of prison terms and paroles and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole. [1969 c 98 § 1; 1967 c 134 § 11.]

Severability—Effective date—1969 c 98: See notes following RCW 9.95.003.

Suspension, revision of parole, retaking of violator, powers and duties of parole and probation officers, etc.: RCW 9.95.120.

72.04A.100 Transfer of certain property, records, etc. of board of prison terms and paroles to director. Upon July 1, 1967, the board of prison terms and paroles shall deliver to the director of institutions all books, documents, records, papers and other writings which have been made, and all cabinets, files, furniture, office equipment, motor vehicles, and other tangible property used or held in the exercise of the powers and performance of the duties which, by RCW 9.95.170, 9.95.200, 9.95.210, 9.95.250, 9.95.260, 72.01.030 and chapter 72.04A RCW, are transferred to the director of institutions. If, however, such books, documents, records, papers and other writings are essential as determined by the board of prison terms and paroles to the performance of duties retained by the board, it may deliver copies of such books, documents, records, papers and other writings to the director of institutions.

The board of prison terms and paroles shall retain all books, documents, records, papers and other writings, and all cabinets, files, furniture, office equipment, motor vehicles, and other tangible property used or held in the exercise of the powers and performance of the duties which are not, by RCW 9.95.170, 9.95.200, 9.95.210, 9.95.250, 9.95.260, 72.01.030 and chapter 72.04A RCW, transferred to the director of institutions. [1967 c 134 § 12.]

72.04A.110 Transfer of appropriations. Any appropriation made to the board of prison terms and paroles for the purpose of carrying out the powers and duties transferred by RCW 9.95.170, 9.95.200, 9.95.210, 9.95.250, 9.95.260, 72.01.030 and chapter 72.04A RCW to the director of institutions shall be transferred and credited to the department of institutions for the purpose of carrying out such transferred powers and duties. [1967 c 134 § 18.]

Chapter 72.05

CHILDREN AND YOUTH SERVICES

Sections

72.05.010	Declaration of purpose.
72.05.020	Definitions.
72.05.045	Division of children and youth services, powers, duties and functions transferred to department of social and health services.
72.05.130	Powers and duties of division—In general—"Close security" institutions designated.
72.05.140	Educational facilities in youth institutions.
72.05.150	"Minimum security" institutions—Establishment—"Forest camp revolving fund" created.
72.05.152	Juvenile forest camps—Industrial insurance benefits prohibited—Exceptions.
72.05.154	Juvenile forest camps—Industrial insurance—Eligibility for benefits—Exceptions.
72.05.160	Contracts with other divisions, agencies authorized.
72.05.170	Counseling and consultative services.
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72.05.210	Juvenile court law—Applicability—Synonymous terms.
72.05.300	Parental schools—Leases, purchases—Powers of school district.
72.05.310	Parental schools—Personnel.

Comic books: Chapter 19.18 RCW.

Employment of personnel: RCW 72.01.061–72.01.067.

Financial responsibility for cost of detention of minor: RCW 13.16.085.

Handicapped children, parental responsibility, order of commitment: Chapter 26.40 RCW.

Prisoners and incorrigible juvenile delinquents to be received at reformatory: RCW 72.12.050.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

Uniform interstate compact on juveniles: Chapter 13.24 RCW.

72.05.010 Declaration of purpose. The purposes of RCW 72.05.010 through 72.05.210 are: To provide for every child with behaviour problems, defective and feeble-minded person, and deaf and blind children, within the purview of RCW 72.05.010 through 72.05.210, such care, guidance and instruction, control and treatment as will best serve the welfare of the child or person and society; to insure nonpolitical and qualified operation, supervision, management, and control of the Green Hill school, the Maple Lane school, Lakeland Village, Rainier school, the state school for the blind, and the state school for the deaf, and to place them under the division of children and youth services in the department of institutions; and to provide for the persons committed or admitted to those schools that type of

care, instruction, and treatment most likely to accomplish their rehabilitation and restoration to normal citizenship. [1959 c 28 § 72.05.010. Prior: 1951 c 234 § 1.]

72.05.020 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Council" means the state council for children and youth.

(2) "Division" after July 1, 1970 means the department of social and health services.

(3) "Department" after July 1, 1970 means the department of social and health services. [1970 ex.s. c 18 § 58; 1959 c 28 § 72.05.020. Prior: 1951 c 234 § 2. Formerly RCW 43.19.260.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.05.045 Division of children and youth services, powers, duties and functions transferred to department of social and health services. See RCW 43.20A.220.

72.05.130 Powers and duties of division—In general—"Close security" institutions designated. The division of children and youth services shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities controlled and operated by the division and in order to accomplish these purposes, the powers and duties of the supervisor of the division of children and youth services shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the director, supervisor, governor, council, and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of defective, feeble-minded, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the division, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the director. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the division, and the transfer of such persons

from any such institution, school, or facility to any other such school, institution, or facility: *Provided*, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court. This shall not apply to the state school for the deaf or the state school for the blind.

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school and Maple Lane school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the division. Green Hill school and Maple Lane school are hereby designated as "close security" institutions to which shall be given the custody of children with the most serious behavior problems. [1959 c 28 § 72.05.130. Prior: 1951 c 234 § 13. Formerly RCW 43.19.370.]

72.05.140 Educational facilities in youth institutions. The division of children and youth services, in order to provide educational facilities for persons admitted or committed to any of the institutions, schools or facilities herein provided, is authorized either to:

(1) Enter into an agreement with the local school district within which the institution is situated or with any other local school district conveniently located in the region, or

(2) Provide a comprehensive school program in connection with any institution as if that institution were itself a local school system.

In the event that either option is exercised, all teachers shall meet all certification requirements and the program shall conform to the usual standards defined by law or by regulations of the state board of education or the office of the state superintendent of public instruction and/or other recognized national certifying agencies. [1959 c 28 § 72.05.140. Prior: 1951 c 134 § 14. Formerly RCW 43.19.380.]

Employment of teachers: RCW 72.01.200.

Public schools: Titles 28A and 28B RCW.

72.05.150 "Minimum security" institutions—Establishment—"Forest camp revolving fund" created. The department, through the division, shall have power to acquire, establish, maintain, and operate "minimum security" facilities for the care, custody, education, and treatment of children with less serious behavior problems. Such facilities may include parental schools or homes, farm units, and forest camps. Admission to such minimum security facilities shall be by juvenile court commitment or by transfer as herein otherwise provided. In carrying out the purposes of this section, the department may establish or acquire the use of such facilities by gift, purchase, lease, contract, or other arrangement with existing public entities, and to that end the director may execute necessary leases, contracts, or other agreements. In establishing forest camps, the department may contract with other divisions of the state and the federal government; including, but not limited to, the state division of forestry, the state parks and recreation commission, the U. S. forest service, and the

national park service, on a basis whereby such camps may be made as nearly as possible self-sustaining. Under any such arrangement the contracting agency shall reimburse the department for the value of services which may be rendered by the inmates of a camp and all such reimbursements shall be credited to a "forest camp revolving fund", which fund is hereby created, and out of which funds may be disbursed towards the cost of operation and maintenance of the camp. [1959 c 28 § 72.05.150. Prior: 1951 c 234 § 15. Formerly RCW 43.19.390.]

72.05.152 Juvenile forest camps—Industrial insurance benefits prohibited—Exceptions. No inmate of a juvenile forest camp who is affected by this chapter or receives benefits pursuant to RCW 72.05.152 and 72.05.154 shall be considered as an employee or to be employed by the state or the department of social and health services or the department of natural resources, nor shall any such inmate, except those provided for in RCW 72.05.154, come within any of the provisions of the workmen's compensation act, or be entitled to any benefits thereunder, whether on behalf of himself or any other person. All moneys paid to inmates shall be considered a gratuity. [1973 c 68 § 1.]

Effective date—1973 c 68: "This 1973 act shall take effect on July 1, 1973." [1973 c 68 § 3.] This applies to RCW 72.05.152 and 72.05.154.

72.05.154 Juvenile forest camps—Industrial insurance—Eligibility for benefits—Exceptions. From and after July 1, 1973, any inmate working in a juvenile forest camp established and operated pursuant to RCW 72.05.150, pursuant to an agreement between the department of social and health services and the department of natural resources shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions provided by this section.

No inmate as described in RCW 72.05.152, until released upon an order of parole by the department of social and health services, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter amended, or to the benefits of chapter 51.36 RCW relating to medical aid: *Provided*, That RCW 72.05.152 and 72.05.154 shall not affect the eligibility, payment or distribution of benefits for any industrial injury to the inmate which occurred prior to his existing commitment to the department of social and health services.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources. [1973 c 68 § 2.]

72.05.160 Contracts with other divisions, agencies authorized. In carrying out the provisions of RCW 72.05.010 through 72.05.210, the department, through the

division, shall have power to contract with other divisions or departments of the state or its political subdivisions, with any agency of the federal government, or with any private social agency. [1959 c 28 § 72.05.160. Prior: 1951 c 234 § 16. Formerly RCW 43.19.400.]

72.05.170 Counseling and consultative services. The division may provide professional counseling services to delinquent and maladjusted children and their parents, consultative services to communities dealing with problems of children and youth, and may give assistance to law enforcement agencies by means of juvenile control officers who may be selected from the field of police work. [1959 c 28 § 72.05.170. Prior: 1955 c 240 § 1. Formerly RCW 43.19.405.]

72.05.200 Parental right to provide treatment preserved. Nothing in RCW 72.05.010 through 72.05.210 shall be construed as limiting the right of a parent, guardian or person standing in loco parentis in providing any medical or other remedial treatment recognized or permitted under the laws of this state. [1959 c 28 § 72.05.200. Prior: 1951 c 234 § 19. Formerly RCW 43.19.410.]

72.05.210 Juvenile court law—Applicability—Synonymous terms. RCW 72.05.010 through 72.05.210 shall be construed in connection with and supplemental to the juvenile court law as embraced in chapter 13.04 RCW. Process, procedure, probation by the court prior to commitment, and commitment shall be as provided therein. The terms "delinquency", "delinquent" and "delinquent children" as used and applied in the juvenile court law and the terms "behavior problems" and "children with behavior problems" as used in RCW 72.05.010 through 72.05.210 are synonymous and interchangeable. [1959 c 28 § 72.05.210. Prior: 1951 c 234 § 20. Formerly RCW 43.19.420.]

72.05.300 Parental schools—Leases, purchases—Powers of school district. The department, through the division, may execute leases, with options to purchase, of parental school facilities now or hereafter owned and operated by school districts, and such leases with options to purchase shall include such terms and conditions as the director of institutions deems reasonable and necessary to acquire such facilities. Notwithstanding any provisions of the law to the contrary, the board of directors of each school district now or hereafter owning and operating parental school facilities may, without submission for approval to the voters of the school district, execute leases, with options to purchase, of such parental school facilities, and such leases with options to purchase shall include such terms and conditions as the board of directors deems reasonable and necessary to dispose of such facilities in a manner beneficial to the school district. The department, through the division, if it enters into a lease, with an option to purchase, of parental school facilities, may exercise its option and purchase such parental school facilities; and a school district may, if it enters into a

lease, with an option to purchase, of parental school facilities, upon exercise of the option to purchase by the department, sell such parental school facilities and such sale may be accomplished without first obtaining a vote of approval from the electorate of the school district. [1959 c 28 § 72.05.300. Prior: 1957 c 297 § 2. Formerly RCW 43.28.160.]

State parks and recreation commission may acquire parental school facilities from school districts: RCW 43.51.230.

72.05.310 Parental schools—Personnel. The department, through the division, may employ personnel, including but not limited to, superintendents and all other officers, agents, and teachers necessary to the operation of parental schools. [1959 c 28 § 72.05.310. Prior: 1957 c 297 § 3. Formerly RCW 43.28.170.]

Chapter 72.06 MENTAL HEALTH

Sections

- 72.06.010 Department defined for chapter purposes.
72.06.015 Division of mental health, powers, duties, and functions transferred to department of social and health services.
72.06.050 Mental health—Dissemination of information and advice by department.
72.06.060 Mental health—Psychiatric outpatient clinics.
72.06.070 Mental health—Cooperation of department and state hospitals with local programs.

Alcoholism program: Chapter 70.96A RCW.

Mental illness and inebriacy: Title 71 RCW.

State hospitals for the mentally ill: Chapter 72.23 RCW.

72.06.010 Department defined for chapter purposes. "Department" for the purposes of this chapter shall mean the department of social and health services. [1970 ex.s. c 18 § 59; 1959 c 28 § 72.06.010. Prior: 1957 c 272 § 9. Formerly RCW 43.28.040.]

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

72.06.015 Division of mental health, powers, duties, and functions transferred to department of social and health services. See RCW 43.20A.220.

72.06.050 Mental health—Dissemination of information and advice by department. The department shall cooperate with other departments of state government and its political subdivisions in the following manner:

(1) By disseminating educational information relating to the prevention, diagnosis and treatment of mental illness, mental disorders or mental deficiency.

(2) Upon request therefor, by advising public officers, organizations and agencies interested in the mental health of the people of the state. [1959 c 28 § 72.06.050. Prior: 1955 c 136 § 2. Formerly RCW 43.28.600.]

72.06.060 Mental health—Psychiatric outpatient clinics. The department is hereby authorized to establish and maintain psychiatric outpatient clinics at such of the several state mental institutions as the director shall designate for the prevention, diagnosis and treatment of

mental illnesses, deficiencies or disorders, and the services of such clinics shall be available to any citizen of the state in need thereof, when determined by a physician that such services are not otherwise available, subject to the rules of the department. [1959 c 28 § 72.06.060. Prior: 1955 c 136 § 3. Formerly RCW 43.28.610.]

72.06.070 Mental health—Cooperation of department and state hospitals with local programs. The department and the several state hospitals for the mentally ill shall cooperate with local mental health programs by providing necessary information, recommendations relating to proper after care for patients paroled or discharged from such institutions and shall also supply the services of psychiatrists, psychologists and other persons specialized in mental illness as they are available. [1959 c 28 § 72.06.070. Prior: 1955 c 136 § 4. Formerly RCW 43.28.620.]

Chapter 72.08 STATE PENITENTIARY

Sections

- 72.08.010 What constitutes penitentiary.
72.08.020 Visitation.
72.08.040 Duties of superintendent.
72.08.045 Temporary rules.
72.08.050 Employment of intemperate person prohibited.
72.08.070 Disposition of moneys.
72.08.080 Control of revenues.
72.08.090 Fiscal reports to auditor.
72.08.101 Corrective, rehabilitative and reformatory programs and procedures.
72.08.102 Rules and regulations for administration, supervision, security and disciplinary measures.
72.08.103 Prisoners' funds and property—Superintendent as custodian—Disposition.
72.08.120 Rules and regulations.
72.08.130 Water supply—Buildings.
72.08.160 Interest in contract or purchase forbidden.
72.08.170 Rewards.
72.08.380 Letters of inmates may be withheld.
72.08.390 Leaves of absence for inmates.

Civil rights, restoration: Chapter 9.96 RCW.

Commitment and executions: Chapter 10.70 RCW.

Control and treatment of venereal diseases: Chapter 70.24 RCW.

Convict labor, contract system barred: State Constitution Art. 2 § 29.

Convict-made goods: Chapter 19.20 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Escape and rescue: Chapter 9.31 RCW.

Executions at penitentiary: RCW 9.48.030.

Executions for kidnaping: RCW 9.52.010.

Fugitives of this state: Chapter 10.34 RCW.

Infected prisoners, removal: RCW 70.20.140.

Officers and guards as peace officers: RCW 9.94.050.

Pardon, governor's powers and duties: RCW 10.01.120 and 43.06.020.

Prison riot: RCW 9.94.010.

Prison terms, paroles and probation: Chapter 9.95 RCW.

Prisoners, state penal institutions: Chapter 9.94 RCW.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Solitary confinement: RCW 10.64.060.

72.08.010 What constitutes penitentiary. The entire area of lands situated near the city of Walla Walla, donated to the territory of Washington for penitentiary purposes by the people of Walla Walla, and all lands acquired thereafter, together with all structures, buildings and inclosures thereon, are hereby declared to be, and they shall hereafter be known as, the state penitentiary. [1959 c 28 § 72.08.010. Prior: 1891 c 147 § 1; 1886 p 152 § 1; 1883 p 82 § 3; 1869 p 359 § 3; 1861 p 5 § 1; 1855 p 9 § 1; RRS § 10210.]

72.08.020 Visitation. It shall be the duty of the director to have an officer of the department visit the penitentiary once in each month and oftener if necessary. [1959 c 28 § 72.08.020. Prior: 1891 c 147 § 5; RRS § 10211.]

72.08.040 Duties of superintendent. It shall be the duty of the superintendent of the penitentiary:

(1) Under the order and direction of the department to prosecute all suits at law or in equity that may be necessary to protect the rights of the state in matters or property connected with the penitentiary and its management, such suits to be prosecuted by the attorney general, in the name of the department.

(2) To supervise the government, discipline and police of the penitentiary, and to enforce all orders and regulations of the department in respect to the penitentiary. He shall keep a registry of the convicts, in which shall be entered the names of each convict, the crime for which he is convicted, the period of his sentence, from what county sentenced, by what court sentenced, his nativity, to what degree educated, an accurate description of his person, and whether he has previously been confined in a prison in this or any other state, and if so where, and how he was discharged.

(3) To perform such other duties as may be prescribed by the department. [1969 c 56 § 1; 1959 c 28 § 72.08.040. Prior: 1891 c 147 § 7; 1888 p 169 §§ 8, 9; RRS § 10213.]

Records for vital statistics: RCW 70.58.270.

Superintendent, general provisions: RCW 72.01.060.

72.08.045 Temporary rules. When in his opinion an emergency exists, the superintendent may promulgate temporary rules for the governance of the penitentiary, which shall remain in effect until terminated by the director. [1959 c 28 § 72.08.045. Prior: 1891 c 147 § 5, part; RRS § 10211, part. Formerly RCW 72.08.020, part.]

72.08.050 Employment of intemperate person prohibited. No person shall be appointed to any office or be employed in the penitentiary on behalf of the state who is in the habit of intemperate use of liquors, and a single act of intemperance shall justify his discharge or removal. [1959 c 28 § 72.08.050. Prior: 1891 c 147 § 10; RRS § 10216.]

72.08.070 Disposition of moneys. All moneys received or collected by the superintendent, unless otherwise provided, from sales of industrial or agricultural

products of the state penitentiary or for services in relation to the industrial and agricultural operations of the penitentiary shall be paid by him into the state treasury to the credit of the state institutional revolving account. [1959 c 28 § 72.08.070. Prior: 1957 c 115 § 5; 1891 c 147 § 15; RRS § 10218.]

Deposit of money: RCW 72.01.160.

Institutional industries revolving fund: RCW 72.60.240.

72.08.080 Control of revenues. All revenues of the penitentiary, unless herein otherwise provided, shall be paid to the superintendent who alone is authorized to receipt for the same and discharge from liability. When any sum of money is paid to the superintendent he shall cause the same to be properly entered on the books. [1959 c 28 § 72.08.080. Prior: 1891 c 147 § 16; RRS § 10219.]

72.08.090 Fiscal reports to auditor. On payment of any moneys into the state treasury, the superintendent and state treasurer shall report to the auditor of state the amount so paid, and the state treasurer shall give the superintendent a receipt therefor, which receipt shall be filed with the auditor. [1959 c 28 § 72.08.090. Prior: 1891 c 147 § 17; RRS § 10220.]

72.08.101 Corrective, rehabilitative and reformatory programs and procedures. The director of institutions shall provide for the establishment of programs and procedures for convicted persons at the state penitentiary, which are designed to be corrective, rehabilitative and reformatory of the undesirable behavior problems of such persons, as distinguished from programs and procedures essentially penal in nature. [1965 ex.s. c 9 § 3.]

72.08.102 Rules and regulations for administration, supervision, security and disciplinary measures. The director of institutions is authorized to make rules and regulations for the administration, supervision, security and disciplinary measures inflicted upon convicted persons at the state penitentiary. [1965 ex.s. c 9 § 4.]

72.08.103 Prisoners' funds and property—Superintendent as custodian—Disposition. The superintendent shall be custodian of all funds and valuable personal property of a convicted person as shall be in his possession upon admission to the state penitentiary, or which shall be sent or brought to such person, or earned by him while in custody, or which shall be forwarded to the superintendent on behalf of a convicted person. All such funds shall be deposited in the personal account of the convicted person and the superintendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When a convicted person is released from the confines of the state penitentiary either on parole or discharge, all funds and valuable personal property in the possession of the superintendent belonging to such convicted person shall be delivered to him. [1965 ex.s. c 9 § 5.]

72.08.120 Rules and regulations. The director shall have power to make rules and regulations for the discipline, employment, instruction, education and compensation of prisoners in the Washington state penitentiary. [1959 c 28 § 72.08.120. Prior: 1927 c 305 § 2; RRS § 10223-2.]

72.08.130 Water supply—Buildings. The director shall have power to contract for the supply of water for said penitentiary, upon such terms as he shall deem to be for the best interests of the state, or furnish water themselves, at their option. The department shall have full power to erect any building or structure deemed necessary, or to alter or improve the same, and to pay for the same from the fund appropriated for the use or support of the penitentiary, or from the earnings thereof, without advertising or contracting therefor: *Provided*, That no buildings or structure, the cost of which will exceed three thousand dollars, shall be erected or constructed without first obtaining the consent of the governor: *Provided further*, That such expenditure shall in no instance exceed ten thousand dollars without a special appropriation therefor by the state legislature. [1959 c 28 § 72.08.130. Prior: 1891 c 147 § 21; RRS § 10225.]

72.08.160 Interest in contract or purchase forbidden. No officer or employee of the penitentiary shall be interested, directly or indirectly, in any contract or purchase made or authorized to be made by anyone for or on behalf of the penitentiary. [1959 c 28 § 72.08.160. Prior: 1891 c 147 § 24; RRS § 10228.]

Misconduct of public officers: Chapter 42.20 RCW.

72.08.170 Rewards. The secretary of the department of social and health services or his designee shall have power to offer rewards not exceeding two hundred dollars, in the one case for the return of escaped convicts, and to pay the expenses of the apprehension, safekeeping and return of all escaped convicts by the officers of the penitentiary. He shall certify the amount of reward allowed and expenses incurred and prepare a voucher for the state treasurer, who shall draw his warrant for the amount found due out of any funds available therefor. [1973 c 106 § 32; 1959 c 28 § 72.08.170. Prior: 1891 c 147 § 27; RRS § 10231.]

Offer of rewards by governor: RCW 43.06.010(8).

72.08.380 Letters of inmates may be withheld. Whenever the superintendent of the state penitentiary withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the director of institutions for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the director for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the director, retained in a separate file for two years and then destroyed. [1959 c 28 § 72.08.380. Prior: 1957 c 61 § 1.]

72.08.390 Leaves of absence for inmates. See RCW 72.01.370, 72.01.380.

Chapter 72.12 STATE REFORMATORY

Sections

72.12.010	Management.
72.12.020	Control vested in department.
72.12.040	Subordinate officers—Personnel.
72.12.050	Prisoners and incorrigible juvenile delinquents to be received at reformatory.
72.12.070	Rules and regulations.
72.12.090	Business management.
72.12.100	Director's duty—Register of prisoners.
72.12.140	Letters of inmates may be withheld.
72.12.150	Leaves of absence for inmates.

Appointment of superintendent: RCW 72.01.060.

Civil rights, restoration: Chapter 9.96 RCW.

Commitment to: RCW 9.92.050.

Control and treatment of venereal diseases: Chapter 70.24 RCW.

Convict labor, contract system barred: State Constitution Art. 2 § 29.

Convict-made goods: Chapter 19.20 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Escape and rescue: Chapter 9.31 RCW.

Fugitives of this state: Chapter 10.34 RCW.

Infected prisoners, removal: RCW 70.20.140.

Officers and guards as peace officers: RCW 9.94.050.

Pardon, governor's powers and duties: RCW 10.01.120 and 43.06.020.

Prison riot: RCW 9.94.010.

Prison terms, paroles and probation: Chapter 9.95 RCW.

Prisoners, state penal institutions: Chapter 9.94 RCW.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Solitary confinement: RCW 10.64.060.

72.12.010 Management. The Washington state reformatory heretofore established and located at Monroe in Snohomish county shall be equipped and managed in the manner and for the purpose in this chapter hereinafter provided. [1959 c 28 § 72.12.010. Prior: 1927 c 212 § 1; 1907 c 167 § 1; RRS § 10280-1.]

72.12.020 Control vested in department. The government and control of the Washington state reformatory and of the prisoners sentenced thereto shall be vested in the director of institutions. [1959 c 28 § 72.12.020. Prior: 1927 c 212 § 2; 1907 c 167 § 3; RRS § 10280-2.]

Appointment of superintendent: RCW 72.01.060.

72.12.040 Subordinate officers—Personnel. The superintendent, by and with the advice and consent of the director, shall appoint the physicians, and such subordinate officers, guards and employees as the number of prisoners or the needs of the institution may from time to time require. [1959 c 28 § 72.12.040. Prior: 1927 c 212 § 4; RRS § 10280-4.]

Appointment of personnel: RCW 72.01.060.

72.12.050 Prisoners and incorrigible juvenile delinquents to be received at reformatory. The director, through the superintendent of the reformatory shall receive all males between the ages of sixteen and thirty

years who are sentenced to the reformatory on conviction of any criminal offense in any court having jurisdiction thereof; and all male prisoners who may be removed from any other penal institution of the state as provided by law, and such persons over the age of sixteen years who may be placed at the reformatory at the direction of the supervisor of the division of children and youth services with the approval of the department of institutions, in accordance with RCW 13.08.190, as amended. All such persons shall be subject to the rules and regulations of the reformatory and the laws relating to the administration of such institution to the same extent as the other inmates of such institution. [1959 c 251 § 1; 1959 c 28 § 72.12.050. Prior: 1955 c 242 § 1; 1927 c 212 § 5; RRS § 10280-5.]

Child not to be confined with adult convicts: RCW 13.04.115.

Commitment to state reformatory: RCW 9.92.050.

Transfer of incorrigible juveniles: RCW 13.04.200.

Transfer of juveniles: RCW 72.01.390-72.01.410.

72.12.070 Rules and regulations. The director shall have power to make rules and regulations for the discipline, employment, instruction, education and removal of prisoners in the reformatory. The discipline imposed shall be reformatory in character. [1959 c 28 § 72.12.070. Prior: 1927 c 212 § 8; 1907 c 167 § 17; RRS § 10280-8.]

72.12.090 Business management. The business management, sale of products and manufactures, and the auditing and keeping of accounts pertaining thereto shall be vested in the director under such regulations as may be prescribed by the director of budget. [1959 c 28 § 72.12.090. Prior: 1927 c 212 § 13; 1907 c 167 § 19; RRS § 10280-13.]

72.12.100 Director's duty—Register of prisoners. It shall be the duty of the director to maintain such control over prisoners committed to the reformatory as shall prevent them from committing crime, best secure their self-support, and accomplish their reformation. When any prisoner shall be received into the reformatory under sentence thereto, the director shall cause to be entered in a register the date of such admission, the name, age, nativity and nationality, with such facts as can be ascertained of parentage, or early education and social influences as seem to indicate the constitutional defects and social tendencies of the prisoner and the best probable plan of treatment. In such register shall be entered quarterly, or oftener, minutes of observed improvement or deterioration of character affecting the standing or situation of such prisoner, the circumstances of the final release, and any subsequent facts of the personal history which may be brought to the knowledge of the director or superintendent. [1959 c 28 § 72.12.100. Prior: 1927 c 212 § 14; RRS § 10280-14. Formerly RCW 72.12.100 and 72.12.110.]

Records for vital statistics: RCW 70.58.270.

72.12.140 Letters of inmates may be withheld. Whenever the superintendent of the state reformatory withholds from mailing letters written by inmates of

such institution, the superintendent shall forward such letters to the director of institutions for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the director for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the director, retained in a separate file for two years and then destroyed. [1959 c 28 § 72.12.140. Prior: 1957 c 61 § 1.]

72.12.150 Leaves of absence for inmates. See RCW 72.01.370, 72.01.380.

Chapter 72.13

CORRECTIONAL INSTITUTION FOR MALE FELONS—RECEPTION AND CLASSIFICATION CENTER

Sections

72.13.010	Institution established—Location—Design—Preliminary plans.
72.13.020	Acquisition of land.
72.13.030	Contract for construction.
72.13.040	Superintendent—Appointment—Qualifications.
72.13.050	Associate superintendents.
72.13.060	Personnel subject to merit system.
72.13.070	Male juveniles may be transferred to institution.
72.13.080	Powers and duties of superintendent.
72.13.090	Prisoner's living arrangements.
72.13.100	Industrial, vocational and agricultural programs.
72.13.110	Reception and classification center.
72.13.120	Sentence—Commitment to reception center—Effective when facilities ready.
72.13.130	Powers of court or judge not impaired.
72.13.140	Reception center staff, board—Certificate of recommended treatment—Cooperation by other state agencies.
72.13.150	Persons to be received for classification and placement.
72.13.160	Director to determine placement—What laws govern confinement, parole and discharge.
72.13.170	Rules and regulations.
72.13.180	Leaves of absence for inmates.

72.13.010 Institution established—Location—Design—Preliminary plans. There is hereby established under the supervision and control of the director of the department of institutions a correctional institution for the confinement and rehabilitation of male persons convicted of a felony and such other persons transferred to such institution as hereinafter provided. Such institution shall be situated upon lands within the state, to be selected by the director of institutions under conditions as herein provided. Such institution shall be designed to be of an expandable type, enabling complete construction of the institution over an extended period. The director shall cause preliminary plans, specifications and estimates of cost to be made and for this purpose may retain architectural and engineering services. [1959 c 214 § 1.]

72.13.020 Acquisition of land. The director is hereby authorized to acquire by gift, purchase or condemnation a suitable tract or parcel of land of not more than four hundred acres as a site for a correctional institution, and for that purpose may enter into contracts to purchase and to take title to real property in the name of the state of Washington. Prior to entering into any

contract for the purchase of land, or acquiring such land, by eminent domain, the director shall give preference to any and all offers to donate land by any person or persons, federal agencies, or any political subdivisions of the state. The director may accept or reject any and all offers for the donation of land when in his discretion such land is not suitable for the purposes and objects of such institution, or is remotely located in such degree as would be disadvantageous, in view of the needs and purposes of such institutions. [1959 c 214 § 2.]

72.13.030 Contract for construction. When title to the land selected by the director, as provided in this chapter, has vested in the state the director shall, upon the completion of plans and specifications for such institution, publish a call for bids, as provided by law, and enter into a contract for the construction of such institution: *Provided*, That no contract shall be entered into for the construction of such institution until such time as an appropriation for that purpose has been made by the legislature. [1959 c 214 § 3.]

Building plans and program: RCW 72.01.100.

Construction of buildings—Award of contracts: RCW 72.01.110, 72.01.120.

72.13.040 Superintendent—Appointment—Qualifications. The superintendent of the correctional institution established by this chapter shall be appointed by the director. The superintendent shall have such administrative experience and possess such qualifications as shall be fixed by the personnel board, or such merit system board as shall be established by law having jurisdiction of personnel within the department of institutions, with the advice and approval of the director. [1959 c 214 § 4.]

Jurisdiction of personnel board: RCW 72.01.061–72.01.067.

Superintendents—Appointment—Terms—Salaries—Assistants: RCW 72.01.060.

72.13.050 Associate superintendents. The superintendents, subject to the approval of the director, shall appoint such associate superintendents as shall be deemed necessary. In the event the superintendent shall be absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his duties, he shall appoint one of the officers of the institution to act as superintendent during such period of absence, illness or incapacity, subject to the approval of the director. [1959 c 214 § 5.]

72.13.060 Personnel subject to merit system. The superintendent and all subordinate officers and employees of such institution shall be under the jurisdiction of the state personnel board or such merit system board as shall be hereafter established by law having jurisdiction within the department of institutions. [1959 c 214 § 6.]

Jurisdiction of state personnel board: RCW 72.01.061–72.01.067.

72.13.070 Male juveniles may be transferred to institution. The supervisor of the division of children and youth services of the department of institutions, upon the approval of the director, shall have authority to transfer to the correctional institution male juvenile delinquents or male juveniles convicted of a crime, who may hereafter be committed to the division of children and youth services, or who are now confined at facilities under the division of children and youth services for the custody of juvenile delinquents: *Provided*, That such juveniles shall not be retained in such institution after eighteen years of age: *Provided further*, That the supervisor of the division of children and youth services shall retain custody of such juveniles for the purpose of returning, in his discretion, such juveniles to the transferring institution or such other facilities of the division as he shall deem appropriate. [1959 c 214 § 7.]

Prisoners and incorrigible juvenile delinquents to be received at reformatory: RCW 72.12.050.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of incorrigible juveniles: RCW 13.04.200.

72.13.080 Powers and duties of superintendent. The superintendent shall have the following powers, duties and responsibilities:

(1) Subject to the rules and regulations of the department, the superintendent shall have supervision and management of the institution, the grounds and buildings, subordinate officers and employees, and the prisoners committed or transferred to such institution and the custody of such persons until released as provided by law.

(2) Subject to the approval of the director, appoint all subordinate officers and employees, who shall be removable from employment by the superintendent, subject to the merit system rules of the state personnel board as may be established by law having jurisdiction of the officers and employees of the department of institutions.

(3) The superintendent shall be the custodian of the personal property of all inmates in the institution and shall make rules and regulations governing the accounting and disposition of all moneys received and earned by the inmates, not inconsistent with law, and subject to the approval of the director. [1959 c 214 § 8.]

72.13.090 Prisoner's living arrangements. Each prisoner in the correctional institution shall be provided with a single cell: *Provided, however*, That multiple type living arrangements may be provided in forestry or other labor camps maintained in conjunction with the institution. [1959 c 214 § 9.]

72.13.100 Industrial, vocational and agricultural programs. The superintendent, subject to the approval of the director and the institutional industries commission, shall be authorized to establish such industrial, vocational and agricultural programs as will be most beneficial to the inmates of such institution. [1959 c 214 § 10.]

Institutional industries commission: Chapter 72.60 RCW.

72.13.110 Reception and classification center. There shall be a department in such institution known as the reception and classification center under the supervision of an associate superintendent which, subject to the rules and regulations of the department, shall be charged with the function of receiving and classifying all male persons committed or transferred to the institution, taking into consideration age, type of crime for which committed, physical condition, behavior, attitude and prospects for reformation for the purposes of confinement and treatment of male offenders convicted of offenses punishable by imprisonment in the state penitentiary or state reformatory, except offenders convicted of crime and sentenced to death. [1959 c 214 § 11.]

72.13.120 Sentence—Commitment to reception center—Effective when facilities ready. Any male offender convicted of an offense punishable by imprisonment in the state penitentiary or the state reformatory, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department of institutions without designating the name of such institution, and be committed to the reception center for classification, confinement and placement in such correctional facility under the supervision of the department of institutions as the director of institutions shall deem appropriate: *Provided*, That the provisions of this section shall become effective upon the certification of the director of institutions to the superior courts and prosecuting attorneys of each county and the chief justice of the supreme court that facilities and personnel for the implementation of commitments as above provided are ready to receive persons committed under the provisions of this section. [1959 c 214 § 12.]

72.13.130 Powers of court or judge not impaired. Nothing herein contained, however, shall be construed to restrict or impair the power of any court or judge having jurisdiction to pronounce sentence upon a person to whom this act applies, to fix the term of imprisonment and to order his commitment, according to law, nor to deny the right of any such court or judge to sentence to imprisonment; nor to deny the right of any such court or judge to suspend sentence or the execution of judgment thereon or to make any other disposition of the case pursuant to law; but in case the punishment imposed be imprisonment in the state penitentiary or the state reformatory, the warrant of commitment shall commit the person convicted to the reception center established by this act for classification, confinement and placement as provided by this chapter. [1959 c 214 § 13.]

72.13.140 Reception center staff, board—Certificate of recommended treatment—Cooperation by other state agencies. The director shall appoint a staff for the reception center to interview, test, classify, and supervise offenders committed to the center. Such staff shall

consist of such employees as the director shall determine to be adequate for prompt and effective classification. There shall be within the reception center a classification board, which should be composed of such members of the staff of the reception center as the director may require. After making a study and investigation of the facts of the cases of the persons committed to the reception center as the director may require, the board shall make and file in the department a certificate in writing, recommending the state correctional institution best suited to receive the offender during the term of his confinement, the type of program to be followed and the approximate length of such treatment. The state board of prison terms and paroles and other state agencies shall cooperate with the department in obtaining necessary investigative material, concerning offenders committed to the reception center and supply the reception center with necessary information regarding social histories and community background. [1959 c 214 § 14.]

Board of prison terms and paroles: Chapter 9.95 RCW.

72.13.150 Persons to be received for classification and placement. The superintendent of the correctional institution established by this chapter shall receive all male persons convicted of a felony by the superior court and committed by the superior court to the reception center for classification and placement in such facility as the director shall designate, and all persons transferred thereto by the director from the state reformatory and state penitentiary, and other correctional facilities of the department. The superintendent shall only receive prisoners for classification and study in the institution upon presentation of certified copies of a judgment, sentence and order of commitment of the superior court, along with other reports as may have been made in reference to each individual prisoner. [1959 c 214 § 15.]

72.13.160 Director to determine placement—What laws govern confinement, parole and discharge. The director shall determine the state correctional institution in which the offender shall be confined during his term of imprisonment. The confinement of any offender shall be governed by the laws applicable to the institution to which he is certified for confinement, but his parole and discharge shall be governed by the laws applicable to the sentence imposed by the court. [1959 c 214 § 16.]

72.13.170 Rules and regulations. The director may make, amend and repeal rules consistent with and in furtherance of the provisions of this chapter. [1959 c 214 § 17.]

72.13.180 Leaves of absence for inmates. See RCW 72.01.370, 72.01.380.

**Chapter 72.15
WASHINGTON CORRECTIONAL INSTITUTION
FOR WOMEN**

Sections

- 72.15.010 Institution established—Name.
- 72.15.020 Superintendent—Appointment—Qualifications.
- 72.15.030 Associate superintendents.
- 72.15.040 Powers and duties of superintendent.
- 72.15.050 Industrial, vocational and agricultural programs.
- 72.15.060 Commitment of convicted female persons—Procedure as to death sentences.
- 72.15.070 Rules and regulations.

72.15.010 Institution established—Name. There is hereby established under the supervision and control of the director of the department of institutions, a correctional institution for the confinement, rehabilitation and reformation of female persons convicted of a felony and sentenced and committed to such institution for a term of confinement by the superior courts. Such institution shall be known as the Washington correctional institution for women. [1967 ex.s. c 122 § 1.]

Acquisition of land: "The director of institutions is authorized and directed to designate and select suitable lands as a site for the Washington correctional institution for women, which may be acquired either by gift, purchase or condemnation. Prior to any contract for the purchase of real property, or acquiring such real property by condemnation, the director shall give preference to any and all offers to donate real property by any person or persons, federal agencies, or any political subdivision of the state. The director may accept or reject any and all offers for the donation of real property when, in his discretion, such land is deemed not suitable for the purposes and objects of such institution." [1967 ex.s. c 122 § 2.]

Contract for construction: "When title to the land selected by the director for the Washington correctional institution for women, has vested in the state, the director shall, upon the completion of architectural plans and specifications for such institution, publish a call for bids for the construction of such institution as provided by law and enter into a contract for the construction of such institution." [1967 ex.s. c 122 § 3.]

Site selection commission: "There is hereby established a site selection commission which is authorized and directed to designate a suitable site and/or facility for the location of the state correctional institution for women. The members of the site selection commission shall be composed of the director of institutions, director of central budget agency who shall serve in advisory capacity, and six additional members, three of which shall be appointed by the president of the senate from the senate membership and three by the speaker of the house from the membership of the house of representatives, not more than two members from either the senate or the house of representatives to be of the same political party. The members of the commission, as soon as may be convenient after their appointment, shall elect one of their number to serve as chairman. The site selection commission shall make a report of its designation of such site in writing and file such report on or before September 1, 1967, with the secretary of the senate, the clerk of the house of representatives and the director of institutions.

As reimbursement for their expenses incurred while serving as members of the site selection commission, the legislative members thereof shall be entitled to the allowances provided in RCW 44.04-.120, to be vouchered by them and paid from whichever of the department of institution's appropriations as the director of institutions shall deem most appropriate." [1967 ex.s. c 122 § 13.]

72.15.020 Superintendent—Appointment—Qualifications. The superintendent of the Washington correctional institution for women shall be appointed

by the director, and shall have such administrative and correctional experience and possess such qualifications as shall be determined by the state personnel board, subject to advice and approval of the director. [1967 ex.s. c 122 § 4.]

72.15.030 Associate superintendents. The superintendent, subject to the approval of the director, shall appoint such associate superintendents as shall be deemed necessary, who shall have such qualifications as shall be determined by the state personnel board subject to the advice and approval of the director. In the event the superintendent shall be absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his duties, one of the associate superintendents of such institution as may be designated by the director shall act as superintendent during such period of absence, illness or incapacity. [1967 ex.s. c 122 § 5.]

72.15.040 Powers and duties of superintendent. The superintendent shall have the following powers and duties:

(1) Subject to the rules and regulations of the department, the superintendent shall be responsible for the supervision and management of the institution, the grounds and buildings, the subordinate officers and employees, and the prisoners committed, admitted or transferred to such institution and the custody of such persons until released or transferred as provided by law.

(2) Subject to the rules and regulations of the department and the state personnel board, to appoint all subordinate officers and employees.

(3) The superintendent shall be the custodian of all funds and valuable personal property of a convicted person as may be in her possession upon admission to the institution, or which shall be sent or brought to such person, or earned by her while in custody, or which shall be forwarded to the superintendent on behalf of a convicted person. All such funds shall be deposited in the personal account of the convicted person and the superintendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When a convicted person is released from the confines of the institution either on parole, transfer, or discharge, all funds and valuable personal property in the possession of the superintendent belonging to such convicted person shall be delivered to her. [1967 ex.s. c 122 § 6.]

72.15.050 Industrial, vocational and agricultural programs. The superintendent, subject to the approval of the director and the institutional industries commission, shall be authorized to establish such industrial, vocational and agricultural programs as would be most beneficial to the inmates of such institution. [1967 ex.s. c 122 § 7.]

72.15.060 Commitment of convicted female persons—Procedure as to death sentences. All female persons convicted in the superior courts of a felony and

sentenced to a term of confinement, shall be committed to the Washington correctional institution for women. Female persons sentenced to death shall be committed to the Washington correctional institution for women, notwithstanding the provisions of RCW 10.70.060, except that the death warrant shall provide for the execution of such death sentence at the Washington state penitentiary as provided by RCW 10.70.050, and the secretary of social and health services shall transfer to the Washington state penitentiary any female offender sentenced to death not later than seventy-two hours prior to the date fixed in the death warrant for the execution of the death sentence. The provisions of this section shall not become effective until the secretary of social and health services certifies to the chief justice of the supreme court, the chief judge of each division of the court of appeals, the superior courts and the prosecuting attorney of each county that the facilities and personnel for the implementation of commitments are ready to receive persons committed to the Washington correctional institution for women under the provisions of this section. [1971 ex.s. c 81 § 134; 1967 ex.s. c 122 § 8.]

72.15.070 Rules and regulations. The supervisor of the division of adult corrections and the superintendent, subject to the approval of the director, shall make, amend, and repeal rules and regulations for the administration, supervision, discipline, and security of the Washington correctional institution for women. [1967 ex.s. c 122 § 9.]

Chapter 72.16 GREEN HILL SCHOOL

Sections

- 72.16.010 School established.
72.16.020 Purpose of school.
72.16.070 Curriculum.
72.16.090 Reports.

Assisting escape of inmate of mental institution or custodial school: RCW 9.31.100.

Commitment: Chapter 13.04 RCW.

Control and treatment of venereal diseases: Chapter 70.24 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Escape and rescue: Chapter 9.31 RCW.

Financial responsibility for cost of detention of minor: RCW 13.16.085.

Fugitives of this state: Chapter 10.34 RCW.

Infected prisoners, removal: RCW 70.20.140.

Juvenile courts: Chapter 13.04 RCW.

Male juveniles may be transferred to correctional institution: RCW 72.13.070.

Officers and guards as peace officers: RCW 9.94.050.

Prisoners, state penal institutions: Chapter 9.94 RCW.

Prisoners and incorrigible juvenile delinquents to be received at reformatory: RCW 72.12.050, 13.08.190.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

72.16.010 School established. There is established at Chehalis, Lewis county, an institution which shall be known as the Green Hill school. [1959 c 28 § 72.16.010. Prior: 1955 c 230 § 1. (i) 1909 c 97 p 256 § 1; RRS § 4624. (ii) 1907 c 90 § 1; 1890 p 271 § 1; RRS § 10299.]

72.16.020 Purpose of school. The said school shall be for the keeping and training of all boys between the ages of eight and eighteen years who are residents of the state of Washington and who are lawfully committed to said institution. [1959 c 28 § 72.16.020. Prior: (i) 1909 c 97 p 256 § 2; RRS § 4625. (ii) 1890 p 272 § 2; RRS § 10300.]

72.16.070 Curriculum. All branches taught in at least the first eight grades of the public schools shall be taught in the Green Hill school. The inmates shall be taught and trained in morality, temperance, frugality, and they shall also be instructed in the different trades and callings insofar as possible, within the scope of the institution. [1959 c 28 § 72.16.070. Prior: 1909 c 97 p 257 § 7; RRS § 4630.]

72.16.090 Reports. The superintendent shall, at the close of each year, make a full and complete report to the department, of the condition, number and standing of the inmates of the school, as well as the number received and the number dismissed during the year, and he shall give such further information as the department may require. [1959 c 28 § 72.16.090. Prior: 1890 p 276 § 21; RRS § 10308.]

Chapter 72.18 CORRECTIONAL INSTITUTION FOR JUVENILES

Sections

- 72.18.010 Institution established—Location—Preliminary plans.
72.18.020 Acquisition of land.
72.18.030 Contract for construction.
72.18.040 Superintendent—Appointment—Qualifications.
72.18.050 Associate superintendents.
72.18.060 Personnel subject to merit system.
72.18.070 Powers and duties of superintendent.
72.18.080 Rules and regulations.

Child not to be confined with adult convicts: RCW 13.04.115.

Commitment to state reformatory: RCW 9.92.050.

Male juveniles may be transferred to correctional institution: RCW 72.13.070.

Reformatory—Incorrigible juvenile delinquents: RCW 13.04.200, 72.12.050.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

72.18.010 Institution established—Location—Preliminary plans. There is hereby established under the supervision and control of the director of the department of institutions a correctional institution for the reception, diagnosis, confinement and rehabilitation of juveniles committed by the juvenile courts to the department of institutions, division of children and youth services. Such institution shall be situated upon lands

within the state, to be selected by the director of institutions under conditions as herein provided. The director shall cause preliminary plans, specifications and estimates of cost for the construction of such institution to be made and for this purpose may retain architectural and engineering services. [1959 c 277 § 1.]

72.18.020 Acquisition of land. The director is hereby authorized to acquire by gift, purchase or condemnation a suitable tract or parcel of real property as a site for a juvenile correctional institution, and for that purpose may enter into contracts to purchase and to take title to real property in the name of the state. Prior to entering into any contract for the purchase of real property, or acquiring such real property by eminent domain, the director shall give preference to any and all offers to donate real property by any person or persons, federal agencies, or any political subdivisions of the state. The director may accept or reject any and all offers for the donation of real property when in his discretion such land is not suitable for the purposes and objects of such institution, or is remotely located in such degree as would be disadvantageous, in view of the needs and purposes of such institution. [1959 c 277 § 2.]

72.18.030 Contract for construction. When title to the land selected by the director, as provided in this chapter, has vested in the state, the director shall, upon the completion of plans and specifications for such institution, publish a call for bids, as provided by law, and enter into a contract for the construction of such institution: *Provided*, That no contract shall be entered into for the construction of such institution until such time as an appropriation for that purpose has been made by the legislature. [1959 c 277 § 3.]

Building plans and program: RCW 72.01.100.

Construction of buildings—Award of contracts: RCW 72.01.110, 72.01.120.

72.18.040 Superintendent—Appointment—Qualifications. The superintendent of the correctional institution established by this chapter shall be appointed by the director. The superintendent shall have such administrative experience and possess such qualifications as shall be fixed by the personnel board, or such merit system board as shall be established by law having jurisdiction of personnel within the department of institutions, with the advice and approval of the director. [1959 c 277 § 4.]

Superintendents—Appointment—Terms—Salaries—Assistants: RCW 72.01.060.

72.18.050 Associate superintendents. The superintendent, subject to the approval of the director, shall appoint such associate superintendents as shall be deemed necessary. In the event the superintendent shall be absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his duties, he shall appoint one of the officers of the institution to act as superintendent during such period of absence, illness or

incapacity, subject to the approval of the director. [1959 c 277 § 5.]

72.18.060 Personnel subject to merit system. The superintendent and all subordinate officers and employees of such institution shall be under the jurisdiction of the state personnel board or such merit system board as shall be hereafter established by law having jurisdiction within the department of institutions. [1959 c 277 § 6.]

72.18.070 Powers and duties of superintendent. The superintendent shall have the following powers, duties and responsibilities:

(1) Subject to the rules and regulations of the department, the superintendent shall have supervision and management of the institution, of the grounds and buildings, subordinate officers and employees, and of the juveniles received at such institution and the custody of such persons until released or transferred as provided by law.

(2) Subject to the approval of the director, appoint all subordinate officers and employees, who shall be removable from employment by the superintendent, subject to the merit system rules of the state personnel board as may be established by law having jurisdiction of the officers and employees of the department of institutions.

(3) The superintendent shall be the custodian of the personal property of all juveniles in the institution and shall make rules and regulations governing the accounting and disposition of all moneys received by such juveniles, not inconsistent with law, and subject to the approval of the director. [1959 c 277 § 7.]

72.18.080 Rules and regulations. The director may make, amend and repeal rules and regulations for the administration of the juvenile correctional institution established by this act in furtherance of the provisions of this chapter and not inconsistent with law. [1959 c 277 § 8.]

**Chapter 72.19
JUVENILE CORRECTIONAL INSTITUTION IN
KING COUNTY**

Sections	
72.19.010	Institution established—Location—Preliminary plans.
72.19.020	Rules and regulations.
72.19.030	Superintendent—Appointment—Qualifications.
72.19.040	Associate superintendents—Appointment—Acting superintendent.
72.19.050	Powers and duties of superintendent.
72.19.060	Male, female, juveniles—Residential housing, separation—Correctional programs, separation, combination.
72.19.070	General obligation bond issue to provide buildings—Authorized—Form, terms, etc.
72.19.100	General obligation bond issue to provide buildings—Juvenile correctional institution building bond redemption fund—Payment from and prior charge on retail sales tax.
72.19.110	General obligation bond issue to provide buildings—Legislature may provide additional means of revenue.

- 72.19.120 General obligation bond issue to provide buildings—
Bonds legal investment for state and municipal corporation funds.
- 72.19.130 Referral to electorate.

72.19.010 Institution established—Location—Preliminary plans. There is hereby established under the supervision and control of the director of institutions a correctional institution for the confinement and rehabilitation of juveniles committed by the juvenile courts to the department of institutions. Such institution shall be situated upon publicly owned lands within King county, under the supervision of the department of natural resources, which land is located in the vicinity of Echo Lake and more particularly situated in Section 34, Township 24 North, Range 7 East W.M. and that portion of Section 3, Township 23 North, Range 7 East W.M. lying north of U.S. Highway 10, together with necessary access routes thereto, all of which tract is leased by the department of natural resources to the department of institutions for the establishment and construction of the correctional institution authorized and provided for in this chapter. The director shall cause preliminary plans, specifications and estimates of cost for the construction of such institution to be made and for this purpose may retain architectural and engineering services. [1963 c 165 § 1; 1961 c 183 § 1.]

Acquisition of land: "As a site for the juvenile correctional institution, the director is hereby authorized to use any suitable tract or parcel of real property which is: (1) Publicly owned and/or (2) acquired by gift. And for that purpose the director may enter into contracts to take title to real property in the name of the state. The director may accept or reject any and all offers for the donation of real property when in his discretion such land is not suitable for the purposes and objects of such institution, or is remotely located in such degree as would be disadvantageous, in view of the needs and purposes of such institution. In the event that the director determines that any offers for the donation of real property are not desirable, as herein provided, as a site for the juvenile correctional institution, then the director may acquire real property for such site by purchase or condemnation proceedings." [1961 c 183 § 2.]

Contract for construction: "When the land selected by the director, the description of which is more particularly set forth in RCW 72.19.010, has been acquired by the department of institutions by virtue of the lease referred to in said RCW 72.19.010, the director shall, upon the completion of plans and specifications for such institution, publish a call for bids, as provided by law, and enter into a contract for the construction of such institution." [1963 c 165 § 2; 1961 c 183 § 3.]

Site advisory commission: "There is hereby established a site advisory commission to be composed of six members, to aid and assist the director of institutions in the selection of a suitable site for the location of the juvenile correctional institution herein authorized, the members to serve until the site be acquired. The members of the site advisory commission shall be composed of three members of the state house of representatives to be appointed by the speaker, and three members of the state senate to be appointed by the president of the senate. The members of the commission, as soon as may be convenient after their appointment, shall elect one of their members to serve as chairman. Each member shall receive twenty dollars per diem for each day spent in the performance of the duties of the commission and mileage at the rate of ten cents per mile." [1961 c 183 § 5.]

Replacement of Luther Burbank and Martha Washington schools—Transfer of children: "The juvenile correctional institution established by this chapter shall replace the facilities of the Luther Burbank school for boys and the Martha Washington school for girls, both of which are presently being leased from the Seattle public school system by the department of institutions, and upon the expiration of the leases of both properties or other termination thereof, the children located at such schools shall be transferred to the correctional institution established hereunder. In the event the correctional institution has not been completely constructed at the expiration or

termination of said leases, the director is authorized to transfer such children to other facilities deemed adequate or otherwise enter into agreements to retain the children in the leased facilities until such completion." [1963 c 165 § 6.]

72.19.020 Rules and regulations. The director may make, amend and repeal rules and regulations for the administration of the juvenile correctional institution established by this act in furtherance of the provisions of this chapter and not inconsistent with law. [1961 c 183 § 4.]

72.19.030 Superintendent—Appointment—Qualifications. The superintendent of the correctional institution established by this chapter shall be appointed by the director. The superintendent shall have such administrative and correctional experience and possess such qualifications as shall be determined by the state personnel board subject to the advice and approval of the director. [1963 c 165 § 3.]

72.19.040 Associate superintendents—Appointment—Acting superintendent. The superintendent, subject to the approval of the director, shall appoint such associate superintendents as shall be deemed necessary. In the event the superintendent shall be absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his duties, one of the associate superintendents of such institution shall act as superintendent during such period of absence, illness or incapacity as may be designated by the director. [1963 c 165 § 4.]

72.19.050 Powers and duties of superintendent. The superintendent shall have the following powers, duties and responsibilities:

(1) Subject to the rules and regulations of the department, the superintendent shall have the supervision and management of the institution, of the grounds and buildings, the subordinate officers and employees, and of the juveniles received at such institution and the custody of such persons until released or transferred as provided by law.

(2) Subject to the rules and regulations of the department and the state personnel board, appoint all subordinate officers and employees.

(3) The superintendent shall be the custodian of the personal property of all juveniles in the institution and shall make rules and regulations governing the accounting and disposition of all moneys received by such juveniles, not inconsistent with the law, and subject to the approval of the director. [1963 c 165 § 5.]

72.19.060 Male, female, juveniles—Residential housing, separation—Correctional programs, separation, combination. The plans and construction of the juvenile correctional institution established by this chapter shall provide for adequate separation of the residential housing of the male juvenile from the female juvenile. In all other respects, the juvenile correctional programs for both boys and girls may be combined or separated as the director deems most reasonable and effective to accomplish the reformation, training and

rehabilitation of the juvenile offender, realizing all possible economies from the lack of necessity for duplication of facilities. [1963 c 165 § 7.]

72.19.070 General obligation bond issue to provide buildings—Authorized—Form, terms, etc. For the purpose of providing needful buildings at the correctional institution for the confinement and rehabilitation of juveniles situated in King county in the vicinity of Echo Lake which institution was established by the provisions of this chapter, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of four million six hundred thousand dollars, or so much thereof as shall be required to finance the program above set forth, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: *Provided*, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of four percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1963 ex.s. c 27 § 1.]

72.19.100 General obligation bond issue to provide buildings—Juvenile correctional institution building bond redemption fund—Payment from and prior charge on retail sales tax. The juvenile correctional institution building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.19.070 through 72.19.130. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said juvenile correctional institution building bond redemption fund from moneys transmitted to the state treasurer by the tax commission and certified by the tax commission to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1963 ex.s. c 27 § 4.]

72.19.110 General obligation bond issue to provide buildings—Legislature may provide additional means of revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 72.19.070 through 72.19.130 shall not be deemed to provide an exclusive method for such payment. [1963 ex.s. c 27 § 5.]

72.19.120 General obligation bond issue to provide buildings—Bonds legal investment for state and municipal corporation funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1963 ex.s. c 27 § 6.]

72.19.130 Referral to electorate. This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1964, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. [1963 ex.s. c 27 § 7.]

Reviser's note: (1) "This act" consists of RCW 72.19.070 through 72.19.120.

(2) 1963 ex.s. c 27 became Referendum bill No. 13 which was approved by the electorate November 3, 1964.

Chapter 72.20 MAPLE LANE SCHOOL

Sections

72.20.010	School established.
72.20.020	Management—Superintendent.
72.20.040	Duties of superintendent.
72.20.050	Parole or discharge—Behavior credits.
72.20.060	Conditional parole—Apprehension on escape or violation of parole.
72.20.065	Intrusion—Enticement away of girls—Interference—Penalty.
72.20.070	Eligibility restricted.
72.20.080	Education—State board of education to supervise.
72.20.090	Hiring out—Apprenticeships—Compensation.

Assisting escape of inmate of mental institution or custodial school: RCW 9.31.100.

Commitment: Chapter 13.04 RCW.

Control and treatment of venereal diseases: Chapter 70.24 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Escape and rescue: Chapter 9.31 RCW.

Financial responsibility for cost of detention of minor: RCW 13.16.085.

Fugitives of this state: Chapter 10.34 RCW.

Infected prisoners, removal: RCW 70.20.140.

Juvenile courts: Chapter 13.04 RCW.

Officers and guards as peace officers: RCW 9.94.050.

Prisoners, state penal institutions: Chapter 9.94 RCW.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Reformatory—Incorrigible juvenile delinquents: RCW 13.04.200, 72.12.050.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

72.20.010 School established. There is established at Grand Mound, Thurston county, an institution which shall be known as the Maple Lane school. [1959 c 28 § 72.20.010. Prior: 1955 c 230 § 2; 1913 c 157 § 1; RRS § 4631.]

72.20.020 Management—Superintendent. The government, control and business management of such school shall be vested in the director. The director shall, with the approval of the governor, appoint a suitable superintendent of said school, and shall designate the number of subordinate officers and employees to be employed, and fix their respective salaries, and have power, with the like approval, to make and enforce all such rules and regulations for the administration, government and discipline of the school as the director may deem just and proper, not inconsistent with this chapter. [1959 c 39 § 1; 1959 c 28 § 72.20.020. Prior: 1913 c 157 § 3; RRS § 4633.]

Appointment of superintendent and subordinate employees, general provisions: RCW 72.01.060.

72.20.040 Duties of superintendent. The superintendent, subject to the direction and approval of the director shall:

(1) Have general supervision and control of the grounds and buildings of the institution, the subordinate officers and employees, and the inmates thereof, and all matters relating to their government and discipline.

(2) Make such rules, regulations and orders, not inconsistent with law or with the rules, regulations or directions of the director, as may seem to him proper or necessary for the government of such institution and for the employment, discipline and education of the inmates.

(3) Exercise such other powers, and perform such other duties as the director may prescribe. [1959 c 39 § 2; 1959 c 28 § 72.20.040. Prior: 1913 c 157 § 5; RRS § 4635.]

72.20.050 Parole or discharge—Behavior credits. The department, acting with the superintendent, shall, under a system of marks, or otherwise, fix upon a uniform plan by which girls may be paroled or discharged from the school, which system shall be subject to revision from time to time. Each girl shall be credited for personal demeanor, diligence in labor or study and for the results accomplished, and charged for derelictions, negligence or offense. The standing of each girl shall be made known to her as often as once a month. [1959 c 28 § 72.20.050. Prior: 1913 c 157 § 8; RRS § 4638.]

72.20.060 Conditional parole—Apprehension on escape or violation of parole. Every girl shall be entitled to a trial on parole before reaching the age of twenty years, such parole to continue for at least one year unless violated. The superintendent and resident physician, with the approval of the director, shall determine

whether such parole has been violated. Any girl committed to the school who shall escape therefrom, or who shall violate a parole, may be apprehended and returned to the school by any officer or citizen on written order or request of the superintendent. [1959 c 28 § 72.20.060. Prior: 1913 c 157 § 9, part; RRS § 4639, part.]

Assisting escape: RCW 9.31.100.

72.20.065 Intrusion—Enticement away of girls—Interference—Penalty. Any person who shall go upon the school grounds except on lawful business, or by consent of the superintendent, or who shall entice any girl away from the school, or who shall in any way interfere with its management or discipline, shall be guilty of a misdemeanor. [1959 c 28 § 72.20.065. Prior: 1913 c 157 § 9, part; RRS § 4639, part.]

72.20.070 Eligibility restricted. No girl shall be received in the Maple Lane school who is not of sound mind, or who is subject to epileptic or other fits, or is not possessed of that degree of bodily health which should render her a fit subject for the discipline of the school. It shall be the duty of the court committing her to cause such girl to be examined by a reputable physician to be appointed by the court, who will certify to the above facts, which certificate shall be forwarded to the school with the commitment. Any girl who may have been committed to the school, not complying with the above requirements, may be returned by the superintendent to the court making the commitment, or to the officer or institution last having her in charge. The department shall arrange for the transportation of all girls to and from the school. [1959 c 28 § 72.20.070. Prior: 1913 c 157 § 10; RRS § 4640.]

72.20.080 Education—State board of education to supervise. It shall be the duty of the superintendent, subject to the approval of the director, to employ teachers, and as far as practicable, to instruct the girls in all of the branches usually taught in the grades of the common schools of the state, also in such trades and vocational occupations as may be found desirable. The educational work of the school shall be a part of the educational system of the state, and as such shall be under the supervision of the state board of education. Only those certified by the state superintendent of public instruction shall be employed as teachers. [1959 c 28 § 72.20.080. Prior: 1913 c 157 § 11; RRS § 4641.]

Employment of teachers: RCW 72.01.200.

State board of education: Chapter 28A.04 RCW.

State superintendent of public instruction: Chapter 28A.03 RCW.

72.20.090 Hiring out—Apprenticeships—Compensation. The superintendent shall have power to place any girl under the age of eighteen years at any employment for account of the institution or the girl employed, and receive and hold the whole or any part of her wages for the benefit of the girl less the amount necessary for her board and keep, and may also, with the consent of any girl over fourteen years of age, and the approval of the director endorsed thereon, execute indentures of apprenticeship, which shall be binding on

all parties thereto. In case any girl so apprenticed shall prove untrustworthy or unsatisfactory, the superintendent may permit her to be returned to the school, and the indenture may thereupon be canceled. If such girl shall have an unsuitable employer, the superintendent may, with the approval of the director, take her back to the school, and cancel the indenture of apprenticeship. All indentures so made shall be filed and kept in the school. A system may also be established, providing for compensation to girls for services rendered, and payments may be made from time to time, not to exceed in the aggregate to any one girl the sum of twenty-five dollars for each year of service. [1959 c 28 § 72.20.090. Prior: 1913 c 157 § 12; RRS § 4642.]

Chapter 72.23 PUBLIC AND PRIVATE FACILITIES FOR MENTALLY ILL

Sections

- 72.23.010 Definitions.
- 72.23.020 State hospitals designated.
- 72.23.030 Superintendent—Qualifications—Powers.
- 72.23.040 Seal of hospital.
- 72.23.050 Superintendent as witness—Exemptions from military, jury duty.
- 72.23.060 Gifts—Record—Use.
- 72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights.
- 72.23.080 Voluntary patients—Legal competency—Record.
- 72.23.100 Voluntary patients—Policy—Duration.
- 72.23.110 Voluntary patients—Limitation as to number.
- 72.23.120 Voluntary patients—Charges for hospitalization.
- 72.23.130 History of patient.
- 72.23.160 Escape—Apprehension and return.
- 72.23.170 Escape of patient—Penalty for assisting.
- 72.23.180 Discharge, parole, death, escape—Notice—Certificate of discharge.
- 72.23.190 Death—Report to coroner.
- 72.23.200 Persons under eighteen—Confinement in adult wards.
- 72.23.210 Persons under eighteen—Special wards and attendants.
- 72.23.230 Patient's property—Superintendent as custodian—Management and accounting.
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- 72.23.250 Funds donated to patients.
- 72.23.260 Federal patients—Agreements authorized.
- 72.23.280 Nonresidents—Hospitalization.
- 72.23.290 Transfer of patients—Authority of transferee.
- 72.23.300 Bringing narcotics, intoxicating liquors, weapons, etc., into institution or its grounds prohibited—Penalty.
- 72.23.900 Construction—Purpose—1959 c 28.
- 72.23.910 Construction—Effect on laws relating to the criminally insane—"Insane" as used in other statutes.

Assisting escape of inmate of mental institutions: RCW 9.31.100.

Commitment procedure: Chapter 71.02 RCW.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

County hospitals: Chapter 36.62 RCW.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Division of mental health: Chapter 43.20A RCW.

Hospitalization charges: RCW 71.02.310.

Mental illness, commitment procedures, rights, etc: Chapter 71.05 RCW.

Mental illness and inebriacy: Title 71 RCW.

Out-of-state physicians, conditional license to practice in conjunction with institutions: RCW 18.71.095, 18.71.096.

Private mental establishments: Chapter 71.12 RCW.

Procedure as to insane convicts: RCW 72.08.110.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

State hospitals, allocation of patients: RCW 71.02.450.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

72.23.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

"Mentally ill person" shall mean any person who, pursuant to the definitions contained in RCW 71.05-.020, as a result of a mental disorder presents a likelihood of serious harm to others or himself or is gravely disabled.

"Patient" shall mean a person under observation, care or treatment in a state hospital, or a person found mentally ill by the court, and not discharged from a state hospital, or other facility, to which such person had been ordered hospitalized.

"Licensed physician" shall mean an individual permitted to practice as a physician under the laws of the state, or a medical officer, similarly qualified, of the government of the United States while in this state in performance of his official duties.

"State hospital" shall mean any hospital operated and maintained by the state of Washington for the care of the mentally ill.

"Superintendent" shall mean the superintendent of a state hospital.

"Court" shall mean the superior court of the state of Washington.

"Resident" shall mean a resident of the state of Washington.

Wherever used in this chapter, the masculine shall include the feminine and the singular shall include the plural. [1974 1st ex.s. c 145 § 2; 1973 1st ex.s. c 142 § 3; 1959 c 28 § 72.23.010. Prior: 1951 c 139 § 2.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900–71.05.930.

72.23.020 State hospitals designated. There are hereby permanently located and established the following state hospitals: Western state hospital at Fort Steilacoom, Pierce county; eastern state hospital at Medical Lake, Spokane county; and northern state hospital near Sedro Woolley, Skagit county. [1959 c 28 § 72.23.020. Prior: 1951 c 139 § 6. Formerly RCW 71.02.440.]

Allocation of patients: RCW 71.02.450.

72.23.030 Superintendent—Qualifications—Powers. The superintendent of a state hospital shall be a skillful practicing physician; he shall have control of the medical, therapeutic, and dietetic treatment of the patients, which shall include authority to cause the performance of all necessary surgery. The superintendent, subject to rules and regulations of the department, shall have control of the internal government and economy of a state hospital and shall appoint and direct all subordinate officers and employees. [1969 c 56 § 2; 1959 c

28 § 72.23.030. Prior: 1951 c 139 § 7. Formerly RCW 71.02.510.]

Appointment of superintendent: RCW 72.01.060.

72.23.040 Seal of hospital. The superintendent shall provide an official seal upon which shall be inscribed the statutory name of the hospital under his charge and the name of the state. He shall affix the seal of the hospital to any notice, order of discharge, or other paper required to be given by him or issued. [1959 c 28 § 72.23.040. Prior: 1951 c 139 § 8. Formerly RCW 71.02.540.]

72.23.050 Superintendent as witness—Exemptions from military, jury duty. The superintendent shall not be required to attend any court as a witness in a civil or juvenile court proceedings, but parties desiring his testimony can take and use his deposition; nor shall he be required to attend as a witness in any criminal case, unless the court before which his testimony shall be desired shall, upon being satisfied of the materiality of his testimony require his attendance; and he and all other persons employed at the hospital shall be exempt from serving on juries; and, in time of peace, from performing military duty; and the certificate of the superintendent shall be evidence of such employment. [1959 c 28 § 72.23.050. Prior: 1951 c 139 § 9. Formerly RCW 71.02.520.]

72.23.060 Gifts—Record—Use. The superintendent is authorized to accept and receive from any person or organization gifts of money or personal property on behalf of the state hospital under his charge, or on behalf of the patients therein. The superintendent is authorized to use such money or personal property for the purposes specified by the donor where such purpose is consistent with law. In the absence of a specified use the superintendent may use such money or personal property for the benefit of the state hospital under his charge or for the general benefit of the patients therein. The superintendent shall keep an accurate record of the amount or kind of gift, the date received, and the name and address of the donor. The superintendent may deposit any money received as he sees fit upon the giving of adequate security. Any increase resulting from such gift may be used for the same purpose as the original gift. Gratuities received for services rendered by a state hospital staff in their official capacity shall be used for the purposes specified in this section. [1959 c 28 § 72.23.060. Prior: 1951 c 139 § 10. Formerly RCW 71.02.600.]

72.23.070 Voluntary patients—Right to receive—Application—Review of condition and status—Minors, commitment procedure and requirements, rights. Pursuant to rules and regulations established by the department, a public or private facility may receive any person who is a suitable person for care and treatment as mentally ill, or for observation as to the existence of mental illness, upon the receipt of a written application of the person, or others on his behalf, in accordance with the following requirements:

(1) In the case of a person eighteen years of age or over, the application shall be voluntarily made by the person;

(2) In the case of a person thirteen years of age or under, the application may be voluntarily made by his parents, or by the parent, conservator, guardian, or other person entitled to his custody when such person is more than thirteen years of age, such application must be accompanied by the written consent, knowingly and voluntarily given, of the minor. All such voluntary applications to a public facility shall be reviewed by the county mental health professionals, who shall submit a written report and evaluation with recommendations to the superintendent of such facility to which such application is made stating whether treatment is necessary and proper on a voluntary basis and evaluating the reasons for voluntary commitment. Such person's condition and status shall be reviewed by the professional person in charge of the facility or his designee at least once each one hundred eighty days. A person under eighteen years of age received into a public facility as a voluntary patient shall not be retained after he reaches eighteen years of age, but such person, upon reaching eighteen years of age, may apply for admission into a public or private facility as a voluntary patient.

(3) No minor over thirteen years of age shall be involuntarily committed to a state or private facility for care and treatment as mentally disordered, or for observation as to the existence of mental disorder, except in accordance with the following requirements:

(a) The facility must be certified by the department of social and health services to provide evaluation and treatment to persons under eighteen years of age suffering from mental disorders: *Provided*, That a physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility: *Provided further*, That a facility which is part of, or a part of, or operated by, the department of social and health services or any federal agency will not require certification.

(b) A petition shall be filed with the juvenile court by the person's parent, parents, conservator, guardian, or by the juvenile court itself. The petition shall set forth the reasons why commitment is necessary and what alternative courses of treatment have been explored. The juvenile court shall then conduct a hearing, at which the person under eighteen years of age shall be represented by an attorney, to determine whether commitment is clearly in the best interests of the person sought to be committed, and that no less restrictive alternative exists: *Provided*, That, if in the opinion of the designated county mental health professional a minor presents an imminent likelihood of serious harm to himself or others, he may be temporarily detained for up to seventy-two hours by a licensed facility pending petition to the juvenile court for further commitment.

(c) If the juvenile court determines that commitment is clearly necessary, it will issue an order approving such petition. If the juvenile court determines that a less restrictive alternative is desirable, it may order that alternatives be followed.

(d) If a person under the age of eighteen years is committed to a state or private facility pursuant to this section, the juvenile court recommending commitment shall require a report from the facility every one hundred eighty days that sets forth such facts as the juvenile court may require. Upon receipt of the report, the juvenile court shall undertake a review of the status of such person to determine whether or not it is still clearly in the best interests of the patient that he remain in the facility. If the juvenile court determines that further commitment is not clearly in the best interests of the patient, it shall order release upon such conditions as it deems necessary.

(e) Every person under the age of eighteen shall specifically have all the rights provided for by RCW 71.05.370 and 71.05.480, except that the juvenile court rather than the superior court shall be responsible for any proceedings. A voluntarily admitted minor over thirteen years of age shall have the right to release on the next judicial day from the date of request unless a petition is filed in juvenile court by the professional person in charge of the facility or his designee on the grounds that the juvenile is dangerous to himself or others or that it would be in the best interests of the juvenile that he remain in the facility. Furthermore, should the patient and his parent, parents, conservator, or guardian both request his release, he shall be immediately released unless the professional person in charge of the facility objects immediately in writing to the juvenile court on the grounds that the person is dangerous to himself or others and that it would not be in the patient's best interests to be released. Should this occur, the juvenile court shall hold a hearing on the issue within five judicial days and determine whether the person should be released.

(f) Nothing in this section shall prohibit the professional person in charge of the facility in which the person is being treated from releasing him at any time when, in the opinion of said professional person, further commitment would no longer be in the best interests of the patient.

Whenever a person is released by the professional person in charge of a facility under this section, said person shall, in writing, notify the juvenile court which committed the person for treatment.

(4) In the case of a person eighteen years of age or over for whom a conservator or guardian of the person has been appointed, such application shall be made by said conservator or guardian, when so authorized by proper court order in the conservatorship or guardianship proceedings. [1974 1st ex.s. c 145 § 3; 1973 2nd ex.s. c 24 § 1; 1973 1st ex.s. c 142 § 4; 1971 ex.s. c 292 § 50; 1959 c 28 § 72.23.070. Prior: 1951 c 139 § 11; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.030.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

Involuntary commitment procedure: Chapter 71.05 RCW.

Mental illness: Chapter 71.05 RCW.

72.23.080 Voluntary patients—Legal competency—Record. Any person received and detained in a state hospital pursuant to RCW 72.23.070 shall be deemed a voluntary patient and shall not suffer a loss of legal competency by reason of his application and admission. Upon the admission of a voluntary patient to a state hospital the superintendent shall immediately forward to the department the record of such patient showing the name, address, sex, age, place of birth, occupation, date of admission, name of nearest relative, and such other information as the department may from time to time require. [1959 c 28 § 72.23.080. Prior: 1951 c 139 § 12; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.040.]

72.23.100 Voluntary patients—Policy—Duration. It shall be the policy of the department to permit liberal use of the foregoing sections for the admission of those cases that can be benefited by treatment and returned to normal life and mental condition, in the opinion of the superintendent, within a period of six months. No person shall be carried as a voluntary patient for a period of more than one year. [1973 1st ex.s. c 142 § 5; 1959 c 28 § 72.23.100. Prior: 1951 c 139 § 14; 1949 c 198 § 19, part; Rem. Supp. 1949 § 6953-19, part. Formerly RCW 71.02.060.]

Severability—Construction—Effective date—1973 1st ex.s. c 142: See RCW 71.05.900-71.05.930.

72.23.110 Voluntary patients—Limitation as to number. If it becomes necessary because of inadequate facilities or staff, the department may limit applicants for voluntary admission in accordance with such rules and regulations as it may establish. The department may refuse all applicants for voluntary admission where lack of adequate facilities or staff make such action necessary. [1959 c 28 § 72.23.110. Prior: 1951 c 139 § 16. Formerly RCW 71.02.070.]

72.23.120 Voluntary patients—Charges for hospitalization. Payment of hospitalization charges shall not be a necessary requirement for voluntary admission: *Provided, however,* The department may request payment of hospitalization charges, or any portion thereof, from the patient or relatives of the patient within the following classifications: Spouse, parents, or children. Where the patient or relatives within the above classifications refuse to make the payments requested, the department shall have the right to discharge such patient or initiate proceedings for involuntary hospitalization. The maximum charge shall be the same for voluntary and involuntary hospitalization. [1959 c 28 § 72.23.120. Prior: 1951 c 139 § 16. Formerly RCW 71.02.080.]

72.23.130 History of patient. It shall be the duty of the superintendent to ascertain by diligent inquiry and correspondence, the history of each and every patient admitted to his hospital. [1959 c 28 § 72.23.130. Prior: 1951 c 139 § 40. Formerly RCW 71.02.530.]

72.23.160 Escape—Apprehension and return. If a patient shall escape from a state hospital the superintendent shall cause immediate search to be made for him and return him to said hospital wherever found. Notice of such escape shall be given to the committing court who may issue an order of apprehension and return directed to any peace officer within the state. Notice may be given to any sheriff or peace officer, who, when requested by the superintendent, may apprehend and detain such escapee or return him to the state hospital without warrant. [1959 c 28 § 72.23.160. Prior: 1951 c 139 § 43. Formerly RCW 71.02.630.]

72.23.170 Escape of patient—Penalty for assisting. Any person who procures the escape of any patient of any state hospital for the mentally ill, or institutions for psychopaths to which such patient has been lawfully committed, or who advises, connives at, aids, or assists in such escape or conceals any such escape, is guilty of a felony and shall be punished by imprisonment in a state penal institution for a term of not more than five years or by a fine of not more than five hundred dollars or by both imprisonment and fine. [1959 c 28 § 72.23.170. Prior: 1957 c 225 § 1, part; 1949 c 198 § 20, part; Rem. Supp. 1949 § 6953-20, part. Formerly RCW 71.12.620, part.]

Assisting escape of inmate of mental institutions: RCW 9.31.100.

72.23.180 Discharge, parole, death, escape—Notice—Certificate of discharge. Whenever a patient dies, escapes, or is paroled or discharged from a state hospital, the superintendent shall immediately notify the clerk of the court which ordered such patient's hospitalization. A copy of such notice shall be given to the next of kin or next friend of such patient if their names or addresses are known or can, with reasonable diligence, be ascertained. Whenever a patient is discharged the superintendent shall issue such patient a certificate of discharge. Such notice or certificate shall give the date of parole, discharge, or death of said patient, and shall state the reasons for parole or discharge, or the cause of death, and shall be signed by the superintendent. [1959 c 28 § 72.23.180. Prior: 1951 c 139 § 44. Formerly RCW 71.02.640.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

72.23.190 Death—Report to coroner. In the event of the sudden or mysterious death of any patient at a state hospital, not on parole or escape therefrom, such fact shall be reported by the superintendent thereof to the coroner of the county in which the death occurs. [1959 c 28 § 72.23.190. Prior: 1951 c 139 § 45. Formerly RCW 71.02.660.]

72.23.200 Persons under eighteen—Confinement in adult wards. No mentally ill person under the age of sixteen years shall be regularly confined in any ward in any state hospital which ward is designed and operated for the care of the mentally ill eighteen years of age or over. No person of the ages of sixteen and seventeen shall be placed in any such ward, when in the opinion

of the superintendent such placement would be detrimental to the mental condition of such a person or would impede his recovery or treatment. [1971 ex.s. c 292 § 52; 1959 c 28 § 72.23.200. Prior: 1951 c 139 § 46; 1949 c 198 § 17; Rem. Supp. 1949 § 6953-17. Formerly RCW 71.02.550.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

72.23.210 Persons under eighteen—Special wards and attendants. The department may designate one or more wards at one or more state hospitals as may be deemed necessary for the sole care and treatment of persons under eighteen years of age admitted thereto. Nurses and attendants for such ward or wards shall be selected for their special aptitude and sympathy with such young people, and occupational therapy and recreation shall be provided as may be deemed necessary for their particular age requirements and mental improvement. [1971 ex.s. c 292 § 53; 1959 c 28 § 72.23.210. Prior: 1951 c 139 § 47; 1949 c 198 § 18; Rem. Supp. 1949 § 6953-18. Formerly RCW 71.02.560.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

72.23.230 Patient's property—Superintendent as custodian—Management and accounting. The superintendent of a state hospital shall be the custodian without compensation of such personal property of a patient involuntarily hospitalized therein as may come into the superintendent's possession while the patient is under the jurisdiction of the hospital. As such custodian, the superintendent shall have authority to disburse moneys from the patients' funds for the following purposes only and subject to the following limitations:

(1) The superintendent may disburse any of the funds in his possession belonging to a patient for such personal needs of that patient as may be deemed necessary by the superintendent; and

(2) Whenever the funds belonging to any one patient exceed the sum of three hundred dollars, the superintendent may apply the excess to the payment of the state hospitalization and/or outpatient charges of such patient except, reduction of such funds to a lesser amount may be made where necessary to qualify such patient for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such patient, and to qualify such patient for the payment from any public or private program providing benefits for the payment of all or a portion of the costs of care, treatment hospitalization, support, training, or rehabilitation or for the discharge of the liabilities imposed by the provisions of RCW 71.02.411; and

(3) When a patient is paroled, the superintendent shall deliver unto the said patient all or such portion of the funds or other property belonging to the patient as the superintendent may deem necessary and proper in the interests of the patient's welfare, and the superintendent may during the parole period deliver to the patient such additional property or funds belonging to the patient as the superintendent may from time to time

determine necessary and proper. When a patient is discharged from the jurisdiction of the hospital, the superintendent shall deliver to such patient all funds or other property belonging to the patient.

All funds held by the superintendent as custodian may be deposited in a single fund. Annual reports of receipts and expenditures shall be forwarded to the department, and shall be open to inspection by interested parties: *Provided*, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the patients of such institution: *Provided, further*, That when the personal accounts of patients exceed three hundred dollars, the interest accruing from such excess shall be credited to the personal accounts of such patients. All such expenditures shall be accounted for by the superintendent.

The appointment of a guardian for the estate of such patient shall terminate the superintendent's authority to pay state hospitalization charges upon the superintendent's receipt of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall forward to such guardian any funds or other property of the patient remaining in the superintendent's possession, together with a final accounting of receipts and expenditures. [1971 c 82 § 1; 1959 c 60 § 1; 1959 c 28 § 72.23.230. Prior: 1953 c 217 § 2; 1951 c 139 § 49. Formerly RCW 71.02.570.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Guardianship of estate: Chapters 11.88 and 11.92 RCW.

72.23.240 Patient's property—Delivery to superintendent as acquittance—Defense, indemnity. Upon receipt of a written request signed by the superintendent stating that a designated patient of such hospital is involuntarily hospitalized therein, and that no guardian of his estate has been appointed, any person, bank, firm or corporation having possession of any money, bank accounts, or choses in action owned by such patient, may, if the balance due does not exceed one thousand dollars, deliver the same to the superintendent and mail written notice thereof to such patient at such hospital. The receipt of the superintendent shall be full and complete acquittance for such payment and the person, bank, firm or corporation making such payment shall not be liable to the patient or his legal representatives. All funds so received by the superintendent shall be deposited in such patient's personal account at such hospital and be administered in accordance with this chapter.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, firm or corporation effecting such delivery, and the state shall indemnify such person, bank, firm or corporation against any judgment rendered as a result of such proceeding. [1959 c 28 § 72.23.240. Prior: 1953 c 217 § 1. Formerly RCW 71.02.575.]

72.23.250 Funds donated to patients. The superintendent shall also have authority to receive funds for the benefit of individual patients and may disburse such funds according to the instructions of the donor of such funds. [1959 c 28 § 72.23.250. Prior: 1951 c 139 § 50. Formerly RCW 71.02.580.]

72.23.260 Federal patients—Agreements authorized. The department shall have the power, in the name of the state, to enter into contracts with any duly authorized representative of the United States government, providing for the admission to, and the separate or joint observation, maintenance, care, treatment and custody in, state hospitals of persons entitled to or requiring the same, at the expense of the United States, and contracts providing for the separate or joint maintenance, care, treatment or custody of such persons hospitalized in the manner provided by law, and to perform such contracts, which contracts shall provide that all payments due the state of Washington from the United States for services rendered under said contracts shall be paid to the department. [1959 c 28 § 72.23.260. Prior: 1951 c 139 § 65. Formerly RCW 71.02.460.]

72.23.280 Nonresidents—Hospitalization. Nonresidents of this state conveyed or coming herein while mentally ill shall not be hospitalized in a state hospital, but this prohibition shall not prevent the hospitalization and temporary care in said hospitals of such persons stricken with mental illness while traveling or temporarily sojourning in this state, or sailors attacked with mental illness upon the high seas and first arriving thereafter in some port within this state. [1959 c 28 § 72.23.280. Prior: 1951 c 139 § 67. Formerly RCW 71.02.470.]

72.23.290 Transfer of patients—Authority of transferee. Whenever it appears to be to the best interests of the patients concerned, the department shall have the authority to transfer such patients among the various state hospitals pursuant to rules and regulations established by said department. The superintendent of a state hospital shall also have authority to transfer patients eligible for treatment to the veterans' administration or other United States government agency where such transfer is satisfactory to such agency. Such agency shall possess the same authority over such patients as the superintendent would have possessed had the patient remained in a state hospital. [1959 c 28 § 72.23.290. Prior: 1951 c 139 § 68. Formerly RCW 71.02.480.]

Commitment to veterans administration or other federal agency: RCW 73.36.165.

State hospitals—Allocation of patients: RCW 71.02.450.

72.23.300 Bringing narcotics, intoxicating liquors, weapons, etc., into institution or its grounds prohibited—Penalty. Any person not authorized by law so to do, who brings into any state institution for the care and treatment of mental illness or within the grounds thereof, any opium, morphine, cocaine or other narcotic, or any intoxicating liquor of any kind whatever, except for medicinal or mechanical purposes, or any

firearms, weapons, or explosives of any kind is guilty of a felony. [1959 c 28 § 72.23.300. Prior: 1949 c 198 § 52; Rem. Supp. 1949 § 6932-52. Formerly RCW 71.12.630.]

Narcotic drugs: Chapter 69.32 RCW.

Uniform controlled substances act: Chapter 69.50 RCW.

72.23.900 Construction—Purpose—1959 c 28.

The provisions of this chapter shall be liberally construed so that persons who are in need of care and treatment for mental illness shall receive humane care and treatment and be restored to normal mental condition as rapidly as possible with an avoidance of loss of civil rights where not necessary, and with as little formality as possible, still preserving all rights and all privileges of the person as guaranteed by the Constitution. [1959 c 28 § 72.23.900. Prior: 1951 c 139 § 1.]

72.23.910 Construction—Effect on laws relating to the criminally insane—"Insane" as used in other statutes. Nothing in this chapter shall be construed as affecting the laws of this state relating to the criminally insane or insane inmates of penal institutions. Where the term "insane" is used in other statutes of this state its meaning shall be synonymous with mental illness as defined in this chapter. [1959 c 28 § 72.23.910. Prior: 1951 c 139 § 4; 1949 c 198 § 15; Rem. Supp. 1949 § 6953-15.]

Chapter 72.25

NONRESIDENT INSANE, FEEBLE-MINDED, SEXUAL PSYCHOPATHS, AND PSYCHOPATHIC DELINQUENTS.

Sections

- 72.25.010 Deportation of aliens—Return of residents.
72.25.020 Return of nonresidents—Reciprocity—Expense—Resident of this state defined.
72.25.030 Assistance—Payment of expenses.

72.25.010 Deportation of aliens—Return of residents. It shall be the duty of the director of institutions, in cooperation with the United States bureau of immigration and/or the United States department of the interior, to arrange for the deportation of all alien sexual psychopaths, psychopathic delinquents, insane, or feeble-minded who are now confined in, or who may hereafter be committed to, any state hospital for the sexual psychopath, psychopathic delinquent, insane, or feeble-minded in this state; to transport such alien sexual psychopaths, psychopathic delinquents, insane, or feeble-minded to such point or points as may be designated by the United States bureau of immigration or by the United States department of the interior; and to give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, insane, or feeble-minded in a territory of the United States or in a foreign country. [1965 c 78 § 1; 1959 c 28 § 72.25.010. Prior: 1957 c 29 § 1; 1953 c 232 § 1. Formerly RCW 71.04.270.]

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

72.25.020 Return of nonresidents—Reciprocity—Expense—Resident of this state defined. The director shall also return all nonresident sexual psychopaths, psychopathic delinquents, insane, or feeble-minded who are now confined in or who may hereafter be committed to a state hospital for the sexual psychopath, psychopathic delinquent, insane, or feeble-minded in this state to the states or state in which they may have a legal residence. For the purpose of facilitating the return of such persons the director may enter into a reciprocal agreement with any other state for the mutual exchange of sexual psychopaths, psychopathic delinquents, insane, or feeble-minded now confined in or hereafter committed to any hospital for the sexual psychopath, psychopathic delinquent, insane, or feeble-minded in one state whose legal residence is in the other, and he may give written permission for the return of any resident of Washington now or hereafter confined in a hospital for the sexual psychopath, psychopathic delinquent, insane, or feeble-minded in another state. Such residents may be returned directly to the proper Washington state institution without further court proceedings: *Provided*, That if the superintendent of such institution is of the opinion that the returned person is not a sexual psychopath, a psychopathic delinquent, insane, or feeble-minded he may discharge said patient: *Provided further*, That if such superintendent deems such person a sexual psychopath, a psychopathic delinquent, insane, or feeble-minded, he shall file an application for commitment within ninety days of arrival at the Washington institution.

A person shall be deemed to be a resident of this state within the meaning of this chapter who has maintained his domiciliary residence in this state for a period of one year preceding commitment to a state institution without receiving assistance from any tax supported organization and who has not subsequently acquired a domicile in another state: *Provided*, That any period of time spent by such person while an inmate of a state hospital or state institution or while on parole, escape, or leave of absence therefrom shall not be counted in determining the time of residence in this or another state.

All expenses incurred in returning sexual psychopaths, psychopathic delinquents, insane, or feeble-minded from this to another state may be paid by this state, but the expense of returning residents of this state shall be borne by the state making the return. [1965 c 78 § 2; 1959 c 28 § 72.25.020. Prior: 1957 c 29 § 2; 1953 c 232 § 2. Formerly RCW 71.04.280.]

72.25.030 Assistance—Payment of expenses. For the purpose of carrying out the provisions of this chapter the director may employ all help necessary in arranging for and transporting such alien and nonresident sexual psychopaths, psychopathic delinquents, insane, or feeble-minded, and the cost and expense of providing such assistance, and all expenses incurred in effecting the transportation of such alien and nonresident sexual psychopaths, psychopathic delinquents, insane, or feeble-minded, shall be paid from the funds appropriated for that purpose upon vouchers approved by the

department. [1965 c 78 § 3; 1959 c 28 § 72.25.030. Prior: 1957 c 29 § 3; 1953 c 232 § 3. Formerly RCW 71.04.290.]

Chapter 72.27

INTERSTATE COMPACT ON MENTAL HEALTH

Sections

72.27.010	Compact enacted.
72.27.020	Director is compact administrator—Rules and regulations—Cooperation with other agencies.
72.27.030	Supplementary agreements.
72.27.040	Financial arrangements.
72.27.050	Prerequisites for transfer of person to another party state—Release or return of residents, jurisdiction, laws applicable.
72.27.060	Transmittal of copies of chapter.
72.27.070	Right to deport aliens and return residents of non-party states preserved.

72.27.010 Compact enacted. The Interstate Compact on Mental Health is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a nonparty state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances: *Provided, however,* That in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while

subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1965 ex.s. c 26 § 1.]

Chapter added: "The foregoing provisions of this act are added to chapter 28, Laws of 1959 and to Title 72 RCW, and shall constitute a new chapter therein." [1965 ex.s. c 26 § 8.]

Effective date—1965 ex.s. c 26: "This act shall take effect upon July 1, 1965." [1965 ex.s. c 26 § 9.]

72.27.020 Director is compact administrator—Rules and regulations—Cooperation with other agencies. Pursuant to said compact provided in RCW 72.27-.010, the director of the department of institutions shall be the compact administrator and who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder. [1965 ex.s. c 26 § 2.]

72.27.030 Supplementary agreements. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service. [1965 ex.s. c 26 § 3.]

72.27.040 Financial arrangements. The compact administrator, subject to the moneys available therefor, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder. [1965 ex.s. c 26 § 4.]

72.27.050 Prerequisites for transfer of person to another party state—Release or return of residents, jurisdiction, laws applicable. No person shall be

transferred to another party state pursuant to this chapter unless the compact administrator first shall have obtained either:

(a) The written consent to such transfer by the proposed transferee or by others on his behalf, which consent shall be executed in accordance with the requirements of RCW 72.23.070, and if such person was originally committed involuntarily, such consent also shall be approved by the committing court; or

(b) An order of the superior court approving such transfer, which order shall be obtained from the committing court, if such person was committed involuntarily, otherwise from the superior court of the county where such person resided at the time of such commitment; and such order shall be issued only after notice and hearing in the manner provided for the involuntary commitment of mentally ill or mentally deficient persons as the case may be.

The courts of this state shall have concurrent jurisdiction with the appropriate courts of other party states to hear and determine petitions seeking the release or return of residents of this state who have been transferred from this state under this chapter to the same extent as if such persons were hospitalized in this state; and the laws of this state relating to the release of such persons shall govern the disposition of any such proceeding. [1965 ex.s. c 26 § 5.]

72.27.060 Transmittal of copies of chapter. Duly authorized copies of this chapter shall, upon its approval be transmitted by the secretary of state to the governor of each state, the attorney general and the administrator of general services of the United States, and the council of state governments. [1965 ex.s. c 26 § 6.]

72.27.070 Right to deport aliens and return residents of non-party states preserved. Nothing in this chapter shall affect the right of the director of the department of institutions to deport aliens and return residents of non-party states as provided in chapter 72.25 RCW. [1965 ex.s. c 26 § 7.]

Chapter 72.29

MULTI-USE FACILITIES FOR THE MENTALLY OR PHYSICALLY DEFICIENT OR THE MENTALLY ILL

Sections

72.29.010 Harrison Memorial Hospital property and facilities (Olympic Center for Mental Health and Mental Retardation).

72.29.010 Harrison Memorial Hospital property and facilities (Olympic Center for Mental Health and Mental Retardation). After the acquisition of Harrison Memorial Hospital, the department of institutions is authorized to enter into contracts for the repair or remodeling of the hospital to the extent they are necessary and reasonable, in order to establish a multi-use facility for the mentally or physically deficient or the mentally ill. The director of the department of institutions is authorized to determine the most feasible and desirable use of the facility and to operate the facility in the manner he

deems most beneficial to the mentally and physically deficient, or the mentally ill, and is authorized, but not limited to programs for out-patient, diagnostic and referral, day care, vocational and educational services to the community which he determines are in the best interest of the state. [1965 c 11 § 3.]

Declaration of purpose: "The state facilities to provide community services to the mentally and physically deficient and the mentally ill are inadequate to meet the present demand. Great savings to the taxpayers can be achieved while helping to meet these worthwhile needs. It is therefore the purpose of this act to provide for acquisition or lease of Harrison Memorial Hospital property and facilities and the operation thereof as a multi-use facility for the mentally and physically deficient and the mentally ill." [1965 c 11 § 1.]

Authorization to acquire: "The department of institutions is authorized to acquire by purchase, lease, or lease with option to purchase, and to accept a deed or execute a lease or lease and option to purchase in the name of the state of Washington, subject to the approval as to form by the attorney general, to that certain property located in Kitsap county and commonly known as Harrison Memorial Hospital, together with all necessary personal property, fixtures, and land." [1965 c 11 § 2.] The foregoing annotations apply to RCW 72.29.010.

Chapter 72.30 INTERLAKE SCHOOL

Sections

72.30.010 Use of surplus facilities at eastern state hospital authorized.
72.30.020 Selection and designation of facilities—Joint use.
72.30.030 Superintendent—Appointment—Qualifications.
72.30.040 Powers and duties of superintendent.
72.30.050 Persons eligible for admission—Transfers from state residential schools and hospitals.

72.30.010 Use of surplus facilities at eastern state hospital authorized. The director of institutions is authorized to utilize at the eastern state hospital, surplus physical facilities as an institution for mentally deficient persons eligible for admission or admitted to a state institution. The institution authorized by this chapter shall be known as the "Interlake School". [1967 ex.s. c 18 § 1.]

72.30.020 Selection and designation of facilities—Joint use. The director of institutions is authorized to designate and select such buildings and facilities and tracts of land at the eastern state hospital, which are surplus to the needs of the department of institutions for mentally ill persons, and which are reasonably necessary and adequate for a school for mentally deficient persons. The director of institutions shall also designate those buildings, equipment and facilities which are to be used jointly and mutually by both the eastern state hospital and the interlake school for mentally deficient persons. [1967 ex.s. c 18 § 2.]

72.30.030 Superintendent—Appointment—Qualifications. The superintendent of the interlake school for mentally deficient persons shall be appointed by the director and shall have such administrative experience and possess such qualifications as shall be determined by the state personnel board subject to the advice and approval of the director. [1967 ex.s. c 18 § 3.]

72.30.040 Powers and duties of superintendent. The superintendent shall have the following powers, duties and responsibilities:

(1) Subject to the rules and regulations of the department and the state personnel board, he shall appoint all subordinate officers and employees.

(2) Subject to the rules and regulations of the department, he shall supervise and manage the school, grounds, buildings and equipment, the subordinate officers and employees, and the persons committed, admitted or transferred to such school and shall have custody of such persons until they are released, discharged or transferred as provided by law.

(3) He shall be the custodian of the personal property of all residents of the school subject to the provisions of RCW 72.33.180 as now or hereafter amended.

(4) Subject to the approval of the director, he shall be authorized to establish such industrial, vocational, educational or training programs as would be most beneficial to the residents of such school.

(5) Except as otherwise provided in this chapter, he shall administer the institution in accordance with the provisions of chapter 72.33 RCW. [1967 ex.s. c 18 § 4.]

72.30.050 Persons eligible for admission—Transfers from state residential schools and hospitals. The director of institutions shall be authorized to admit to the interlake school for mentally deficient persons, any mentally deficient person eligible for admission to any state residential school for such persons. He shall be further authorized to transfer to such institution, persons admitted to other state residential schools or persons committed to state hospitals who are in need of care, treatment and training for mental deficiency. [1967 ex.s. c 18 § 5.]

Chapter 72.33

STATE RESIDENTIAL SCHOOLS

Sections

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- 72.33.825 Purchase of products and services provided by group training homes and day training centers.
- 72.33.830 Residents of residential schools placed in group homes—Payment of costs of care, support and training authorized.
- 72.33.840 Residents of residential schools placed in group homes—Payments by department are supplemental to payments from estate or other resources of resident—Direct payments authorized.
- 72.33.850 Residents of residential schools placed in group homes—Rules and regulations.
- 72.33.860 Death of resident, payment of funeral expenses—Limitation.
- 72.33.900 Chapter to be liberally construed.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Handicapped children, parental responsibility, commitment: Chapter 26.40 RCW.

Juveniles committed to residential schools, destruction of files on attaining majority: RCW 13.04.250.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

72.33.010 Declaration of purpose. The purposes of this chapter are: To provide for those children and adults who are exceptional in their needs for care, treatment and education by reason of mental and/or physical deficiency, residential care designed to develop their individual capacities to their optimum; to provide for admittance, withdrawal and discharge from state residential schools upon parental application; and to insure a comprehensive program for the education, guidance, care, treatment and rehabilitation of all persons admitted to Lakeland Village and Rainier school and such other like schools as may be hereafter established. [1959 c 28 § 72.33.010. Prior: 1957 c 102 § 1; 1937 c 10 § 3; RRS § 4679–3.]

72.33.020 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Mental deficiency" is a state of subnormal development of the human organism in consequence of which the individual affected is mentally incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(2) "Physical deficiency" is a state of physical impairment of the human organism in consequence of which the individual affected is physically incapable of assuming those responsibilities expected of the socially adequate person such as self-direction, self-support and social participation.

(3) "Parent" is the person or persons having the legal right to custody of a child by reason of kinship by birth or adoption.

(4) "State school" shall mean any residential school of the department established, operated and maintained by the state of Washington for the education, guidance,

care, treatment and rehabilitation of mentally and/or physically deficient persons as defined herein.

(5) "Resident of a state school" shall mean a person, whose mental and/or physical involvement requires the specialized care, treatment and educational instruction therein provided, and who has been admitted upon parental or guardian's application, or found in need of residential care by proper court and duly received.

(6) "Court" shall mean the superior court of the state of Washington.

(7) "Division" shall mean the division of children and youth services of the department of institutions or its successor.

(8) "Resident of the state of Washington" shall mean a person who has acquired his domicile in this state by continuously residing within the state for a period of not less than one year before application for admission is made: *Provided*, That the residence of an unemancipated minor shall be imputed from the residence of the parents if they are living together, or from the residence of the parent with whom the child resides, and if the parental rights and responsibilities regarding a minor have been transferred by the court, then the residence of such minor shall be imputed from the person to whom such have been awarded.

(9) "Superintendent" shall mean the superintendent of Lakeland Village, Rainier school and other like residential schools that may be hereafter established.

(10) "Custody" shall mean the right of immediate physical attendance, retention and supervision.

(11) "Placement" shall mean an extramural status for the resident's best interests granted by the superintendent after reasonable notice and consultation with the parents or guardian of such resident.

(12) "Discharge" shall mean the relinquishment by a state school of all rights and responsibilities it may have acquired by reason of the acceptance for admission of any resident. [1973 1st ex.s. c 154 § 101; 1959 c 28 § 72.33.020. Prior: 1957 c 102 § 2.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

72.33.030 Lakeland Village, Rainier, Yakima Valley, and Fircrest Schools established. There are hereby permanently established the following state schools for the care of the persons herein provided to be served: Lakeland Village, located at Medical Lake, Spokane county, Washington, Rainier School, located at Buckley, Pierce county, Washington, Yakima Valley School, located at Selah, Yakima county, Washington and Fircrest School, located at Seattle, King county, Washington. [1959 c 31 § 1; 1959 c 28 § 72.33.030. Prior: 1957 c 102 § 3. (i) 1905 c 70 § 1; RRS § 4655. (ii) 1947 c 157 § 1; 1939 c 62 § 1; 1917 c 64 § 1; Rem. Supp. 1947 § 4656. (iii) 1905 c 70 § 2; RRS § 4658. (iv) 1947 c 157 § 2; Rem. Supp. 1947 § 4679a. (v) 1937 c 10 § 2; RRS § 4679–2.]

72.33.040 Superintendents—Qualifications—Powers and duties. The superintendent of a state school appointed after June 12, 1957 shall be a person of good character, over the age of thirty years, in good physical health, and either a physician licensed to practice in the

state of Washington or has attained a minimum of a master's degree from an accredited college or university in psychology, social science, or education, and in addition shall have had suitable experience in an administrative or professional capacity in the residential care, treatment and training of mentally deficient persons.

The superintendent shall have custody of all residents and control of the medical, educational, therapeutic and dietetic treatment of all persons resident in such state school: *Provided*, That the superintendent shall cause surgery to be performed on any resident only upon gaining the consent of a parent or guardian, except, if after reasonable effort to locate the parents or guardian and the health of such resident is certified by the attending physician to be jeopardized unless such surgery is performed, the required consent shall not be necessary.

The superintendent shall have control of the internal government and economy of the state school and shall appoint and direct all subordinate officers and employees: *Provided*, That the powers and duties conferred upon the superintendent shall be subject to the rules and regulations of the department and the state personnel board.

The superintendent shall have authority to engage the residents of the state school in beneficial work programs but shall not abuse such therapy by excessive hours or for purposes of discipline or punishment. [1969 c 56 § 3; 1959 c 28 § 72.33.040. Prior: 1957 c 102 § 4. (i) 1937 c 10 § 19; RRS § 4679-19. (ii) 1937 c 10 § 7; RRS § 4679-7.]

Superintendent, general provisions: RCW 72.01.060.

72.33.050 School educational departments to be created—Comprehensive program. There shall be an educational department created and maintained within each state school which shall provide a comprehensive program of academic, vocational, recreational and other educational services best adapted to meet the needs and capabilities of each resident therein whether such resident must always live within the protected community of the school or can be prepared and assisted to live without.

The department of public instruction shall assist the state schools in all feasible ways including financial aid so that the educational programs maintained therein shall be comparable to such programs advocated by the department of instruction for children with similar aptitudes in local school districts.

Within its available resources, each state school shall, upon request from a local school district, provide such clinical, counseling and evaluating services as may assist the local district lacking such professional resources in determining the needs of its exceptional children. [1959 c 28 § 72.33.050. Prior: 1957 c 102 § 5. (i) 1913 c 173 § 14; RRS § 4672. (ii) 1937 c 10 § 18; RRS § 4672-18.]

Schools and colleges: Titles 28A, 28B RCW.

Superintendent of public instruction: Chapter 28A.03 RCW.

72.33.070 Department of health to determine capacity of residential quarters. The department of health shall determine by the application of proper criteria the maximum number of children to reside in the residential quarters of the state schools and the superintendent shall adhere to such standards unless written permission is granted by the department to exceed such rated capacities. [1959 c 28 § 72.33.070. Prior: 1957 c 102 § 7.]

72.33.080 Department of public assistance to aid placement in foster homes. The department of public assistance shall aid the superintendents of the state schools in the placement of residents in suitable foster homes, those to be assisted and the method thereof to be defined in a mutually approved interdepartmental agreement. [1959 c 28 § 72.33.080. Prior: 1957 c 102 § 8.]

Department of social and health services: Chapter 43.20A.

72.33.090 Seal of state school—Use. The department shall provide the superintendent with an official and appropriate seal upon which shall be inscribed the statutory name of the state school and the words "State of Washington" shall appear thereon. The superintendent shall affix the seal of the state school to any notice, order, or other instrument required to be issued by him. [1959 c 28 § 72.33.090. Prior: 1957 c 102 § 9.]

72.33.100 Superintendent as witness in judicial proceedings—Depositions—Exempt from jury service. The superintendent shall not be required to attend any court as a witness in a civil or juvenile court proceeding but parties desiring his testimony may take and use his deposition; nor shall he be required to attend as a witness in any criminal case unless the court before which his testimony shall be desired shall, upon being satisfied of the materiality of his testimony, require his attendance; and he shall be exempted from jury service. [1959 c 28 § 72.33.100. Prior: 1957 c 102 § 10.]

72.33.110 Gifts to state school—Acceptance, use, record. The superintendent is authorized to receive and accept from any person, organization or estate, gifts of money or personal property on behalf of the state school under his charge, or the residents therein, and to use such gifts for the purposes specified by the donor where such use is consistent with law. In the absence of a specified purpose the superintendent shall use such money or personal property for the benefit of the state school or for the general benefit of the residents therein. The superintendent shall keep an accurate record of the amount or kind of gift, the date received, manner expended, and the name and address of the donor. Any increase resulting from such gift may be used for the same purpose as the original gift. [1959 c 28 § 72.33.110. Prior: 1957 c 102 § 11.]

72.33.120 Admission to school—Voluntary application. Pursuant to reasonable rules and regulations of the department, acting through the division, the superintendent of a state school, subject to the provisions of RCW 72.33.070, shall receive a person as a resident who is

suitable for care, training, treatment, or education appropriate to mental deficiency and/or physical deficiency, or for observation as to the existence of mental deficiency as defined in RCW 72.33.020, upon the receipt of a written application submitted in accordance with the following requirements:

(1) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian or agency entitled to custody, which application shall be in the form and manner required by the department and which shall be supported by the affidavit of at least two physicians or clinical psychologists, or one of each profession, certifying that such minor is mentally and/or physically deficient as herein defined and in need of residential care, treatment, training, or education. In the event the minor is entitled to school services, the application shall be accompanied by a report from the county school superintendent and/or the superintendent of the school district in which such minor resides setting forth the educational services rendered or in need of being rendered to the minor.

(2) In the case of an adult person, the application shall be made by his parents, or by the parent, guardian or agency entitled to custody, which application shall be in the form and manner required by the department and which shall be supported by the affidavit of at least two physicians or clinical psychologists, or one of each profession, certifying that such adult is mentally and/or physically deficient as herein defined and in need of residential care, treatment, training, or education: *Provided*, That if the superintendent deems the application should be made solely by a guardian, in such cases the application shall be made by the duly appointed, qualified and acting guardian of such adult person: *Provided further*, That if the parents or other person or agency entitled to custody of an alleged mentally deficient person are without funds sufficient to defray the costs for the appointment of a guardian for such alleged mentally deficient person, then the prosecuting attorney of the county of the alleged mentally deficient person's residence, upon the presentation of satisfactory proof of such inability to pay the costs of guardianship, shall institute proceedings at the cost of the county for the appointment of a parent or other suitable person to act as guardian of the person of such alleged mentally deficient person in order to permit the making of application for the admission of such person to a state school.

(3) Persons admitted by voluntary application to state schools as in this section provided shall have equal status and the same priority in admission as minors committed under the following section. [1959 c 154 § 1; 1959 c 28 § 72.33.120. Prior: 1957 c 102 § 12. (i) 1913 c 173 § 2; RRS § 4660. (ii) 1913 c 173 § 3; RRS § 4661. (iii) 1913 c 173 § 4; RRS § 4662. (iv) 1913 c 173 § 9; RRS § 4667. (v) 1909 c 97 p 260 § 3; RRS § 4674. (vi) 1937 c 10 § 8; RRS § 4679-8. (vii) 1937 c 10 § 9; RRS § 4679-9. (viii) 1937 c 10 § 10; RRS § 4679-10. (ix) 1937 c 10 § 11; RRS § 4679-11. (x) 1937 c 10 § 15; RRS § 4679-15. (xi) 1937 c 10 § 16; RRS § 4679-16.]

72.33.130 Admission to school—Commitment by court. In the event a minor person under the age of eighteen years shall be found under the juvenile court law to be "dependent" or "delinquent" and mentally and/or physically deficient as herein defined, and that placement for care, custody, treatment, or education in a state school is to the minor's welfare, the superintendent shall receive such minor upon commitment from the superior court pursuant to such terms and conditions as may therein be set forth subject to the provisions of RCW 72.33.070. [1959 c 28 § 72.33.130. Prior: 1957 c 102 § 13. (i) 1913 c 173 § 2; RRS § 4660. (ii) 1937 c 10 § 9; RRS § 4679-9.]

Juvenile courts and juvenile delinquents: Title 13 RCW.

72.33.140 Withdrawal of resident from school—Placement, discharge basis. Subject to the provisions of RCW 72.33.150 no person accepted at a state school upon voluntary application as herein provided, and no person over eighteen years regardless of the manner of his admittance to the school, shall be retained therein for more than thirty days after the parent entitled to custody or the guardian has given notice of their desire to remove such person from said state school.

Such notice shall indicate to the superintendent the proposed plan of future residence of such person and whether placement or discharge from the state school is desired. In the event withdrawal is upon a placement basis, it shall be understood that readmission will be available to the former resident if it is found necessary to return such person to the school. In the event withdrawal is upon a discharge basis it shall be understood that if the parent or guardian desires to apply for readmission for such former resident, such person shall wait his turn for admission as if it were a first application. [1959 c 28 § 72.33.140. Prior: 1957 c 102 § 14. (i) 1913 c 173 § 10; RRS § 4668. (ii) 1937 c 10 § 20; RRS § 4679-20.]

72.33.150 Preventing withdrawal of resident from school—Procedure. Whenever it is deemed not to be in the best interests of a resident that he should be removed from a state school, the superintendent shall promptly file a petition in the probate department of the superior court of the county of residence of such person setting forth his reasons why continued residence is indicated.

Upon due notice and hearing, the court shall resolve the matter and in the event the person is found in need of further residential care in a state school the court shall so order and in such proceeding shall name a fit and proper person to serve as guardian if none has been previously named. [1959 c 28 § 72.33.150. Prior: 1957 c 102 § 15. (i) 1913 c 173 § 8; RRS § 4666. (ii) 1937 c 10 § 14; RRS § 4679-14.]

72.33.160 Return of resident to community—Placement—Expenses of care, support, medical attention. Whenever in the judgment of the superintendent of any state school, the treatment and training of any resident has progressed to the point that it is deemed advisable to return such resident to the community, the superintendent may grant placement on such terms and

conditions as he may deem advisable after reasonable notice to and consultation with the parent entitled to custody or the acting guardian of such person.

Whenever any person who has been a resident of a state school leaves said school on placement, responsibility of the school to provide care, support or medical attention shall cease unless such person shall be returned to such state school or unless arrangements have been made either to assume special expenses of such person while on placement, or to assume all or a portion of the costs of care, support and training for such person while on placement in a group home.

The department of institutions shall periodically evaluate at reasonable intervals the adjustment of the resident to the placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement. [1969 ex.s. c 166 § 4; 1959 c 28 § 72.33.160. Prior: 1957 c 102 § 16.]

Effective date—1969 ex.s. c 166: July 1, 1969, see note following RCW 72.33.830.

72.33.170 Discharge procedure. Whenever in the judgment of a superintendent of a state school a person no longer needs the services of such school, he may be discharged after reasonable notice and consultation with the parent or guardian and if neither exists then approval for such discharge shall first be obtained from the supervisor of the division. [1959 c 28 § 72.33.170. Prior: 1957 c 102 § 17.]

72.33.180 Personal property of resident—Superintendent as custodian—Limitations—Judicial proceedings to recover. The superintendent of a state school shall serve as custodian without compensation of such personal property of a resident as may be located at the school, including moneys deposited with the superintendent for the benefit of such resident. As such custodian, the superintendent shall have authority to disburse moneys from the resident's fund for the following purposes and subject to the following limitations:

(1) Subject to specific instructions by a donor of money to the superintendent for the benefit of a resident, the superintendent may disburse any of the funds belonging to a resident for such personal needs of such resident as the superintendent may deem proper and necessary.

(2) The superintendent may pay to the department of social and health services for the costs of care, support, maintenance, treatment, hospitalization, medical care and rehabilitation of a resident from the resident's fund when such fund exceeds two hundred dollars, to the extent of any finding of financial responsibility served upon the superintendent after such findings shall have become final except, reduction of such funds to another amount may be made where necessary to qualify such person for eligibility in any public or private program for the care, treatment, hospitalization, support, training, or rehabilitation of such person, and to qualify such person for the payment of the liabilities from any public or private program providing benefits for the

payment of all or a portion of the costs of care, treatment, hospitalization, support, training, or rehabilitation: *Provided*, That if such resident does not have a guardian, parent, spouse, or other person acting in a representative capacity, upon whom notice and findings of financial responsibility have been served then the superintendent shall not make payments to the department of social and health services as above provided, until a guardian has been appointed by the court, and the time for the appeal of findings of financial responsibility as provided in RCW 72.33.670 shall not commence to run until the appointment of such guardian and the service upon him of notice and findings of financial responsibility.

(3) When a resident is granted placement, the superintendent shall deliver to said resident, or the parent, guardian, or agency legally responsible for the resident, all or such portion of the funds of which the superintendent is custodian as above defined, or other property belonging to the resident, as the superintendent may deem necessary to the resident's welfare, and the superintendent may during such placement deliver to the former resident such additional property or funds belonging to the resident as the superintendent may from time to time deem proper. When the conditions of placement have been fully satisfied and the resident is discharged, the superintendent shall deliver to such resident, or the parent, person, or agency legally responsible for the resident, all funds or other property belonging to the resident remaining in his possession as custodian.

(4) All funds held by the superintendent as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by him: *Provided*, That all interest accruing from, or as a result of the deposit of such moneys in a single fund shall be used by the superintendent for the general welfare of all the residents of such institution: *Provided, further*, That when the personal accounts of residents exceed three hundred dollars, the interest accruing therefrom shall be credited to the personal accounts of such residents. All such expenditures shall be subject to the duty of accounting provided for in this section.

(5) The appointment of a guardian for the estate of such resident shall terminate the superintendent's authority as custodian of a resident's funds upon receipt by the superintendent of a certified copy of letters of guardianship. Upon the guardian's request, the superintendent shall immediately forward to such guardian any funds or other property of the resident remaining in the superintendent's possession together with a full and final accounting of all receipts and expenditures made therefrom.

(6) Upon receipt of a written request from the superintendent stating that a designated individual is a resident of the state school for which he has administrative responsibility and that such resident has no legally appointed guardian of his estate, any person, bank, corporation, or agency having possession of any money, bank accounts, or choses in action owned by such resident, shall, if the amount does not exceed two hundred

dollars, deliver the same to the superintendent as custodian and mail written notice thereof to such resident at the state school. The receipt of the superintendent shall constitute full and complete acquittance for such payment and the person, bank, corporation, or agency making such payment shall not be liable to the resident or his legal representatives. All funds so received by the superintendent shall be duly deposited by him as custodian in the resident's fund to the personal account of such resident.

If any proceeding is brought in any court to recover property so delivered, the attorney general shall defend the same without cost to the person, bank, corporation, or agency effecting such delivery to the superintendent, and the state shall indemnify such person, bank, corporation, or agency against any judgment rendered as a result of such proceeding. [1971 ex.s. c 118 § 1; 1970 ex.s. c 75 § 2; 1967 c 141 § 10; 1959 c 61 § 1; 1959 c 28 § 72.33.180. Prior: 1957 c 102 § 18.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

72.33.190 Contracts with United States for admission to state schools. The department shall have the power in the name of the state, to enter into contracts with any duly authorized representative of the United States of America, or its territories, for the admission to state schools for the care, treatment, training or education of persons requiring the same, at the expense of the United States of America, and contracts may provide for the separate or joint maintenance, care, treatment, training or education of such persons so admitted, which contracts shall provide that all payments due the state of Washington from the United States of America for services rendered thereunder shall be paid to the department and transmitted to the state treasurer for deposit in the general fund. [1959 c 28 § 72.33.190. Prior: 1957 c 102 § 19.]

72.33.200 Department not responsible until person is resident of school. The department shall not be responsible for the support, welfare or actions of any person until such person attains the status of a resident at a state school. [1959 c 28 § 72.33.200. Prior: 1957 c 102 § 20.]

72.33.210 Resident to be provided with clothing—Cost. When not otherwise provided, the state school shall provide each resident with suitable clothing, the actual cost of which shall be a charge against the parents, guardian or estate of such resident; and in the event that such parent, guardian or estate is unable or is insufficient to provide or pay for such clothing, the same shall be provided by the state. [1959 c 28 § 72.33.210. Prior: 1957 c 102 § 21. (i) 1913 c 173 § 12; RRS § 4670. (ii) 1937 c 10 § 17; RRS § 4679–17.]

72.33.220 Transfer of resident between schools. Whenever it appears to serve the best interests of the resident concerned, the department, acting through the division, shall have authority to transfer such resident between state schools conducting the type of program

contemplated by this chapter. [1959 c 28 § 72.33.220. Prior: 1957 c 102 § 22.]

72.33.230 Chapter does not affect parental or other rights. This chapter shall not be construed to deprive the parent or parents of any parental rights with relation to a child residing in a state school, except as provided herein for the orderly operation of such schools, nor any rights granted a co-custodian pursuant to the provisions of chapter 26.40 RCW. [1959 c 28 § 72.33.230. Prior: 1957 c 102 § 23.]

Parental successors: RCW 72.33.500.

72.33.240 Review of superintendent's decision—Court review. Any parent or guardian feeling aggrieved by an adverse decision of a superintendent of a state school pertaining to admission, placement or discharge of his ward may apply to the supervisor of the division for a review and reconsideration of the decision. The supervisor shall rule within ten days from the date of receipt of the request for review. In the event of an unfavorable ruling by the supervisor, such parent or guardian may institute proceedings in the superior court of the state of Washington in the county of residence of such parent or guardian, otherwise in Thurston county, and have such decision reviewed and its correctness, reasonableness, and lawfulness decided in an appeal heard as in initial proceeding on an original application. Said parent or guardian shall have the right to appeal from the decision of the superior court to the supreme court or the court of appeals of the state of Washington, as in civil cases. [1971 c 81 § 135; 1959 c 28 § 72.33.240. Prior: 1957 c 102 § 24.]

72.33.260 Escape of resident—Penalty for assisting. Any person who procures the escape of any resident of any school for mental defectives to which such resident has been lawfully committed, or who advises, connives at, aids, or assists in such escape or conceals any such escape, is guilty of a felony and shall be punished by imprisonment in a state penal institution for a term of not more than five years or by a fine of not more than five hundred dollars or by both imprisonment and fine. [1959 c 28 § 72.33.260; 1957 c 225 § 1; 1949 c 198 § 20; Rem. Supp. 1949 § 6953–20. Formerly RCW 71.12.620.]

Assisting escape of inmate of mental institution or custodial school: RCW 9.31.100.

72.33.500 Parental successor for resident of state school—Appointment authorized. The natural or adoptive parents, or the survivor of them, of a person who is, or may become, a resident of a state school may appoint at any time a parental successor for such person. The appointment shall be effective upon the death of the surviving parent and shall be for the period the person actually resides at or is on placement from a state school. [1959 c 126 § 1.]

Chapter does not affect parental or other rights: RCW 72.33.230. Handicapped children: Chapter 26.40 RCW.

72.33.510 Parental successor for resident of state school—Who may serve. A parental successor may be an individual, whether related or not to the person who is or may become a resident of a state school; a bank with a trust department, acting through its trust department; or a church, acting through the incumbent of a position to be indicated in the instrument designating or the order appointing the parental successor.

A minor may be named or appointed as a parental successor, but he may actually serve only after reaching the age of majority. [1959 c 126 § 2.]

72.33.520 Parental successor for resident of state school—Methods of appointment. A parental successor may be designated by an acknowledged document in a form to be prescribed by the department, by the last will and testament of the person or persons having the right to make the nomination, or by formal appointment by the superior court in the county in which the petitioner, or at least one of several petitioners, reside.

Court appointment shall be by petition heard ex parte as a probate matter without notice, unless required by the court. Any designation or appointment of a parental successor may also designate or appoint one or more eligible persons or organizations to serve as successors to the first named parental successor in the event of the unwillingness, inability, incapacity, or resignation of the first parental successor. [1959 c 126 § 3.]

72.33.530 Parental successor for resident of state school—Evidence of appointment to be served upon superintendent. In the event the appointment is by court order or will, a copy of the court order, or of the will together with a copy of the order admitting the will to probate, certified by the clerk of the appropriate court, shall be furnished by an interested party to the superintendent of the state school wherein the person concerned resides or may reside. No appointment of a parental successor shall be binding on a superintendent until a properly executed copy of an authorized document or a certified copy of the will, together with a certified copy of the order admitting the will to probate, or a certified copy of the court appointment has been served upon the superintendent. [1959 c 126 § 4.]

72.33.540 Parental successor for resident of state school—Written consent. The written consent of the person or organization intended to serve as the parental successor and of each named successor thereto, if any, shall accompany the petition for court appointment. The consent or consents shall be forwarded to the superintendent or his representative with the executed copy of an authorized document, or with the certified copy of the will and of the order admitting the will to probate, if appointment is by document or will, but the consent or consents need not be forwarded in the event of a court appointment. [1959 c 126 § 5.]

72.33.550 Parental successor for resident of state school—Rights and privileges of parental successor. The parental successor, during the period he is actually

serving, shall have the right to exercise an active and continuing interest in, and to be informed concerning the health, education, recreation, and general welfare of the person for whom he is named parental successor. He shall be permitted to take the person from the state school on visits, trips, or vacations the same as a parent.

The superintendent shall inform, advise, and consult with the parental successor, when actually serving, regarding the person for whom the parental successor was named, as though he were the natural parent of the person, on all matters pertaining to his health, education, recreation, general welfare, and including but not limited to matters of surgery, placement and discharge.

A parental successor shall have the rights and privileges conferred by this section although the person for whom he is named parental successor is on placement from a state school and not physically resident therein. [1959 c 126 § 6.]

72.33.560 Parental successor for resident of state school—Successor's whereabouts—Emergencies—Decisions concerning resident's welfare. During the time that a person is acting as a parental successor, he shall keep the superintendent informed of his whereabouts so that he can be contacted in case of emergency.

Any bank or church appointed to act as a parental successor shall keep the superintendent informed of the name and address of the individual who should be contacted in case of emergency.

During the period a parental successor is acting, if, after reasonable effort on the part of the superintendent, the parental successor cannot be reached, the superintendent shall be free to make decisions in all matters for the best interest of the person for whom the parental successor was named. [1959 c 126 § 7.]

72.33.570 Parental successor for resident of state school—Termination of designation or appointment. Any designation or appointment of a parental successor is subject to revocation at any time, in the first instance by the person who made the designation and in the case of appointment by will or formal appointment, by the court in which the will was probated or the formal appointment was made. A person or organization named as parental successor may renounce or resign at any time.

No revocation, renunciation, resignation, death or state of incapacity will be binding on a superintendent until he has been notified in writing thereof. [1959 c 126 § 8.]

72.33.580 Parental successor for resident of state school—Successor's responsibilities and duties limited. A parental successor shall have no financial responsibility to the state of Washington for the person for whom he is named, and he shall have no obligatory duties or responsibilities except as specifically set forth in this act. [1959 c 126 § 9.]

72.33.590 Parental successor for resident of state school—Construction—Effect on other laws. It is specifically intended that the provisions of this act shall

be available for the benefit of persons who are now resident at or on placement from a state school.

This act shall not repeal, amend or modify any law relating to intestate succession or relating to guardians of the person or of the estate of an individual. In the event of the appointment of the guardian of the person, the rights of the guardian will supersede and abrogate the rights of the parental successor of the person for whom a guardian of the person has been appointed, for so long as the appointment of the guardian of the person is effective. [1959 c 126 § 10.]

72.33.650 Financial responsibility for costs of care, support and treatment of residents—Declaration of purpose. The purpose of RCW 72.33.650 through 72.33.700 is to place financial responsibility for cost of care, support and treatment upon those residents of state residential schools who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establishing such liability and the monthly rate thereof, and the process for appeal therefrom to the director of the department of institutions and the courts by any person deemed aggrieved thereby. [1967 c 141 § 1.]

Effective date—1967 c 141: "This 1967 amendatory act shall become effective July 1, 1967." [1967 c 141 § 13.] This applies to RCW 72.33.650–72.33.700 and the 1967 amendment to RCW 72.33.180.

72.33.655 Financial responsibility for costs of care, support and treatment of residents—Liability of estates of admitted persons for costs—Limitation. The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: *Provided*, That the estate funds may not be reduced as a result of such liability below an amount as set forth in RCW 72.33.180. [1971 ex.s. c 118 § 2; 1967 c 141 § 2.]

72.33.660 Financial responsibility for costs of care, support and treatment of residents—Ascertainment of charges—"Average per capita cost"—Computation—Collection. The charges for care, support and treatment as provided in RCW 72.33.655 shall be based on the average monthly per capita costs of operating such residential schools for the previous calendar year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: *Provided*, That all expenses directly related to the cost of education, vocational training and capital construction shall be excluded from the computation of the average per capita cost. The average per capita cost shall be computed by the department of institutions annually and adopted as a rule of the department in accordance with the provisions of chapter 42.32 RCW and of chapter 34.04 RCW. The department of institutions shall be charged with the

duty of collection of such charges which may be enforced by civil action instituted by the attorney general within or without the state. [1967 c 141 § 3.]

72.33.665 Financial responsibility for costs of care, support and treatment of residents—Investigation and determination of assets of estates of residents—Ability to pay—Exemptions. The department of social and health services shall investigate and determine the assets of the estates of each resident of a state residential school and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a state residential school as determined by the procedure set forth in RCW 72.33.660: *Provided*, That the sum as set forth in RCW 72.33.180 shall be retained by the estate of the resident at all times for such personal needs as may arise: *Provided further*, That where any person other than a resident or the guardian of his estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants. [1971 ex.s. c 118 § 3; 1967 c 141 § 4.]

72.33.670 Financial responsibility for costs of care, support and treatment of residents—Notice and finding of financial responsibility—Service—Appeal—Hearing. In all cases where a determination is made that the estate of a mentally or physically deficient person who resides at a state residential school is able to pay all or any portion of the monthly charges, a notice and finding of financial responsibility shall be personally served on the guardian of the resident's estate, or if no guardian has been appointed then to his spouse or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state residential school and the superintendent of the state residential school. The notice shall set forth the amount the department has determined that such estate is able to pay per month, not to exceed the monthly charge as fixed in accordance with RCW 72.33.660, and the responsibility for payment to the department of institutions shall commence thirty days after personal service of such notice and finding of responsibility. An appeal from the determination of responsibility may be made to the director by the guardian of the resident's estate, or if no guardian has been appointed then by his spouse, parent or parents or other person acting in a representative capacity and having property in his possession belonging to a resident of a state residential school, within such thirty day period upon written notice of appeal being served upon the director by registered or certified mail. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeals may be presided over by a hearing examiner and the proceedings shall be recorded either manually or by a mechanical device. Any such appeal

shall be a "contested case" as defined in RCW 34.04-.010, and practice and procedure shall be governed by the provisions of RCW 72.33.650 through 72.33.700, the rules and regulations of the department of institutions, and the Administrative Procedure Act, chapter 34.04 RCW. [1970 ex.s. c 75 § 1; 1967 c 141 § 5.]

72.33.680 Financial responsibility for costs of care, support and treatment of residents—Modification or vacation of finding of financial responsibility. The director, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The director's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility. [1967 c 141 § 7.]

72.33.685 Financial responsibility for costs of care, support and treatment of residents—Charges payable in advance. The charges for care, support, maintenance and treatment of mentally or physically deficient persons at state residential schools as provided by RCW 72.33.650 through 72.33.700 shall be payable in advance on the first day of each and every month to the department of institutions. [1967 c 141 § 8.]

72.33.690 Financial responsibility for costs of care, support and treatment of residents—Reimbursement from persons liable not prohibited or prevented—Placement outside institution—Death of resident, liability of estate. The provisions of RCW 72.33.650 through 72.33.700 shall not be construed to prohibit or prevent the department of institutions from obtaining reimbursement from any person liable under RCW 72.33.650 through 72.33.700 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 72.33.670: *Provided*, That the estate of any resident of a state residential school shall not be liable for such reimbursement subsequent to his placement out of the state residential school: *Provided further*, That upon the death of any person while a resident in a state residential school his estate shall become liable to the same extent as the resident's liability on the date of death. [1967 c 141 § 9.]

72.33.695 Financial responsibility for costs of care, support and treatment of residents—Liabilities created apply to care, support and treatment after July 1, 1967. The liabilities created by RCW 72.33.650 through 72.33.700 shall apply to the care, support and treatment occurring after July 1, 1967. [1967 c 141 § 11.]

72.33.700 Financial responsibility for costs of care, support and treatment of residents—Discretionary allowance of increased amount in resident's fund. Notwithstanding any other provision of RCW 72.33.650 through 72.33.700, the director may, if in his discretion any resident of a state residential school can be discharged more rapidly therefrom and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 72.33.655. [1967 c 141 § 12.]

72.33.800 Agreements to pay others for care, treatment, maintenance of mentally retarded or developmentally disabled—Authorized—Definitions. The secretary of the department of social and health services is hereby authorized to enter into agreements with any person, or with any person, corporation or association operating a day training center or group training home or a combination thereof approved by the department, for the payment of all, or a portion of the cost of the care, treatment, maintenance, support and training of mentally retarded or other developmentally disabled persons.

For the purpose of RCW 72.33.800 through 72.33.820, as now or hereafter amended, the terms "day training center" and "group training home" shall have the following meanings:

(1) "Day training center" shall mean a facility equipped, supervised, managed and operated at least three days per week by any person, association or corporation on a nonprofit basis for the day-care, treatment, training and maintenance of mentally retarded or other developmentally disabled persons, and approved in accordance with RCW 72.33.800 through 72.33.820, as now or hereafter amended, and the standards of the department of social and health services as set forth in the rules and regulations promulgated by the secretary.

(2) "Group training home" shall mean a facility equipped, supervised, managed and operated on a full time basis by any person, association or corporation on a nonprofit basis for the full time care, treatment, training and maintenance of mentally retarded or other developmentally disabled persons, and approved in accordance with RCW 72.33.800 through 72.33.820, as now or hereafter amended, and the standards of the department of social and health services as set forth in the rules and regulations promulgated by the secretary. [1974 1st ex.s. c 71 § 9; 1965 c 34 § 1; 1961 c 251 § 1.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

Reviser's note—Expiration date of act—1961 c 251: "This act shall be of no further force or effect on and after July 1, 1963." [1961 c 251 § 6.] This applies to RCW 72.33.800 through 72.33.820.

State and local services for mentally retarded and developmentally disabled: Chapter 71.20 RCW.

72.33.805 Agreements to pay others for care, treatment, maintenance of mentally retarded or developmentally disabled—Payments by department are supplemental to payments made by parent or guardian—Limitation on amount. All payments made by the

secretary of the department of social and health services pursuant to RCW 72.33.800 through 72.33.820, as now or hereafter amended, shall be, insofar as possible, supplementary to payments to be made to a day training center or group training home or combination thereof by the parents or guardians of such mentally retarded or other developmentally disabled persons. Payments made by the secretary in accordance with the authority of RCW 72.33.800 through 72.33.820, as now or hereafter amended, shall not exceed actual costs for the care, treatment, support, maintenance and training of any mentally retarded or developmentally disabled person whether at a day training center or group training home or combination thereof or otherwise. [1974 1st ex.s. c 71 § 10; 1965 c 34 § 2; 1961 c 251 § 2.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

72.33.810 Agreements to pay others for care, treatment, maintenance of mentally retarded or developmentally disabled—Certification of facilities. Any person, corporation, or association may make application to the secretary of the department of social and health services for approval and certification of the applicant's facility as a day training center, or a group training home for mentally retarded or developmentally disabled persons or a combination of both. The secretary may either grant or deny certification or revoke certification previously granted after investigation of the applicant's facilities, to ascertain whether or not such facilities are adequate for the health, safety and the care, treatment, maintenance, training and support of mentally retarded or developmentally disabled persons, in accordance with standards as set forth in rules and regulations promulgated by the secretary. [1974 1st ex.s. c 71 § 11; 1961 c 251 § 3.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

72.33.815 Agreements to pay others for care, treatment, maintenance of mentally retarded or developmentally disabled—Application by parent or guardian for payments by department—Investigation—Acceptance or rejection—Limitation on amount. The parent or guardian of a retarded or developmentally disabled person may make application to the secretary of social and health services for the payment of all, or a portion of, the monthly cost of care, treatment, maintenance, support and training of such mentally retarded or developmentally disabled person, whether in a day training center or a group training home or a combination thereof or otherwise, approved by the department. The secretary, after investigation, may accept or reject the application, and, if accepted, shall determine the extent and type of care and training and the amount which the department will pay, based upon the needs of such mentally retarded or developmentally disabled person and the ability of the parent or the guardian to pay, or contribute to the payment of the monthly cost of such care and training. The secretary, may, upon application of such parent or guardian, after investigation of the ability or inability of such persons to pay, or without

application being made, modify the amount of the monthly payments to be paid by the department of social and health services for the care and training of such mentally retarded or developmentally disabled persons whether at a day training center or group training home or combination thereof or otherwise. [1974 1st ex.s. c 71 § 12; 1965 c 34 § 3; 1961 c 251 § 4.]

Severability—1974 1st ex.s. c 71: See note following RCW 71.20.015.

72.33.820 Agreements to pay others for care, maintenance and training of persons acceptable for admission to residential school—Facilities to be nonsectarian. A day training center and a group training home as used in RCW 72.33.800 through 72.33.815 shall be a nonsectarian day training center and a nonsectarian group training home. [1961 c 251 § 5.]

72.33.825 Purchase of products and services provided by group training homes and day training centers. See RCW 43.19.520–43.19.530.

72.33.830 Residents of residential schools placed in group homes—Payment of costs of care, support and training authorized. The department of institutions is authorized to pay for all or a portion of the costs of care, support and training of residents of state residential schools for the mentally and/or physically deficient persons who are placed in group homes, as hereinafter provided. "Mental deficiency" or "physical deficiency" for the purposes of RCW 72.33.160, and 72.33.830 through 72.33.850 shall have the same meaning as those terms are defined in RCW 72.33.020 as now or hereafter amended. [1969 ex.s. c 166 § 1.]

Effective date—1969 ex.s. c 166: "This act shall become effective on July 1, 1969." [1969 ex.s. c 166 § 5.] This applies to RCW 72.33.830–72.33.850, and to the 1969 amendment to RCW 72.33.160.

"Group training home" defined: RCW 72.33.800.

72.33.840 Residents of residential schools placed in group homes—Payments by department are supplemental to payments from estate or other resources of resident—Direct payments authorized. All payments made by the department of institutions in accordance with RCW 72.33.830 shall, insofar as reasonably possible, be supplementary to payments to be made for the costs of care, support and training in a group home by the estate of such resident of the state residential school, or from any resource which such resident may have, or become entitled to, from any public, private, federal or state agency. Payments by the department of institutions under RCW 72.33.160, and 72.33.830 through 72.33.850 may, in its discretion, be paid directly to group homes, or to counties having created community boards for mental retardation services in accordance with the provisions of chapter 110, Laws of 1967 ex. sess. [1969 ex.s. c 166 § 2.]

72.33.850 Residents of residential schools placed in group homes—Rules and regulations. The department of institutions shall promulgate rules and regulations concerning the eligibility of residents of state schools

for placement in group homes under the authority of RCW 72.33.160, and 72.33.830 through 72.33.850, determination of ability of such persons or their estates to pay all or a portion of the cost of care, support and training, the manner and method of licensing or certification and inspection and approval of such group homes for placement under RCW 72.33.160, and 72.33.830 through 72.33.850 and procedures for the payment of costs of care, maintenance and training in group homes.

Such rules and regulations shall include standards for care, maintenance and training to be met by such group homes. In addition, the department of institutions shall be responsible for coordinating state activities and resources relating to group home placements to the end that state and local resources will be efficiently expended and an effective community-based group home program may be created. [1969 ex.s. c 166 § 3.]

72.33.860 Death of resident, payment of funeral expenses—Limitation. The secretary of the department of social and health services or his designee may, upon the death of a resident, supplement such funds as were in the resident's account at the time of his death to provide funeral and burial expenses for such deceased resident: *Provided*, That the total of the resident's account funds plus the state supplementation which may be used for funeral and burial purposes shall not exceed six hundred fifty dollars. [1971 ex.s. c 118 § 4.]

72.33.900 Chapter to be liberally construed. The provisions of this chapter shall be liberally construed so that persons who are in need of care, treatment, training or education in a state school by reason of their exceptional mental and/or physical qualities shall receive the benefit of such residential facilities while still preserving all rights and privileges guaranteed the person by the Constitution of the United States of America and the state of Washington. [1959 c 28 § 72.33.900. Prior: 1957 c 102 § 25. Formerly RCW 72.33.250.]

Chapter 72.36

SOLDIERS' AND VETERANS' HOMES

Sections

72.36.010	Establishment of soldiers' home.
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72.36.040	Colony established—Who may be admitted (as amended by 1973 1st ex.s. c 154 § 102).
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72.36.110	Burial of deceased member or deceased spouse.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

72.36.010 Establishment of soldiers' home. There is established at Orting, Pierce county, an institution which shall be known as the Washington soldiers' home. [1959 c 28 § 72.36.010. Prior: 1901 c 167 § 1; 1890 p 269 § 1; RRS § 10727.]

72.36.020 Superintendent—Appointment. The director shall appoint a superintendent, who, with the consent of the director, may be styled "commandant of the home". The superintendent shall have entire management and control of the institution under the rules and regulations adopted by the department. [1959 c 28 § 72.36.020. Prior: 1890 p 271 § 7; RRS § 10728.]

Superintendent, general provisions: RCW 72.01.060.

72.36.030 Who may be admitted. All honorably discharged soldiers, sailors and marines who have served the United States government in any of its wars, and members of the state militia disabled while in the line of duty, may be admitted to the state soldiers' home at Orting under such rules and regulations as may be adopted by the department: *Provided*, That such applicants have been actual bona fide citizens of this state for a period of three years at the time of their application, and are indigent and unable to support themselves. [1959 c 28 § 72.36.030. Prior: 1915 c 106 § 1; 1911 c 124 § 1; 1905 c 152 § 1; 1901 c 167 § 2; 1890 p 270 § 2; RRS § 10729.]

72.36.040 Colony established—Who may be admitted (as amended by 1973 c 101 § 1). There is hereby established what shall be known as the "Colony of the State Soldiers' Home." All of the following persons who reside within the limits of Orting school district and have been actual bona fide citizens of this state for a period of three years at the time of their application and who have personal property of less than one thousand dollars and/or a monthly income insufficient to meet their needs as determined by the standards of the department of social and health services, may be admitted to membership in said colony under such rules and regulations as may be adopted by the department.

(1) All honorably discharged veterans who have served in the armed forces of the United States during wartime, members of the state militia disabled while in the line of duty, and their respective spouses with whom they have lived for three years prior to application for membership in said colony. Also, the spouse of a veteran or disabled member of the state militia, who is eligible for membership in said colony, if such spouse is the widow or widower of a veteran who was a member of a soldiers' home or colony in this state or entitled to admission thereto at the time of death: *Provided*, That such veterans and members of the state militia shall, while they are members of said colony, be living with their said spouses.

(2) The widows or widowers of all veterans who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and the widows or widowers of all veterans who would have been entitled to admission to a soldiers' home or colony in this state at the time of death but for the fact that they were not indigent and unable to support themselves and families, which widows or widowers have since the death of their said spouses become indigent and unable to earn a support for themselves: *Provided*, That such widows or widowers are not less than fifty years of age and have not been married since the decease of their said spouses to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. Any resident of said colony may be admitted to the hospital at the state soldiers' home for temporary care when requiring hospital treatment. [1973 c 101 § 1; 1959 c 235 § 1; 1959 c 28 § 72.36.040. Prior: 1947 c 190 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 2; Rem. Supp. 1947 § 10730.]

Reviser's note: RCW 72.36.040 was amended twice during the 1973 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

72.36.040 Colony established—Who may be admitted (as amended by 1973 1st ex.s. c 154 § 102). There is hereby established what shall be known as the "Colony of the State Soldiers' Home." All of the following persons who reside within the limits of Orting precinct and have been actual bona fide citizens of this state for a period of three years at the time of their application and who have personal property of less than one thousand dollars and/or a monthly income insufficient to meet their needs as determined by the standards of the county welfare department, may be admitted to membership in said colony under such rules and regulations as may be adopted by the department.

(1) All honorably discharged soldiers, sailors and marines, who have served the United States government in any of its wars, and members of the state militia disabled while in the line of duty, and their spouses, who were married and living with their spouses for five years prior to application to membership in said colony or who, since said date, have married widows of soldiers or widowers of soldiers who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death: *Provided*, That such soldiers, sailors, and marines and members of the state militia shall, while they are members of said colony, be living with their said spouses.

(2) The spouses of all soldiers who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and the spouses of all soldiers who would have been entitled to admission to a soldiers' home or colony in this state at the time of death but for the fact that they were not indigent and unable to support themselves and families, which spouses have since the death of their said husbands or wives become indigent and unable to earn a support for themselves: *Provided*, That such spouses are not less than fifty years of age and have not been married since the decease of their said husbands or wives to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. Any resident of said colony may be admitted to the hospital at the state soldiers' home for temporary care when requiring hospital treatment. [1973 1st ex.s. c 154 § 102; 1959 c 235 § 1; 1959 c 28 § 72.36-.040. Prior: 1947 c 190 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 2; Rem. Supp. 1947 § 10730.]

Reviser's note: RCW 72.36.040 was amended twice during the 1973 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended twice at the same legislative session, see RCW 1.12.025.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

72.36.050 Regulations of home applicable—Rations, medical attendance, clothing. The members of the colony established in RCW 72.36.040 as now or hereafter amended shall, to all intents and purposes, be members of the state soldiers' home and subject to all the rules and regulations thereof, except the requirements of fatigue duty, and each member shall, in accordance with rules and regulations adopted by the director, be supplied with medical attendance and supplies from the home dispensary and rations not exceeding thirty dollars per month in value, and clothing not exceeding sixty dollars per year in value for a member and spouse, and thirty-five dollars per year in value for a spouse admitted under RCW 72.36.040 as now or hereafter amended. [1973 1st ex.s. c 154 § 103; 1967 c 112 § 1; 1959 c 28 § 72.36.050. Prior: 1947 c 190 § 2; 1939 c 161 § 1; 1927 c 276 § 1; 1925 ex.s. c 74 § 1; 1915 c 106 § 3; Rem. Supp. 1947 § 10731.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

72.36.060 Federal funds. The state treasurer is authorized to receive any and all moneys appropriated or paid by the United States under the act of congress entitled "An Act to provide aid to state or territorial homes for disabled soldiers and sailors of the United States," approved August 27, 1888, or under any other act or acts of congress for the benefit of such homes. Such moneys shall be deposited in the general fund and shall be expended for the maintenance of the soldiers' home. [1959 c 28 § 72.36.060. Prior: 1897 c 67 § 1; RRS § 10735.]

72.36.070 Washington veterans' home. There shall be established and maintained in this state a branch of the state soldiers' home, under the name of the "Washington veterans' home," which branch shall be a home for honorably discharged soldiers, sailors and marines who have served the United States government in any of its wars, members of the state militia disabled while in the line of duty, and who are bona fide citizens of the state, and also the wives of such soldiers, sailors and marines. [1959 c 28 § 72.36.070. Prior: 1907 c 156 § 1; RRS § 10733.]

72.36.080 Who may be admitted to veterans' home. All of the following persons who have been actual bona fide residents of this state for a period of three years at the time of their application and who are indigent and unable to earn a support for themselves and families may be admitted to the Washington veterans' home under such rules and regulations as may be adopted by the director:

(1) All honorably discharged veterans of the armed forces of the United States who have served the United States in any of its wars, and members of the state militia disabled while in the line of duty, and the spouses of such veterans, and members of the state militia: *Provided*, That such spouse was married to and living with such veteran on or before three years prior to the date of application for admittance, or, if married to him or her since that date, was also a member of a soldiers' home or colony in this state or entitled to admission thereto.

(2) The spouses of all soldiers, sailors, and marines and members of the state militia disabled while in the line of duty, who were members of a soldiers' home or colony in this state or entitled to admission thereto at the time of death, and spouses of all such soldiers, sailors, and marines and members of the state militia, who would have been entitled to admission to a soldiers' home or colony in this state at the time of death but for the fact that they were not indigent and unable to earn a support for themselves and families, which spouses have since the death of their husbands or wives, become indigent and unable to earn a support for themselves: *Provided*, That such spouses are not less than fifty years of age and were married and living with their husbands or wives on or before three years prior to the date of

their application, and have not been married since the decease of their husbands or wives to any person not a member of a soldiers' home or colony in this state or entitled to admission thereto. [1973 1st ex.s. c 154 § 104; 1959 c 28 § 72.36.080. Prior: 1955 c 104 § 1; 1927 c 276 § 2; 1915 c 106 § 4; RRS § 10732.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Commitment to veterans administration or other federal agency: RCW 73.36.165.

72.36.090 Occupational therapy and hobby promotion. The superintendent of the state soldiers' home and colony is hereby authorized to:

(1) Institute programs of occupational therapy and hobby promotion designed to improve the general welfare and mental condition of the persons under his supervision;

(2) Provide for the financing of these programs by loans from funds in the superintendent's custody through operation of canteens and exchanges at such institutions;

(3) Limit the hobbies and occupational therapy sponsored to projects which will, in his judgment, be self-liquidating or self-sustaining. [1959 c 28 § 72.36.090. Prior: 1949 c 114 § 1; Rem. Supp. 1949 § 10736-1.]

72.36.100 Purchase of equipment, materials for therapy, hobbies. The superintendent of each institution referred to in RCW 72.36.090 may purchase, from the appropriation to the institution, for operations, equipment or materials designed to initiate the programs authorized by RCW 72.36.090. [1959 c 28 § 72.36.100. Prior: 1949 c 114 § 2; Rem. Supp. 1949 § 10736-2.]

Division of purchasing: RCW 43.19.190.

Washington commodities to be used: Chapter 39.24 RCW.

72.36.110 Burial of deceased member or deceased spouse. The superintendent of the Washington veterans' home and the superintendent of the Washington soldiers' home and colony are hereby authorized to provide for the burial of deceased members in the cemeteries provided at the Washington veterans' home and Washington soldiers' home: *Provided*, That this section shall not be construed to prevent any relative from assuming jurisdiction of such deceased persons: *Provided further*, That the superintendent of the Washington soldiers' home and colony is hereby authorized to provide for the burial of husbands and wives of members of the colony of the Washington soldiers' home. [1959 c 120 § 1; 1959 c 28 § 72.36.110. Prior: 1955 c 247 § 7.]

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Chapter 72.40

STATE SCHOOLS FOR BLIND AND DEAF

Sections

72.40.010 Schools established.
72.40.020 Superintendents—Appointment—Qualifications—Discharge of employees.

72.40.031 School year—School term—Legal holidays—Use of schools.
72.40.040 Who may be admitted.
72.40.050 Admission of nonresidents.
72.40.060 Duty of school district clerks.
72.40.070 Duty of intermediate school district superintendents.
72.40.080 Duty of parents.
72.40.090 Expense of transportation.
72.40.100 Penalty.

Disposition of property of deceased inmate of state institution: RCW 11.08.101, 11.08.111, 11.08.120.

Handicapped children, parental responsibility, commitment: Chapter 26.40 RCW.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

72.40.010 Schools established. There are established at Vancouver, Clark county, an institution which shall be known as the state school for the blind, and a separate institution which shall be known as the state school for the deaf. [1959 c 28 § 72.40.010. Prior: 1913 c 10 § 1; 1886 p 136 § 1; RRS § 4645.]

72.40.020 Superintendents—Appointment—Qualifications—Discharge of employees. The director shall appoint a superintendent for each institution. The superintendents must be not less than thirty nor more than seventy years of age and must be practically acquainted with school management and class instruction of the blind and the deaf, respectively, having had at least ten years' actual experience in teaching in schools for such persons.

The director may discharge any employee in his discretion. [1959 c 28 § 72.40.020. Prior: 1909 c 97 p 258 § 5; RRS § 4649.]

Superintendent, general provisions: RCW 72.01.060.

72.40.031 School year—School term—Legal holidays—Use of schools. The school year for the state school for the blind and the state school for the deaf shall commence on the first day of July of each year and shall terminate on the 30th day of June of the succeeding year. The regular school term shall be for a period of nine months and shall commence as near as reasonably practical at the time of the commencement of regular terms in the public schools, with the equivalent number of days as are now required by law, and the regulations of the superintendent of public instruction as now or hereafter amended, during the school year in the public schools. The school shall observe all legal holidays, in the same manner as other agencies of state government, and the schools will not be in session on such days and such other days as may be approved by the director of institutions. During the period when the schools are not in session during the regular school term, schools may be operated, subject to the approval of the director, for the instruction of students or for such other reasons which are in furtherance of the objects and purposes of such schools. [1970 ex.s. c 50 § 6.]

72.40.040 Who may be admitted. The institutions shall be free to residents of the state between the ages of six and twenty-one years, and who are blind or deaf,

and who are free from loathsome or contagious diseases: *Provided*, That children under the age of six, who are otherwise qualified may be admitted to the institution, if in the discretion of the superintendent they are proper subjects to receive the training given in the institution and the facilities are adequate for proper care and training: *Provided further*, That students over the age of twenty-one years, who are otherwise qualified may be retained at the institution, if in the discretion of the superintendent in consultation with the faculty they are proper subjects to receive further training given at the institution and the facilities are adequate for proper care and training. [1969 c 39 § 1; 1959 c 28 § 72.40.040. Prior: 1955 c 260 § 1; 1909 c 97 p 258 § 3; 1903 c 140 § 1; 1897 c 118 § 229; 1886 p 136 § 2; RRS § 4647.]

72.40.050 Admission of nonresidents. The director may admit to the schools blind or deaf children from other states, but the parents or guardians of such children will be required to pay annually or quarterly in advance a sufficient amount to cover the cost of maintaining and educating such children. [1959 c 28 § 72.40.050. Prior: 1909 c 97 p 258 § 4; 1897 c 118 § 251; 1886 p 141 § 32; RRS § 4648.]

72.40.060 Duty of school district clerks. It shall be the duty of the clerks of all school districts in the state, at the time for making the annual reports, to report to the superintendent of their respective intermediate school districts the names of all deaf, mute, or blind youth residing within their respective school districts who are between the ages of six and twenty-one years. [1969 ex.s. c 176 § 97; 1959 c 28 § 72.40.060. Prior: 1909 c 97 p 258 § 6; 1897 c 118 § 252; 1890 p 497 § 1; RRS § 4650.]

Effective date—1969 ex.s. c 176: The effective date of this section, RCW 72.40.070, 72.40.080 and 72.40.100 was April 25, 1969. See note following RCW 28A.21.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

School district clerks, duties: RCW 28A.58.150.

72.40.070 Duty of intermediate school district superintendents. It shall be the duty of each intermediate school district superintendent to make a full and specific report of such deaf, mute, or blind youth to the board of county commissioners of the county in which the youth resides at its regular meeting in July of each year. He shall also, at the same time, transmit a duplicate copy of such report to the director and the superintendent of the school for the blind or the school for the deaf, as the case may be. [1969 ex.s. c 176 § 98; 1959 c 28 § 72.40.070. Prior: 1909 c 97 p 259 § 7; 1897 c 118 § 253; 1890 p 497 § 2; RRS § 4651.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

County superintendents: Chapter 28A.21 RCW.

72.40.080 Duty of parents. It shall be the duty of the parents or the guardians of all such blind or deaf youth to send them each year to the proper institution. The

intermediate school district superintendent shall take all action necessary to enforce this section. If satisfactory evidence is laid before the intermediate school district superintendent that any blind or deaf youth is being properly educated at home or in some suitable institution other than the state schools, he shall take no action in such case other than to make a record of such fact, and take such steps as may be necessary to satisfy himself that such defective youth will continue to receive a proper education. [1969 ex.s. c 176 § 99; 1959 c 28 § 72.40.080. Prior: 1909 c 97 p 259 § 8; 1897 c 118 § 254; 1890 p 498 § 3; RRS § 4652.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Handicapped children, parental responsibility, commitment: Chapter 26.40 RCW.

72.40.090 Expense of transportation. If it appears to the satisfaction of the board of county commissioners that the parents of any such blind or deaf youth within their county are unable to bear the expense of transportation to and from the state schools, it shall send them to and return them from the schools or maintain them there during vacation at the expense of the county. [1959 c 28 § 72.40.090. Prior: 1909 c 97 p 259 § 9; 1899 c 142 § 28; 1899 c 81 § 2; 1897 c 118 § 255; RRS § 4653.]

72.40.100 Penalty. Any parent, guardian, intermediate school district superintendent or county commissioner who, without proper cause, fails to carry into effect the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, upon the complaint of any officer or citizen of the county or state, before any justice of the peace or superior court, shall be fined in any sum not less than fifty nor more than two hundred dollars. [1969 ex.s. c 176 § 100; 1959 c 28 § 72.40.100. Prior: 1909 c 97 p 259 § 10; 1897 c 118 § 256; 1890 p 498 § 5; RRS § 4654.]

Effective date—1969 ex.s. c 176: See note following RCW 72.40.060.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 72.41

BOARD OF TRUSTEES—SCHOOL FOR THE BLIND

Sections	
72.41.010	Intention—Purpose.
72.41.020	Board of trustees—Created—Membership— Terms—Vacancies—Officers—Rules and regulations.
72.41.030	Bylaws—Rules and regulations—Officers.
72.41.040	Powers and duties.
72.41.050	Eligibility and certification of teachers—Rules and regulations.
72.41.060	Per diem—Expenses.
72.41.070	Meetings.
72.41.080	Local advisory committees.

72.41.010 Intention—Purpose. It is the intention of the legislature in creating a board of trustees for the state school for the blind to perform the duties set forth in this chapter, that the board of trustees perform needed advisory services to the legislature and directly to the secretary of the department of social and health services, hereinafter denominated the "secretary", in the development of programs for the blind, and in the operation of the Washington state school for the blind. [1973 c 118 § 1.]

72.41.020 Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. There is hereby created a board of trustees for the state school for the blind to be composed of eleven trustees. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in each of the state's congressional districts. A representative of the parent-teachers association of the Washington state school for the blind, a representative of the Washington council of the blind, a representative of the Washington state association for the blind and one representative designated by the teacher association, Washington state school for the blind shall each be ex officio and non-voting members of the board of trustees and shall serve during their respective tenures in such positions.

The initial appointees of the governor to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.

Thereafter the successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's seven congressional districts. No voting trustee may be an employee of the state school for the blind, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, or an elected officer or member of the legislative authority or any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Four voting members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the blind shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [1973 c 118 § 2.]

72.41.030 Bylaws—Rules and regulations—Officers. Within thirty days of their appointment or July 1, 1973, whichever is sooner, the board of trustees shall

organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chairman and a vice chairman, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. [1973 c 118 § 3.]

72.41.040 Powers and duties. Under the general auspices of the secretary of the department of social and health services, the board of trustees of the state school for the blind:

(1) Shall monitor and inspect all existing facilities of the state school for the blind, and report its findings to the secretary;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the secretary;

(3) Shall advise the secretary in selection of qualified candidates for superintendent, members of the faculty and such other administrative officers and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. All employees and personnel classified under chapter 41.06 RCW shall continue, after June 7, 1973, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law;

(4) May recommend to the secretary the establishment of new facilities as needs demand;

(5) May recommend to the secretary rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

(6) May make recommendations to the secretary concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the blind;

(7) May make recommendations to the secretary for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the blind;

(8) Shall recommend to the secretary, with the assistance of the faculty, the course of study including vocational training in the school for the blind, in accordance with other applicable provisions of law and rules and regulations;

(9) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate;

(10) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the blind;

(11) Shall perform any other duties and responsibilities prescribed by the secretary. [1973 c 118 § 4.]

72.41.050 Eligibility and certification of teachers—
Rules and regulations. The board of trustees shall recommend rules and regulations determining eligibility for and certification of teachers in the state school for the blind, including certification for emergency or temporary, substitute or provisional duty. [1973 c 118 § 5.]

72.41.060 Per diem—Expenses. Each member of the board of trustees shall receive per diem as provided in RCW 43.03.050, and necessary expenses and other actual mileage or transportation costs as provided in RCW 43.03.060, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the state school for the blind. [1973 c 118 § 6.]

72.41.070 Meetings. The board of trustees shall meet at least six times each year. [1973 c 118 § 7.]

72.41.080 Local advisory committees. The board of trustees shall appoint a local advisory committee consisting of five or more persons from the local community and surrounding areas to advise the board on any matter relating to the development of vocational programs for the blind or relating to the operation of the state school for the blind. [1973 c 118 § 8.]

Chapter 72.42

BOARD OF TRUSTEES—SCHOOL FOR THE DEAF

Sections

72.42.010	Intention—Purpose.
72.42.020	Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations.
72.42.030	Bylaws—Rules and regulations—Officers.
72.42.040	Powers and duties.
72.42.050	Eligibility and certification of teachers—Rules and regulations.
72.42.060	Per diem—Expenses.
72.42.070	Meetings.
72.42.080	Local advisory committees.

72.42.010 Intention—Purpose. It is the intention of the legislature, in creating a board of trustees for the state school for the deaf to perform the duties set forth in this chapter, that the board of trustees perform needed services to the secretary of the department of social and health services, hereinafter denominated the "secretary", in the development of programs for the deaf, and in the operation of the Washington state school for the deaf. [1972 ex.s. c 96 § 1.]

72.42.020 Board of trustees—Created—Membership—Terms—Vacancies—Officers—Rules and regulations. There is hereby created a board of trustees for the state school for the deaf to be composed of ten trustees, of whom seven shall be appointed by the governor. In making such appointments the governor shall give consideration to geographical exigencies and shall appoint one trustee residing in each of the state's congressional districts. The president of the parent-teachers house organization of the deaf school, the vice president of the parent-teachers house organization of

the deaf school, and the president of the Washington state association for the deaf shall each be ex officio and nonvoting members of the board of trustees and shall serve during their respective tenures in such positions.

The initial appointees to the board of trustees shall draw lots at the first meeting thereof to determine their respective initial terms. One trustee shall serve for one year, one for two years, two for three years, one for four years, and two for five years.

Thereafter the successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

One trustee shall be a resident and qualified elector from each of the state's seven congressional districts. No trustee may be an employee of the state school for the deaf, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, or an elected officer or member of the legislative authority of any municipal corporation.

The board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Four members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The superintendent of the state school for the deaf shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [1972 ex.s. c 96 § 2.]

72.42.030 Bylaws—Rules and regulations—Officers. Within thirty days of their appointment or July 1, 1972, whichever is sooner, the board of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chairman and a vice chairman, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. [1972 ex.s. c 96 § 3.]

72.42.040 Powers and duties. Subject to the direction and control of the secretary of the department of social and health services, the board of trustees of the state school for the deaf:

(1) Shall monitor and inspect all existing facilities of the state school for the deaf, and report its findings to the secretary;

(2) Shall study and recommend comprehensive programs of education and training and review the admission policy as set forth in RCW 72.40.040 and 72.40.050, and make appropriate recommendations to the secretary;

(3) Shall advise the secretary in selection of qualified candidates for superintendent, members of the faculty and such other administrative officers and other employees, who shall all be subject to chapter 41.06 RCW, the state civil service law, unless specifically exempted by other provisions of law. All employees and personnel classified under chapter 41.06 RCW shall continue, after May 23, 1972, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law;

(4) May recommend to the secretary the establishment of new facilities as needs demand;

(5) May recommend to the secretary rules and regulations for the government, management, and operation of such housing facilities deemed necessary or advisable;

(6) May make recommendations to the secretary concerning classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for the school for the deaf;

(7) May make recommendations to the secretary for adoption of rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the school for the deaf;

(8) Shall recommend to the secretary, with the assistance of the faculty, the course of study including vocational training in the school for the deaf, in accordance with other applicable provisions of law and rules and regulations;

(9) May grant to every student, upon graduation or completion of a program or course of study, a suitable diploma, nonbaccalaureate degree, or certificate.

(10) Shall participate in the development of, and monitor the enforcement of the rules and regulations pertaining to the school for the deaf;

(11) Shall perform any other duties and responsibilities prescribed by the secretary. [1972 ex.s. c 96 § 4.]

72.42.050 Eligibility and certification of teachers—Rules and regulations. The board of trustees shall recommend rules and regulations determining eligibility for and certification of teachers in the state school for the deaf, including certification for emergency or temporary, substitute or provisional duty. [1972 ex.s. c 96 § 5.]

72.42.060 Per diem—Expenses. Each member of the board of trustees shall receive per diem as provided in RCW 43.03.050, and necessary expenses and other actual mileage or transportation costs as provided in RCW 43.03.060, and such payments shall be a proper charge to any funds appropriated or allocated for the support of the state school for the deaf. [1972 ex.s. c 96 § 6.]

72.42.070 Meetings. The board of trustees shall meet at least six times each year. [1972 ex.s. c 96 § 7.]

72.42.080 Local advisory committees. The board of trustees shall appoint a local advisory committee consisting of five or more persons from the local community and surrounding areas to advise the board on any matter relating to the development of programs for the deaf or relating to the operation of the state school for the deaf. [1972 ex.s. c 96 § 8.]

Chapter 72.48 STATE NARCOTIC FARM COLONY

Sections

72.48.010	Establishment authorized.
72.48.020	Definitions.
72.48.030	Complaint—Arrest—Trial—Order.
72.48.040	Cost of maintenance, transportation, etc.
72.48.050	Parole or discharge.
72.48.060	Voluntary patients.
72.48.070	Witness fees—Drug addict's transportation expense, payment.
72.48.080	Bringing in prohibited articles—Penalty.
72.48.090	Assisting escape—Penalty.
72.48.100	Conniving at improper commitment—Penalty.
72.48.110	Care of persons pending construction of institution.

Narcotic drugs: Chapter 69.32 RCW.

Record as to patients or inmates for purposes of vital statistics: RCW 70.58.270.

Uniform controlled substances act: Chapter 69.50 RCW.

72.48.010 Establishment authorized. The director is hereby authorized and directed to provide a state institution either on property now owned by the state or on property to be acquired for such purpose, said institution to be used for the isolation and rehabilitation of narcotic addicts, which said institution shall be known as the "State Narcotic Farm Colony," and shall be administered as provided by law for the administration of state hospitals for the mentally ill. [1959 c 28 § 72.48-010. Prior: 1935 c 84 § 1; RRS § 10242-1.]

State hospitals for the mentally ill: Chapter 72.23 RCW.

72.48.020 Definitions. Any person shall be held to be a "drug addict" within the meaning of this chapter who unlawfully administers to himself or unlawfully has administered to himself by others, any habit forming narcotic drug. For the purpose of this chapter the term "habit forming narcotic drug" means opium and coca leaves and the innumerable alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp, marihuana and their various derivatives, compounds and preparations and peyote in its various forms. [1959 c 28 § 72.48.020. Prior: 1935 c 84 § 2; RRS § 10242-2.]

72.48.030 Complaint—Arrest—Trial—Order. Whenever it appears by affidavit to the satisfaction of the prosecuting attorney of a county that any person

within such county is a drug addict within the meaning of this chapter, the said prosecuting attorney shall forthwith file in superior court a complaint in writing, duly verified, alleging such fact and the clerk of said court shall issue and deliver to the sheriff or other peace officer for service a warrant directing that such person be arrested and taken before a judge of the superior court for hearing and examination. Such officer shall thereupon arrest and detain such person until a hearing and examination can be had. At the time of the arrest of such person a copy of said complaint and a copy of the warrant of arrest must be made by the arresting officer personally delivered to said person. The court shall hear and determine said matter on said complaint and the proceedings before the court shall be substantially similar to the complaint, arrest and proceedings had wherein charges of insanity are filed against a person and heard in the superior court under existing law. At such hearing the person so accused shall have the right to be represented by counsel and to produce witnesses in his own behalf at public expense. Said hearing shall be in open court and a record thereof shall be kept by the clerk of said court. The person so accused shall have the right to trial by jury in the event that he shall demand the same. After a hearing and examination if the court shall determine that such person is a drug addict, or, if a jury has been demanded, the jury shall so determine, the court shall make an order that such person be confined in said state narcotic farm colony for an indeterminate period, said period to be until such time as in the opinion of the superintendent of said institution the said drug addict shall have recovered from his addiction or in the opinion of the superintendent of said institution there is no probability of such person ever recovering therefrom. Pending such trial or hearing and before the entry of judgment thereon, the court shall make such disposition of such alleged drug addict as may to the court seem fit and proper in the premises. [1959 c 28 § 72.48.030. Prior: 1935 c 84 § 3; RRS § 10242-3.]

72.48.040 Cost of maintenance, transportation, etc.

At such hearing such person charged with drug addiction and such other witnesses as the court may deem necessary and material, shall be examined under oath for the purpose of determining the financial ability of such person charged with drug addiction, his estate or relatives, to pay the cost and expense of the care, maintenance, board, lodging and clothing of such person charged with drug addiction in the state narcotic farm colony in the event he shall be committed thereto. Findings of fact shall be made by the court relative to the financial ability to pay such costs as above set forth in all cases of commitment and a judgment entered therein against the proper party or estate so found responsible. Every drug addict, his estate or relatives, as above set forth, found to have the financial ability to pay the expenses above enumerated shall pay therefor the sum of four dollars and fifty cents per week during the time such drug addict is committed to such state narcotic farm colony, and in addition thereto shall pay the cost of transportation of such drug addict and all

court costs. Said charge of four dollars and fifty cents per week shall be made to apply in all cases for the entire time such drug addict is confined at such institution. Remittances therefor shall be made to the director in advance on or before the first day of each calendar month during the time such drug addict remains committed. If the court finds that such drug addict, or his estate or relatives have not the financial ability to pay such sum for such purposes, the charges and costs above referred to shall be borne by the state of Washington. Relatives shall be liable for the cost and expense of the care and maintenance of such addicts in the following order: First, husband or wife; second, parents; third, children. [1959 c 28 § 72.48.040. Prior: 1935 c 84 § 4; RRS § 10242-4.]

72.48.050 Parole or discharge. Any person committed to such institution under the provisions of this chapter may be paroled or discharged at any time after admission thereto by the superintendent of such institution when in the opinion of the superintendent of said institution such person is cured of such drug addiction, which parole or discharge shall be certified by the superintendent of such institution to the clerk of the court from which said person so discharged or paroled has been committed to said institution. In the event that a drug addict shall be paroled from said institution and not financially discharged the superintendent shall have the right to require as a condition of said parole reports from time to time from such drug addict and may require reports of physical examination thereof to be made at the expense of such drug addict by a reputable physician and surgeon licensed to practice his profession at the place where such examination is made, and such other, further and different reasonable requirements of such paroled patient as may in the opinion of the superintendent be necessary and proper, and in the event of a breach of said parole and the requirements thereof said patient may, at the option of the superintendent thereof, be returned to said institution for further treatment. [1959 c 28 § 72.48.050. Prior: 1935 c 84 § 5; RRS § 10242-5.]

72.48.060 Voluntary patients. The superintendent of such state narcotic farm colony may accept as patients any persons voluntarily applying for treatment for drug addiction thereto: *Provided, however,* That before such voluntary patient shall be admitted or retained in said institution he shall pay in advance such sum or sums for his care, maintenance, board and lodging as shall be determined by the superintendent of the said institution not exceeding however, the actual average cost thereof, and shall sign a statement to the effect that he or she is suffering from drug addiction and desires treatment in the same manner and subject to the same rules and restrictions as if committed by a court and that they submit voluntarily to such treatment and to the discipline of such institution and shall remain therein for such time as the superintendent may deem necessary to either effect a cure or determine there is no reasonable probability of a cure being effected: *Provided, however,* That no person shall be admitted to such institution as

a voluntary patient who has not been a resident of this state for a period of two years next preceding application for admission. [1959 c 28 § 72.48.060. Prior: 1935 c 84 § 6; RRS § 10242-6.]

72.48.070 Witness fees—Drug addict's transportation expense, payment. Witnesses at hearings for the commitment of drug addicts shall be entitled to receive the usual fees allowed by law in the trial of criminal cases and in the event of a drug addict being committed to said institution as provided herein, they shall be transported to said institution and the expenses thereof shall be paid in the same manner as existing law provides for the care and transportation of insane persons to state hospitals for the mentally ill. [1959 c 28 § 72.48.070. Prior: 1935 c 84 § 7; RRS § 10242-7.]

Witnesses' fees: RCW 2.40.010, 10.01.130 and 10.52.040.

72.48.080 Bringing in prohibited articles—Penalty. Any person not authorized by law who brings into the said institution, or within the grounds thereof, any narcotic drug, or any intoxicating liquor, or any firearms, weapons, or explosives of any kind, shall be guilty of a felony. [1959 c 28 § 72.48.080. Prior: 1935 c 84 § 9; RRS § 10242-9.]

72.48.090 Assisting escape—Penalty. Every person who shall knowingly procure the escape of any inmate of the said institution or advise, connive at, aid or assist in such escape, or knowingly conceal and/or connive at, advise, aid or assist in the concealment of any such inmate after such escape, shall be guilty of a gross misdemeanor. [1959 c 28 § 72.48.090. Prior: 1935 c 84 § 10; RRS § 10242-10.]

Assisting escape of inmate of mental institution or custodial school: RCW 9.31.100.

72.48.100 Conniving at improper commitment—Penalty. Every person who shall knowingly advise, connive at, conspire, aid or assists in having or attempting to have, any person adjudged a drug addict under this chapter unlawfully or improperly, shall be guilty of a gross misdemeanor. [1959 c 28 § 72.48.100. Prior: 1935 c 84 § 11; RRS § 10242-11.]

72.48.110 Care of persons pending construction of institution. Pending the building of such institution and the furnishing and equipment of the same for the reception, care and treatment of persons committed under this chapter, the director shall care for persons committed under this chapter in existing state institutions in such manner as may to the director seem expedient. [1959 c 28 § 72.48.110. Prior: 1935 c 84 § 8; RRS § 10242-8.]

Chapter 72.49 NARCOTIC OR DANGEROUS DRUGS— TREATMENT PROGRAMS

Sections
72.49.010 Purpose.

72.49.020 Treatment and rehabilitation programs authorized—
Rules and regulations.

72.49.010 Purpose. The purpose of this chapter is to provide additional programs for the treatment and rehabilitation of persons suffering from narcotic and dangerous drug abuse. [1969 ex.s. c 123 § 1.]

Effective date—1969 ex.s. c 123: "The effective date of this act shall be July 1, 1969." [1969 ex.s. c 123 § 3.] This applies to RCW 72.49.010 and 72.49.020.

72.49.020 Treatment and rehabilitation programs authorized—Rules and regulations. There shall be established at an institution, or portion thereof, to be designated by the director of the department of institutions, programs for treatment and rehabilitation of persons in need of medical care and treatment due to narcotic abuse or dangerous drug abuse. Such programs shall include facilities for both residential and outpatient treatment. The director of the department of institutions shall promulgate rules and regulations, governing the voluntary admission, the treatment and release of such patients, and all other matters incident to the proper administration of this section. [1969 ex.s. c 123 § 2.]

Chapter 72.50 STATE BUREAU OF CRIMINAL IDENTIFICATION

Sections
72.50.040 Submission to taking of identifying data.

72.50.040 Submission to taking of identifying data. All persons arrested for any of the crimes described in RCW 72.50.060, except children under the age of eighteen years, who shall be treated under RCW 13.04.130, shall submit to the taking of their fingerprints, photographs, physical description and other identifying data. [1970 ex.s. c 49 § 6; 1959 c 28 § 72.50.040. Prior: 1955 c 318 § 4. Formerly RCW 43.29.040.]

72.50.040 Submission to taking of identifying data. [1959 c 28 § 72.50.040. Prior: 1955 c 318 § 4. Formerly RCW 43.29.040.] Repealed by 1970 ex.s. c 18 § 62.

Reviser's note: RCW 72.50.040 was both repealed and amended by the 1970 legislature.

For rule of construction concerning sections both repealed and amended in the same session, see RCW 1.12.025.

Severability—1970 ex.s. c 49: See note following RCW 9.48.010. *Fingerprinting or photographing juvenile: RCW 13.04.130.*

Chapter 72.56 STATE INSTITUTIONS FOR CHILDREN AND YOUTH

Sections
72.56.010 Institution at Fort Worden established.
72.56.020 Authority to purchase lands, buildings, equipment at
Fort Worden.
72.56.030 Remodeling and alteration at Fort Worden.
72.56.040 Transfer of children and youth from other facilities to
Fort Worden.
72.56.050 Superintendent, officers, employees—Appointment.

72.56.010 Institution at Fort Worden established. There is hereby established under the supervision and control of the department of institutions, an institution

for the care and custody of children and youth, to be located at Fort Worden, near Port Townsend, in Jefferson county. [1959 c 28 § 72.56.010. Prior: 1957 c 217 § 1.]

72.56.020 Authority to purchase lands, buildings, equipment at Fort Worden. The director is hereby authorized to enter into a contract with the commissioners of the port of Port Townsend for the purchase of, and to accept a deed in the name of the state of Washington, subject to the approval as to form by the attorney general, of certain lands, buildings and equipment situate at Port Townsend in Jefferson county, and known as Fort Worden, a former United States military installation. [1959 c 28 § 72.56.020. Prior: 1957 c 217 § 2.]

72.56.030 Remodeling and alteration at Fort Worden. The director, upon the acquisition of the land, buildings and equipment at Fort Worden, may cause plans, specifications and estimates of cost to be prepared for the remodeling and alteration of said buildings for the institutionalization of children and youth, and for this purpose the director is authorized to employ the service of architects. [1959 c 28 § 72.56.030. Prior: 1957 c 217 § 3.]

72.56.040 Transfer of children and youth from other facilities to Fort Worden. The director shall have authority to transfer children and youth to Fort Worden who are now confined at, or who may hereafter be committed to, any other facility under the supervision of the department for the custody of children and youth. [1959 c 28 § 72.56.040. Prior: 1957 c 217 § 4.]

72.56.050 Superintendent, officers, employees—Appointment. The director is hereby authorized to appoint a superintendent and such other officers and employees as are deemed necessary for the proper operation of the institutions and facilities authorized by this chapter. [1959 c 28 § 72.56.050. Prior: 1957 c 217 § 5.]

Superintendent, general provisions: RCW 72.01.060.

Chapter 72.60

INSTITUTIONAL INDUSTRIES COMMISSION

Sections

72.60.010	Definitions.
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72.60.030	Commission created.
72.60.040	Terms, vacancies, chairman.
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72.60.250	Institutional industries revolving fund—Custodian—Deposits—Depositories—Petty cash.
72.60.260	Institutional industries revolving fund—Expenses payable from fund.
72.60.270	Institutional industries revolving fund—Excess moneys.
72.60.280	Reports to governor.

72.60.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Institution" means any place under the jurisdiction of the department of institutions at which individuals are confined pursuant to court order.

(2) "Commission" means the institutional industries commission as herein created.

(3) "Enterprise" means an agricultural or manufacturing operation or group of closely related operations within a single institution which in accepted trade practices would ordinarily be carried on as a single unit for the purpose of producing saleable items above and beyond the needs of the producing institution, not to include or apply to self-sustaining activities, maintenance and construction work and handiwork of prisoners. [1959 c 28 § 72.60.010. Prior: 1955 c 314 § 2. Formerly RCW 43.95.010.]

72.60.020 Declaration of purpose. The purpose of this chapter is to aid and assist the department of institutions in minimizing or eliminating idleness among the inmates of the state penal, correctional, or reformatory institutions and promoting rehabilitation by affording such inmates an opportunity to participate in industrial and agricultural activities and to provide for the disposition and sale of the articles produced. [1959 c 28 § 72.60.020. Prior: 1957 c 30 § 1. Formerly RCW 43.95.015.]

Convict labor: State Constitution Art. 2 § 29.

Convict-made goods: Chapter 19.20 RCW.

Labor and employment of prisoners: Chapter 72.64 RCW.

Labor prescribed by board of prison terms and paroles: RCW 9.95.090.

72.60.030 Commission created. There is hereby created the institutional industries commission which shall consist of the director of the department and six members appointed by the governor of whom two shall be

representatives of organized labor, two shall be representatives of industry, one shall be a representative of agriculture and one shall be a representative of the general public. [1959 c 28 § 72.60.030. Prior: 1955 c 314 § 3. Formerly RCW 43.95.020.]

72.60.040 Terms, vacancies, chairman. The first term of the members representing industry and labor shall be two years. The first term of the members representing agriculture and the general public shall be four years. After the first term all appointments shall have a term of four years. The first term of each member shall commence on the first day of June, 1955. No members shall be removed except by the appointing authority and for cause. In the event of a vacancy in the office of any member the balance of the term shall be filled by the appointing authority as in the case of original appointments. The director shall act as chairman of the commission. [1959 c 28 § 72.60.040. Prior: 1955 c 314 § 4. Formerly RCW 43.95.030.]

72.60.050 Meetings—Quorum. The commission shall meet regularly at least four times during each fiscal year and may hold extra meetings on call of the chairman. Four members of the commission shall constitute a quorum and a vote of the majority of the members in office is necessary for the transaction of the business of the commission. [1959 c 28 § 72.60.050. Prior: 1955 c 314 § 5. Formerly RCW 43.95.040.]

72.60.060 Compensation—Expenses. The members of the commission, other than the chairman, shall receive a per diem of twenty-five dollars for each day they are engaged in the official business of the commission, including time spent in traveling, for not more than twenty days in each fiscal year. All members, including the chairman, shall receive their actual and necessary expenses of travel incurred in attending meetings of the commission and in making investigations either as a commission or individually as members of the commission at the request of the chairman. The compensation and expenses of the members shall be paid from appropriations made for industrial operations at the institutions and shall be prorated among such appropriations on the basis of time spent where the efforts of the members are of application to more than one institution. [1959 c 28 § 72.60.060. Prior: 1955 c 314 § 6. Formerly RCW 43.95.050.]

72.60.070 Powers and duties. The commission shall:

(1) Recommend productive, industrial and agricultural enterprises in the institutions under the jurisdiction of the department in such volume and of such kinds as to eliminate unnecessary idleness among the inmates and to provide diversified work activities which will serve as means of vocational education as well as of occupation and financial support.

(2) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing each separate industrial or agricultural enterprise at each institution involving a gross annual production of more than twenty-five thousand dollars value but less

than two hundred seventy-five thousand dollars value and authorize or prohibit such action. The commission shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the commission. It shall be the duty of the commission, annually, to adjust the maximum gross annual production value of two hundred seventy-five thousand dollars permitted for each separate enterprise at each institution, the purpose of such adjustment being to keep said limit in balance with changes in population of state institutions and changes in cost of production. Such adjustment shall be made in the following manner:

(a) The maximum limitation of two hundred seventy-five thousand dollars shall serve as a base figure as of December 31, 1954, for such computation.

(b) The maximum limitation for each enterprise at each institution shall be increased or decreased in the same proportion as the population of state institutions shall have increased or decreased in comparison with their population on December 31, 1954.

(c) The maximum limitation for each enterprise at each institution shall be further increased or decreased in the same proportion as the wholesale price index of the United States bureau of labor statistics shall have increased or decreased in comparison with such wholesale price index as of December 31, 1954.

The maximum gross annual limitation on production as adjusted in accordance with the above formula shall replace and serve in lieu of the two hundred seventy-five thousand dollars limitation until the next annual adjustment is made by the commission. It shall apply to enterprises previously authorized as well as to those authorized during the current period, and such adjustment may be made without public hearing.

(3) Hold hearings and make rules for the conducting of such hearings. The commission may in its discretion hold public hearings on any subject within its jurisdiction. [1959 c 28 § 72.60.070. Prior: 1955 c 314 § 7. Formerly RCW 43.95.060.]

72.60.075 Institutional industries commission to assist department of social and health services—Department's secretary or designee to act for commission. See RCW 43.20A.230.

72.60.080 Hearing to establish certain industrial enterprises—Prior industrial enterprises. No industrial enterprise which involves a gross annual production of more than twenty-five thousand dollars shall be established unless and until a hearing concerning the enterprise has been had before the commission. Public notice of the hearing shall be given prior to the hearing. At the time this commission becomes established by law, it shall at the earliest possible time convene and make necessary arrangements to place industrial enterprises that were in operation prior to this law under compliance with this law. [1959 c 28 § 72.60.080. Prior: 1955 c 314 § 8. Formerly RCW 43.95.070.]

72.60.090 Compensation for inmates. Each inmate, who is engaged in productive work in any state prison or institution under the jurisdiction of the department as a part of the work program, may receive for his work such compensation as the director shall determine. Such compensation shall be in accordance with a graduated schedule based on quantity and quality of work performed and skill required for its performance, and be limited to such amounts as are set up by the director and approved by the commission. Said compensation shall be credited to the account of the inmate.

When any inmate violates the rules of the institution or escapes, the director shall determine what portion of his earnings shall be forfeited and such forfeiture shall be deposited in the industrial operations revolving fund of such institution.

Said compensation shall be paid from the industrial operations revolving fund of the institution. Whenever by any statute a price is required to be fixed for any article, material, supply, or services to be produced, manufactured, supplied, or performed in connection with the work program of the department, the compensation paid to inmates shall be included as an item of cost in fixing the final statutory price.

Inmates not engaged on work programs under the jurisdiction of the commission and financed out of the industrial operations revolving fund, but who are engaged in productive labor outside of such programs may be compensated in like manner. The compensation of such inmates shall be paid either out of funds appropriated by the legislature for that purpose or out of the industrial operations revolving fund of the institution, as the director of the department may direct. [1959 c 28 § 72.60.090. Prior: 1955 c 314 § 9. Formerly RCW 43.95.080.]

72.60.100 Civil rights of inmates not restored—Other laws inapplicable. Nothing in this chapter is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated under this chapter shall be considered as an employee or to be employed by the state or the department, nor shall any such inmate, except those provided for in RCW 72.60.102 and 72.64.065, come within any of the provisions of the workmen's compensation act, or be entitled to any benefits thereunder whether on behalf of himself or of any other person. All moneys paid to inmates shall be considered a gratuity. [1972 ex.s. c 40 § 1; 1959 c 28 § 72.60.100. Prior: 1955 c 314 § 10. Formerly RCW 43.95.090.]

Effective date—1972 ex.s. c 40: "This act shall be effective July 1, 1973." [1972 ex.s. c 40 § 4.] This applies to the 1972 ex.s. amendment to this section and to RCW 72.60.102 and 72.64.065.

Restoration of civil rights: Chapter 9.96 RCW.

72.60.102 Industrial insurance—Application to certain inmates—Payment of premiums and assessments. From and after July 1, 1973, any inmate employed in an industrial enterprise pursuant to the provisions of chapter 72.60 RCW, shall be eligible for the benefits

provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided.

No inmate as herein described, until released upon an order of parole by the state board of prison terms and paroles, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter enacted, or to the benefits of chapter 51.36 RCW relating to medical aid.

Any and all premiums or assessments as may arise hereunder pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid from the institutional industries revolving fund. [1972 ex.s. c 40 § 2.]

72.60.110 Employment of inmates according to needs of state. The department is hereby authorized and empowered to cause the inmates in the state institutions of this state to be employed in the rendering of such services and in the production and manufacture of such articles, materials, and supplies as are now, or may hereafter be, needed by the state, or any political subdivision thereof, or that may be needed by any public institution of the state or of any political subdivision thereof. [1959 c 28 § 72.60.110. Prior: 1955 c 314 § 11. Formerly RCW 43.95.100.]

72.60.120 Kind, quality, quantity of goods and services. The commission shall, from time to time, determine the kind, quality, and quantity, of the several articles, materials, and supplies to be thus produced and manufactured or the services to be rendered. [1959 c 28 § 72.60.120. Prior: 1955 c 314 § 12. Formerly RCW 43.95.110.]

72.60.130 Goods for public use—Exception. All articles, materials, and supplies, produced or manufactured under the provisions of this chapter shall be solely and exclusively for public use and no article, material, or supplies, produced or manufactured under the provisions of this chapter shall ever be sold, supplied, furnished, exchanged, or given away, for any private use or profit whatever, except that, to avoid waste or spoilage and consequent loss to the state, byproducts and surpluses of agricultural and animal husbandry enterprises may be sold to private persons, at private sale, under rules prescribed by the director. [1959 c 28 § 72.60.130. Prior: 1955 c 314 § 13. Formerly RCW 43.95.120.]

72.60.140 Markings on containers. Each and every article manufactured under the provisions of this chapter shall have plainly marked or stamped on the outside of the shipping container thereof, the words "Washington Institutional Industries." [1959 c 28 § 72.60.140. Prior: 1955 c 314 § 14. Formerly RCW 43.95.130.]

72.60.150 Prices of goods. The commission shall from time to time examine and approve the price at which such articles, materials, and supplies are sold, which price shall be as near the prevailing market price as possible. [1959 c 28 § 72.60.150. Prior: 1955 c 314 § 15. Formerly RCW 43.95.140.]

72.60.160 State agencies and subdivisions may purchase goods—Purchasing preference required of certain institutions. All articles, materials, and supplies herein authorized to be produced or manufactured may be purchased from the institution producing or manufacturing the same by any state agency or political subdivision of the state and at the prices fixed in the manner herein provided, and the director shall require those institutions under his direction to give preference to the purchasing of their needs of such articles as are produced under this chapter. [1959 c 28 § 72.60.160. Prior: 1955 c 314 § 16. Formerly RCW 43.95.150.]

72.60.170 Unlawful sales—Penalty. It shall be unlawful for any person to sell, expose for sale, or offer for sale within this state, any article or articles manufactured wholly or in part by inmate labor, except articles the sale of which is specifically sanctioned by law.

Every person selling, exposing for sale, or offering for sale any article manufactured in this state wholly or in part by inmate labor, the sale of which is not specifically sanctioned by law, is guilty of a misdemeanor. [1959 c 28 § 72.60.170. Prior: 1955 c 314 § 17. Formerly RCW 43.95.160.]

72.60.180 Use of profits. If and when the industries or enterprises covered by this chapter develop to a point where they accrue profits, profits shall be utilized as follows:

- (1) Maintenance of facilities or equipment used in existing industries.
- (2) Establishment and maintenance of new industries.
- (3) To provide vocational training for employees of the industries and other inmates.
- (4) To hold in a reserve all additional profits for the purpose of creating a fund to establish forest camps and treatment facilities. [1959 c 28 § 72.60.180. Prior: 1955 c 314 § 14. Formerly RCW 43.95.170.]

72.60.190 Supervisor of purchasing to give preference to goods produced by authorized industries. The supervisor of purchasing for the state of Washington shall give preference in the purchase of materials and supplies for the institutions, departments and agencies of the state, to those produced by industries authorized and approved by the institutional industries commission. [1959 c 28 § 72.60.190. Prior: 1957 c 30 § 2. Formerly RCW 43.95.180.]

72.60.200 Exceptions from operation of chapter—Board—Variance from adopted standards. Exceptions from the operation of the provisions of this chapter may be made in any case where in the opinion of the supervisor of purchasing, the attorney general and the commissioner of the employment security department, or a

majority of them who are hereby constituted a board for such purpose, the articles so produced or manufactured do not meet the reasonable requirements of such departments, institutions, or agencies of the state of Washington. In any case where the requisition made cannot be complied with on account of an insufficient supply of articles or supplies required, the director may grant an exemption to such requisitioning department or agency of the state of Washington. No department, institution, or agency of the state of Washington shall be allowed to evade the intent and meaning of this section by slight variations from adopted standards when the articles produced or manufactured by such institutional industries are reasonably adapted to the actual needs of such departments, institutions, or agencies of the state of Washington. [1959 c 28 § 72.60.200. Prior: 1957 c 30 § 4. Formerly RCW 43.95.190.]

Attorney general: Chapter 43.10 RCW.

Employment security commissioner: RCW 50.08.010.

Supervisor of purchasing: RCW 43.19.180.

72.60.210 Vouchers not to be questioned for violation of chapter—Violation is malfeasance in office. No voucher, certificate, or warrant issued on the state treasurer by any such department, institution, or agency of the state of Washington shall be questioned by him or by the state auditor on the grounds that this chapter has not been complied with by such department, institution, or agency, but if intentional violation of this chapter continues after notice from the governor to desist, such violation shall constitute a malfeasance in office and shall subject the officers responsible for this violation to suspension or removal from office, as may be provided by law in other cases of malfeasance. [1959 c 28 § 72.60.210. Prior: 1957 c 30 § 5. Formerly RCW 43.95.200.]

72.60.220 List of goods to be supplied to all departments, institutions, agencies. The department may cause to be prepared annually, at such times as it may determine, lists containing the descriptions of all articles and supplies manufactured and produced pursuant to the provisions of this chapter; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington. [1959 c 28 § 72.60.220. Prior: 1957 c 30 § 6. Formerly RCW 43.95.210.]

72.60.230 Declaration of police power—Construction of chapter. This chapter shall be deemed an exercise of the police power of the state for the protection of the health, welfare, peace and safety of the people and shall be liberally construed for the accomplishment of that purpose. [1959 c 28 § 72.60.230. Prior: 1957 c 30 § 3. Formerly RCW 43.95.220.]

72.60.240 Institutional industries revolving fund—Established—Composition—RCW 43.01.050 not applicable. There is hereby established under the supervision and control of the director of the department of institutions a fund to be known as the institutional industries revolving fund, which shall consist of all funds collected and all profits which shall hereafter accrue

from the industrial and agricultural operations under the jurisdiction of the institutional industries commission, and such funds appropriated by the legislature from the state institutional revolving account of the state general fund to the institutional industries revolving fund created by this section. The provisions of RCW 43.01.050 shall not be applicable to such fund, nor to any of the moneys received, collected or deposited in such fund. [1959 c 273 § 1.]

State institutional revolving account abolished: "From and after the first day of August, 1959, the state institutional revolving account in the state general fund is hereby abolished." [1959 c 273 § 7.]

Moneys transferred: "All moneys to the credit of the state institutional revolving account of the state general fund on the first day of August, 1959, and all moneys thereafter paid to the state treasurer to the credit of such account in the general fund are hereby transferred to the state institutional industries fund created by this act." [1959 c 273 § 8.]

Payment of warrants drawn on revolving account: "From and after the first day of August, 1959, all warrants drawn on the state institutional revolving account in the general fund of the state treasury and not presented for payment, shall be paid from the state institutional industries revolving fund." [1959 c 273 § 9.]

72.60.250 Institutional industries revolving fund—Custodian—Deposits—Depositories—Petty cash. The institutional industries revolving fund shall be deposited by the state treasurer, who shall be the custodian of such fund, in such depository or depositories as may be authorized by law to accept state funds to the credit of a fund to be designated the institutional industries revolving fund, which fund shall not be a state fund and shall at all times be kept segregated and set apart from all other funds and in trust for the purposes as set forth in RCW 72.60.260 and chapter 72.60 RCW.

All moneys received by the director, or any employee, from the operation of the industrial or agricultural programs under the jurisdiction of the institutional industries commission, except an amount of petty cash for each day's needs as fixed by resolution of the institutional industries commission, shall be paid over by the director to the state treasurer each day, and as often during the day as advisable, who shall deposit the same forthwith as demand deposits to the credit of the institutional industries revolving fund in a depository or depositories selected by the state treasurer under the terms of this section. [1959 c 273 § 2.]

72.60.260 Institutional industries revolving fund—Expenses payable from fund. All expenses arising in the administration of the industrial and agricultural programs of the department of institutions under the jurisdiction of the institutional industries commission, including the payment of expenses of the members of the commission and the salaries of employees administering such programs and all expenditures incurred in establishing, maintaining, and operating the industrial and agricultural programs of the department of institutions, shall be paid from the institutional industries revolving fund, subject to the approval of the institutional industries commission. [1959 c 273 § 3.]

72.60.270 Institutional industries revolving fund—Excess moneys. At such times as the moneys in the institutional industries revolving fund exceed such amount as shall be necessary for the efficient operation of the institutional industries program to be determined by periodic audits of the director of budget, the excess shall be forwarded and paid over by the secretary to the state treasurer for deposit in the general fund of the state treasury. [1971 ex.s. c 189 § 11; 1959 c 273 § 4.]

72.60.280 Reports to governor. The secretary shall prepare and forward to the governor annually a report for the fiscal year ending on the thirtieth day of June of the fiscal year in which the report is made, which report shall be a public document and contain:

(1) A detailed financial statement and balance showing in general the condition of the industrial and agricultural programs of the department and their operation during the year; (2) general information concerning institutional industrial and agricultural programs; and (3) any further information requested by the governor. [1971 ex.s. c 189 § 12; 1959 c 273 § 5.]

Chapter 72.62

VOCATIONAL EDUCATION PROGRAMS

Sections

72.62.010	Purpose.
72.62.020	Definitions.
72.62.030	Sale of products, etc.—Recovery of costs, etc.
72.62.040	Crediting of proceeds of sales.
72.62.050	Trade advisory and apprenticeship committees.

72.62.010 Purpose. The legislature declares that programs of vocational education are essential to the habilitation and rehabilitation of residents of state correctional institutions and facilities. It is the purpose of this chapter to provide for greater reality and relevance in the vocational education programs within the correctional institutions of the state. [1972 ex.s. c 7 § 1.]

72.62.020 Definitions. When used in this chapter, unless the context otherwise requires:

The term "vocational education" means a planned series of learning experiences, the specific objective of which is to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or sub-professionals in recognized occupations and in new and emerging occupations, but shall not mean programs the primary characteristic of which is repetitive work for the purpose of production, including the institutional industries program. [1972 ex.s. c 7 § 2.]

72.62.030 Sale of products, etc.—Recovery of costs, etc. Products goods, wares, articles, or merchandise manufactured or produced by residents of state correctional institutions or facilities within or in conjunction with vocational education programs for the training, habilitation, and rehabilitation of inmates may be sold on the open market, at public auction. When services are performed by residents within or in conjunction with such vocational education programs, the

cost of materials used and the value of depreciation of equipment used may be recovered. [1972 ex.s. c 7 § 3.]

72.62.040 Crediting of proceeds of sales. The secretary of the department of social and health services shall credit the proceeds derived from the sale of such products, goods, wares, articles, or merchandise manufactured or produced by inmates of state correctional institutions within or in conjunction with vocational education programs to the institution where manufactured or produced to be deposited in a revolving fund to be expended for the purchase of supplies, materials and equipment for use in vocational education. [1972 ex.s. c 7 § 4.]

72.62.050 Trade advisory and apprenticeship committees. Labor-management trade advisory and apprenticeship committees shall be constituted by the department for each vocation taught within the vocational education programs in the state correctional system. [1972 ex.s. c 7 § 5.]

Chapter 72.64

LABOR AND EMPLOYMENT OF PRISONERS

Sections

- 72.64.010 Useful employment of prisoners—Contract system barred.
- 72.64.020 Rules and regulations.
- 72.64.030 Prisoners required to work—Private benefit of enforcement officer prohibited.
- 72.64.040 Crediting of earnings—Payment.
- 72.64.050 Branch institutions—Honor camps for certain purposes.
- 72.64.060 Labor camps authorized—Type of work permitted—Contracts.
- 72.64.065 Industrial insurance—Application to certain inmates—Payment of premiums and assessments.
- 72.64.070 Industrial insurance—Eligibility for employment—Procedure—Return.
- 72.64.080 Industrial insurance—Duties of employing agency—Costs—Supervision.
- 72.64.090 Industrial insurance—Department's jurisdiction.
- 72.64.100 Regional jail camps—Authorized—Purposes—Rules.
- 72.64.110 Contracts to furnish county prisoners confinement, care and employment—Reimbursement by county—Sheriff's order—Return of prisoner.
- 72.64.120 Jails and detention facilities—Director to inspect, establish standards and procedures, recommend rules, report to the legislature, etc.

Contract system barred: State Constitution Art. 2 § 29.

Institutional industries commission: Chapter 72.60 RCW.

Labor prescribed by board of prison terms and paroles: RCW 9.95.090.

72.64.010 Useful employment of prisoners—Contract system barred. The director shall have the power and it shall be his duty to provide for the useful employment of prisoners in the adult correctional institutions: *Provided*, That no prisoners shall be employed in what is known as the contract system of labor. [1959 c 28 § 72.64.010. Prior: 1943 c 175 § 1; Rem. Supp. 1943 § 10279-1. Formerly RCW 72.08.220.]

Contract system barred: State Constitution Art. 2 § 29.

72.64.020 Rules and regulations. The director shall make the necessary rules and regulations governing the employment of prisoners, the conduct of all such operations, and the disposal of the products thereof, under such restrictions as provided by law. [1959 c 28 § 72.64.020. Prior: 1943 c 175 § 2; Rem. Supp. 1943 § 10279-2. Formerly RCW 72.08.230.]

72.64.030 Prisoners required to work—Private benefit of enforcement officer prohibited. Every prisoner in the Washington state penitentiary or reformatory or other state penal or correctional institution shall be required to work in such manner as may be prescribed by the director, other than for the private financial benefit of any enforcement officer. [1961 c 171 § 1; 1959 c 28 § 72.64.030. Prior: 1927 c 305 § 1; RRS § 10223-1.]

72.64.040 Crediting of earnings—Payment. Where a prisoner is employed at any occupation for which pay is allowed or permitted, or at any gainful occupation from which the state derives an income, the department shall credit the prisoner with the total amount of his earnings.

The amount of earnings credited but unpaid to a prisoner may be paid to the prisoner's spouse, children, mother, father, brother, or sister as the inmate may direct upon approval of the superintendent. Upon release, parole, or discharge, all unpaid earnings of the prisoner shall be paid to him. [1973 1st ex.s. c 154 § 105; 1959 c 28 § 72.64.040. Prior: 1957 c 19 § 1; 1927 c 305 § 3; RRS § 10223-3. Formerly RCW 72.08.250.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

72.64.050 Branch institutions—Honor camps for certain purposes. The director shall also have the power to establish temporary branch institutions for the state penitentiary, state reformatory and other penal and correctional institutions of the state in the form of honor camps for the employment of prisoners therein in farming, reforestation, wood-cutting, land clearing, processing of foods in state canneries, forest fire fighting, forest fire suppression and prevention, stream clearance, watershed improvement, development of parks and recreational areas and other work to conserve the natural resources and protect and improve the public domain and construction of water supply facilities to state institutions. [1961 c 171 § 2; 1959 c 28 § 72.64.050. Prior: 1943 c 175 § 3; Rem. Supp. 1943 § 10279-3. Formerly RCW 72.08.240.]

Leaves of absence for inmates: RCW 72.01.370, 72.01.380.

72.64.060 Labor camps authorized—Type of work permitted—Contracts. Any department, division, bureau, commission, or other agency of the state of Washington or any agency of any political subdivision thereof or the federal government may use, or cause to be used, prisoners confined in state penal or correctional institutions to perform work necessary and proper, to be done by them at camps to be established pursuant to

the authority granted by RCW 72.64.060 through 72.64.090: *Provided*, That such prisoners shall not be authorized to perform work on any public road, other than access roads to forestry lands. The director may enter into contracts for the purposes of RCW 72.64.060 through 72.64.090. [1961 c 171 § 3; 1959 c 28 § 72.64.060. Prior: 1955 c 128 § 1. Formerly RCW 43.28.500.]

72.64.065 Industrial insurance—Application to certain inmates—Payment of premiums and assessments. From and after July 1, 1973, any inmate working in a department of natural resources adult honor camp established and operated pursuant to RCW 72.64.050, 72.64.060, and 72.64.100 shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided.

No inmate as herein described, until released upon an order of parole by the state board of prison terms and paroles, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter enacted, or to the benefits of chapter 51.36 RCW relating to medical aid.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources. [1972 ex.s. c 40 § 3.]

72.64.070 Industrial insurance—Eligibility for employment—Procedure—Return. The department shall determine which prisoners shall be eligible for employment under RCW 72.64.060, and shall establish and modify lists of prisoners eligible for such employment, upon the requisition of an agency mentioned in RCW 72.64.060. The director may send to the place, and at the time designated, the number of prisoners requisitioned, or such number thereof as have been determined to be eligible for such employment and are available. No prisoner shall be eligible or shall be released for such employment until his eligibility therefor has been determined by the department.

The director may return to prison any prisoner transferred to camp pursuant to this section, when the need for such prisoner's labor has ceased or when the prisoner is guilty of any violation of the rules and regulations of the prison or camp. [1959 c 28 § 72.64.070. Prior: 1955 c 128 § 2. Formerly RCW 43.28.510.]

72.64.080 Industrial insurance—Duties of employing agency—Costs—Supervision. The agency providing for prisoners under RCW 72.64.060 through 72.64.090 shall designate and supervise all work done under the provisions thereof. The agency shall provide, erect and maintain any necessary camps, except that where no funds are available to the agency, the department may provide, erect and maintain the necessary camps. The director shall supervise and manage the

necessary camps and commissaries. [1959 c 28 § 72.64.080. Prior: 1955 c 128 § 3. Formerly RCW 43.28.520.]

72.64.090 Industrial insurance—Department's jurisdiction. The department shall have full jurisdiction at all times over the discipline and control of the prisoners performing work under RCW 72.64.060 through 72.64.090. [1959 c 28 § 72.64.090. Prior: 1955 c 128 § 4. Formerly RCW 43.28.530.]

72.64.100 Regional jail camps—Authorized—Purposes—Rules. The director is authorized to establish and operate regional jail camps for the confinement, treatment, and care of persons sentenced to jail terms in excess of thirty days, including persons so imprisoned as a condition of probation. The director shall make rules and regulations governing the eligibility for commitment or transfer to such camps and rules and regulations for the government of such camps. Subject to the rules and regulations of the director, and if there is in effect a contract entered into pursuant to RCW 72.64.110, a county prisoner may be committed to a regional jail camp in lieu of commitment to a county jail or other county detention facility. [1961 c 171 § 4.]

72.64.110 Contracts to furnish county prisoners confinement, care and employment—Reimbursement by county—Sheriff's order—Return of prisoner. (1) The director may enter into a contract, with the approval of the director of budget, with any county of the state, upon the request of the sheriff thereof, wherein the director agrees to furnish confinement, care, treatment, and employment of county prisoners. The county shall reimburse the state for the cost of such services, such cost to be determined by the director of budget. Each county shall pay to the state treasurer the amounts found to be due.

(2) The director shall accept such county prisoner if he believes that the prisoner can be materially benefited by such confinement, care, treatment and employment, and if adequate facilities to provide such care are available. No such person shall be transported to any facility under the jurisdiction of the director until the director has notified the referring court of the place to which said person is to be transmitted and the time at which he can be received.

(3) The sheriff of the county in which such an order is made placing a misdemeanant in a jail camp pursuant to this chapter, or any other peace officer designated by the court, shall execute an order placing such county prisoner in the jail camp or returning him therefrom to the court.

(4) The director may return to the committing authority, or to confinement according to his sentence, any person committed or transferred to a regional jail camp pursuant to this chapter when there is no suitable employment or when such person is guilty of any violation of rules and regulations of the regional jail camp. [1961 c 171 § 5.]

72.64.120 Jails and detention facilities—Director to inspect, establish standards and procedures, recommend rules, report to the legislature, etc. See RCW 72.01.420.

Jails and detention facilities: Chapter 36.63 RCW.

**Chapter 72.65
WORK RELEASE PROGRAM**

Sections

- 72.65.010 Definitions.
- 72.65.020 Extension of limits of place of confinement authorized—Conditions.
- 72.65.030 Application of prisoner to participate in program—Contents of application.
- 72.65.040 Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication.
- 72.65.050 Disposition of earnings.
- 72.65.060 Earnings not subject to legal process.
- 72.65.070 Wilfully failing to return—Deemed escapee and fugitive—Penalty.
- 72.65.080 Contracts with authorities for payment of expenses for housing participants—Leasing of housing facilities.
- 72.65.090 Transportation, clothing, supplies, etc., for participants.
- 72.65.100 Powers and duties of director—Rules and regulations—Cooperation of other state agencies enjoined.
- 72.65.110 Earnings to be deposited in personal funds—Disbursements.
- 72.65.120 Participants not considered agents or employees of the state—Contracting with persons, companies, etc. for labor of participants prohibited—Employee benefits and privileges extended to.
- 72.65.130 Authority of board of prison terms and paroles not impaired.
- 72.65.900 Effective date—1967 c 17.

Victims of crimes, reimbursement by convicted person as condition of work release or parole: RCW 7.68.120.

72.65.010 Definitions. As used in this chapter, the following terms shall have the following meanings:

(1) "Department" shall mean the department of institutions.

(2) "Director" shall mean the director of the department of institutions.

(3) "State correctional institutions" shall mean and include the Washington state penitentiary; the Washington corrections center; the Washington state reformatory; the Clallam Bay honor camp in Clallam county; the Larch Mountain honor camp in Clark county; the Washougal honor camp in Clark [Skamania] county; the Okanogan honor camp in Okanogan county; and such other state correctional institutions, camps or facilities as may hereafter be established pursuant to law under the jurisdiction of the department for the treatment of convicted felons sentenced to a term of confinement.

(4) "Prisoner" shall mean a person either male or female, convicted of a felony and sentenced by the superior court to a term of confinement and treatment in a state correctional institution under the jurisdiction of the department.

(5) "Superintendent" shall mean the superintendent of a state correctional institution, camp or other facility now or hereafter established under the jurisdiction of the department pursuant to law. [1967 c 17 § 1.]

Administrative departments and agencies—General provisions: RCW 43.17.010, 43.17.020.

Department of social and health services: Chapter 43.20A RCW.

72.65.020 Extension of limits of place of confinement authorized—Conditions. The director is authorized to extend the limits of the place of confinement and treatment within the state of any prisoner convicted of a felony, sentenced to a term of confinement and treatment by the superior court, and serving such sentence in a state correctional institution under the jurisdiction of the department, by authorizing a work release plan for such prisoner, permitting him, under prescribed conditions, to do any of the following:

(1) Work at paid employment.

(2) Participate in a vocational training program: *Provided*, That the tuition and other expenses of such a vocational training program shall be paid by the prisoner, by someone in his behalf, or by the department: *Provided further*, That any expenses paid by the department shall be recovered by the department pursuant to the terms of RCW 72.65.050.

(3) Interview or make application to a prospective employer or employers, or enroll in a suitable vocational training program.

Such work release plan of any prison shall require that he be confined during the hours not reasonably necessary to implement the plan, in (1) a state correctional institution, (2) a county or city jail, which jail has been approved after inspection pursuant to RCW 72.01.420, or (3) any other appropriate, supervised facility, after an agreement has been entered into between the department and the appropriate authorities of the facility for the housing of work release prisoners. [1967 c 17 § 2.]

72.65.030 Application of prisoner to participate in program—Contents of application. Any prisoner serving a sentence in a state correctional institution may make application to participate in the work release program to the superintendent of the institution in which he is confined. Such application shall set forth the name and address of his proposed employer or employers or shall specify the vocational training program, if any, in which he is enrolled. It shall include a statement to be executed by such prisoner that if his application be approved he agrees to abide faithfully by all terms and conditions of the particular work release plan adopted for him. It shall further set forth such additional information as the department or the director shall require. [1967 c 17 § 3.]

72.65.040 Approval or denial of application—Adoption of work release plan—Terms and conditions—Revocation—Reapplication. The superintendent of the state correctional institution in which a prisoner who has made application to participate in the work release program is confined, after careful study of the prisoner's conduct, attitude and behavior within the institutions under the jurisdiction of the department, his criminal history and all other pertinent case history material, shall determine whether or not there is reasonable cause to believe that the prisoner will honor his

trust as a work release participant. After having made such determination, the superintendent, in his discretion, may deny the prisoner's application, or recommend to the director, or such officer of the department as the director may designate, that the prisoner be permitted to participate in the work release program. The director or his designee, may approve, reject, modify, or defer action on such recommendation. In the event of approval, the director or his designee, shall adopt a work release plan for the prisoner, which shall constitute an extension of the limits of confinement and treatment of the prisoner when released pursuant thereto, and which shall include such terms and conditions as may be deemed necessary and proper under the particular circumstances. The plan shall be signed by the prisoner under oath that he will faithfully abide by all terms and conditions thereof. Further, as a condition, the plan shall specify where such prisoner shall be confined when not released for the purpose of the work release plan. At any time after approval has been granted to any prisoner to participate in the work release program, such approval may be revoked, and if the prisoner has been released on a work release plan, he may be returned to a state correctional institution, or the plan may be modified, in the sole discretion of the director or his designee. Any prisoner who has been initially rejected either by the superintendent or the director or his designee, may reapply for permission to participate in a work release program after a period of time has elapsed from the date of such rejection. This period of time shall be determined by the director or his designee, according to the individual circumstances in each case. [1967 c 17 § 4.]

72.65.050 Disposition of earnings. A prisoner employed under a work release plan shall surrender to the director, or to the superintendent of such state correctional institution as shall be designated by the director in the plan, his total earnings, (1) less payroll deductions required by law, or such payroll deductions as may reasonably be required by the nature of the employment and (2) less such amount which his work release plan specifies he should retain to help meet his personal needs, including costs necessary for his participation in the work release plan such as expenses for travel, meals, clothing, tools and other incidentals. The director, or the superintendent of the state correctional institution designated in the work release plan shall deduct from such earnings, and make payments from such work release participant's earnings in the following order of priority:

(1) Reimbursement to the department for any expenses advanced for vocational training pursuant to RCW 72.65.020(2), or for expenses incident to a work release plan pursuant to RCW 72.65.090.

(2) Payment of board and room charges for the work release participant: *Provided*, That if the participant is housed at a state correctional institution, the average daily per capita cost for the operation of such correctional institution, excluding capital outlay expenditures, shall be paid from the work release participant's earnings to the general fund of the state treasury: *Provided*

further, That if such work release participant is housed in another facility pursuant to agreement, then the charges agreed to between the department and the appropriate authorities of such facility shall be paid from the participant's earnings to such appropriate authorities.

(4) Payments for the necessary support of the work release participant's dependents, if any.

(5) Payments to creditors of the work release participant, which may be made at his discretion and request, upon proper proof of personal indebtedness.

(6) Payments to the work release participant himself upon parole or discharge, or for deposit in his personal account if returned to a state correctional institution for confinement and treatment. [1967 c 17 § 5.]

72.65.060 Earnings not subject to legal process. The earnings of a work release participant shall not be subject to garnishment, attachment or execution while such earnings are either in the possession of the employer or any state officer authorized to hold such funds. [1967 c 17 § 6.]

72.65.070 Wilfully failing to return—Deemed escapee and fugitive—Penalty. Any prisoner approved for placement under a work release plan who wilfully fails to return to the designated place of confinement at the time specified shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with the terms of chapter 9.31 RCW. The provisions of this section shall be incorporated in every work release plan adopted by the department. [1967 c 17 § 7.]

72.65.080 Contracts with authorities for payment of expenses for housing participants—Leasing of housing facilities. The director may enter into contracts with the appropriate authorities for the payment of the cost of feeding and lodging and other expenses of housing work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program. In addition the director is authorized to acquire, by lease, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision. Such work release participants placed in leased facilities shall be required to reimburse the department of institutions the per capita cost of subsistence and lodging in accordance with the provisions and in the priority established by RCW 72.65.050(2). The location of such facilities shall be subject to the zoning laws of the city or county in which they may be situated. [1969 c 109 § 1; 1967 c 17 § 8.]

Effective date—1969 c 109: "This act shall become effective on July 1, 1969." [1969 c 109 § 2.]

72.65.090 Transportation, clothing, supplies, etc., for participants. The department may provide transportation for work release participants to the designated places of housing under the work release plan, and may supply suitable clothing and such other equipment, supplies and other necessities as may be reasonably

needed for the implementation of the plans adopted for such participants: *Provided*, That costs and expenditures incurred for this purpose may be deducted by the department from the earnings of the participants. [1967 c 17 § 9.]

72.65.100 Powers and duties of director—Rules and regulations—Cooperation of other state agencies enjoined. The director is authorized to make rules and regulations for the administration of the provisions of this chapter to administer the work release program. In addition, the department shall:

- (1) Supervise and consult with work release participants;
- (2) Locate available employment or vocational training opportunities for qualified work release participants;
- (3) Effect placement of work release participants under the program;
- (4) Collect, account for and make disbursement from earnings of work release participants under the provisions of this chapter;
- (5) Promote public understanding and acceptance of the work release program.

All state agencies shall cooperate with the department of institutions in the administration of the work release program as provided by this chapter. [1967 c 17 § 10.]

72.65.110 Earnings to be deposited in personal funds—Disbursements. All earnings of work release participants shall be deposited by the director, or the superintendent of a state correctional institution designated by the director in the work release plan, in personal funds. All disbursements from such funds shall be made only in accordance with the work release plans of such participants and in accordance with the provisions of this chapter. [1967 c 17 § 11.]

72.65.120 Participants not considered agents or employees of the state—Contracting with persons, companies, etc. for labor of participants prohibited—Employee benefits and privileges extended to. All participants who become engaged in employment or training under the work release program shall not be considered as agents, employees or involuntary servants of state and the department is prohibited from entering into a contract with any person, co-partnership, company or corporation for the labor of any participant under its jurisdiction: *Provided*, That such work release participants shall be entitled to all benefits and privileges in their employment under the provisions of this chapter to the same extent as other employees of their employer, except that such work release participants shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged on expiration of their maximum sentences. [1967 c 17 § 12.]

72.65.130 Authority of board of prison terms and paroles not impaired. This chapter shall not be construed as affecting the authority of the board of prison terms and paroles pursuant to the provisions of chapter 9.95

RCW over any person who has been approved for participation in the work release program. [1971 ex.s. c 58 § 1; 1967 c 17 § 13.]

Effective date—1971 ex.s. c 58: See note following RCW 72.66.010.

72.65.900 Effective date—1967 c 17. This act shall become effective on July 1, 1967. [1967 c 17 § 14.]

Chapter 72.66 FURLOUGHS FOR PRISONERS

Sections	Definitions.
72.66.010	Granting of furloughs authorized.
72.66.012	Ineligibility grounds.
72.66.014	Minimum time served requirement.
72.66.016	Grounds for granting furlough.
72.66.018	Application—Contents.
72.66.022	Sponsor.
72.66.024	Furlough terms and conditions.
72.66.026	Furlough order—Contents.
72.66.028	Furlough identification card.
72.66.032	Applicant's personality and conduct—Examination.
72.66.034	Furlough duration—Extension.
72.66.036	Furlough infractions—Reporting—Regaining custody.
72.66.038	Emergency furlough—Waiver of certain requirements.
72.66.042	Application proceeding not deemed "contested case".
72.66.044	Revocation or modification of furlough plan—Reapplication.
72.66.050	Wilfully failing to return—Deemed escapee and fugitive—Penalty.
72.66.060	Transportation, clothing and funds for furloughed prisoners.
72.66.070	Powers and duties of secretary—Certain agreements—Rules and regulations.
72.66.080	Violation or revocation of furlough—Authority of secretary to issue arrest warrants—Enforcement of warrants by law enforcement officers—Authority of probation and parole officer to suspend furlough.
72.66.090	

Reviser's note: Throughout this chapter "this act" has been changed to "this chapter". "This act" [1971 ex.s. c 58] consists of this chapter and the 1971 amendment to RCW 72.65.130.

72.66.010 Definitions. As used in this chapter the following words shall have the following meanings:

(1) "Department" means the department of social and health services.

(2) "Furlough" means an authorized leave of absence for an eligible resident, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or corrections official while on such leave.

(3) "Emergency furlough" means a specially expedited furlough granted to a resident to enable him to meet an emergency situation, such as the death or critical illness of a member of his family.

(4) "Resident" means a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(5) "Secretary" means the secretary of the department of social and health services, or his designee or designees. [1973 c 20 § 2; 1971 ex.s. c 58 § 2.]

Construction—Prior rules and regulations—1973 c 20: "The provisions of this 1973 amendatory act shall not affect the validity of any rule or regulation adopted prior to the effective date of this 1973

amendatory act, if such rule or regulation is not in conflict with any provision of this 1973 amendatory act." [1973 c 20 § 17.] This applies to the 1973 amendment to this section, to RCW 72.66.012 through 72.66.044, and to the repeal of RCW 72.66.020, 72.66.030 and 72.66.040.

The effective date of 1973 c 20 was June 7, 1973.

Effective date—1971 ex.s. c 58: "This act shall become effective on July 1, 1971." [1971 ex.s. c 58 § 11.] This applies to this chapter and RCW 72.65.130.

72.66.012 Granting of furloughs authorized. The secretary may grant a furlough but only if not precluded from doing so under RCW 72.66.014, 72.66.016, 72.66.018, 72.66.024, 72.66.034, or 72.66.036. [1973 c 20 § 3.]

72.66.014 Ineligibility grounds. A resident may apply for a furlough if he is not precluded from doing so under this section. A resident shall be ineligible to apply for a furlough if:

- (1) He is not classified by the secretary as eligible for or on minimum security status; or
- (2) His minimum term of imprisonment has not been set; or
- (3) He has a valid detainer pending and the agency holding the detainer has not provided written approval for him to be placed on a furlough-eligible status. Such written approval may include either specific approval for a particular resident or general approval for a class or group of residents. [1973 c 20 § 4.]

72.66.016 Minimum time served requirement. A furlough shall not be granted to a resident if the furlough would commence prior to the time the resident has served the minimum amounts of time provided under this section:

- (1) If his minimum term of imprisonment is longer than twelve months, he shall have served at least six months of the term;
- (2) If his minimum term of imprisonment is less than twelve months, he shall have served at least ninety days and shall have no longer than six months left to serve on his minimum term;
- (3) If he is serving a mandatory minimum term of confinement, he shall have served all but the last six months of such term. [1973 c 20 § 5.]

72.66.018 Grounds for granting furlough. A furlough may only be granted to enable the resident:

- (1) To meet an emergency situation, such as death or critical illness of a member of his family;
- (2) To obtain medical care not available in a facility maintained by the department;
- (3) To seek employment or training opportunities, but only when:
 - (a) There are scheduled specific work interviews to take place during the furlough;
 - (b) The resident has been approved for work or training release but his work or training placement has not occurred or been concluded; or
 - (c) When necessary for the resident to prepare a parole plan for a parole meeting scheduled to take place within one hundred and twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the resident so seriously as to affect his family or his future economic security;

(6) To visit his family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration; or

(7) For any other purpose deemed to be consistent with plans for rehabilitation of the resident. [1973 c 20 § 6.]

72.66.022 Application—Contents. Each resident applying for a furlough shall include in his application for the furlough:

- (1) A furlough plan which shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address and their relationships to the applicant;
- (2) A statement from the applicant's proposed sponsor that he agrees to undertake the responsibilities provided in RCW 72.66.024; and
- (3) Such other information as the secretary shall require in order to protect the public or further the rehabilitation of the applicant. [1973 c 20 § 7.]

72.66.024 Sponsor. No furlough shall be granted unless the applicant for the furlough has procured a person to act as his sponsor. No person shall qualify as a sponsor unless he satisfies the secretary that he knows the applicant's furlough plan, is familiar with the furlough conditions prescribed pursuant to RCW 72.66.026, and submits a statement that he agrees to:

- (1) See to it that the furloughed person is provided with appropriate living quarters for the duration of the furlough;
- (2) Notify the secretary immediately if the furloughed person does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his ability to function appropriately;
- (3) Assist the furloughed person in other appropriate ways, such as discussing problems and providing transportation to job interviews; and
- (4) Take reasonable measures to assist the resident to return from furlough. [1973 c 20 § 8.]

72.66.026 Furlough terms and conditions. The terms and conditions prescribed under this section shall apply to each furlough, and each resident granted a furlough shall agree to abide by them.

(1) The furloughed person shall abide by the terms of his furlough plan.

(2) Upon arrival at the destination indicated in his furlough plan, the furloughed person shall, when so required, report to a state probation and parole officer in accordance with instructions given by the secretary prior to release on furlough. He shall report as frequently

as may be required by the state probation and parole officer.

(3) The furloughed person shall abide by all local, state and federal laws.

(4) With approval of the state probation and parole officer designated by the secretary, the furloughed person may accept temporary employment during a period of furlough.

(5) The furloughed person shall not leave the state at any time while on furlough.

(6) Other limitations on movement within the state may be imposed as a condition of furlough.

(7) The furloughed person shall not, in any public place, drink intoxicating beverages or be in an intoxicated condition. A furloughed person shall not enter any tavern, bar, or cocktail lounge.

(8) A furloughed person who drives a motor vehicle shall:

(a) have a valid Washington driver's license in his possession,

(b) have the owner's written permission to drive any vehicle not his own or his spouse's,

(c) have at least minimum personal injury and property damage liability coverage on the vehicle he is driving, and

(d) observe all traffic laws.

(9) Each furloughed person shall carry with him at all times while on furlough a copy of his furlough order prescribed pursuant to RCW 72.66.028 and a copy of the identification card issued to him pursuant to RCW 72.66.032.

(10) The furloughed person shall comply with any other terms or conditions which the secretary may prescribe. [1973 c 20 § 9.]

72.66.028 Furlough order—Contents. Whenever the secretary grants a furlough, he shall do so by a special order which order shall contain each condition and term of furlough prescribed pursuant to RCW 72.66.026 and each additional condition and term which the secretary may prescribe as being appropriate for the particular person to be furloughed. [1973 c 20 § 10.]

72.66.032 Furlough identification card. The secretary shall issue a furlough identification card to each resident granted a furlough. The card shall contain the name of the resident and shall disclose the fact that he has been granted a furlough and the time period covered by the furlough. [1973 c 20 § 11.]

72.66.034 Applicant's personality and conduct—Examination. Prior to the granting of any furlough, the secretary shall examine the applicant's personality and past conduct and determine whether or not he represents a satisfactory risk for furlough. The secretary shall not grant a furlough to any person whom he believes represents an unsatisfactory risk. [1973 c 20 § 12.]

72.66.036 Furlough duration—Extension. (1) The furlough or furloughs granted to any one resident may not exceed thirty consecutive days or a total of sixty days during any twelve-month period.

(2) Absent unusual circumstances, each first furlough and each second furlough granted to a resident shall not exceed a period of five days and each emergency furlough shall not exceed forty-eight hours plus travel time.

(3) A furlough may be extended within the maximum time periods prescribed under this section. [1973 c 20 § 13.]

72.66.038 Furlough infractions—Reporting—Re-gaining custody. Any employee of the department having knowledge of a furlough infraction shall report the facts to the secretary. Upon verification, the secretary shall cause the custody of the furloughed person to be regained, and for this purpose may cause a warrant to be issued. [1973 c 20 § 14.]

72.66.042 Emergency furlough—Waiver of certain requirements. In the event of an emergency furlough, the secretary may waive all or any portion of RCW 72.66.014(2), 72.66.016, 72.66.022, 72.66.024, and 72.66.026. [1973 c 20 § 15.]

72.66.044 Application proceeding not deemed "contested case". Any proceeding involving an application for a furlough shall not be deemed a "contested case" under the provisions of chapter 34.04 RCW, the Administrative Procedure Act. [1973 c 20 § 16.]

72.66.050 Revocation or modification of furlough plan—Reapplication. At any time after approval has been granted for a furlough to any prisoner, such approval or order of furlough may be revoked, and if the prisoner has been released on an order of furlough, he may be returned to a state correctional institution, or the plan may be modified, in the discretion of the secretary. Any prisoner whose furlough application is rejected may reapply for a furlough after such period of time has elapsed as shall be determined at the time of rejection by the superintendent or secretary, whichever person initially rejected the application for furlough, such time period being subject to modification. [1971 ex.s. c 58 § 6.]

72.66.060 Wilfully failing to return—Deemed escapee and fugitive—Penalty. Any furloughed prisoner who wilfully fails to return to the designated place of confinement at the time specified in the order of furlough shall be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced to a term of confinement of not more than ten years. The provisions of this section shall be incorporated in every order of furlough granted by the department. [1971 ex.s. c 58 § 7.]

72.66.070 Transportation, clothing and funds for furloughed prisoners. The department may provide or arrange for transportation for furloughed prisoners to the designated place of residence within the state and may, in addition, supply funds not to exceed forty dollars and suitable clothing, such clothing to be returned to

the institution on the expiration of furlough. [1971 ex.s. c 58 § 8.]

72.66.080 Powers and duties of secretary—Certain agreements—Rules and regulations. The secretary may enter into agreements with any agency of the state, a county, a municipal corporation or any person, corporation or association for the purpose of implementing furlough plans, and, in addition, may make such rules and regulations in furtherance of this chapter as he may deem necessary. [1971 ex.s. c 58 § 9.]

72.66.090 Violation or revocation of furlough—Authority of secretary to issue arrest warrants—Enforcement of warrants by law enforcement officers—Authority of probation and parole officer to suspend furlough. The secretary may issue warrants for the arrest of any prisoner granted a furlough, at the time of the revocation of such furlough, or upon the failure of the prisoner to report as designated in the order of furlough. Such arrest warrants shall authorize any law enforcement, probation and parole or peace officer of this state, or any other state where such prisoner may be located, to arrest such prisoner and to place him in physical custody pending his return to confinement in a state correctional institution. Any state probation and parole officer, if he has reasonable cause to believe that a person granted a furlough has violated a condition of his furlough, may suspend such person's furlough and arrest or cause the arrest and detention in physical custody of the furloughed prisoner, pending the determination of the secretary whether the furlough should be revoked. The probation and parole officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending such furlough. Upon the basis of the report and such other information as the secretary may obtain, he may revoke, reinstate or modify the conditions of furlough, which shall be by written order of the secretary. If the furlough is revoked, the secretary shall issue a warrant for the arrest of the furloughed prisoner and his return to a state correctional institution. [1971 ex.s. c 58 § 10.]

Chapter 72.68

TRANSFER, REMOVAL, TRANSPORTATION— DETENTION CONTRACTS

Sections

- 72.68.010 Transfer of prisoners.
- 72.68.020 Transportation of prisoners.
- 72.68.031 Transfer or removal of person committed to or confined in correctional institution to institution for mentally ill.
- 72.68.032 Transfer or removal of person committed to or confined in institution for mentally ill to other institution.
- 72.68.035 Transfer or removal of committed or confined persons—State institution or facility for the care of the mentally ill, defined.
- 72.68.037 Transfer or removal of committed or confined persons—Record—Notice.
- 72.68.040 Contracts with other governmental units for detention of felons convicted in this state.
- 72.68.050 Contracts with other governmental units for detention of felons convicted in this state—Notice of transfer of prisoner.

- 72.68.060 Contracts with other governmental units for detention of felons convicted in this state—Procedure when transferred prisoner's presence required in judicial proceedings.
- 72.68.070 Contracts with other governmental units for detention of felons convicted in this state—Procedure regarding prisoner when contract expires.
- 72.68.075 Contracts with other states or territories for care, confinement or rehabilitation of female prisoners.
- 72.68.080 Federal prisoners, or from other state—Authority to receive.
- 72.68.090 Federal prisoners, or from other state—Per diem rate for keep.
- 72.68.100 Federal prisoners, or from other state—Space must be available.

Officers and guards as peace officers: RCW 9.94.050.

Transfer of child under sixteen convicted of crime amounting to felony: RCW 72.01.410.

Transfer of incorrigible juvenile: RCW 13.04.200, 72.12.050.

Transfer of juvenile from correctional institution to state hospital: RCW 72.01.390, 72.01.400.

Transfer of juvenile to correctional institution: RCW 72.13.070.

Western interstate corrections compact: Chapter 72.70 RCW.

72.68.010 Transfer of prisoners. Whenever in its judgment the best interests of the state or the welfare of any prisoner confined in any penal institution will be better served by his transfer to another institution the director may effect such transfer. [1959 c 28 § 72.68.010. Prior: 1955 c 245 § 2; 1935 c 114 § 5; RRS § 10249-5. Formerly RCW 9.95.180.]

72.68.020 Transportation of prisoners. (1) The director shall transport prisoners under guard:

(a) to and between the state penitentiary, the state reformatory and all other institutions under his supervision;

(b) from a county, city, or municipal jail to an institution mentioned in subdivision (a) of this subsection and to a county, city or municipal jail from an institution mentioned in subdivision (a) of this subsection.

(2) The director may employ necessary persons for such purpose. [1959 c 28 § 72.68.020. Prior: 1955 c 245 § 1. Formerly RCW 9.95.181.]

Officers and guards as peace officers: RCW 9.94.050.

72.68.031 Transfer or removal of person committed to or confined in correctional institution to institution for mentally ill. When, in the judgment of the secretary of the department of social and health services, the welfare of any person committed to or confined in any state correctional institution or facility necessitates that such person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of the mentally ill, the secretary is authorized to order and effect such move or transfer: *Provided*, That the sentence of such person shall continue to run as if he remained confined in a correctional institution or facility, and that such person shall not continue so detained or confined beyond the maximum term to which he was sentenced: *Provided, further*, That the secretary and the board of prison terms and paroles shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined

at such institution or facility for the care of the mentally ill, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in the state correctional institutions or facilities. [1972 ex.s. c 59 § 1.]

72.68.032 Transfer or removal of person committed to or confined in institution for mentally ill to other institution. When, in the judgment of the secretary of the department of social and health services, the welfare of any person committed to or confined in any state institution or facility for the care of the mentally ill necessitates that such person be transferred or moved for observation, diagnosis, or treatment, or for different security status while being observed, diagnosed or treated to any other state institution or facility for the care of the mentally ill, the secretary is authorized to order and effect such move or transfer. [1972 ex.s. c 59 § 2.]

72.68.035 Transfer or removal of committed or confined persons—State institution or facility for the care of the mentally ill, defined. As used in RCW 72.68.031 and 72.68.032, the phrase "state institution or facility for the care of the mentally ill" shall mean any hospital, institution or facility operated and maintained by the state of Washington which has as its principal purpose the care of the mentally ill, whether such hospital, institution or facility is physically located within or outside the geographical or structural confines of a state correctional institution or facility: *Provided*, That whether a state institution or facility for the care of the mentally ill be physically located within or outside the geographical or structural confines of a state correctional institution or facility, it shall be administered separately from the state correctional institution or facility, and in conformity with its principal purpose. [1972 ex.s. c 59 § 3.]

72.68.037 Transfer or removal of committed or confined persons—Record—Notice. Whenever a move or transfer is made pursuant to RCW 72.68.031 or 72.68.032, a record shall be made and the relatives, attorney, if any, and guardian, if any, of the person moved shall be notified of the move or transfer. [1972 ex.s. c 59 § 4.]

72.68.040 Contracts with other governmental units for detention of felons convicted in this state. The director may contract with the authorities of the federal government, or the authorities of any state of the United States or of any county or city in this state providing for the detention in an institution or jail operated by such governmental unit, of prisoners convicted of a felony in the courts of this state and sentenced to a term of imprisonment therefor in a state correctional institution for convicted felons under the jurisdiction of the department of institutions. After the making of a contract under this section, prisoners sentenced to a term of imprisonment in a state correctional institution for convicted felons may be conveyed by the superintendent or his assistants to the institution or jail named in

the contract. The prisoners shall be delivered to the authorities of the institution or jail, there to be confined until their sentences have expired or they are otherwise discharged by law, paroled or until they are returned to a state correctional institution for convicted felons for further confinement. [1967 c 60 § 1; 1959 c 47 § 1; 1959 c 28 § 72.68.040. Prior: 1957 c 27 § 1. Formerly RCW 9.95.184.]

72.68.050 Contracts with other governmental units for detention of felons convicted in this state—Notice of transfer of prisoner. Whenever a prisoner who is serving a sentence imposed by a court of this state is transferred from a state correctional institution for convicted felons under RCW 72.68.040 through 72.68.070, the superintendent shall send to the clerk of the court pursuant to whose order or judgment the prisoner was committed to a state correctional institution for convicted felons a notice of transfer, disclosing the name of the prisoner transferred and giving the name and location of the institution to which the prisoner was transferred. The superintendent shall keep a copy of all notices of transfer on file as a public record open to inspection; and the clerk of the court shall file with the judgment roll in the appropriate case a copy of each notice of transfer which he receives from the superintendent. [1967 c 60 § 2; 1959 c 47 § 2; 1959 c 28 § 72.68.050. Prior: 1957 c 27 § 2. Formerly RCW 9.95.185.]

72.68.060 Contracts with other governmental units for detention of felons convicted in this state—Procedure when transferred prisoner's presence required in judicial proceedings. Should the presence of any prisoner confined, under authority of RCW 72.68.040 through 72.68.070, in an institution of another state or the federal government or in a county or city jail, be required in any judicial proceeding of this state, the superintendent of a state correctional institution for convicted felons or his assistants shall, upon being so directed by the director, or upon the written order of any court of competent jurisdiction, or of a judge thereof, procure such prisoner, bring him to the place directed in such order and hold him in custody subject to the further order and direction of the director, or of the court or of a judge thereof, until he is lawfully discharged from such custody. The superintendent or his assistants may, by direction of the director or of the court, or a judge thereof, deliver such prisoner into the custody of the sheriff of the county in which he was convicted, or may, by like order, return such prisoner to a state correctional institution for convicted felons or the institution from which he was taken. [1967 c 60 § 3; 1959 c 47 § 3; 1959 c 28 § 72.68.060. Prior: 1957 c 27 § 3. Formerly RCW 9.95.186.]

72.68.070 Contracts with other governmental units for detention of felons convicted in this state—Procedure regarding prisoner when contract expires. Upon the expiration of any contract entered into under RCW 72.68.040 through 72.68.070, all prisoners of this state confined in such institution or jail shall be returned by

the superintendent or his assistants to a state correctional institution for convicted felons of this state, or delivered to such other institution as the director has contracted with under RCW 72.68.040 through 72.68.070. [1967 c 60 § 4; 1959 c 47 § 4; 1959 c 28 § 72.68.070. Prior: 1957 c 27 § 4. Formerly RCW 9.95.187.]

72.68.075 Contracts with other states or territories for care, confinement or rehabilitation of female prisoners. The director is hereby authorized to contract for the care, confinement and rehabilitation of female prisoners of other states or territories of the United States, as more specifically provided in the Western Interstate Corrections Compact, as contained in chapter 72.70 RCW as now or hereafter amended. [1967 ex.s. c 122 § 12.]

72.68.080 Federal prisoners, or from other state— Authority to receive. All persons sentenced to prison by the authority of the United States or of any state or territory of the United States may be received by the department and imprisoned in the Washington state penitentiary or Washington state reformatory or the Washington correctional institution for women in accordance with the sentence of the court by which they were tried. The prisoners so confined shall be subject in all respects to discipline and treatment as though committed under the laws of this state. [1967 ex.s. c 122 § 10; 1959 c 28 § 72.68.080. Prior: 1951 c 135 § 1. Formerly RCW 72.08.350.]

72.68.090 Federal prisoners, or from other state— Per diem rate for keep. The director is authorized to enter into contracts with the proper officers or agencies of the United States and of other states and territories of the United States relative to the per diem rate to be paid the state of Washington for the conditions of the keep of each prisoner. [1959 c 28 § 72.68.090. Prior: 1951 c 135 § 2. Formerly RCW 72.08.360.]

72.68.100 Federal prisoners, or from other state— Space must be available. The director shall not enter into any contract for the care or commitment of any prisoner of the federal government or any other state unless there is vacant space and unused facilities in the Washington state penitentiary or reformatory or the Washington correctional institution for women. [1967 ex.s. c 122 § 11; 1959 c 28 § 72.68.100. Prior: 1951 c 135 § 3. Formerly RCW 72.08.370.]

Chapter 72.70

WESTERN INTERSTATE CORRECTIONS COMPACT

Sections

72.70.010	Compact enacted—Provisions.
72.70.020	Director authorized to receive or transfer inmates pursuant to contract.
72.70.030	Responsibilities of courts, departments, agencies and officers.
72.70.040	Hearings.
72.70.050	Director may enter into contracts.
72.70.060	Director may provide clothing, etc., to inmate released in another state.

72.70.900 Severability—Liberal construction—1959 c 287.

Compacts for out-of-state supervision of parolees or probationers: RCW 9.95.270.

Interstate compact on juveniles: Chapter 13.24 RCW.

72.70.010 Compact enacted—Provisions. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

ARTICLE I—Purpose and Policy

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders.

ARTICLE II—Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, the Territory of Hawaii, or, subject to the limitation contained in Article VII, Guam.

(b) "Sending state" means a state party to this compact in which conviction was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(e) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

ARTICLE III—Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting

of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV—Procedures and Rights

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including

a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V—Acts Not Reviewable In Receiving State; Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI—Federal Aid

Any state party to this compact may accept federal aid for use in connection with an institution or program, the use of which is or may be affected by this compact or any contract pursuant thereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision; provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII—Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article,

Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

ARTICLE VIII—Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX—Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X—Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1959 c 287 § 1.]

72.70.020 Director authorized to receive or transfer inmates pursuant to contract. The director of the department of institutions is authorized to receive or transfer an inmate as defined in Article II(d) of the Western Interstate Corrections Compact to any institution as defined in Article II(e) of the Western Interstate Corrections Compact within this state or without this state, if this state has entered into a contract or contracts for the confinement of inmates in such institutions pursuant to Article III of the Western Interstate Corrections Compact. [1959 c 287 § 2.]

72.70.030 Responsibilities of courts, departments, agencies and officers. The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not

limited to the making and submission of such reports as are required by the compact. [1959 c 287 § 3.]

72.70.040 Hearings. The director and members of the board of prison terms and paroles are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to Article IV(f) of the Western Interstate Corrections Compact. Additionally, the director and members of the board of prison terms and paroles may hold out-of-state hearings in connection with the case of any inmate of this state confined in an institution of another state party to the Western Interstate Corrections Compact. [1959 c 287 § 4.]

72.70.050 Director may enter into contracts. The director of the department of institutions is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to Article III thereof. No such contract shall be of any force or effect until approved by the attorney general. [1959 c 287 § 5.]

72.70.060 Director may provide clothing, etc., to inmate released in another state. If any agreement between this state and any other state party to the Western Interstate Corrections Compact enables the release of an inmate of this state confined in an institution of another state to be released in such other state in accordance with Article IV(g) of this compact, then the director is authorized to provide clothing, transportation and funds to such inmate in accordance with the provisions of RCW 72.08.343. [1959 c 287 § 6.]

72.70.900 Severability—Liberal construction—1959 c 287. The provisions of this act shall be severable and if any phrase, clause, sentence, or provision of this act is declared to be unconstitutional or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of this act and the applicability thereof to any other state, agency, person or circumstance shall, with respect to all severable matters, not be affected thereby. It is the legislative intent that the provisions of this act be reasonably and liberally construed. [1959 c 287 § 7.]

Chapter 72.98 CONSTRUCTION

Sections

72.98.010	Continuation of existing law.
72.98.020	Title, chapter, section headings not part of law.
72.98.030	Invalidity of part of title not to affect remainder.
72.98.040	Repeals and saving.
72.98.050	Bonding acts exempted.
72.98.060	Emergency—1959 c 28.

72.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1959 c 28 § 72.98.010.]

72.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1959 c 28 § 72.98.020.]

72.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1959 c 28 § 72.98.030.]

72.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Sections 1 through 10, pages 4 through 6, Laws of 1861;
- (2) Sections 1 through 5, pages 356 and 357, Laws of 1869;
- (3) Sections 1 through 9, pages 358 through 360, Laws of 1869;
- (4) Sections 1 through 26, pages 83 through 89, Laws of 1875;
- (5) Sections 2247 through 2275, Code 1881;
- (6) Sections 1 through 6, pages 37 through 38, Laws of 1883;
- (7) Sections 1 through 23, pages 82 through 85, Laws of 1883;
- (8) Sections 1 through 15, pages 141 through 144, Laws of 1885-6;
- (9) Sections 1 through 7, pages 144 through 145, Laws of 1885-6;
- (10) Sections 1 through 18, pages 152 through 155, Laws of 1885-6;
- (11) Chapter 60, Laws of 1888;
- (12) Chapter 62, Laws of 1888;
- (13) Sections 1 through 7, pages 269 through 271, Laws of 1889-90;
- (14) Sections 1 through 25, pages 271 through 277, Laws of 1889-90;
- (15) Sections 1 through 49, pages 482 through 495, Laws of 1889-90;
- (16) Chapter 147, Laws of 1891;
- (17) Chapter 131, Laws of 1895;
- (18) Chapter 67, Laws of 1897;
- (19) Chapter 119, Laws of 1901;
- (20) Chapter 167, Laws of 1901;
- (21) Chapter 171, Laws of 1901;
- (22) Chapter 110, Laws of 1903;
- (23) Chapter 90, Laws of 1907;
- (24) Chapter 156, Laws of 1907;
- (25) Chapter 166, Laws of 1907;
- (26) Sections 1, 2 and 4 through 7, chapter 97, pages 256 through 258, Laws of 1909;
- (27) Sections 1 through 10, chapter 97, pages 258 through 260, Laws of 1909;
- (28) Chapter 222, Laws of 1909;
- (29) Section 32, chapter 249, Laws of 1909;
- (30) Chapter 10, Laws of 1913;
- (31) Sections 1 through 5 and 8 through 14, chapter 157, Laws of 1913;
- (32) Chapter 81, Laws of 1915;
- (33) Chapter 106, Laws of 1915;

- (34) Sections 32, 41 and 43, chapter 7, Laws of 1921;
- (35) Chapter 48, Laws of 1921;
- (36) Chapter 74, Laws of 1925, extraordinary session;
- (37) Chapter 212, Laws of 1927;
- (38) Chapter 276, Laws of 1927;
- (39) Chapter 305, Laws of 1927;
- (40) Chapter 59, Laws of 1929;
- (41) Chapter 77, Laws of 1931;
- (42) Chapter 84, Laws of 1935;
- (43) Section 5, chapter 114, Laws of 1935;
- (44) Chapter 161, Laws of 1939;
- (45) Chapter 175, Laws of 1943;
- (46) Chapter 79, Laws of 1945;
- (47) Chapter 188, Laws of 1947;
- (48) Chapter 190, Laws of 1947;
- (49) Chapter 211, Laws of 1947;
- (50) Chapter 114, Laws of 1949;
- (51) Sections 20 and 52, chapter 198, Laws of 1949;
- (52) Chapter 135, Laws of 1951;
- (53) Sections 6 through 16, 40 through 50 and 65 through 69, chapter 139, Laws of 1951;
- (54) Chapter 234, Laws of 1951;
- (55) Chapter 217, Laws of 1953;
- (56) Chapter 232, Laws of 1953;
- (57) Chapter 77, Laws of 1955;
- (58) Chapter 94, Laws of 1955;
- (59) Chapter 104, Laws of 1955;
- (60) Chapter 128, Laws of 1955;
- (61) Chapter 136, Laws of 1955;
- (62) Chapter 195, Laws of 1955;
- (63) Chapter 230, Laws of 1955;
- (64) Chapter 240, Laws of 1955;
- (65) Chapter 242, Laws of 1955;
- (66) Chapter 245, Laws of 1955;
- (67) Chapter 247, Laws of 1955;
- (68) Chapter 248, Laws of 1955;
- (69) Chapter 260, Laws of 1955;
- (70) Chapter 314, Laws of 1955;
- (71) Chapter 318, Laws of 1955;
- (72) Chapter 19, Laws of 1957;
- (73) Chapter 21, Laws of 1957;
- (74) Chapter 25, Laws of 1957;
- (75) Chapter 27, Laws of 1957;
- (76) Chapter 29, Laws of 1957;
- (77) Chapter 30, Laws of 1957;
- (78) Chapter 54, Laws of 1957;
- (79) Chapter 61, Laws of 1957;
- (80) Chapter 102, Laws of 1957;
- (81) Section 5, chapter 115, Laws of 1957;
- (82) Chapter 136, Laws of 1957;
- (83) Chapter 188, Laws of 1957;
- (84) Chapter 217, Laws of 1957;
- (85) Chapter 225, Laws of 1957;
- (86) Chapter 272, Laws of 1957;
- (87) Sections 2 and 3, chapter 297, Laws of 1957.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or

employment of any person appointed or employed thereunder. [1959 c 28 § 72.98.040.]

72.98.050 Bonding acts exempted. This act shall not repeal nor otherwise affect the provisions of the institutional bonding acts (chapter 230, Laws of 1949 and chapters 298 and 299, Laws of 1957). [1959 c 28 § 72.98.050.]

Bond acts: Chapter 72.99 RCW.

72.98.060 Emergency—1959 c 28. This 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, with the exception of RCW 72.01.280 the effective date of which section is July 1, 1959. [1959 c 28 § 72.98.060.]

Chapter 72.99 BOND ACTS

Sections

- GENERAL OBLIGATION BOND ACT—1949**
- 72.99.010 Bonds authorized—Purpose—Form—Terms—Sale.
- 72.99.020 Proceeds of bond sales—Deposit in fund.
- 72.99.025 Investment of current surpluses in building construction fund.
- 72.99.030 Appropriation from fund—Purpose.
- 72.99.040 Institutional building bond redemption fund created—Purpose—Deposits—Priority as to sales tax revenue—Enforcement.
- 72.99.050 Sales tax not exclusive method of raising money.
- 72.99.060 Bonds are legal investment for public funds.
- STATE BUILDING CONSTRUCTION ACT**
- 72.99.070 Short title.
- 72.99.080 Definitions.
- 72.99.090 Contracts for construction authorized—Cost limited.
- 72.99.100 Limited obligation bonds—Form, term, sale, payment, legal investment, etc.
- 72.99.110 Deposit of proceeds from bond sale—Appropriation.
- 72.99.120 State building construction bond redemption fund—Purpose, deposits—Priority as to sales tax revenue.
- 72.99.130 Bonds not a general obligation—Legislature may provide additional means for payment.
- 72.99.140 Certain projects authorized.
- 72.99.150 Acceptance of grants.
- 72.99.160 Provisions additional to other laws—Liberal construction.
- GENERAL OBLIGATION BOND ACT—1957**
- 72.99.170 General obligation bonds authorized—Issuance, form, term, sale, etc.
- 72.99.180 Proceeds of bonds and other moneys—Deposit.
- 72.99.190 Appropriation.
- 72.99.200 Institutional building bond redemption fund—Purpose, deposits—Priority as to sales tax revenue—Enforcement.
- 72.99.210 Legislature may provide additional means for payment.
- 72.99.220 Bonds are legal investment.

Reviser's note: The bond acts codified herein as RCW 72.99.010 through 72.99.220 were not included in the 1959 reenactment of Title 72 RCW (chapter 28, Laws of 1959). Although not so reenacted, their provisions were expressly saved, see RCW 72.98.050.

GENERAL OBLIGATION BOND ACT—1949

72.99.010 Bonds authorized—Purpose—Form—Terms—Sale. For the purpose of providing needful buildings at the state operated charitable, educational and penal institutions presently operated by the department of public institutions, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1960, general obligation bonds of the state of Washington in the sum of twenty million dollars, or so much thereof as shall be required to finance the program herein set out, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: *Provided*, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of three percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1949 c 230 § 1; No RRS.]

Act to be submitted: "This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1950, in accordance with the provisions of section 3, Article VIII of the State Constitution; and in accordance with the provisions of section 1, Article II of the State Constitution, as amended and the laws adopted to facilitate the operation thereof." [1949 c 230 § 7.] This applies to RCW 72.99.010 through 72.99.060.

Facsimile signatures: RCW 39.44.100 through 39.44.102.

State finance committee: Chapter 43.33 RCW.

72.99.020 Proceeds of bond sales—Deposit in fund. The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasurer to deposit therein shall be deposited in the institutional building construction fund. [1949 c 230 § 2; No RRS.]

Institutional building construction fund abolished and moneys transferred to institutional building construction account in state general fund: RCW 43.79.330 through 43.79.334.

State finance committee: Chapter 43.33 RCW.

72.99.025 Investment of current surpluses in building construction fund. See RCW 28A.47.210 through 28A.47.230.

72.99.030 Appropriation from fund—Purpose. The sum of twenty million dollars, or so much thereof as may be necessary, is appropriated from the institutional building construction fund to the state finance committee to be expended by the committee for the payment of expense incident to the sale and issuance of the bonds authorized herein and through allotments made, in its discretion, to the director of public institutions for the

purpose of constructing needful buildings at the state operated charitable, educational and penal institutions. [1949 c 230 § 3; No RRS.]

State finance committee: Chapter 43.33 RCW.

72.99.040 Institutional building bond redemption fund created—Purpose—Deposits—Priority as to sales tax revenue—Enforcement. The institutional building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.99.010 through 72.99.060. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said institutional building bond redemption fund from moneys transmitted to the state treasurer by the tax commission and certified by the tax commission to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a first and prior charge against all retail sales tax revenues of the state of Washington.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1949 c 230 § 4; No RRS.]

Institutional building bond redemption fund, 1957 act: RCW 72.99.200.

Mandamus, generally: Chapter 7.16 RCW.

State finance committee: Chapter 43.33 RCW.

72.99.050 Sales tax not exclusive method of raising money. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 72.99.010 through 72.99.060 shall not be deemed to provide an exclusive method for such payment. [1949 c 230 § 5; No RRS.]

72.99.060 Bonds are legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1949 c 230 § 6; No RRS.]

STATE BUILDING CONSTRUCTION ACT

72.99.070 Short title. RCW 72.99.070 through 72.99.160 shall be known as the state building construction act. [1957 c 298 § 1.]

Severability—1957 c 298: "If any part of this act shall be held unconstitutional, such invalidity shall not affect any other part. It is hereby declared that had any section, paragraph, sentence, clause, phrase, or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1957 c 298 § 11.] This applies to RCW 72.99.070 through 72.99.160.

72.99.080 Definitions. The following terms, whenever used or referred to in RCW 72.99.070 through 72.99.160, shall have the following meanings, excepting in those instances where the context clearly indicates otherwise:

(1) "Agency" shall mean any board, commission, committee, director, or other agency charged with the supervision and control of any department, institution, or agency of the state of Washington.

(2) "Fund" shall mean the special fund created by RCW 72.99.070 through 72.99.160 to be known as the state building construction bond retirement fund.

(3) "Bonds" shall mean the limited obligation bonds issued pursuant to RCW 72.99.070 through 72.99.160 and payable only out of the special fund created herein.

(4) "Project" shall mean the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility and the acquisition of land therefor authorized by the legislature to be financed under the provisions of RCW 72.99.070 through 72.99.160. [1957 c 298 § 2.]

72.99.090 Contracts for construction authorized—Cost limited. The agencies in RCW 72.99.070 through 72.99.160 mentioned are each empowered to contract for the construction of the particular project herein authorized by the legislature to be constructed and financed as in RCW 72.99.070 through 72.99.160 provided. The cost of each of the projects herein authorized shall not exceed the amounts set forth in RCW 72.99.070 through 72.99.160. [1957 c 298 § 3.]

72.99.100 Limited obligation bonds—Form, term, sale, payment, legal investment, etc. For the purpose of providing means for paying the costs of the projects authorized by RCW 72.99.070 through 72.99.160, and to pay costs incident to the issuance and sale of bonds by RCW 72.99.070 through 72.99.160, the state finance committee is authorized to issue and sell limited obligation bonds of the state of Washington. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee. The state finance committee may, in its discretion, provide for the issuance of said bonds to be dated, issued and sold from time to time in such amounts as may be necessary to make the payments provided for by RCW 72.99.070 through 72.99.160. Said bonds:

- (1) Shall be
 - (a) Either registered or in coupon form; and
 - (b) Issued in denominations of not less than one hundred dollars;
- (2) Shall state
 - (a) The date of issue; and
 - (b) The series of the issue and be consecutively numbered within the series; and
 - (c) That the bond is payable out of the special fund established for the purposes of RCW 72.99.070 through 72.99.160;
- (3) Shall bear interest, payable either annually or semiannually, as the state finance committee may determine, at a rate not to exceed six percent per annum;

(4) Shall be payable solely out of the special fund created for the purposes of RCW 72.99.070 through 72.99.160;

(5) Shall be payable at such times over a period of not to exceed thirty years from date of issuance, in such manner and at such place or places, and with such reserved rights of prior redemption, as the state finance committee may prescribe to be specified therein;

(6) Shall be signed either manually or with a printed facsimile signature by the governor and the state auditor under the seal of the state and any coupons attached to such bonds shall be signed by the same officers whose signatures thereon may be in printed facsimile.

Any bonds may be registered in the name of the holder on presentation to the state treasurer or at the fiscal agency of the state of Washington in New York, as to principal alone or as to both principal and interest under such regulations as the state treasurer may prescribe. Said bonds shall distinctly state that they shall not be a general obligation of the state of Washington, but shall be payable from that portion of the retail sales tax allocated to said fund in the manner prescribed in RCW 72.99.070 through 72.99.160. Said bonds and the interest thereon shall, so long as any portion thereof shall remain unpaid, constitute a prior charge upon the retail sales tax allocated to the state building construction bond redemption fund herein provided for, subject to and inferior only to the charge thereon created by chapters 229 and 230, Laws of 1949 [RCW 28A.47.130–28A.47.180 and 72.99.010–72.99.060], and shall be payable at such places as the state finance committee shall provide. All bonds issued under the provisions of RCW 72.99.070 through 72.99.160 may be sold in such manner and such amounts and at such times and on such terms and conditions as the state finance committee may prescribe: *Provided*, That if such bonds are sold to any persons other than the state of Washington they shall be sold at public sale, and it shall be the duty of the state finance committee to cause such sale to be advertised in such manner as it shall deem sufficient. Bonds issued under the provision of RCW 72.99.070 through 72.99.160 shall be legal investment for any of the funds of the state not restricted by any constitutional prohibition. [1957 c 298 § 4.]

Facsimile signatures: RCW 39.44.100 through 39.44.102.

State finance committee: Chapter 43.33 RCW.

72.99.110 Deposit of proceeds from bond sale—Appropriation. The money arising from the sale of said bonds shall be deposited in the state treasury to the credit of the state building construction account in the state general fund, and shall be used for the purposes, and by the agencies authorized by RCW 72.99.070 through 72.99.160. For the purpose of carrying out the provision of RCW 72.99.070 through 72.99.160, there is hereby appropriated from the state building construction account the sum of twenty million two hundred and fourteen thousand nine hundred ninety-six dollars, or so much thereof as shall be necessary. [1957 c 298 § 5.]

72.99.120 State building construction bond redemption fund—Purpose, deposits—Priority as to sales tax revenue. There is hereby created in the state treasury a special fund to be known as the state building construction bond redemption fund, which fund shall be exclusively devoted for the retirement of said bonds upon maturity and the payment of interest as it falls due. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and the state treasurer shall thereupon deposit such amount in said state building construction bond redemption fund from moneys transmitted to the state treasurer by the tax commission and certified by the tax commission to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949 [RCW 28A.47.130-28A.47.180 and 72.99-.010-72.99.060]. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 72.99.070 through 72.99.160, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 72.99.070 through 72.99.160 shall have been paid. [1957 c 298 § 6.]

72.99.130 Bonds not a general obligation—Legislature may provide additional means for payment. The bonds authorized to be issued pursuant to the provisions of RCW 72.99.070 through 72.99.160 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment derived from the tax on retail sales as herein provided. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 72.99.070 through 72.99.160 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1957 c 298 § 7.]

72.99.140 Certain projects authorized. The legislature hereby authorizes the construction of the following projects to be financed under the provisions of RCW 72.99.070 through 72.99.160:

At the University of Washington:
 Completing Construction of
 Teaching Hospital \$2,850,000.00

By the Military Department:	
Capital Outlays to Armories	\$ 325,000.00
Capital Outlays, Major Repairs and Betterments	\$ 332,640.00
By the Department of Fisheries:	
Capital Outlays, Major Repairs and Betterments	\$ 715,000.00
By the Department of Institutions:	
Purchase of Land and Buildings and Cost of Materials and Equipment for Diagnostic and Treatment Center	\$ 780,100.00
At the Cedar Creek Youth Forestry Camp:	
Construction and Equipment of Dormitory and Administra- tion Building, Dining Hall and One Supervisor's Duplex Cot- tage and Construction of Site for Forestry Camp	\$ 200,000.00
At Eastern State Hospital:	
Remodel, Repair and Equip Four Ward Buildings	\$ 190,000.00
Remodel and Equip Main Kitchen and Meat Preparation Area	\$ 35,000.00
Additions and Repairs to Exist- ing Irrigation System	\$ 16,000.00
For Repairs to existing Paving	\$ 25,000.00
Construction of Incinerator and Paving of Adjacent Area	\$ 6,000.00
New Well, including Pump, Pip- ing and Electrical Facilities	\$ 130,000.00
At Green Hill School:	
Construction and Equipment of Two Cottage Dormitories	\$ 277,600.00
At Lakeland Village:	
Repairs to Buildings and Struc- tures and Renovations and Additions to Plant Utilities	\$ 213,000.00
To Complete the Construction of Douglas Hall	\$ 61,000.00
At Maple Lane School:	
Construction and Equipping of One Cottage	\$ 110,000.00
At Northern State Hospital:	
Replace Main Waterline Be- tween Reservoirs	\$ 46,000.00
Repairs to Administration and Ward Buildings	\$ 50,000.00
Construct Covering for Walks	\$ 30,000.00
Construction of Emergency Ex- its for Four Ward Buildings	\$ 6,750.00
At Washington State Penitentiary:	
Construction and Equipping of Admission and Security Cen- ter	\$1,900,000.00
Construction and Equipping of Addition to Industries and Maintenance Building	\$ 150,000.00
Remodel and Repair Seven- wing Locking Devices	\$ 65,000.00

Construction and Equipping of Vocational Shop Building	\$ 225,000.00	Purchase of Ninety Acres Agricultural Land	\$ 27,000.00
Purchase and Installation of Shop Equipment	\$ 45,000.00	Agricultural land—Skagit	\$ 34,000.00
Purchase and Install Industrial Equipment	\$ 200,000.00	Pullman Land Enclosed by Campus	\$ 110,000.00
Construction of Two Additional Bays to Present Industrial Building	\$ 80,000.00	At Central Washington College:	
Remodel and Expand Electric Transmission System	\$ 47,500.00	Completion of Classroom Building	\$ 36,000.00
At Rainier State School:		Improvements to Present Campus Area	\$ 26,200.00
Extend and Equip Laundry	\$ 173,000.00	Conversion of Coal Burner to Natural Gas	\$ 16,000.00
(Construction to be supervised by Department of General Administration Architect.)		Purchase and Installation of Closed Circuit Television	\$ 49,336.00
Remodel, Extend and Equip Kitchen	\$ 162,000.00	Purchase of Land	\$ 181,620.00
(Construction to be supervised by Department of General Administration Architect.)		Extension of Utilities	\$ 15,000.00
Remodel Halls to Provide Classrooms, Including Equipment and Services	\$ 45,000.00	Construction of Health and Physical Education Building	\$1,300,000.00
(Construction to be supervised by Department of General Administration Architect.)		Site Development for Above Building and Outdoor Physical Education Facilities	\$ 125,500.00
Construct and Equip Addition to Maintenance Shops	\$ 13,300.00	At Eastern Washington College:	
Modify Storm Sewer System	\$ 35,000.00	Capital Outlays, Major Repairs and Betterments, Including Maintenance Sheds	\$ 275,000.00
At Washington State Reformatory:		Construction and Equipment and Purchase of Land for Laboratory School	\$ 422,000.00
Construct and Furnish One Personnel Housing Unit	\$ 25,000.00	At Western Washington College:	
Remodel and Repair Existing Buildings, Including Equipment	\$ 100,000.00	Repairs to Buildings and Structures	\$ 25,000.00
Purchase and Installation of Equipment for New Industries	\$ 50,000.00	Purchase of Land and Site Improvements	\$ 131,600.00
At State Soldiers' Home:		Construction and Equipment of Science Building	\$2,216,800.00
Remodeling and Equipping Old Hospital	\$ 80,000.00	At the School for the Blind at Vancouver:	
At Western State Hospital:		Construction of and Equipment for New School Building	\$ 520,500.00
Construction of New Juvenile Building	\$ 472,500.00	[1957 c 298 § 8.]	
(Plans and Supervision Furnished by Department of General Administration.)		72.99.150 Acceptance of grants. In addition to the power and authority conferred by RCW 72.99.070 through 72.99.160, any agency authorized to construct the projects herein authorized shall have the authority and power to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such project, which grant may be utilized in addition to the specific authorization of funds herein provided in the completion of such project. [1957 c 298 § 9.]	
At State College of Washington:		72.99.160 Provisions additional to other laws—	
Construction of Veterinary Clinic	\$1,316,750.00	Liberal construction. RCW 72.99.070 through 72.99.160 shall be deemed to provide an additional and alternative method for the doing of the things authorized herein and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing. RCW 72.99.070 through 72.99.160 being necessary for the welfare of the state of Washington and its inhabitants shall be liberally construed to effect the purposes	
Construction of Poultry and Dairy Buildings	\$ 600,000.00		
Construction of Incinerator	\$ 150,000.00		
Construction of Swine Barn for Animal Husbandry	\$ 44,000.00		
Partial Construction of Plant Science Building	\$1,900,000.00		
Complete the Construction and Equipment of Agronomy Seed House	\$ 68,400.00		

thereof. Any section or provision of RCW 72.99.070 through 72.99.160 which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds, or otherwise participate in programs of the federal government or any of its agencies or instrumentalities furthering the purposes of RCW 72.99.070 through 72.99.160. [1957 c 298 § 10.]

GENERAL OBLIGATION BOND ACT—1957

72.99.170 General obligation bonds authorized—
Issuance, form, term, sale, etc. For the purpose of providing needful buildings at the state operated charitable, educational and penal institutions presently operated by the department of institutions and at state supported institutions of higher learning the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as shall be required to finance the program above set forth to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: *Provided*, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of four percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1957 c 299 § 1.]

Act to be submitted: "This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1958, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof." [1957 c 299 § 7.] This applies to RCW 72.99.170 through 72.99.220.

Facsimile signatures: RCW 39.44.100-39.44.102.

State finance committee: Chapter 43.33 RCW.

72.99.180 Proceeds of bonds and other moneys—
Deposit. The proceeds from the sale of the bonds authorized herein, together with all grants, donations, transferred funds and all other moneys which the state finance committee may direct the state treasury to deposit therein shall be deposited in the institutional building construction fund account in the state general fund. [1957 c 299 § 2.]

72.99.190 Appropriation. The sum of twenty-five million dollars, or so much thereof as may be necessary, is appropriated from the institutional building construction account in the state general fund to the state finance committee to be expended by the committee for the payment of expense incident to the sale and issuance of the bonds authorized herein and through allotments made, in its discretion, to the director of public institutions [director of institutions] for the purpose of constructing such buildings at the state charitable, educational and penal institutions, and at the state supported institutions of higher learning as the state finance committee may direct on or before September 1, 1958. [1957 c 299 § 3.]

72.99.200 Institutional building bond redemption fund—Purpose, deposits—Priority as to sales tax revenue—Enforcement. The institutional building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 72.99.170 through 72.99.220. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said institutional building bond redemption fund from moneys transmitted to the state treasurer by the tax commission and certified by the tax commission to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1957 c 299 § 4.]

72.99.210 Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 72.99.170 through 72.99.220 shall not be deemed to provide an exclusive method for such payment. [1957 c 299 § 5.]

72.99.220 Bonds are legal investment. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1957 c 299 § 6.]

