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SENATE BILL 5543

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State of Washington

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By Senators Hargrove, Kohl-Welles, Chase, Nelson, Haugen, Swecker, Shin, and Conway

Read first time 01/28/11. Referred to Committee on Labor, Commerce & Consumer Protection.

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

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

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

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

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

13 (b) "Preengineered industrial fire extinguishing system technician"  
14 means any person who is engaged in the business of installing,  
15 servicing, maintaining, recharging, or hydrotesting preengineered  
16 industrial fire extinguishing systems as defined in NFPA 17 and 2001.

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

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

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

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

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

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

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

21 (7) "Hydrostatic testing" means pressure testing of the cylinder or  
22 applicable attachment to verify its strength against unwanted rupture  
23 as prescribed by the most current version of NFPA 10, 17, 17A, or 2001  
24 and applicable United States department of transportation requirements.

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

26 (9) "Inspection" means a visual examination or "quick check" as  
27 defined by NFPA 10, 17, 17A, and 2001.

28 (10) "Maintenance" means a thorough examination as defined by NFPA  
29 10, 17, 17A, and 2001.

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

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

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

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

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

9 (16) "NFPA 2001" means the standard, referenced by the  
10 international fire code, that is used by the national fire protection  
11 association for the installation, maintenance, and servicing of clean  
12 agent fire extinguishing systems.

13 (17) "Person" means a natural person, including an owner, manager,  
14 partner, officer, employee, or occupant.

15 (18) "Preengineered fixed fire suppression system" or "assembly"  
16 means any system as defined by NFPA standards 17, 17A, 96 chapter 11,  
17 and 2001.

18 (19) "Servicing" means performing maintenance, recharging, or  
19 hydrostatic testing pursuant to NFPA 10, 17, 17A, and 2001.

20 NEW SECTION. **Sec. 2.** This chapter incorporates by reference the  
21 following codes, standards, and regulations: International fire code;  
22 international code council; international building code; international  
23 mechanical code; NFPA 10 for portable fire extinguishers; NFPA 17 for  
24 dry chemical extinguishing systems; NFPA 17A for wet chemical  
25 extinguishing systems; NFPA 96 chapter 11; NFPA 2001 for clean agent  
26 fire extinguishing systems as they may apply; and applicable United  
27 States department of transportation regulations as the minimum standard  
28 for installation, servicing, and maintenance for the fire extinguisher  
29 and preengineered fire suppression industry in the state of Washington.  
30 If a conflict exists between any of the codes, standards, or  
31 regulations listed in this section, the more stringent standard  
32 applies.

33 NEW SECTION. **Sec. 3.** (1) A county, city, or town may not enact an  
34 order, ordinance, rule, or regulation requiring a fire protection firm  
35 or certificate of competency holder to obtain a fire extinguisher or  
36 preengineered fire suppression system contractor license or certificate

1 of competency from the county, city, or town. However, a county, city,  
2 or town may require a fire protection firm to obtain a business license  
3 and pay its permit fee to install fire extinguishers or preengineered  
4 fire suppression systems to conform to the building code or other  
5 construction requirements of the county, city, or town, but may not  
6 impose financial responsibility requirements other than proof of a  
7 valid license.

8 (2) This chapter does not apply to:

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

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

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

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

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

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

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

25 (2) The director shall:

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

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

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

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

35 (iv) Adopting rules defining infractions under this chapter and  
36 fines to be assessed for those infractions in accordance with section  
37 13 of this act;

- 1 (b) Enforce this chapter;
- 2 (c) Conduct investigations of complaints to determine if any
- 3 infractions of this chapter or the rules adopted under this chapter
- 4 have occurred;
- 5 (d) Structure all initial investigations of complaints with intent
- 6 to bring license and certificate holders into service compliance
- 7 without being excessively punitive. Gross or fraudulent violations
- 8 must be dealt with as deemed appropriate by the director;
- 9 (e) Assign a license number to each fire protection firm,
- 10 referencing a number of a certificate of competency holder, and issue
- 11 each license in the firm's business name;
- 12 (f) Assign a certificate number to each certificate of competency
- 13 holder referencing the licensing number of the fire protection firm;
- 14 (g) Adopt a minimum standard for a certification tag to be used
- 15 throughout the state of Washington that includes the fire protection
- 16 firm's license number and the certificate of competency holder's name
- 17 and number; and
- 18 (h) Amend the licensing and certification rules as codes,
- 19 standards, and certification tests evolve.

20 NEW SECTION. **Sec. 5.** (1) To become a portable fire extinguisher  
21 technician certificate of competency holder under this chapter, an  
22 applicant must have satisfactorily passed the ICC examination for  
23 portable fire extinguishers.

24 (2) To become a preengineered kitchen fire extinguishing system  
25 technician certificate of competency holder under this chapter, an  
26 applicant must have satisfactorily passed the ICC examination for  
27 preengineered kitchen fire extinguishing systems and completed a  
28 factory kitchen system school or equivalent.

29 (3) To become a preengineered industrial fire extinguishing system  
30 technician certificate of competency holder under this chapter, an  
31 applicant must have satisfactorily passed the ICC examination for  
32 preengineered industrial fire extinguishing systems and successfully  
33 completed a factory industrial system school or equivalent.

34 (4) Every applicant for a certificate of competency shall fulfill  
35 the requirements established by the director under section 4 of this  
36 act.

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

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

8 (7) The director may issue a training certificate of competency in  
9 any particular discipline to an individual who has applied for a  
10 certificate and paid the required fees. An individual issued a  
11 training certificate must perform work under direct visual supervision  
12 of a certificate of competency holder. The training certificate of  
13 competency is valid for a period of up to one year. The training  
14 certificate holder shall, within the one-year period, complete the  
15 requirements for a certificate of competency specified in this section.  
16 There is no examination exemption for an individual issued a training  
17 certificate. Prior to the expiration of the one-year period, the  
18 training certificate holder shall apply for a regular certificate of  
19 competency. The procedures and qualifications for issuance of a  
20 regular certificate of competency are applicable to the training  
21 certificate holder. When a training certificate expires, the holder  
22 may apply for an extension, not to exceed six months. When that  
23 extension expires, the holder may not perform any activities associated  
24 with the holding of a training certificate of competency and is subject  
25 to the penalties contained in this chapter.

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

28 (a) Obtain a certificate of competency or have in their full-time  
29 employ at least one holder of a valid certificate of competency before  
30 performing service, maintenance, or installation on an appliance or  
31 assembly;

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

35 (c) Be a contractor registered with the department of labor and  
36 industries; and

37 (d) Have or be contracted to a company with a department of

1 transportation retesters identification number for both low and high-  
2 pressure cylinders and applicable attachments.

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

6 (10) All bids, advertisements, proposals, offers, and drawings for  
7 fire extinguisher and preengineered fixed fire suppression system  
8 installation, service, and maintenance must prominently display the  
9 fire protection firm's license number.

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

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

18 (13) A certificate of competency holder who is terminated or  
19 resigns from a fire protection firm must have his or her certificate of  
20 competency placed in inactive status until again employed by a fire  
21 protection firm.

22 (14) A certificate of competency holder employed full time under  
23 this chapter for reasons of long-term disability or military obligation  
24 may upon application to the director have his or her certificate of  
25 competency placed on inactive status until the holder can return to the  
26 full-time place of employment.

27 (15) A fire protection firm must have at the minimum a physical  
28 address, and at least one telephone number attached to the physical  
29 address. A fire protection firm must possess the proper tools and  
30 equipment to service and maintain either fire extinguishers or  
31 preengineered fixed fire suppression systems, or both, in accordance  
32 with applicable NFPA standards and United States department of  
33 transportation regulations.

34 NEW SECTION. **Sec. 6.** (1) Every three years all certificate of  
35 competency holders who desire to retain their certificate in a  
36 particular discipline shall secure from the director a renewal  
37 certificate of competency upon payment of the renewal fee adopted by

1 the director. Application for renewal must be upon a notarized form  
2 prescribed by the director and the certificate holder shall furnish the  
3 information required by the director.

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

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

10 (c) A certificate of competency holder may voluntarily surrender  
11 his or her certificate of competency to the director. After  
12 surrendering the certificate of competency, he or she is not subject to  
13 a renewal fee, may not use the term certificate of competency holder,  
14 and may not perform the services of a certificate holder. Within two  
15 years from the time of surrender of the certificate of competency, he  
16 or she may again qualify for a certificate of competency, without  
17 examination, by the payment of the required fee. If two or more years  
18 have elapsed, he or she must apply as a new applicant.

19 (2) All licensed fire protection firms desiring to continue to be  
20 licensed shall annually secure from the director a renewal license upon  
21 payment of the fee adopted by the director. Application for renewal  
22 must be upon a form adopted by the director and the license holder  
23 shall furnish the information required by the director.

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

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

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

33 (4) All fire protection firms based in other states providing fire  
34 protection services to accounts with locations in the state of  
35 Washington either by direct service or by contracting with Washington  
36 state-based fire protection firms must comply with this chapter.



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

3        (2) All receipts from licenses, testing, and certification fees and  
4 money generated due to enforcement of this chapter must be deposited  
5 into the account. All money from this account must be used only for  
6 the purposes of education for the public, licensed fire protection  
7 firms and their certificate of competency holders, and in administering  
8 and enforcing this chapter. Only the director or the director's  
9 designee may authorize expenditures from the account. The account is  
10 subject to allotment procedures under chapter 43.88 RCW, but no  
11 appropriation is required for expenditures.

12        NEW SECTION.    **Sec. 8.**    (1) Nothing in this chapter limits the power  
13 of a city, town, county, or the state to regulate the quality and  
14 character of work performed by contractors, through a system of  
15 permits, fees, and inspections which are designed to assure compliance  
16 with and aid in the implementation of state and local building laws or  
17 to enforce other local laws for the protection of the public health and  
18 safety. Nothing in this chapter limits the power of the city, town,  
19 county, or the state to adopt any system of permits requiring  
20 submission to and approval by the city, town, county, or the state, of  
21 technical drawings and specifications for work to be performed by  
22 contractors before commencement of the work. The official authorized  
23 to issue building or other related permits shall ascertain that the  
24 fire protection firm is duly licensed by requiring evidence of a valid  
25 fire protection firm license.

26        (2) This chapter applies to any fire protection firm performing  
27 work for any city, town, county, or the state. Officials of any city,  
28 town, county, or the state are required to determine compliance with  
29 this chapter before awarding any contracts for the installation,  
30 repair, service, alteration, fabrication, addition, or maintenance of  
31 a fire protection appliance or assembly.

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

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

7           (a) Gross incompetence or gross negligence in the preparation of  
8 technical drawings, installation, repair, alteration, maintenance,  
9 service, addition, or removal of any fire protection appliance or  
10 assembly;

11           (b) Conviction of a class A or B felony or any conviction that  
12 classifies the licensee or certificate holder as a registered sex  
13 offender. The director shall adopt rules for verifying that no class  
14 A or B felony has been committed or that the applicant is a registered  
15 sex offender;

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

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

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

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

25           (2) The director shall revoke the license of a licensed fire  
26 protection firm or the certificate of a certificate of competency  
27 holder who engages in any of the three disciplines listed in section  
28 1(1) of this act while the license or certificate of competency is  
29 suspended.

30           (3) The director shall immediately suspend any license or  
31 certificate issued under this chapter if the holder has been certified  
32 pursuant to RCW 74.20A.320 by the department of social and health  
33 services as a person who is not in compliance with a support order or  
34 a residential or visitation order. If the person has continued to meet  
35 all other requirements for issuance or reinstatement during the  
36 suspension, issuance, or reissuance of the license or certificate is  
37 automatic upon the director's receipt of a release issued by the

1 department of social and health services stating that the person is in  
2 compliance with the order.

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

8 NEW SECTION. **Sec. 10.** The director shall suspend the certificate  
9 of any person who has been certified by a lending agency and reported  
10 to the director for nonpayment or default on a federally or state-  
11 guaranteed educational loan or service-conditional scholarship. Prior  
12 to the suspension, the agency must provide the person an opportunity  
13 for a brief adjudicative proceeding under RCW 34.05.485 through  
14 34.05.494 and issue a finding of nonpayment or default on a federally  
15 or state-guaranteed educational loan or service-conditional  
16 scholarship. The person's certificate may not be reissued until the  
17 person provides the director a written release issued by the lending  
18 agency stating that the person is making payments on the loan in  
19 accordance with a repayment agreement approved by the lending agency.  
20 If the person has continued to meet all other requirements for  
21 certification during the suspension, reinstatement shall be automatic  
22 upon receipt of the notice and payment of any reinstatement fee the  
23 director may impose.

24 NEW SECTION. **Sec. 11.** Any fire protection firm that constructs,  
25 installs, or maintains a fire protection appliance or assembly in any  
26 occupancy, except an owner-occupied single-family dwelling, without  
27 first obtaining a fire protection firm's license from the state of  
28 Washington is guilty of a gross misdemeanor. This section may not be  
29 construed to create any criminal liability for a prime contractor or an  
30 owner or his or her agent of occupancy unless it is proved that the  
31 prime contractor or owner or his or her agent had actual knowledge of  
32 an illegal construction, installation, or maintenance of a fire  
33 protection appliance or assembly by a fire protection firm.

34 NEW SECTION. **Sec. 12.** Civil proceedings to enforce this chapter

1 may be brought by the attorney general or the prosecuting attorney of  
2 any county where a violation occurs on his or her own motion or at the  
3 request of the director.

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

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

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

17 NEW SECTION. **Sec. 14.** If any provision of this act or its  
18 application to any person or circumstance is held invalid, the  
19 remainder of the act or the application of the provision to other  
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 15.** Any fire protection firm or certificate of  
22 competency holder who willfully and maliciously constructs, installs,  
23 alters, services, or maintains a fire protection appliance or assembly  
24 so as to threaten the safety of any user of the structure, occupant,  
25 appliance, or assembly in the event of a fire is guilty of a class C  
26 felony. This section may not be construed to create any criminal  
27 liability for a prime contractor or an owner of a structure or their  
28 agent unless it is proved that the prime contractor or owner or their  
29 agent had actual knowledge of an illegal construction, installation,  
30 alteration, service, or maintenance of a fire protection appliance or  
31 assembly by a fire protection firm or a certificate of competency  
32 holder.

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

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