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HOUSE BILL 1681

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Taylor, Shea, Overstreet, Short, and Condotta

Read first time 02/05/13.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to criminal trespass on private property; amending  
2 RCW 15.08.040, 15.09.070, 15.13.265, 15.13.265, 15.14.035, 15.37.120,  
3 15.49.370, 15.54.370, 15.58.280, 15.115.300, 16.52.085, 16.57.170,  
4 17.04.280, 17.10.160, 17.21.320, 17.24.021, 18.39.170, 19.28.101,  
5 19.28.470, 19.94.260, 22.16.020, 35.43.045, 35.67.310, 35.80.030,  
6 35.80A.040, 35.81.070, 36.70.500, 36.88.390, 38.32.030, 43.30.450,  
7 43.44.010, 43.44.020, 43.92.080, 43.190.080, 47.01.170, 47.41.070,  
8 47.42.080, 57.08.005, 59.18.115, 59.20.130, 64.44.020, 66.28.090,  
9 69.50.501, 70.77.450, 70.87.120, 70.97.160, 70.105D.030, 70.119A.150,  
10 76.04.035, 76.06.130, 76.09.150, 76.09.160, 77.12.154, 78.04.015,  
11 78.04.040, 79.14.440, 79.14.450, 79.14.530, 79.14.540, 80.32.070,  
12 80.36.020, 80.36.030, 81.36.020, 81.64.050, 82.26.060, 82.26.080,  
13 86.09.226, 87.03.140, 89.30.211, 90.16.040, 90.48.090, and 90.76.060;  
14 reenacting and amending RCW 9A.52.010; and creating a new section.

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

16            NEW SECTION.    **Sec. 1.** (1) The legislature declares that the people  
17 of this state have a right to a reasonable expectation of privacy on  
18 their private property. The legislature finds, however, that over time  
19 statutory authority for entry onto private property has expanded to the

1 point where the people no longer feel secure from the unreasonable  
2 intrusion of government officials and others who have been granted  
3 special immunity from prosecution for trespass. The legislature  
4 further finds that this unnecessary erosion of the right of privacy  
5 creates dangerous tension between the people of the state and their  
6 government and jeopardizes the orderly resolution of issues.

7 (2) The legislature intends, with certain limited and necessary  
8 exceptions, that all persons, whether government employees or private  
9 persons, be made subject to the same restrictions with regard to  
10 entering upon the property of another. It is the intent of the  
11 legislature to eliminate special immunities from prosecution for  
12 trespass, whether those immunities have been legislatively granted to  
13 the government or to private persons or entities. It is not the intent  
14 of the legislature to change the elements of the crime of trespass, but  
15 only to make all persons subject to the same law with exceptions from  
16 uniform application of that law only for the kinds of entries onto  
17 property by law enforcement officers that are lawful as of the  
18 effective date of this section and those entries onto property by  
19 government personnel that are specified in this act.

20 **Sec. 2.** RCW 9A.52.010 and 2011 c 336 s 369 are each reenacted and  
21 amended to read as follows:

22 The following definitions apply in this chapter:

23 (1) "Access" means to approach, instruct, communicate with, store  
24 data in, retrieve data from, or otherwise make use of any resources of  
25 a computer, directly or by electronic means.

26 (2) "Computer program" means an ordered set of data representing  
27 coded instructions or statements that when executed by a computer cause  
28 the computer to process data.

29 (3) "Data" means a representation of information, knowledge, facts,  
30 concepts, or instructions that are being prepared or have been prepared  
31 in a formalized manner and are intended for use in a computer.

32 (4) "Enter." The word "enter" when constituting an element or part  
33 of a crime, shall include the entrance of the person, or the insertion  
34 of any part of his or her body, or any instrument or weapon held in his  
35 or her hand and used or intended to be used to threaten or intimidate  
36 a person or to detach or remove property;

1 (5) "Enters or remains unlawfully." A person "enters or remains  
2 unlawfully" in or upon premises when he or she is not then licensed,  
3 invited, or otherwise privileged to so enter or remain. A public  
4 official or employee "enters or remains unlawfully" under the same  
5 circumstances as any other person, except that it is not unlawful for  
6 such an official or employee to enter or remain in or upon premises:

7 (a) When necessary to do so in response to a fire or a medical  
8 emergency;

9 (b) When acting under authority of a warrant or other court order;  
10 or

11 (c) When the official or employee is a law enforcement officer  
12 entering or remaining in or upon premises in a manner and under  
13 circumstances that are lawful as of the effective date of this section.

14 A license or privilege to enter or remain in a building which is  
15 only partly open to the public is not a license or privilege to enter  
16 or remain in that part of a building which is not open to the public.  
17 A person who enters or remains upon unimproved and apparently unused  
18 land, which is neither fenced nor otherwise enclosed in a manner  
19 designed to exclude intruders, does so with license and privilege  
20 unless notice against trespass is personally communicated to him or her  
21 by the owner of the land or some other authorized person, or unless  
22 notice is given by posting in a conspicuous manner. Land that is used  
23 for commercial aquaculture or for growing an agricultural crop or  
24 crops, other than timber, is not unimproved and apparently unused land  
25 if a crop or any other sign of cultivation is clearly visible or if  
26 notice is given by posting in a conspicuous manner. Similarly, a field  
27 fenced in any manner is not unimproved and apparently unused land. A  
28 license or privilege to enter or remain on improved and apparently used  
29 land that is open to the public at particular times, which is neither  
30 fenced nor otherwise enclosed in a manner to exclude intruders, is not  
31 a license or privilege to enter or remain on the land at other times if  
32 notice of prohibited times of entry is posted in a conspicuous manner.

33 If a property owner has requested and obtained a service, permit,  
34 certificate, or license that requires the provider of the service,  
35 permit, certificate, or license to have access to the owner's property  
36 for the purpose of ensuring that the requirements of the service,  
37 permit, certificate, or license are met, the provider is licensed,  
38 after notifying the owner or the owner's agent, and in the owner's or

1 agent's presence, to enter or remain upon that portion of the property  
2 to which the service, permit, certificate, or license pertains  
3 exclusively for that purpose. A property owner or the owner's agent  
4 may not unreasonably deny a provider access to the owner's property.

5 (6) "Premises" includes any building, dwelling, structure used for  
6 commercial aquaculture, or any real property.

7 **Sec. 3.** RCW 15.08.040 and 2010 c 8 s 6006 are each amended to read  
8 as follows:

9 The director, supervisor, and horticultural inspectors (~~are~~  
10 ~~authorized to at any time~~) may, subject to RCW 9A.52.070 and  
11 9A.52.080, enter horticultural premises and any structure where fruit,  
12 vegetables, nursery stock, or horticultural products are grown or  
13 situated for any purpose, to inspect the same for infection.

14 (~~No person shall hinder or interfere with any such officer in~~  
15 ~~entering or inspecting or performing any duty imposed upon him or~~  
16 ~~her.))~~

17 **Sec. 4.** RCW 15.09.070 and 1969 c 113 s 7 are each amended to read  
18 as follows:

19 Any authorized agent or employee of the county horticultural pest  
20 and disease board may, subject to RCW 9A.52.070 and 9A.52.080, enter  
21 upon any property for the purpose of administering this chapter and any  
22 power exercisable pursuant thereto, including the taking of specimens,  
23 general inspection, and the performance of such acts as are necessary  
24 for controlling and preventing the spreading of horticultural pests and  
25 diseases. (~~Such entry may be without the consent of the owner, and no~~  
26 ~~action for trespass or damages shall lie so long as such entry and any~~  
27 ~~activities connected therewith are undertaken and prosecuted with~~  
28 ~~reasonable care.))~~

29 Should any such employee or authorized agent of the county  
30 horticultural pest and disease board be denied access to such property  
31 where such access was sought to carry out the purpose and provisions of  
32 this chapter, the said board may apply to any court of competent  
33 jurisdiction for a search warrant authorizing access to such property  
34 for said purpose. The court may upon such application issue the search  
35 warrant for the purpose requested.

1           **Sec. 5.** RCW 15.13.265 and 2007 c 335 s 3 are each amended to read  
2 as follows:

3           (1) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter  
4 and inspect the horticultural facilities of a nursery dealer at  
5 reasonable times for the purpose of carrying out the provisions of this  
6 chapter.

7           (2) If the director is denied access, the director may apply to a  
8 court of competent jurisdiction for a search warrant authorizing access  
9 to the premises. The court may upon such application issue the search  
10 warrant for the purposes requested. The warrant shall be issued on  
11 probable cause. It is sufficient probable cause to show (a) the  
12 inspection is pursuant to a general administrative practice to  
13 determine compliance with this chapter or (b) the director has reason  
14 to believe that a violation of this chapter has occurred, is occurring,  
15 or may occur.

16           ~~((3) Denial of access to the director to perform inspections may  
17 subject a nursery dealer or Christmas tree grower to license  
18 revocation.))~~

19           **Sec. 6.** RCW 15.13.265 and 2000 c 144 s 4 are each amended to read  
20 as follows:

21           (1) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter  
22 and inspect the horticultural facilities of a nursery dealer at  
23 reasonable times for the purpose of carrying out the provisions of this  
24 chapter.

25           (2) If the director is denied access, the director may apply to a  
26 court of competent jurisdiction for a search warrant authorizing access  
27 to the premises. The court may upon such application issue the search  
28 warrant for the purposes requested. The warrant shall be issued on  
29 probable cause. It is sufficient probable cause to show (a) the  
30 inspection is pursuant to a general administrative practice to  
31 determine compliance with this chapter or (b) the director has reason  
32 to believe that a violation of this chapter has occurred, is occurring,  
33 or may occur.

34           ~~((3) Denial of access to the director to perform inspections may  
35 subject a nursery dealer to revocation of the nursery license.))~~

1       **Sec. 7.** RCW 15.14.035 and 1999 c 144 s 4 are each amended to read  
2 as follows:

3       In order to carry out the purposes of this chapter, the director  
4 may, subject to RCW 9A.52.070 and 9A.52.080, enter at reasonable times  
5 as determined by the director and inspect any property or premises and  
6 any records required under this chapter. If the director is denied  
7 access to any property, premises, or records, the director may  
8 (~~suspend, cancel, or refuse certification or other approval of the~~  
9 ~~planting stock or may~~) apply to a court of competent jurisdiction for  
10 a search warrant authorizing access to the property, premises, or  
11 records. The court may upon the application issue a search warrant for  
12 the purpose requested.

13       **Sec. 8.** RCW 15.37.120 and 2010 c 8 s 6056 are each amended to read  
14 as follows:

15       The director or his or her duly authorized representative may,  
16 subject to RCW 9A.52.070 and 9A.52.080, enter, during reasonable  
17 business hours, any premises where milk, cream, or skim milk subject to  
18 the provisions of this chapter is produced, handled, distributed, sold,  
19 offered for sale, held for sale, or used for the inducement of the sale  
20 of another product to determine if such milk, cream, or skim milk has  
21 been properly decharacterized as provided in RCW 15.37.100 or rules  
22 adopted hereunder. No person shall interfere with the director or his  
23 or her duly authorized representative when he or she is performing or  
24 carrying out the duties imposed on him or her by this chapter or rules  
25 adopted hereunder.

26       **Sec. 9.** RCW 15.49.370 and 1981 c 297 s 14 are each amended to read  
27 as follows:

28       The department shall have the authority to:

29       (1) Sample, inspect, make analysis of, and test seeds distributed  
30 within this state at such time and place and to such extent as it may  
31 deem necessary to determine whether such seeds are in compliance with  
32 the provisions of this chapter. The methods of sampling and analysis  
33 shall be those adopted by the department from officially recognized  
34 sources. The department, in determining for administrative purposes  
35 whether seeds are in violation of this chapter, shall be guided by  
36 records, and by the official sample obtained and analyzed as provided

1 for in this section. Analysis of an official sample, by the  
2 department, shall be accepted as prima facie evidence by any court of  
3 competent jurisdiction.

4 (2) Enter, subject to RCW 9A.52.070 and 9A.52.080, any dealer's or  
5 seed labeling registrant's premises at all reasonable times in order to  
6 have access to seeds and to records. This includes the determination  
7 of the weight of packages and bulk shipments.

8 (3) Adopt and enforce regulations for certifying seeds, and shall  
9 fix and collect fees for such service. The director of the department  
10 may appoint persons as agents for the purpose of assisting in the  
11 certification of seeds.

12 (4) Adopt and enforce regulations for inspecting, grading, and  
13 certifying growing crops of seeds; inspect, grade, and issue  
14 certificates upon request; and fix and collect fees for such services.

15 (5) Make purity, germination and other tests of seed on request,  
16 and fix and collect charges for the tests made.

17 (6) Establish and maintain seed testing facilities, employ  
18 qualified persons, establish by rule special assessments as needed, and  
19 incur such expenses as may be necessary to carry out the provisions of  
20 this chapter.

21 (7) Adopt a list of the prohibited and restricted noxious weed  
22 seeds.

23 (8) Publish reports of official seed inspections, seed  
24 certifications, laboratory statistics, verified violations of this  
25 chapter, and other seed branch activities which do not reveal  
26 confidential information regarding individual company operations or  
27 production.

28 (9) Deny, suspend, or revoke licenses, permits and certificates  
29 provided for in this chapter subsequent to a hearing, subject to the  
30 provisions of chapter 34.05 RCW (Administrative Procedure Act) as  
31 enacted or hereafter amended, in any case in which the department finds  
32 that there has been a failure or refusal to comply with the provisions  
33 of this chapter or regulations adopted hereunder.

34 **Sec. 10.** RCW 15.54.370 and 1993 c 183 s 8 are each amended to read  
35 as follows:

36 (1) It shall be the duty of the department to inspect, sample, make  
37 analysis of, and test commercial fertilizers distributed within this

1 state at such time and place and to such an extent as it may deem  
2 necessary to determine whether such fertilizers are in compliance with  
3 the provisions of this chapter. The department is authorized to stop  
4 any commercial vehicle transporting fertilizers on the public highways  
5 and direct it to the nearest scales approved by the department to check  
6 weights of fertilizers being delivered. The department (~~is also~~  
7 ~~authorized,~~) may, upon presentation of proper identification, and  
8 subject to RCW 9A.52.070 and 9A.52.080, ((to)) enter any distributor's  
9 premises, including any vehicle of transport, at all reasonable times  
10 in order to have access to commercial fertilizers and to records  
11 relating to their distribution.

12 (2) The methods of sampling and analysis shall be those adopted by  
13 the department from officially recognized sources.

14 (3) The department, in determining for administrative purposes  
15 whether a fertilizer is deficient in any component or total nutrients,  
16 shall be guided solely by the official sample as defined in RCW  
17 15.54.270 and obtained and analyzed as provided for in this section.

18 (4) When the inspection and analysis of an official sample has been  
19 made, the results of analysis shall be forwarded by the department to  
20 the registrant or licensee and to the purchaser, if known. Upon  
21 request and within thirty days, the department shall furnish to the  
22 registrant or licensee a portion of the sample concerned.

23 (5) Analysis of an official sample by the department shall be  
24 accepted as prima facie evidence by any court of competent  
25 jurisdiction.

26 **Sec. 11.** RCW 15.58.280 and 2010 c 8 s 6067 are each amended to  
27 read as follows:

28 The sampling and examination of pesticides or devices shall be made  
29 under the direction of the director for the purpose of determining  
30 whether or not they comply with the requirements of this chapter. The  
31 director (~~is authorized~~) may, upon presentation of proper  
32 identification, ((to)) and subject to RCW 9A.52.070 and 9A.52.080,  
33 enter any distributor's premises, including any vehicle of transport,  
34 at all reasonable times in order to have access to pesticides or  
35 devices. If it appears from such examination that a pesticide or  
36 device fails to comply with the provisions of this chapter or rules  
37 adopted under this chapter, and the director contemplates instituting



1 criminal proceedings against any person, the director shall cause  
2 notice to be given to such person. Any person so notified shall be  
3 given an opportunity to present his or her views, either orally or in  
4 writing, with regard to the contemplated proceedings. If thereafter in  
5 the opinion of the director it appears that the provisions of this  
6 chapter or rules adopted under this chapter have been violated by such  
7 person, the director shall refer a copy of the results of the analysis  
8 or the examination of such pesticide or device to the prosecuting  
9 attorney for the county in which the violation occurred.

10 **Sec. 12.** RCW 15.115.300 and 2009 c 33 s 31 are each amended to  
11 read as follows:

12 (1) To prove eligibility to vote or hold a position on the  
13 commission, each producer must show records of sales of commercial  
14 quantities of wheat or barley sold within the past three years if  
15 requested by the commission.

16 (2) Each handler shall keep a complete and accurate record of all  
17 wheat and barley handled.

18 (3) Handlers' records must be in the form and contain the  
19 information as the commission may by rule prescribe, must be preserved  
20 for a period of three years, and are subject to inspection at any time  
21 upon demand of the commission or its agents.

22 (4) The commission through its agents may, subject to RCW 9A.52.070  
23 and 9A.52.080, enter and inspect the premises and records of any  
24 handler of wheat or barley for the purpose of enforcing this chapter.  
25 The commission has the authority to issue subpoenas for the production  
26 of books, records, documents, and other writings of any kind from any  
27 handler and from any person having, either directly or indirectly,  
28 actual or legal control of or over the premises, books, records,  
29 documents, or other writings, for the purpose of enforcing this chapter  
30 or rules adopted under this chapter.

31 (5) All information furnished to or acquired by the commission or  
32 by an agent of the commission under this section must be kept  
33 confidential by all officers, employees, and agents of the commission,  
34 except as may be necessary in a suit or other legal proceeding brought  
35 by, on behalf of, or against the commission or its employees or agents  
36 involving the enforcement of this chapter or rules adopted under this  
37 chapter.

1 (6) This section does not prohibit:

2 (a) The issuance of general statements based upon the reports of a  
3 number of persons subject to this chapter, which statements do not  
4 identify the information furnished by any person; or

5 (b) The publication by the commission or the director of the name  
6 of any person violating this chapter or rules adopted under this  
7 chapter, together with a statement of the particular provisions and the  
8 manner of the violation.

9 **Sec. 13.** RCW 16.52.085 and 2011 c 172 s 3 are each amended to read  
10 as follows:

11 (1) If a law enforcement officer or animal control officer has  
12 probable cause to believe that an owner of a domestic animal has  
13 violated this chapter or a person owns, cares for, or resides with an  
14 animal in violation of an order issued under RCW 16.52.200(4) and no  
15 responsible person can be found to assume the animal's care, the  
16 officer may authorize, with a warrant, the removal of the animal to a  
17 suitable place for feeding and care, or may place the animal under the  
18 custody of an animal care and control agency. In determining what is  
19 a suitable place, the officer shall consider the animal's needs,  
20 including its size and behavioral characteristics. An officer may  
21 remove an animal under this subsection without a warrant only if the  
22 animal is in an immediate life-threatening condition and the removal  
23 does not violate RCW 9A.52.070 or 9A 52.080.

24 (2) If a law enforcement officer or an animal control officer has  
25 probable cause to believe a violation of this chapter has occurred, the  
26 officer may authorize an examination of a domestic animal allegedly  
27 neglected or abused in violation of this chapter by a veterinarian to  
28 determine whether the level of neglect or abuse in violation of this  
29 chapter is sufficient to require removal of the animal. This section  
30 does not condone illegal entry onto private property.

31 (3) Any owner whose domestic animal is removed pursuant to this  
32 chapter shall be given written notice of the circumstances of the  
33 removal and notice of legal remedies available to the owner. The  
34 notice shall be given by posting at the place of seizure, by delivery  
35 to a person residing at the place of seizure, or by registered mail if  
36 the owner is known. In making the decision to remove an animal

1 pursuant to this chapter, the officer shall make a good faith effort to  
2 contact the animal's owner before removal.

3 (4) The agency having custody of the animal may euthanize the  
4 animal or may find a responsible person to adopt the animal not less  
5 than fifteen business days after the animal is taken into custody. A  
6 custodial agency may euthanize severely injured, diseased, or suffering  
7 animals at any time. An owner may prevent the animal's destruction or  
8 adoption by: (a) Petitioning the district court of the county where  
9 the animal was seized for the animal's immediate return subject to  
10 court-imposed conditions, or (b) posting a bond or security in an  
11 amount sufficient to provide for the animal's care for a minimum of  
12 thirty days from the seizure date. If the custodial agency still has  
13 custody of the animal when the bond or security expires, the animal  
14 shall become the agency's property unless the court orders an  
15 alternative disposition. If a court order prevents the agency from  
16 assuming ownership and the agency continues to care for the animal, the  
17 court shall order the owner to renew a bond or security for the  
18 agency's continuing costs for the animal's care. When a court has  
19 prohibited the owner from owning, caring for, or residing with a  
20 similar animal under RCW 16.52.200(4), the agency having custody of the  
21 animal may assume ownership upon seizure and the owner may not prevent  
22 the animal's destruction or adoption by petitioning the court or  
23 posting a bond.

24 (5) If no criminal case is filed within fourteen business days of  
25 the animal's removal, the owner may petition the district court of the  
26 county where the animal was removed for the animal's return. The  
27 petition shall be filed with the court, with copies served to the law  
28 enforcement or animal care and control agency responsible for removing  
29 the animal and to the prosecuting attorney. If the court grants the  
30 petition, the agency which seized the animal must deliver the animal to  
31 the owner at no cost to the owner. If a criminal action is filed after  
32 the petition is filed but before the animal is returned, the petition  
33 shall be joined with the criminal matter.

34 (6) In a motion or petition for the animal's return before a trial,  
35 the burden is on the owner to prove by a preponderance of the evidence  
36 that the animal will not suffer future neglect or abuse and is not in  
37 need of being restored to health.

1 (7) Any authorized person treating or attempting to restore an  
2 animal to health under this chapter shall not be civilly or criminally  
3 liable for such action.

4 **Sec. 14.** RCW 16.57.170 and 2003 c 326 s 20 are each amended to  
5 read as follows:

6 The director may, subject to RCW 9A.52.070 and 9A.52.080, enter at  
7 any reasonable time any slaughterhouse or public livestock market to  
8 inspect livestock or hides, and may enter at any reasonable time an  
9 establishment where hides are held to inspect them for brands or other  
10 means of identification. The director may, subject to RCW 9A.52.070  
11 and 9A.52.080, enter any of these premises at any reasonable time to  
12 examine all books and records required by law in matters relating to  
13 livestock identification. For purposes of this section, "any  
14 reasonable time" means during regular business hours or during any  
15 working shift.

16 **Sec. 15.** RCW 17.04.280 and 2011 c 336 s 452 are each amended to  
17 read as follows:

18 All weed district directors, all weed inspectors, and all official  
19 agents of all weed districts, in the performance of their official  
20 duties, (~~have the right to~~) may, subject to RCW 9A.52.070 and  
21 9A.52.080, enter and go upon any of the lands within their weed  
22 district at any reasonable time for any reason necessary to effectuate  
23 the purposes of the weed district. (~~Any person who prevents or~~  
24 ~~threatens to prevent any lawful agent of the weed district, after said~~  
25 ~~agent identifies himself or herself and the purpose for which he or she~~  
26 ~~is going upon the land, from entering or going upon the land within~~  
27 ~~said weed district at a reasonable time and for a lawful purpose of the~~  
28 ~~weed district, is guilty of a misdemeanor.))~~

29 **Sec. 16.** RCW 17.10.160 and 1997 c 353 s 20 are each amended to  
30 read as follows:

31 Any authorized agent or employee of the county noxious weed control  
32 board or of the state noxious weed control board or of the department  
33 of agriculture where not otherwise proscribed by law may, subject to  
34 RCW 9A.52.070 and 9A.52.080, enter upon any property for the purpose of  
35 administering this chapter and any power exercisable pursuant thereto,

1 including the taking of specimens of weeds, general inspection, and the  
2 performance of eradication or control work. Prior to carrying out the  
3 purpose for which the entry is made, the official making such entry or  
4 someone in his or her behalf, shall make a reasonable attempt to notify  
5 the owner of the property as to the purpose and need for the entry.

6 (1) When there is probable cause to believe that there is property  
7 within this state not otherwise exempt from process or execution upon  
8 which noxious weeds are standing or growing and the owner refuses  
9 permission to inspect the property, a judge of the superior court or  
10 district court in the county in which the property is located may, upon  
11 the request of the county noxious weed control board or its agent,  
12 issue a warrant directed to the board or agent authorizing the taking  
13 of specimens of weeds or other materials, general inspection, and the  
14 performance of eradication or control work.

15 (2) Application for issuance and execution and return of the  
16 warrant authorized by this section shall be in accordance with the  
17 applicable rules of the superior court or the district courts.

18 (3) Nothing in this section requires the application for and  
19 issuance of any warrant not otherwise required by law: PROVIDED, That  
20 civil liability for negligence shall lie in any case in which entry and  
21 any of the activities connected therewith are not undertaken with  
22 reasonable care.

23 (4) Any person who improperly prevents or threatens to prevent  
24 entry upon land as authorized in this section or any person who  
25 interferes with the carrying out of this chapter shall be upon  
26 conviction guilty of a misdemeanor.

27 **Sec. 17.** RCW 17.21.320 and 1989 c 380 s 62 are each amended to  
28 read as follows:

29 (1) For purpose of carrying out the provisions of this chapter the  
30 director may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any  
31 public or private premises at reasonable times, in order:

32 (a) To have access for the purpose of inspecting any equipment  
33 subject to this chapter and such premises on which such equipment is  
34 kept or stored;

35 (b) To inspect lands actually or reported to be exposed to  
36 pesticides;

37 (c) To inspect storage or disposal areas;

1 (d) To inspect or investigate complaints of injury to humans or  
2 land; or

3 (e) To sample pesticides being applied or to be applied.

4 (2) Should the director be denied access to any land where such  
5 access was sought for the purposes set forth in this chapter, the  
6 director may apply to any court of competent jurisdiction for a search  
7 warrant authorizing access to such land for said purposes. The court  
8 may upon such application, issue the search warrant for the purposes  
9 requested.

10 (3) It shall be the duty of each prosecuting attorney to whom any  
11 violation of this chapter is reported, to cause appropriate proceedings  
12 to be instituted and prosecuted in a court of competent jurisdiction  
13 without delay.

14 (4) The director may bring an action to enjoin the violation or  
15 threatened violation of any provision of this chapter or any rule made  
16 pursuant to this chapter in the superior court of the county in which  
17 such violation occurs or is about to occur.

18 **Sec. 18.** RCW 17.24.021 and 1991 c 257 s 6 are each amended to read  
19 as follows:

20 (1) The director may intercept and hold or order held for  
21 inspection, or cause to be inspected while in transit or after arrival  
22 at their destination, all plants, plant products, bees, or other  
23 articles likely to carry plant pests, bee pests, or noxious weeds being  
24 moved into this state from another state, territory, or a foreign  
25 country or within or through this state for plant and bee pests and  
26 disease.

27 (2) The director may, subject to RCW 9A.52.070 and 9A.52.080, enter  
28 upon public and private premises at reasonable times for the purpose of  
29 carrying out this chapter. If the director be denied access, the  
30 director may apply to any court of competent jurisdiction for a search  
31 warrant authorizing access to such premises. The court may upon such  
32 application issue the search warrant for the purposes requested.

33 (3) The director may adopt rules in accordance with chapter 34.05  
34 RCW as may be necessary to carry out the purposes and provisions of  
35 this chapter.

1       **Sec. 19.** RCW 18.39.170 and 2005 c 365 s 12 are each amended to  
2 read as follows:

3       There shall be appointed by the director an agent whose title shall  
4 be "inspector of funeral establishments, crematories, funeral  
5 directors, and embalmers of the state of Washington." No person shall  
6 be eligible for such appointment unless he or she has been a licensed  
7 funeral director and embalmer in the state of Washington, with a  
8 minimum experience of not less than five consecutive years.

9       (1) The inspector shall:

10       (a) Serve at the pleasure of the director; and

11       (b) At all times be under the supervision of the director.

12       (2) The inspector (~~(is authorized to)~~) may:

13       (a) Subject to RCW 9A.52.070 and 9A.52.080, enter the office,  
14 premises, establishment, or place of business, where funeral directing,  
15 embalming, or cremation is carried on for the purpose of inspecting the  
16 premises;

17       (b) Inspect the licenses and registrations of funeral directors,  
18 embalmers, funeral director interns, and embalmer interns;

19       (c) Serve and execute any papers or process issued by the director  
20 under authority of this chapter; and

21       (d) Perform any other duty or duties prescribed or ordered by the  
22 director.

23       **Sec. 20.** RCW 19.28.101 and 2008 c 181 s 201 are each amended to  
24 read as follows:

25       (1) The director shall cause an inspector to, subject to RCW  
26 9A.52.070 and 9A.52.080, inspect all wiring, appliances, devices, and  
27 equipment to which this chapter applies except for basic electrical  
28 work as defined in this chapter. The department may not require an  
29 electrical work permit for class A basic electrical work unless  
30 deficiencies in the installation or repair require inspection. The  
31 department may inspect class B basic electrical work on a random basis  
32 as specified by the department in rule. Nothing contained in this  
33 chapter may be construed as providing any authority for any subdivision  
34 of government to adopt by ordinance any provisions contained or  
35 provided for in this chapter except those pertaining to cities and  
36 towns pursuant to RCW 19.28.010(3).

1           (2) Upon request, electrical inspections will be made by the  
2 department within forty-eight hours, excluding holidays, Saturdays, and  
3 Sundays. If, upon written request, the electrical inspector fails to  
4 make an electrical inspection within twenty-four hours, the serving  
5 utility may immediately connect electrical power to the installation if  
6 the necessary electrical work permit is displayed: PROVIDED, That if  
7 the request is for an electrical inspection that relates to a mobile  
8 home installation, the applicant shall provide proof of a current  
9 building permit issued by the local government agency authorized to  
10 issue such permits as a prerequisite for inspection approval or  
11 connection of electrical power to the mobile home.

12           (3) Whenever the installation of any wiring, device, appliance, or  
13 equipment is not in accordance with this chapter, or is in such a  
14 condition as to be dangerous to life or property, the person, firm,  
15 partnership, corporation, or other entity owning, using, or operating  
16 it shall be notified by the department and shall within fifteen days,  
17 or such further reasonable time as may upon request be granted, make  
18 such repairs and changes as are required to remove the danger to life  
19 or property and to make it conform to this chapter. The director,  
20 through the inspector, is hereby empowered to disconnect or order the  
21 discontinuance of electrical service to conductors or equipment that  
22 are found to be in a dangerous or unsafe condition and not in  
23 accordance with this chapter. Upon making a disconnection the  
24 inspector shall attach a notice stating that the conductors have been  
25 found dangerous to life or property and are not in accordance with this  
26 chapter. It is unlawful for any person to reconnect such defective  
27 conductors or equipment without the approval of the department, and  
28 until the conductors and equipment have been placed in a safe and  
29 secure condition, and in a condition that complies with this chapter.

30           (4) The director, through the electrical inspector, (~~has the~~  
31 ~~right~~) during reasonable hours (~~to~~), and subject to RCW 9A.52.070  
32 and 9A.52.080, may enter into and upon any building or premises in the  
33 discharge of his or her official duties for the purpose of making any  
34 inspection or test of the installation of new construction or altered  
35 electrical wiring, electrical devices, equipment, or material contained  
36 in or on the buildings or premises. No electrical wiring or equipment  
37 subject to this chapter may be concealed until it has been approved by  
38 the inspector making the inspection. At the time of the inspection,



1 electrical wiring or equipment subject to this chapter must be  
2 sufficiently accessible to permit the inspector to employ any testing  
3 methods that will verify conformance with the national electrical code  
4 and any other requirements of this chapter.

5 (5) Persons, firms, partnerships, corporations, or other entities  
6 making electrical installations shall obtain inspection and approval  
7 from an authorized representative of the department as required by this  
8 chapter before requesting the electric utility to connect to the  
9 installations. Electric utilities may connect to the installations if  
10 approval is clearly indicated by certification of the electrical work  
11 permit required to be affixed to each installation or by equivalent  
12 means, except that increased or relocated services may be reconnected  
13 immediately at the discretion of the utility before approval if an  
14 electrical work permit is displayed. The permits shall be furnished  
15 upon payment of the fee to the department.

16 (6) The director, subject to the recommendations and approval of  
17 the board, shall set by rule a schedule of license and electrical work  
18 permit fees that will cover the costs of administration and enforcement  
19 of this chapter. The rules shall be adopted in accordance with the  
20 administrative procedure act, chapter 34.05 RCW. No fee may be charged  
21 for plug-in mobile homes, recreational vehicles, or portable  
22 appliances.

23 (7) Nothing in this chapter shall authorize the inspection of any  
24 wiring, appliance, device, or equipment, or installations thereof, by  
25 any utility or by any person, firm, partnership, corporation, or other  
26 entity employed by a utility in connection with the installation,  
27 repair, or maintenance of lines, wires, apparatus, or equipment owned  
28 by or under the control of the utility. All work covered by the  
29 national electric code not exempted by the 1981 edition of the national  
30 electric code 90-2(B)(5) shall be inspected by the department.

31 (8) During a state of emergency declared under RCW 43.06.010(12),  
32 the governor may waive or suspend the collection of fees under this  
33 section or any portion of this section or under any administrative  
34 rule, and issue any orders to facilitate the operation of state or  
35 local government or to promote and secure the safety and protection of  
36 the civilian population.

1           **Sec. 21.** RCW 19.28.470 and 2000 c 238 s 211 are each amended to  
2 read as follows:

3           (1) The director shall require permits and require an inspector to  
4 inspect all installations of telecommunications systems on the customer  
5 side of the network demarcation point for projects greater than ten  
6 outlets. However:

7           (a) All projects penetrating fire barriers, passing through  
8 hazardous locations and all backbone installations regardless of size  
9 shall be inspected;

10           (b) All installations in single-family residences, duplex  
11 residences, and horizontal cabling systems within apartment residential  
12 units, including cooperatives and condominiums, do not require permits  
13 or inspections;

14           (c) No permits or inspections may be required for installation or  
15 replacement of cord and plug connected telecommunications equipment or  
16 for patch cord and jumper cross-connected equipment;

17           (d) The chief electrical inspector may allow a building owner or  
18 licensed electrical/telecommunications contractor to apply for annual  
19 permitting and regularly scheduled inspection of telecommunications  
20 installations made by licensed electrical/telecommunications  
21 contractors or the building owner for large commercial and industrial  
22 installations where:

23           (i) The building owner or licensed electrical/telecommunications  
24 contractor has a full-time telecommunications maintenance staff or a  
25 yearly maintenance contract with a licensed  
26 electrical/telecommunications contractor;

27           (ii) The permit is purchased before beginning any  
28 telecommunications work; and

29           (iii) The building owner or licensed electrical/telecommunications  
30 contractor assumes responsibility for correcting all installation  
31 deficiencies.

32           (2) Upon request, the department shall make the required inspection  
33 within forty-eight hours. The forty-eight hour period excludes  
34 holidays, Saturdays, and Sundays.

35           (3) A written report of the inspection, which plainly and clearly  
36 states any corrections or changes required, shall be made by the  
37 inspector. A copy of the report shall be furnished to the person or

1 entity doing the installation work, and a copy shall be filed by the  
2 department.

3 (4) Whenever the installation of any telecommunications cabling and  
4 associated hardware is not in accordance with this chapter, or is in  
5 such a condition as to be dangerous to life or property, the person,  
6 firm, partnership, corporation, or other entity owning, using, or  
7 operating it shall be notified by the department and shall within  
8 fifteen working days, or such further reasonable time as may upon  
9 request be granted, make such repairs and changes as are required to  
10 remove the danger to life or property and to make it conform to this  
11 chapter. The director, through the inspector, is empowered to  
12 disconnect or order the discontinuance of the telecommunications  
13 cabling or electrical service to conductors or equipment that are found  
14 to be in a dangerous or unsafe condition and not in accordance with  
15 this chapter. Upon making a disconnection, the inspector shall attach  
16 a notice stating that the conductors have been found dangerous to life  
17 or property and are not in accordance with this chapter. It is  
18 unlawful for any person to reconnect such defective conductors or  
19 equipment without the approval of the department, and until the  
20 conductors and equipment have been placed in a safe and secure  
21 condition that complies with this chapter.

22 (5) The director, through the electrical inspector, (~~has the~~  
23 ~~right~~) and subject to RCW 9A.52.070 and 9A.52.080, may during  
24 reasonable hours (~~to~~) enter into and upon any building or premises in  
25 the discharge of his or her official duties related to permitting  
26 activities for the purpose of making any inspection or test of the  
27 installation of new or altered telecommunications systems contained in  
28 or on the buildings or premises. No telecommunications cabling subject  
29 to this chapter may be concealed until it has been approved by the  
30 inspector making the inspection. At the time of the inspection, wiring  
31 or equipment subject to this chapter must be sufficiently accessible to  
32 permit the inspector to verify installation conformance with the  
33 adopted codes and any other requirements of this chapter.

34 **Sec. 22.** RCW 19.94.260 and 1992 c 237 s 18 are each amended to  
35 read as follows:

36 (1) With respect to the enforcement of this chapter and any other  
37 acts dealing with weights and measures that he or she is, or may be

1 empowered to enforce, the director or a city sealer may reject or seize  
2 for use as evidence incorrect weighing or measuring instruments or  
3 devices or packages of commodities to be used, retained, offered,  
4 exposed for sale, or sold in violation of the law.

5 (2) In the performance of his or her official duties conferred  
6 under this chapter, the director or a city sealer (~~(is authorized)~~) at  
7 reasonable times during the normal business hours of the person using  
8 a weighing or measuring instrument or device (~~(to)~~) may, subject to RCW  
9 9A.52.070 and 9A.52.080, enter into or upon any structure or premises  
10 where such weighing or measuring instrument or device is used or kept  
11 for commercial purposes. If the director or a city sealer is denied  
12 access to any premises or establishment where such access was sought  
13 for the purposes set forth in this chapter, the director or a city  
14 sealer may apply to any court of competent jurisdiction for a search  
15 warrant authorizing access to such premises or establishment for such  
16 purposes. The court may, upon such application, issue the search  
17 warrant for the purposes requested.

18 **Sec. 23.** RCW 22.16.020 and 1919 c 98 s 2 are each amended to read  
19 as follows:

20 Every corporation incorporated or that may hereafter be  
21 incorporated under the laws of this state or of any other state or  
22 territory, and qualified to transact business in this state for the  
23 purpose of acquiring, owning or operating public warehouses or  
24 elevators for storing and handling grain, produce and other  
25 agricultural commodities which may desire to erect and operate any such  
26 public warehouse or elevator, or to erect and operate tramways or cable  
27 tramways for the purpose of carrying, conveying or transporting such  
28 grain, produce or commodities to or from such warehouse or elevator or  
29 to acquire rights-of-way for roadways to and from such warehouse or  
30 elevator or to acquire boat landing or wharving facilities in  
31 connection with such warehouse or elevator (~~(shall have the right to)~~)  
32 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any lands  
33 proposed to be used for any such purpose for the purpose of examining,  
34 locating and surveying the lines and boundaries thereof, doing no  
35 unnecessary damage thereby.

1           **Sec. 24.** RCW 35.43.045 and 1965 c 7 s 35.43.045 are each amended  
2 to read as follows:

3           Every city or town (~~(shall have the right of entry)~~) may, subject  
4 to RCW 9A.52.070 and 9A.52.080, enter upon all irrigation, drainage, or  
5 flood control canal or ditch rights-of-way within its limits for all  
6 purposes necessary to safeguard the public from the hazards of such  
7 open canals or ditches, and the right to cause to be constructed,  
8 installed, and maintained upon or adjacent to such rights-of-way  
9 safeguards as provided in RCW 35.43.040:     PROVIDED, That such  
10 safeguards must not unreasonably interfere with maintenance of the  
11 canal or ditch or with the operation thereof. The city or town, at its  
12 option, notwithstanding any laws to the contrary, may require the  
13 irrigation, drainage, flood control, or other district, agency, person,  
14 corporation, or association maintaining the canal or ditch to supervise  
15 the installation and construction of such safeguards, or to maintain  
16 the same. If such option is exercised reimbursement must be made by  
17 the city or town for all actual costs thereof.

18           **Sec. 25.** RCW 35.67.310 and 1965 c 7 s 35.67.310 are each amended  
19 to read as follows:

20           Every city or town may permit connections with any of its sewers,  
21 either directly or indirectly, from property beyond its limits, upon  
22 such terms, conditions and payments as may be prescribed by ordinance,  
23 which may be required by the city or town to be evidenced by a written  
24 agreement between the city or town and the owner of the property to be  
25 served by the connecting sewer.

26           If any such agreement is made and filed with the county auditor of  
27 the county in which said property is located, it shall constitute a  
28 covenant running with the land and the agreements and covenants therein  
29 shall be binding on the owner and all persons subsequently acquiring  
30 any right, title or interest in or to said property.

31           If the terms and conditions of the ordinance or of the agreement  
32 are not kept and performed, or the payments made, as required, the city  
33 or town may disconnect the sewer and for that purpose may at any time  
34 enter upon any public street or road or upon said property. Any such  
35 entry is subject to RCW 9A.52.070 and 9A.52.080.

1           **Sec. 26.** RCW 35.80.030 and 2005 c 364 s 3 are each amended to read  
2 as follows:

3           (1) Whenever the local governing body of a municipality finds that  
4 one or more conditions of the character described in RCW 35.80.010  
5 exist within its territorial limits, that governing body may adopt  
6 ordinances relating to such dwellings, buildings, structures, or  
7 premises. Such ordinances may provide for the following:

8           (a) That an "improvement board" or officer be designated or  
9 appointed to exercise the powers assigned to such board or officer by  
10 the ordinance as specified in this section. The board or officer may  
11 be an existing municipal board or officer in the municipality, or may  
12 be a separate board or officer appointed solely for the purpose of  
13 exercising the powers assigned by the ordinance.

14           If a board is created, the ordinance shall specify the terms,  
15 method of appointment, and type of membership of the board, which may  
16 be limited, if the local governing body chooses, to public officers  
17 under this section.

18           (b) That if a board is created, a public officer, other than a  
19 member of the improvement board, may be designated to work with the  
20 board and carry out the duties and exercise the powers assigned to the  
21 public officer by the ordinance.

22           (c) That if, after a preliminary investigation of any dwelling,  
23 building, structure, or premises, the board or officer finds that it is  
24 unfit for human habitation or other use, he or she shall cause to be  
25 served either personally or by certified mail, with return receipt  
26 requested, upon all persons having any interest therein, as shown upon  
27 the records of the auditor's office of the county in which such  
28 property is located, and shall post in a conspicuous place on such  
29 property, a complaint stating in what respects such dwelling, building,  
30 structure, or premises is unfit for human habitation or other use. If  
31 the whereabouts of any of such persons is unknown and the same cannot  
32 be ascertained by the board or officer in the exercise of reasonable  
33 diligence, and the board or officer makes an affidavit to that effect,  
34 then the serving of such complaint or order upon such persons may be  
35 made either by personal service or by mailing a copy of the complaint  
36 and order by certified mail, postage prepaid, return receipt requested,  
37 to each such person at the address of the building involved in the  
38 proceedings, and mailing a copy of the complaint and order by

1 first-class mail to any address of each such person in the records of  
2 the county assessor or the county auditor for the county where the  
3 property is located. Such complaint shall contain a notice that a  
4 hearing will be held before the board or officer, at a place therein  
5 fixed, not less than ten days nor more than thirty days after the  
6 serving of the complaint; and that all parties in interest shall be  
7 given the right to file an answer to the complaint, to appear in  
8 person, or otherwise, and to give testimony at the time and place in  
9 the complaint. The rules of evidence prevailing in courts of law or  
10 equity shall not be controlling in hearings before the board or  
11 officer. A copy of such complaint shall also be filed with the auditor  
12 of the county in which the dwelling, building, structure, or premises  
13 is located, and such filing of the complaint or order shall have the  
14 same force and effect as other lis pendens notices provided by law.

15 (d) That the board or officer may determine that a dwelling,  
16 building, structure, or premises is unfit for human habitation or other  
17 use if it finds that conditions exist in such dwelling, building,  
18 structure, or premises which are dangerous or injurious to the health  
19 or safety of the occupants of such dwelling, building, structure, or  
20 premises, the occupants of neighboring dwellings, or other residents of  
21 such municipality. Such conditions may include the following, without  
22 limitations: Defects therein increasing the hazards of fire or  
23 accident; inadequate ventilation, light, or sanitary facilities,  
24 dilapidation, disrepair, structural defects, uncleanliness,  
25 overcrowding, or inadequate drainage. The ordinance shall state  
26 reasonable and minimum standards covering such conditions, including  
27 those contained in ordinances adopted in accordance with subsection  
28 (7)(a) of this section, to guide the board or the public officer and  
29 the agents and employees of either, in determining the fitness of a  
30 dwelling for human habitation, or building, structure, or premises for  
31 other use.

32 (e) That the determination of whether a dwelling, building,  
33 structure, or premises should be repaired or demolished, shall be based  
34 on specific stated standards on (i) the degree of structural  
35 deterioration of the dwelling, building, structure, or premises, or  
36 (ii) the relationship that the estimated cost of repair bears to the  
37 value of the dwelling, building, structure, or premises, with the  
38 method of determining this value to be specified in the ordinance.

1 (f) That if, after the required hearing, the board or officer  
2 determines that the dwelling is unfit for human habitation, or building  
3 or structure or premises is unfit for other use, it shall state in  
4 writing its findings of fact in support of such determination, and  
5 shall issue and cause to be served upon the owner or party in interest  
6 thereof, as is provided in (c) of this subsection, and shall post in a  
7 conspicuous place on the property, an order that (i) requires the owner  
8 or party in interest, within the time specified in the order, to  
9 repair, alter, or improve such dwelling, building, structure, or  
10 premises to render it fit for human habitation, or for other use, or to  
11 vacate and close the dwelling, building, structure, or premises, if  
12 such course of action is deemed proper on the basis of the standards  
13 set forth as required in (e) of this subsection; or (ii) requires the  
14 owner or party in interest, within the time specified in the order, to  
15 remove or demolish such dwelling, building, structure, or premises, if  
16 this course of action is deemed proper on the basis of those standards.  
17 If no appeal is filed, a copy of such order shall be filed with the  
18 auditor of the county in which the dwelling, building, structure, or  
19 premises is located.

20 (g) That the owner or any party in interest, within thirty days  
21 from the date of service upon the owner and posting of an order issued  
22 by the board under (c) of this subsection, may file an appeal with the  
23 appeals commission.

24 The local governing body of the municipality shall designate or  
25 establish a municipal agency to serve as the appeals commission. The  
26 local governing body shall also establish rules of procedure adequate  
27 to assure a prompt and thorough review of matters submitted to the  
28 appeals commission, and such rules of procedure shall include the  
29 following, without being limited thereto: (i) All matters submitted to  
30 the appeals commission must be resolved by the commission within sixty  
31 days from the date of filing therewith and (ii) a transcript of the  
32 findings of fact of the appeals commission shall be made available to  
33 the owner or other party in interest upon demand.

34 The findings and orders of the appeals commission shall be reported  
35 in the same manner and shall bear the same legal consequences as if  
36 issued by the board, and shall be subject to review only in the manner  
37 and to the extent provided in subsection (2) of this section.



1 If the owner or party in interest, following exhaustion of his or  
2 her rights to appeal, fails to comply with the final order to repair,  
3 alter, improve, vacate, close, remove, or demolish the dwelling,  
4 building, structure, or premises, the board or officer may, subject to  
5 RCW 9A.52.070 and 9A.52.080, direct or cause such dwelling, building,  
6 structure, or premises to be repaired, altered, improved, vacated, and  
7 closed, removed, or demolished.

8 (h) That the amount of the cost of such repairs, alterations or  
9 improvements; or vacating and closing; or removal or demolition by the  
10 board or officer, shall be assessed against the real property upon  
11 which such cost was incurred unless such amount is previously paid.  
12 For purposes of this subsection, the cost of vacating and closing shall  
13 include (i) the amount of relocation assistance payments that a  
14 property owner has not repaid to a municipality or other local  
15 government entity that has advanced relocation assistance payments to  
16 tenants under RCW 59.18.085 and (ii) all penalties and interest that  
17 accrue as a result of the failure of the property owner to timely repay  
18 the amount of these relocation assistance payments under RCW 59.18.085.  
19 Upon certification to him or her by the treasurer of the municipality  
20 in cases arising out of the city or town or by the county improvement  
21 board or officer, in cases arising out of the county, of the assessment  
22 amount being due and owing, the county treasurer shall enter the amount  
23 of such assessment upon the tax rolls against the property for the  
24 current year and the same shall become a part of the general taxes for  
25 that year to be collected at the same time and with interest at such  
26 rates and in such manner as provided for in RCW 84.56.020 for  
27 delinquent taxes, and when collected to be deposited to the credit of  
28 the general fund of the municipality. If the dwelling, building,  
29 structure, or premises is removed or demolished by the board or  
30 officer, the board or officer shall, if possible, sell the materials of  
31 such dwelling, building, structure, or premises in accordance with  
32 procedures set forth in the ordinance, and shall credit the proceeds of  
33 such sale against the cost of the removal or demolition and if there be  
34 any balance remaining, it shall be paid to the parties entitled  
35 thereto, as determined by the board or officer, after deducting the  
36 costs incident thereto.

37 The assessment shall constitute a lien against the property which  
38 shall be of equal rank with state, county and municipal taxes.

1 (2) Any person affected by an order issued by the appeals  
2 commission pursuant to subsection (1)(g) of this section may, within  
3 thirty days after the posting and service of the order, petition to the  
4 superior court for an injunction restraining the public officer or  
5 members of the board from carrying out the provisions of the order. In  
6 all such proceedings the court is authorized to affirm, reverse, or  
7 modify the order and such trial shall be heard de novo.

8 (3) An ordinance adopted by the local governing body of the  
9 municipality may authorize the board or officer to exercise such powers  
10 as may be necessary or convenient to carry out and effectuate the  
11 purposes and provisions of this section. These powers shall include  
12 the following in addition to others granted in this section: (a)(i) To  
13 determine which dwellings within the municipality are unfit for human  
14 habitation; (ii) to determine which buildings, structures, or premises  
15 are unfit for other use; (b) to administer oaths and affirmations,  
16 examine witnesses, and receive evidence; and (c) to investigate the  
17 dwelling and other property conditions in the municipality or county  
18 and, subject to RCW 9A.52.070 and 9A.52.080, to enter upon premises for  
19 the purpose of making examinations when the board or officer has  
20 reasonable ground for believing they are unfit for human habitation, or  
21 for other use: PROVIDED, That such entries shall be made in such  
22 manner as to cause the least possible inconvenience to the persons in  
23 possession, and to obtain an order for this purpose after submitting  
24 evidence in support of an application which is adequate to justify such  
25 an order from a court of competent jurisdiction in the event entry is  
26 denied or resisted.

27 (4) The local governing body of any municipality adopting an  
28 ordinance pursuant to this chapter may appropriate the necessary funds  
29 to administer such ordinance.

30 (5) This section does not abrogate or impair the powers of the  
31 courts or of any department of any municipality to enforce any  
32 provisions of its charter or its ordinances or regulations, nor to  
33 prevent or punish violations thereof; and the powers conferred by this  
34 section shall be in addition and supplemental to the powers conferred  
35 by any other law.

36 (6) This section does not impair or limit in any way the power of  
37 the municipality to define and declare nuisances and to cause their  
38 removal or abatement, by summary proceedings or otherwise.

1 (7) Any municipality may by ordinance adopted by its governing body  
2 (a) prescribe minimum standards for the use and occupancy of dwellings  
3 throughout the municipality or county, (b) prescribe minimum standards  
4 for the use or occupancy of any building, structure, or premises used  
5 for any other purpose, (c) prevent the use or occupancy of any  
6 dwelling, building, structure, or premises, that is injurious to the  
7 public health, safety, morals, or welfare, and (d) prescribe punishment  
8 for the violation of any provision of such ordinance.

9 **Sec. 27.** RCW 35.80A.040 and 1989 c 271 s 242 are each amended to  
10 read as follows:

11 Every county, city, or town may, in addition to any other authority  
12 granted by this chapter: (1) Subject to RCW 9A.52.070 and 9A.52.080,  
13 enter upon any building or property found to constitute a blight on the  
14 surrounding neighborhood in order to make surveys and appraisals, and  
15 to obtain an order for this purpose from a court of competent  
16 jurisdiction in the event entry is denied or resisted; and (2) borrow  
17 money, apply for, and accept, advances, loans, grants, contributions,  
18 and any other form of financial assistance from the federal government,  
19 the state, a county, or other public body, or from any sources, public  
20 or private, for the purposes of this chapter, and enter into and carry  
21 out contracts in connection herewith.

22 **Sec. 28.** RCW 35.81.070 and 2002 c 218 s 7 are each amended to read  
23 as follows:

24 Every municipality shall have all the powers necessary or  
25 convenient to carry out and effectuate the purposes and provisions of  
26 this chapter, including the following powers in addition to others  
27 granted under this chapter:

28 (1) To undertake and carry out community renewal projects within  
29 the municipality, to make and execute contracts and other instruments  
30 necessary or convenient to the exercise of its powers under this  
31 chapter, and to disseminate blight clearance and community renewal  
32 information.

33 (2) To provide or to arrange or contract for the furnishing or  
34 repair by any person or agency, public or private, of services,  
35 privileges, works, streets, roads, public utilities or other facilities  
36 for, or in connection with, a community renewal project; to install,

1 construct, and reconstruct streets, utilities, parks, playgrounds, and  
2 other public improvements; and to agree to any conditions that it may  
3 deem reasonable and appropriate attached to federal financial  
4 assistance and imposed pursuant to federal law relating to the  
5 determination of prevailing salaries or wages or compliance with labor  
6 standards, in the undertaking or carrying out of a community renewal  
7 project, and to include in any contract let in connection with such a  
8 project, provisions to fulfill such of said conditions as it may deem  
9 reasonable and appropriate.

10 (3) To provide financial or technical assistance, using available  
11 public or private funds, to a person or public body for the purpose of  
12 creating or retaining jobs, a substantial portion of which, as  
13 determined by the municipality, shall be for persons of low income.

14 (4) To make payments, loans, or grants to, provide assistance to,  
15 and contract with existing or new owners and tenants of property in the  
16 community renewal areas as compensation for any adverse impacts, such  
17 as relocation or interruption of business, that may be caused by the  
18 implementation of a community renewal project, and/or consideration for  
19 commitments to develop, expand, or retain land uses that contribute to  
20 the success of the project or plan, including without limitation  
21 businesses that will create or retain jobs, a substantial portion of  
22 which, as determined by the municipality, shall be for persons of low  
23 income.

24 (5) To contract with a person or public body to provide financial  
25 assistance, authorized under this section, to property owners and  
26 tenants impacted by the implementation of the community renewal plan  
27 and to provide incentives to property owners and tenants to encourage  
28 them to locate in the community renewal area after adoption of the  
29 community renewal plan.

30 (6) Within the municipality and subject to RCW 9A.52.070 and  
31 9A.52.080, to enter upon any building or property in any community  
32 renewal area, in order to make surveys and appraisals, provided that  
33 such entries shall be made in such a manner as to cause the least  
34 possible inconvenience to the persons in possession, and to obtain an  
35 order for this purpose from a court of competent jurisdiction in the  
36 event entry is denied or resisted; to acquire by purchase, lease,  
37 option, gift, grant, bequest, devise, eminent domain, or otherwise, any  
38 real property and such personal property as may be necessary for the

1 administration of the provisions herein contained, together with any  
2 improvements thereon; to hold, improve, clear, or prepare for  
3 redevelopment any such property; to dispose of any real property; to  
4 insure or provide for the insurance of any real or personal property or  
5 operations of the municipality against any risks or hazards, including  
6 the power to pay premiums on any such insurance: PROVIDED, That no  
7 statutory provision with respect to the acquisition, clearance, or  
8 disposition of property by public bodies shall restrict a municipality  
9 in the exercise of such functions with respect to a community renewal  
10 project.

11 (7) To invest any community renewal project funds held in reserves  
12 or sinking funds or any such funds which are not required for immediate  
13 disbursement, in property or securities in which mutual savings banks  
14 may legally invest funds subject to their control; to redeem such bonds  
15 as have been issued pursuant to RCW 35.81.100 at the redemption price  
16 established therein or to purchase such bonds at less than redemption  
17 price, all such bonds so redeemed or purchased to be canceled.

18 (8) To borrow money and to apply for, and accept, advances, loans,  
19 grants, contributions and any other form of financial assistance from  
20 the federal government, the state, county, or other public body, or  
21 from any sources, public or private, for the purposes of this chapter,  
22 and to enter into and carry out contracts in connection therewith. A  
23 municipality may include in any application or contract for financial  
24 assistance with the federal government for a community renewal project  
25 such conditions imposed pursuant to federal laws as the municipality  
26 may deem reasonable and appropriate and which are not inconsistent with  
27 the purposes of this chapter.

28 (9) Within the municipality, to make or have made all plans  
29 necessary to the carrying out of the purposes of this chapter and to  
30 contract with any person, public or private, in making and carrying out  
31 such plans and to adopt or approve, modify, and amend such plans. Such  
32 plans may include, without limitation: (a) A comprehensive plan or  
33 parts thereof for the locality as a whole, (b) community renewal plans,  
34 (c) plans for carrying out a program of voluntary or compulsory repair  
35 and rehabilitation of buildings and improvements, (d) plans for the  
36 enforcement of state and local laws, codes, and regulations relating to  
37 the use of land and the use and occupancy of buildings and improvements  
38 and to the compulsory repair, rehabilitation, demolition, or removal of

1 buildings and improvements, (e) appraisals, title searches, surveys,  
2 studies, and other preliminary plans and work necessary to prepare for  
3 the undertaking of community renewal projects, and (f) plans to provide  
4 financial or technical assistance to a person or public body for the  
5 purpose of creating or retaining jobs, a substantial portion of which,  
6 as determined by the municipality, shall be for persons of low income.  
7 The municipality is authorized to develop, test, and report methods and  
8 techniques, and carry out demonstrations and other activities, for the  
9 prevention and the elimination of blight, for job creation or retention  
10 activities, and to apply for, accept, and utilize grants of, funds from  
11 the federal government for such purposes.

12 (10) To prepare plans for the relocation of families displaced from  
13 a community renewal area, and to coordinate public and private agencies  
14 in such relocation, including requesting such assistance for this  
15 purpose as is available from other private and governmental agencies,  
16 both for the municipality and other parties.

17 (11) To appropriate such funds and make such expenditures as may be  
18 necessary to carry out the purposes of this chapter, and in accordance  
19 with state law: (a) Levy taxes and assessments for such purposes; (b)  
20 acquire land either by negotiation or eminent domain, or both; (c)  
21 close, vacate, plan, or replan streets, roads, sidewalks, ways, or  
22 other places; (d) plan or replan, zone or rezone any part of the  
23 municipality; (e) adopt annual budgets for the operation of a community  
24 renewal agency, department, or offices vested with community renewal  
25 project powers under RCW 35.81.150; and (f) enter into agreements with  
26 such agencies or departments (which agreements may extend over any  
27 period) respecting action to be taken by such municipality pursuant to  
28 any of the powers granted by this chapter.

29 (12) Within the municipality, to organize, coordinate, and direct  
30 the administration of the provisions of this chapter as they apply to  
31 such municipality in order that the objective of remedying blighted  
32 areas and preventing the causes thereof within such municipality may be  
33 most effectively promoted and achieved, and to establish such new  
34 office or offices of the municipality or to reorganize existing offices  
35 in order to carry out such purpose most effectively.

36 (13) To contract with a person or public body to assist in carrying  
37 out the purposes of this chapter.

1 (14) To exercise all or any part or combination of powers herein  
2 granted.

3 **Sec. 29.** RCW 36.70.500 and 1963 c 4 s 36.70.500 are each amended  
4 to read as follows:

5 In the performance of their functions and duties, duly authorized  
6 members of a commission or planning staff may, subject to RCW 9A.52.070  
7 and 9A.52.080, enter upon any land and make examinations and surveys:  
8 PROVIDED, That such entries, examinations and surveys do not damage or  
9 interfere with the use of the land by those persons lawfully entitled  
10 to the possession thereof.

11 **Sec. 30.** RCW 36.88.390 and 1963 c 4 s 36.88.390 are each amended  
12 to read as follows:

13 Every county (~~shall have the right of entry~~) may, subject to RCW  
14 9A.52.070 and 9A.52.080, enter upon every irrigation, drainage, or  
15 flood control canal or ditch right-of-way within its boundaries for all  
16 purposes necessary to safeguard the public from the hazards of open  
17 canals or ditches, including the right to clean such canals or ditches  
18 to prevent their flooding adjacent lands, and the right to cause to be  
19 constructed and maintained on such rights-of-way or adjacent thereto  
20 safeguards as authorized by RCW 36.88.015: PROVIDED, That such  
21 safeguards must not unreasonably interfere with maintenance of the  
22 canal or ditch or with the operation thereof.

23 **Sec. 31.** RCW 38.32.030 and 2011 c 336 s 768 are each amended to  
24 read as follows:

25 No person belonging to the military forces of this state shall be  
26 arrested on any warrant, except for treason or felony, while going to,  
27 remaining at, or returning from any place at which he or she may be  
28 required to attend military duty. Any members of the organized militia  
29 parading, or performing any duty according to the law shall have the  
30 right-of-way in any street or highway through which they may pass and  
31 while on field duty (~~shall have the right to~~) may, subject to RCW  
32 9A.52.070 and 9A.52.080, enter upon, cross, or occupy any uninclosed  
33 lands, or any inclosed lands where no damage will be caused thereby:  
34 PROVIDED, That the carriage of the United States mail and legitimate

1 functions of the police and fire departments shall not be interfered  
2 with thereby.

3 **Sec. 32.** RCW 43.30.450 and 2003 c 334 s 204 are each amended to  
4 read as follows:

5 Any authorized assistants, employees, agents, appointees, or  
6 representatives of the department may, subject to RCW 9A.52.070 and  
7 9A.52.080, in the course of their inspection and enforcement duties as  
8 provided for in chapters 76.04, 76.06, 76.09, and 76.36 RCW, enter upon  
9 any lands, real estate, waters, or premises except the dwelling house  
10 or appurtenant buildings in this state whether public or private and  
11 remain thereon while performing such duties. Similar entry by the  
12 department may be made for the purpose of making examinations,  
13 locations, surveys, and/or appraisals of all lands under the management  
14 and jurisdiction of the department; or for making examinations,  
15 appraisals and, after five days' written notice to the landowner,  
16 making surveys for the purpose of possible acquisition of property to  
17 provide public access to public lands. In no event other than an  
18 emergency such as firefighting shall motor vehicles be used to cross a  
19 field customarily cultivated, without prior consent of the owner.  
20 (~~None of the entries herein provided for shall constitute trespass,~~  
21 ~~but~~)) Nothing contained herein shall limit or diminish any liability  
22 which would otherwise exist as a result of the acts or omissions of the  
23 department or its representatives.

24 **Sec. 33.** RCW 43.44.010 and 1995 c 369 s 25 are each amended to  
25 read as follows:

26 (1) The chief of the Washington state patrol, through the director  
27 of fire protection or his or her authorized deputy, (~~shall have~~  
28 ~~authority at all times of day and night, in the performance of duties~~  
29 ~~imposed by this chapter, to~~)) may, subject to RCW 9A.52.070 and  
30 9A.52.080, enter upon and examine any building or premises where any  
31 fire has occurred and other buildings and premises adjoining or near  
32 thereto.

33 (2) The chief of the Washington state patrol, through the director  
34 of fire protection or his or her authorized deputy, shall have  
35 authority at any reasonable hour to enter into any public building or



1 premises or any building or premises used for public purposes to  
2 inspect for fire hazards.

3 **Sec. 34.** RCW 43.44.020 and 1995 c 369 s 26 are each amended to  
4 read as follows:

5 (1) The chief of the Washington state patrol, through the director  
6 of fire protection or his or her authorized deputy, (~~shall have~~  
7 ~~authority to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon  
8 all premises and into all buildings except private dwellings for the  
9 purpose of inspection to ascertain if any fire hazard exists, and to  
10 require conformance with minimum standards for the prevention of fire  
11 and for the protection of life and property against fire and panic as  
12 to use of premises, and may adopt by reference nationally recognized  
13 standards applicable to local conditions.

14 (2) The chief of the Washington state patrol, through the director  
15 of fire protection or his or her authorized deputy, may, upon request  
16 by the chief fire official or the local governing body or of taxpayers  
17 of such area, assist in the enforcement of any such code.

18 **Sec. 35.** RCW 43.92.080 and 2006 c 340 s 8 are each amended to read  
19 as follows:

20 In order to carry out the purposes of this chapter, all persons  
21 employed by the department of natural resources to carry out the duties  
22 of this chapter (~~are authorized to~~) may, subject to RCW 9A.52.070 and  
23 9A.52.080, enter and cross all land within the state as long as no  
24 damage is done to private property.

25 **Sec. 36.** RCW 43.190.080 and 1983 c 290 s 8 are each amended to  
26 read as follows:

27 (1) The office of the state long-term care ombudsman shall develop  
28 procedures, subject to RCW 9A.52.070 and 9A.52.080, governing the right  
29 of entry of all long-term care ombudsmen to long-term care facilities  
30 and, subject to RCW 9A.52.070 and 9A.52.080, shall have access to  
31 residents with provisions made for privacy for the purpose of hearing,  
32 investigating, and resolving complaints of, and rendering advice to,  
33 individuals who are patients or residents of the facilities at any time  
34 deemed necessary and reasonable by the state ombudsman to effectively  
35 carry out the provisions of this chapter.

1 (2) Nothing in this chapter restricts, limits, or increases any  
2 existing right of any organizations or individuals not described in  
3 subsection (1) of this section to enter or provide assistance to  
4 patients or residents of long-term care facilities.

5 (3) Nothing in this chapter restricts any right or privilege of any  
6 patient or resident of a long-term care facility to receive visitors of  
7 his or her choice.

8 **Sec. 37.** RCW 47.01.170 and 1984 c 7 s 77 are each amended to read  
9 as follows:

10 The department or its duly authorized and acting assistants,  
11 agents, or appointees (~~((have the right to))~~) may, subject to RCW  
12 9A.52.070 and 9A.52.080, enter upon any land, real estate, or premises  
13 in this state, whether public or private, for purposes of making  
14 examinations, locations, surveys, and appraisals for highway purposes.  
15 (~~((The making of any such entry for those purposes does not constitute~~  
16 ~~any trespass by the department or by its duly authorized and acting~~  
17 ~~assistants, agents, or appointees.))~~)

18 **Sec. 38.** RCW 47.41.070 and 2003 c 53 s 261 are each amended to  
19 read as follows:

20 (1) If the owner of the land upon which any such junkyard is  
21 located, or the operator thereof, as the case may be, fails to comply  
22 with the notice or remove any such junk within the time provided in  
23 this chapter after being so notified, he or she is guilty of a  
24 misdemeanor. In addition to the penalties imposed by law upon  
25 conviction, an order may be entered compelling compliance with this  
26 chapter. Each day the junkyard is maintained in a manner so as not to  
27 comply with this chapter constitutes a separate offense.

28 (2) If the operator of the junkyard or the owner of the property  
29 upon which it is located, as the case may be, is not found or refuses  
30 receipt of the notice, the department, the chief of the Washington  
31 state patrol, the county sheriff, or the chief of police of any city or  
32 town shall post the property upon which it is located with a notice  
33 that the junkyard constitutes a public nuisance and that the junk  
34 thereon must be removed as provided in this chapter. If the notice is  
35 not complied with, the department, the chief of the Washington state  
36 patrol, the county sheriff, or the chief of police of any city or town

1 shall abate the nuisance and remove the junk, and for that purpose may,  
2 subject to RCW 9A.52.070 and 9A.52.080, enter upon private property  
3 without incurring liability for doing so.

4 **Sec. 39.** RCW 47.42.080 and 2010 c 8 s 10016 are each amended to  
5 read as follows:

6 (1) Any sign erected or maintained contrary to the provisions of  
7 this chapter or rules adopted hereunder that is designed to be viewed  
8 from the interstate system, the primary system, or the scenic system is  
9 a public nuisance, and the department, the chief of the Washington  
10 state patrol, the county sheriff, or the chief of police of any city or  
11 town shall notify the permittee or, if there is no permittee, the owner  
12 of the property on which the sign is located, by certified mail at his  
13 or her last known address, that it constitutes a public nuisance and  
14 must comply with the chapter or be removed.

15 (2) If the permittee or owner, as the case may be, fails to comply  
16 with the chapter or remove any such sign within fifteen days after  
17 being notified to remove the sign he or she is guilty of a misdemeanor.  
18 In addition to the penalties imposed by law upon conviction, an order  
19 may be entered compelling removal of the sign. Each day the sign is  
20 maintained constitutes a separate offense.

21 (3) If the permittee or the owner of the property upon which it is  
22 located, as the case may be, is not found or refuses receipt of the  
23 notice, the department, the chief of the Washington state patrol, the  
24 county sheriff, or the chief of police of any city or town shall post  
25 the sign and property upon which it is located with a notice that the  
26 sign constitutes a public nuisance and must be removed. If the sign is  
27 not removed within fifteen days after such posting, the department, the  
28 chief of the Washington state patrol, the county sheriff, or the chief  
29 of police of any city or town shall abate the nuisance and destroy the  
30 sign, and for that purpose may, subject to RCW 9A.52.070 and 9A.52.080,  
31 enter upon private property without incurring liability for doing so.

32 (4) Nothing in this section may be construed to affect the  
33 provisions contained in RCW 47.42.102 requiring the payment of  
34 compensation upon the removal of any signs compensable under state law.

35 (5) Any sign erected or maintained on state highway right-of-way  
36 contrary to this chapter or rules adopted under it is a public

1 nuisance, and the department is authorized to remove any such sign  
2 without notice.

3 **Sec. 40.** RCW 57.08.005 and 2009 c 253 s 1 are each amended to read  
4 as follows:

5 A district shall have the following powers:

6 (1) To acquire by purchase or condemnation, or both, all lands,  
7 property and property rights, and all water and water rights, both  
8 within and without the district, necessary for its purposes. The right  
9 of eminent domain shall be exercised in the same manner and by the same  
10 procedure as provided for cities and towns, insofar as consistent with  
11 this title, except that all assessment or reassessment rolls to be  
12 prepared and filed by eminent domain commissioners or commissioners  
13 appointed by the court shall be prepared and filed by the district, and  
14 the duties devolving upon the city treasurer are imposed upon the  
15 county treasurer;

16 (2) To lease real or personal property necessary for its purposes  
17 for a term of years for which that leased property may reasonably be  
18 needed;

19 (3) To construct, condemn and purchase, add to, maintain, and  
20 supply waterworks to furnish the district and inhabitants thereof and  
21 any other persons, both within and without the district, with an ample  
22 supply of water for all uses and purposes public and private with full  
23 authority to regulate and control the use, content, distribution, and  
24 price thereof in such a manner as is not in conflict with general law  
25 and may construct, acquire, or own buildings and other necessary  
26 district facilities. Where a customer connected to the district's  
27 system uses the water on an intermittent or transient basis, a district  
28 may charge for providing water service to such a customer, regardless  
29 of the amount of water, if any, used by the customer. District  
30 waterworks may include facilities which result in combined water supply  
31 and electric generation, if the electricity generated thereby is a  
32 by-product of the water supply system. That electricity may be used by  
33 the district or sold to any entity authorized by law to use or  
34 distribute electricity. Electricity is deemed a by-product when the  
35 electrical generation is subordinate to the primary purpose of water  
36 supply. For such purposes, a district may take, condemn and purchase,  
37 acquire, and retain water from any public or navigable lake, river or

1 watercourse, or any underflowing water, and by means of aqueducts or  
2 pipeline conduct the same throughout the district and any city or town  
3 therein and carry it along and upon public highways, roads, and  
4 streets, within and without such district. For the purpose of  
5 constructing or laying aqueducts or pipelines, dams, or waterworks or  
6 other necessary structures in storing and retaining water or for any  
7 other lawful purpose such district may, subject to RCW 9A.52.070 and  
8 9A.52.080, occupy the beds and shores up to the high water mark of any  
9 such lake, river, or other watercourse, and may acquire by purchase or  
10 condemnation such property or property rights or privileges as may be  
11 necessary to protect its water supply from pollution. For the purposes  
12 of waterworks which include facilities for the generation of  
13 electricity as a by-product, nothing in this section may be construed  
14 to authorize a district to condemn electric generating, transmission,  
15 or distribution rights or facilities of entities authorized by law to  
16 distribute electricity, or to acquire such rights or facilities without  
17 the consent of the owner;

18 (4) To purchase and take water from any municipal corporation,  
19 private person, or entity. A district contiguous to Canada may  
20 contract with a Canadian corporation for the purchase of water and for  
21 the construction, purchase, maintenance, and supply of waterworks to  
22 furnish the district and inhabitants thereof and residents of Canada  
23 with an ample supply of water under the terms approved by the board of  
24 commissioners;

25 (5) To construct, condemn and purchase, add to, maintain, and  
26 operate systems of sewers for the purpose of furnishing the district,  
27 the inhabitants thereof, and persons outside the district with an  
28 adequate system of sewers for all uses and purposes, public and  
29 private, including but not limited to on-site sewage disposal  
30 facilities, approved septic tanks or approved septic tank systems, on-  
31 site sanitary sewerage systems, inspection services and maintenance  
32 services for private and public on-site systems, point and nonpoint  
33 water pollution monitoring programs that are directly related to the  
34 sewerage facilities and programs operated by a district, other  
35 facilities, programs, and systems for the collection, interception,  
36 treatment, and disposal of wastewater, and for the control of pollution  
37 from wastewater with full authority to regulate the use and operation  
38 thereof and the service rates to be charged. Under this chapter, after

1 July 1, 1998, any requirements for pumping the septic tank of an on-  
2 site sewage system should be based, among other things, on actual  
3 measurement of accumulation of sludge and scum by a trained inspector,  
4 trained owner's agent, or trained owner. Training must occur in a  
5 program approved by the state board of health or by a local health  
6 officer. Sewage facilities may include facilities which result in  
7 combined sewage disposal or treatment and electric or methane gas  
8 generation, except that the electricity or methane gas generated  
9 thereby is a by-product of the system of sewers. Such electricity or  
10 methane gas may be used by the district or sold to any entity  
11 authorized by law to distribute electricity or methane gas.  
12 Electricity and methane gas are deemed by-products when the electrical  
13 or methane gas generation is subordinate to the primary purpose of  
14 sewage disposal or treatment. The district may also sell surplus  
15 methane gas, which may be produced as a by-product. For such purposes  
16 a district may conduct sewage throughout the district and throughout  
17 other political subdivisions within the district, and construct and lay  
18 sewer pipe along and upon public highways, roads, and streets, within  
19 and without the district, and condemn and purchase or acquire land and  
20 rights-of-way necessary for such sewer pipe. A district may erect  
21 sewage treatment plants within or without the district, and may  
22 acquire, by purchase or condemnation, properties or privileges  
23 necessary to be had to protect any lakes, rivers, or watercourses and  
24 also other areas of land from pollution from its sewers or its sewage  
25 treatment plant. For the purposes of sewage facilities which include  
26 facilities that result in combined sewage disposal or treatment and  
27 electric generation where the electric generation is a by-product,  
28 nothing in this section may be construed to authorize a district to  
29 condemn electric generating, transmission, or distribution rights or  
30 facilities of entities authorized by law to distribute electricity, or  
31 to acquire such rights or facilities without the consent of the owners;

32 (6) The authority to construct, condemn and purchase, add to,  
33 maintain, and operate systems of reclaimed water as authorized by  
34 chapter 90.46 RCW for the purpose of furnishing the district and the  
35 inhabitants thereof with reclaimed water for all authorized uses and  
36 purposes, public and private, including with full authority to regulate  
37 the use and operation thereof and the service rates to be charged. In

1 compliance with other sections of this chapter, a district may also  
2 provide reclaimed water services to persons outside the district;

3 (7)(a) To construct, condemn and purchase, add to, maintain, and  
4 operate systems of drainage for the benefit and use of the district,  
5 the inhabitants thereof, and persons outside the district with an  
6 adequate system of drainage, including but not limited to facilities  
7 and systems for the collection, interception, treatment, and disposal  
8 of storm or surface waters, and for the protection, preservation, and  
9 rehabilitation of surface and underground waters, and drainage  
10 facilities for public highways, streets, and roads, with full authority  
11 to regulate the use and operation thereof and, except as provided in  
12 (b) of this subsection, the service rates to be charged.

13 (b) The rate a district may charge under this section for storm or  
14 surface water sewer systems or the portion of the rate allocable to the  
15 storm or surface water sewer system of combined sanitary sewage and  
16 storm or surface water sewer systems shall be reduced by a minimum of  
17 ten percent for any new or remodeled commercial building that utilizes  
18 a permissive rainwater harvesting system. Rainwater harvesting systems  
19 shall be properly sized to utilize the available roof surface of the  
20 building. The jurisdiction shall consider rate reductions in excess of  
21 ten percent dependent upon the amount of rainwater harvested.

22 (c) Drainage facilities may include natural systems. Drainage  
23 facilities may include facilities which result in combined drainage  
24 facilities and electric generation, except that the electricity  
25 generated thereby is a by-product of the drainage system. Such  
26 electricity may be used by the district or sold to any entity  
27 authorized by law to distribute electricity. Electricity is deemed a  
28 by-product when the electrical generation is subordinate to the primary  
29 purpose of drainage collection, disposal, and treatment. For such  
30 purposes, a district may conduct storm or surface water throughout the  
31 district and throughout other political subdivisions within the  
32 district, construct and lay drainage pipe and culverts along and upon  
33 public highways, roads, and streets, within and without the district,  
34 and condemn and purchase or acquire land and rights-of-way necessary  
35 for such drainage systems. A district may provide or erect facilities  
36 and improvements for the treatment and disposal of storm or surface  
37 water within or without the district, and may acquire, by purchase or  
38 condemnation, properties or privileges necessary to be had to protect

1 any lakes, rivers, or watercourses and also other areas of land from  
2 pollution from storm or surface waters. For the purposes of drainage  
3 facilities which include facilities that also generate electricity as  
4 a by-product, nothing in this section may be construed to authorize a  
5 district to condemn electric generating, transmission, or distribution  
6 rights or facilities of entities authorized by law to distribute  
7 electricity, or to acquire such rights or facilities without the  
8 consent of the owners;

9 (8) To construct, condemn, acquire, and own buildings and other  
10 necessary district facilities;

11 (9) To compel all property owners within the district located  
12 within an area served by the district's system of sewers to connect  
13 their private drain and sewer systems with the district's system under  
14 such penalty as the commissioners shall prescribe by resolution. The  
15 district may for such purpose, and subject to RCW 9A.52.070 and  
16 9A.52.080, enter upon private property and connect the private drains  
17 or sewers with the district system and the cost thereof shall be  
18 charged against the property owner and shall be a lien upon property  
19 served;

20 (10) Where a district contains within its borders, abuts, or is  
21 located adjacent to any lake, stream, groundwater as defined by RCW  
22 90.44.035, or other waterway within the state of Washington, to provide  
23 for the reduction, minimization, or elimination of pollutants from  
24 those waters in accordance with the district's comprehensive plan, and  
25 to issue general obligation bonds, revenue bonds, local improvement  
26 district bonds, or utility local improvement bonds for the purpose of  
27 paying all or any part of the cost of reducing, minimizing, or  
28 eliminating the pollutants from these waters;

29 (11) Subject to subsection (7) of this section, to fix rates and  
30 charges for water, sewer, reclaimed water, and drain service supplied  
31 and to charge property owners seeking to connect to the district's  
32 systems, as a condition to granting the right to so connect, in  
33 addition to the cost of the connection, such reasonable connection  
34 charge as the board of commissioners shall determine to be proper in  
35 order that those property owners shall bear their equitable share of  
36 the cost of the system. For the purposes of calculating a connection  
37 charge, the board of commissioners shall determine the pro rata share  
38 of the cost of existing facilities and facilities planned for



1 construction within the next ten years and contained in an adopted  
2 comprehensive plan and other costs borne by the district which are  
3 directly attributable to the improvements required by property owners  
4 seeking to connect to the system. The cost of existing facilities  
5 shall not include those portions of the system which have been donated  
6 or which have been paid for by grants. The connection charge may  
7 include interest charges applied from the date of construction of the  
8 system until the connection, or for a period not to exceed ten years,  
9 whichever is shorter, at a rate commensurate with the rate of interest  
10 applicable to the district at the time of construction or major  
11 rehabilitation of the system, or at the time of installation of the  
12 lines to which the property owner is seeking to connect. In lieu of  
13 requiring the installation of permanent local facilities not planned  
14 for construction by the district, a district may permit connection to  
15 the water and/or sewer systems through temporary facilities installed  
16 at the property owner's expense, provided the property owner pays a  
17 connection charge consistent with the provisions of this chapter and  
18 agrees, in the future, to connect to permanent facilities when they are  
19 installed; or a district may permit connection to the water and/or  
20 sewer systems through temporary facilities and collect from property  
21 owners so connecting a proportionate share of the estimated cost of  
22 future local facilities needed to serve the property, as determined by  
23 the district. The amount collected, including interest at a rate  
24 commensurate with the rate of interest applicable to the district at  
25 the time of construction of the temporary facilities, shall be held for  
26 contribution to the construction of the permanent local facilities by  
27 other developers or the district. The amount collected shall be deemed  
28 full satisfaction of the proportionate share of the actual cost of  
29 construction of the permanent local facilities. If the permanent local  
30 facilities are not constructed within fifteen years of the date of  
31 payment, the amount collected, including any accrued interest, shall be  
32 returned to the property owner, according to the records of the county  
33 auditor on the date of return. If the amount collected is returned to  
34 the property owner, and permanent local facilities capable of serving  
35 the property are constructed thereafter, the property owner at the time  
36 of construction of such permanent local facilities shall pay a  
37 proportionate share of the cost of such permanent local facilities, in  
38 addition to reasonable connection charges and other charges authorized

1 by this section. A district may permit payment of the cost of  
2 connection and the reasonable connection charge to be paid with  
3 interest in installments over a period not exceeding fifteen years.  
4 The county treasurer may charge and collect a fee of three dollars for  
5 each year for the treasurer's services. Those fees shall be a charge  
6 to be included as part of each annual installment, and shall be  
7 credited to the county current expense fund by the county treasurer.  
8 Revenues from connection charges excluding permit fees are to be  
9 considered payments in aid of construction as defined by department of  
10 revenue rule. Rates or charges for on-site inspection and maintenance  
11 services may not be imposed under this chapter on the development,  
12 construction, or reconstruction of property.

13 Before adopting on-site inspection and maintenance utility  
14 services, or incorporating residences into an on-site inspection and  
15 maintenance or sewer utility under this chapter, notification must be  
16 provided, prior to the applicable public hearing, to all residences  
17 within the proposed service area that have on-site systems permitted by  
18 the local health officer. The notice must clearly state that the  
19 residence is within the proposed service area and must provide  
20 information on estimated rates or charges that may be imposed for the  
21 service.

22 A water-sewer district shall not provide on-site sewage system  
23 inspection, pumping services, or other maintenance or repair services  
24 under this section using water-sewer district employees unless the on-  
25 site system is connected by a publicly owned collection system to the  
26 water-sewer district's sewerage system, and the on-site system  
27 represents the first step in the sewage disposal process.

28 Except as otherwise provided in RCW 90.03.525, any public entity  
29 and public property, including the state of Washington and state  
30 property, shall be subject to rates and charges for sewer, water, storm  
31 water control, drainage, and street lighting facilities to the same  
32 extent private persons and private property are subject to those rates  
33 and charges that are imposed by districts. In setting those rates and  
34 charges, consideration may be made of in-kind services, such as stream  
35 improvements or donation of property;

36 (12) To contract with individuals, associations and corporations,  
37 the state of Washington, and the United States;

1 (13) To employ such persons as are needed to carry out the  
2 district's purposes and fix salaries and any bond requirements for  
3 those employees;

4 (14) To contract for the provision of engineering, legal, and other  
5 professional services as in the board of commissioner's discretion is  
6 necessary in carrying out their duties;

7 (15) To sue and be sued;

8 (16) To loan and borrow funds and to issue bonds and instruments  
9 evidencing indebtedness under chapter 57.20 RCW and other applicable  
10 laws;

11 (17) To transfer funds, real or personal property, property  
12 interests, or services subject to RCW 57.08.015;

13 (18) To levy taxes in accordance with this chapter and chapters  
14 57.04 and 57.20 RCW;

15 (19) To provide for making local improvements and to levy and  
16 collect special assessments on property benefited thereby, and for  
17 paying for the same or any portion thereof in accordance with chapter  
18 57.16 RCW;

19 (20) To establish street lighting systems under RCW 57.08.060;

20 (21) To exercise such other powers as are granted to water-sewer  
21 districts by this title or other applicable laws; and

22 (22) To exercise any of the powers granted to cities and counties  
23 with respect to the acquisition, construction, maintenance, operation  
24 of, and fixing rates and charges for waterworks and systems of sewerage  
25 and drainage.

26 **Sec. 41.** RCW 59.18.115 and 1989 c 342 s 16 are each amended to  
27 read as follows:

28 (1) The legislature finds that some tenants live in residences that  
29 are substandard and dangerous to their health and safety and that the  
30 repair and deduct remedies of RCW 59.18.100 may not be adequate to  
31 remedy substandard and dangerous conditions. Therefore, an  
32 extraordinary remedy is necessary if the conditions substantially  
33 endanger or impair the health and safety of the tenant.

34 (2)(a) If a landlord fails to fulfill any substantial obligation  
35 imposed by RCW 59.18.060 that substantially endangers or impairs the  
36 health or safety of a tenant, including (i) structural members that are  
37 of insufficient size or strength to carry imposed loads with safety,

1 (ii) exposure of the occupants to the weather, (iii) plumbing and  
2 sanitation defects that directly expose the occupants to the risk of  
3 illness or injury, (iv) lack of water, including hot water, (v) heating  
4 or ventilation systems that are not functional or are hazardous, (vi)  
5 defective, hazardous, or missing electrical wiring or electrical  
6 service, (vii) defective or inadequate exits that increase the risk of  
7 injury to occupants, and (viii) conditions that increase the risk of  
8 fire, the tenant shall give notice in writing to the landlord,  
9 specifying the conditions, acts, omissions, or violations. Such notice  
10 shall be sent to the landlord or to the person or place where rent is  
11 normally paid.

12 (b) If after receipt of the notice described in (a) of this  
13 subsection the landlord fails to remedy the condition or conditions  
14 within a reasonable amount of time under RCW 59.18.070, the tenant may  
15 request that the local government provide for an inspection of the  
16 premises with regard to the specific condition or conditions that exist  
17 as provided in (a) of this subsection. The local government shall have  
18 the appropriate government official, or may designate a public or  
19 disinterested private person or company capable of conducting the  
20 inspection and making the certification, conduct an inspection of the  
21 specific condition or conditions listed by the tenant, and shall not  
22 inspect nor be liable for any other condition or conditions of the  
23 premises. The purpose of this inspection is to verify, to the best of  
24 the inspector's ability, whether the tenant's listed condition or  
25 conditions exist and substantially endanger the tenant's health or  
26 safety under (a) of this subsection; the inspection is for the purposes  
27 of this private civil remedy, and therefore shall not be related to any  
28 other governmental function such as enforcement of any code, ordinance,  
29 or state law.

30 (c) The local government or its designee, after receiving the  
31 request from the tenant to conduct an inspection under this section,  
32 shall conduct the inspection and make any certification within a  
33 reasonable amount of time not more than five days from the date of  
34 receipt of the request. The local government or its designee may,  
35 subject to RCW 9A.52.070 and 9A.52.080, enter the premises at any  
36 reasonable time to do the inspection, provided that he or she first  
37 shall display proper credentials and request entry. The local  
38 government or its designee shall whenever practicable, taking into

1 consideration the imminence of any threat to the tenant's health or  
2 safety, give the landlord at least twenty-four hours notice of the date  
3 and time of inspection and provide the landlord with an opportunity to  
4 be present at the time of the inspection. The landlord shall have no  
5 power or authority to prohibit entry for the inspection.

6 (d) The local government or its designee shall certify whether the  
7 condition or the conditions specified by the tenant do exist and do  
8 make the premises substantially unfit for human habitation or can be a  
9 substantial risk to the health and safety of the tenant as described in  
10 (a) of this subsection. The certification shall be provided to the  
11 tenant, and a copy shall be included by the tenant with the notice sent  
12 to the landlord under subsection (3) of this section. The  
13 certification may be appealed to the local board of appeals, but the  
14 appeal shall not delay or preclude the tenant from proceeding with the  
15 escrow under this section.

16 (e) The tenant shall not be entitled to deposit rent in escrow  
17 pursuant to this section unless the tenant first makes a good faith  
18 determination that he or she is unable to repair the conditions  
19 described in the certification issued pursuant to subsection (2)(d) of  
20 this section through use of the repair remedies authorized by RCW  
21 59.18.100.

22 (f) If the local government or its designee certifies that the  
23 condition or conditions specified by the tenant exist, the tenant shall  
24 then either pay the periodic rent due to the landlord or deposit all  
25 periodic rent then called for in the rental agreement and all rent  
26 thereafter called for in the rental agreement into an escrow account  
27 maintained by a person authorized by law to set up and maintain escrow  
28 accounts, including escrow companies under chapter 18.44 RCW, financial  
29 institutions, or attorneys, or with the clerk of the court of the  
30 district or superior court where the property is located. These  
31 depositories are hereinafter referred to as "escrow." The tenant shall  
32 notify the landlord in writing of the deposit by mailing the notice  
33 postage prepaid by first-class mail or by delivering the notice to the  
34 landlord promptly but not more than twenty-four hours after the  
35 deposit.

36 (g) This section, when elected as a remedy by the tenant by sending  
37 the notice under subsection (3) of this section, shall be the exclusive  
38 remedy available to the tenant regarding defects described in the

1 certification under subsection (2)(d) of this section: PROVIDED, That  
2 the tenant may simultaneously commence or pursue an action in an  
3 appropriate court, or at arbitration if so agreed, to determine past,  
4 present, or future diminution in rental value of the premises due to  
5 any defective conditions.

6 (3) The notice to the landlord of the rent escrow under this  
7 section shall be a sworn statement by the tenant in substantially the  
8 following form:

9 NOTICE TO LANDLORD OF RENT ESCROW

10 Name of tenant:

11 Name of landlord:

12 Name and address of escrow:

13 Date of deposit of rent into escrow:

14 Amount of rent deposited into escrow:

15 The following condition has been certified by a local building  
16 official to substantially endanger, impair, or affect the  
17 health or safety of a tenant:

18 That written notice of the conditions needing repair was  
19 provided to the landlord on . . . , and . . . days have elapsed  
20 and the repairs have not been made.

21 . . . . .

22 (Sworn Signature)

23 (4) The escrow shall place all rent deposited in a separate rent  
24 escrow account in the name of the escrow in a bank or savings and loan  
25 association domiciled in this state. The escrow shall keep in a  
26 separate docket an account of each deposit, with the name and address  
27 of the tenant, and the name and address of the landlord and of the  
28 agent, if any.

29 (5)(a) A landlord who receives notice that the rent due has been  
30 deposited with an escrow pursuant to subsection (2) of this section  
31 may:

32 (i) Apply to the escrow for release of the funds after the local  
33 government certifies that the repairs to the conditions listed in the  
34 notice under subsection (3) of this section have been properly  
35 repaired. The escrow shall release the funds to the landlord less any  
36 escrow costs for which the tenant is entitled to reimbursement pursuant  
37 to this section, immediately upon written receipt of the local

1 government certification that the repairs to the conditions listed in  
2 the notice under subsection (3) of this section have been properly  
3 completed.

4 (ii) File an action with the court and apply to the court for  
5 release of the rent on the grounds that the tenant did not comply with  
6 the notice requirement of subsection (2) or (3) of this section.  
7 Proceedings under this subsection shall be governed by the time,  
8 service, and filing requirements of RCW 59.18.370 regarding show cause  
9 hearings.

10 (iii) File an action with the court and apply to the court for  
11 release of the rent on the grounds that there was no violation of any  
12 obligation imposed upon the landlord or that the condition has been  
13 remedied.

14 (iv) This action may be filed in any court having jurisdiction,  
15 including small claims court. If the tenant has vacated the premises  
16 or if the landlord has failed to commence an action with the court for  
17 release of the funds within sixty days after rent is deposited in  
18 escrow, the tenant may file an action to determine how and when any  
19 rent deposited in escrow shall be released or disbursed. The landlord  
20 shall not commence an unlawful detainer action for nonpayment of rent  
21 by serving or filing a summons and complaint if the tenant initially  
22 pays the rent called for in the rental agreement that is due into  
23 escrow as provided for under this section on or before the date rent is  
24 due or on or before the expiration of a three-day notice to pay rent or  
25 vacate and continues to pay the rent into escrow as the rent becomes  
26 due or prior to the expiration of a three-day notice to pay rent or  
27 vacate; provided that the landlord shall not be barred from commencing  
28 an unlawful detainer action for nonpayment of rent if the amount of  
29 rent that is paid into escrow is less than the amount of rent agreed  
30 upon in the rental agreement between the parties.

31 (b) The tenant shall be named as a party to any action filed by the  
32 landlord under this section, and shall have the right to file an answer  
33 and counterclaim, although any counterclaim shall be dismissed without  
34 prejudice if the court or arbitrator determines that the tenant failed  
35 to follow the notice requirements contained in this section. Any  
36 counterclaim can only claim diminished rental value related to  
37 conditions specified by the tenant in the notice required under  
38 subsection (3) of this section. This limitation on the tenant's right

1 to counterclaim shall not affect the tenant's right to bring his or her  
2 own separate action. A trial shall be held within sixty days of the  
3 date of filing of the landlord's or tenant's complaint.

4 (c) The tenant shall be entitled to reimbursement for any escrow  
5 costs or fees incurred for setting up or maintaining an escrow account  
6 pursuant to this section, unless the tenant did not comply with the  
7 notice requirements of subsection (2) or (3) of this section. Any  
8 escrow fees that are incurred for which the tenant is entitled to  
9 reimbursement shall be deducted from the rent deposited in escrow and  
10 remitted to the tenant at such time as any rent is released to the  
11 landlord. The prevailing party in any court action or arbitration  
12 brought under this section may also be awarded its costs and reasonable  
13 attorneys' fees.

14 (d) If a court determines a diminished rental value of the  
15 premises, the tenant may pay the rent due based on the diminished value  
16 of the premises into escrow until the landlord makes the necessary  
17 repairs.

18 (6)(a) If a landlord brings an action for the release of rent  
19 deposited, the court may, upon application of the landlord, release  
20 part of the rent on deposit for payment of the debt service on the  
21 premises, the insurance premiums for the premises, utility services,  
22 and repairs to the rental unit.

23 (b) In determining whether to release rent for the payments  
24 described in (a) of this subsection, the court shall consider the  
25 amount of rent the landlord receives from other rental units in the  
26 buildings of which the residential premises are a part, the cost of  
27 operating those units, and the costs which may be required to remedy  
28 the condition contained in the notice. The court shall also consider  
29 whether the expenses are due or have already been paid, whether the  
30 landlord has other financial resources, or whether the landlord or  
31 tenant will suffer irreparable damage. The court may request the  
32 landlord to provide additional security, such as a bond, prior to  
33 authorizing release of any of the funds in escrow.

34 **Sec. 42.** RCW 59.20.130 and 1999 c 359 s 11 are each amended to  
35 read as follows:

36 It shall be the duty of the landlord to:



- 1 (1) Comply with codes, statutes, ordinances, and administrative  
2 rules applicable to the mobile home park;
- 3 (2) Maintain the common premises and prevent the accumulation of  
4 stagnant water and to prevent the detrimental effects of moving water  
5 when such condition is not the fault of the tenant;
- 6 (3) Keep any shared or common premises reasonably clean, sanitary,  
7 and safe from defects to reduce the hazards of fire or accident;
- 8 (4) Keep all common premises of the mobile home park, and vacant  
9 mobile home lots, not in the possession of tenants, free of weeds or  
10 plant growth noxious and detrimental to the health of the tenants and  
11 free from potentially injurious or unsightly objects and condition;
- 12 (5) Exterminate or make a reasonable effort to exterminate rodents,  
13 vermin, or other pests dangerous to the health and safety of the tenant  
14 whenever infestation exists on the common premises or whenever  
15 infestation occurs in the interior of a mobile home, manufactured home,  
16 or park model as a result of infestation existing on the common  
17 premises;
- 18 (6) Maintain and protect all utilities provided to the mobile home,  
19 manufactured home, or park model in good working condition.  
20 Maintenance responsibility shall be determined at that point where the  
21 normal mobile home, manufactured home, or park model utilities "hook-  
22 ups" connect to those provided by the landlord or utility company;
- 23 (7) Respect the privacy of the tenants and shall have no right of  
24 entry to a mobile home, manufactured home, or park model without the  
25 prior written consent of the occupant(~~(, except in case of emergency or~~  
26 ~~when the occupant has abandoned the mobile home, manufactured home, or~~  
27 ~~park model)~~). Such consent may be revoked in writing by the occupant  
28 at any time. The ownership or management (~~(shall have a right of~~  
29 ~~entry)~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon the  
30 land upon which a mobile home, manufactured home, or park model is  
31 situated for maintenance of utilities, to insure compliance with  
32 applicable codes, statutes, ordinances, administrative rules, and the  
33 rental agreement and the rules of the park, and protection of the  
34 mobile home park at any reasonable time or in an emergency, but not in  
35 a manner or at a time which would interfere with the occupant's quiet  
36 enjoyment. The ownership or management shall make a reasonable effort  
37 to notify the tenant of their intention of entry upon the land which a

1 mobile home, manufactured home, or park model is located prior to  
2 entry;

3 (8) Allow tenants freedom of choice in the purchase of goods and  
4 services, and not unreasonably restrict access to the mobile home park  
5 for such purposes;

6 (9) Maintain roads within the mobile home park in good condition;  
7 and

8 (10) Notify each tenant within five days after a petition has been  
9 filed by the landlord for a change in the zoning of the land where the  
10 mobile home park is located and make a description of the change  
11 available to the tenant.

12 A landlord shall not have a duty to repair a defective condition  
13 under this section, nor shall any defense or remedy be available to the  
14 tenant under this chapter, if the defective condition complained of was  
15 caused by the conduct of the tenant, the tenant's family, invitee, or  
16 other person acting under the tenant's control, or if a tenant  
17 unreasonably fails to allow the landlord access to the property for  
18 purposes of repair.

19 **Sec. 43.** RCW 64.44.020 and 2006 c 339 s 202 are each amended to  
20 read as follows:

21 Whenever a law enforcement agency becomes aware that property has  
22 been contaminated by hazardous chemicals, that agency shall report the  
23 contamination to the local health officer. The local health officer  
24 shall cause a posting of a written warning on the premises within one  
25 working day of notification of the contamination and shall inspect the  
26 property within fourteen days after receiving the notice of  
27 contamination. The warning posting for any property that includes a  
28 hotel or motel holding a current license under RCW 70.62.220, shall be  
29 limited to inside the room or on the door of the contaminated room and  
30 no written warning posting shall be posted in the lobby of the  
31 facility. The warning shall inform the potential occupants that  
32 hazardous chemicals may exist on, or have been removed from, the  
33 premises and that entry is unsafe. If a property owner believes that  
34 a tenant has contaminated property that was being leased or rented, and  
35 the property is vacated or abandoned, then the property owner shall  
36 contact the local health officer about the possible contamination.

1 Local health officers or boards may charge property owners reasonable  
2 fees for inspections of suspected contaminated property requested by  
3 property owners.

4 A local health officer may, subject to RCW 9A.52.070 and 9A.52.080,  
5 enter, inspect, and survey at reasonable times any properties for which  
6 there are reasonable grounds to believe that the property has become  
7 contaminated. If the property is contaminated, the local health  
8 officer shall post a written notice declaring that the officer intends  
9 to issue an order prohibiting use of the property as long as the  
10 property is contaminated.

11 If access to the property is denied, a local health officer in  
12 consultation with law enforcement may seek a warrant for the purpose of  
13 conducting administrative inspections. A superior, district, or  
14 municipal court within the jurisdiction of the property may, based upon  
15 probable cause that the property is contaminated, issue warrants for  
16 the purpose of conducting administrative inspections.

17 Local health officers must report all cases of contaminated  
18 property to the state department of health. The department may make  
19 the list of contaminated properties available to health associations,  
20 landlord and realtor organizations, prosecutors, and other interested  
21 groups. The department shall promptly update the list of contaminated  
22 properties to remove those which have been decontaminated according to  
23 provisions of this chapter.

24 The local health officer may determine when the services of an  
25 authorized contractor are necessary.

26 **Sec. 44.** RCW 66.28.090 and 1981 1st ex.s. c 5 s 20 are each  
27 amended to read as follows:

28 ~~((1))~~ All licensed premises used in the manufacture, storage, or  
29 sale of liquor, or any premises or parts of premises used or in any way  
30 connected, physically or otherwise, with the licensed business, and/or  
31 any premises where a banquet permit has been granted, ~~((shall at all  
32 times))~~ may, subject to RCW 9A.52.070 and 9A.52.080, be open to  
33 inspection by any liquor enforcement officer, inspector or peace  
34 officer.

35 ~~((2) Every person, being on any such premises and having charge  
36 thereof, who refuses or fails to admit a liquor enforcement officer,  
37 inspector or peace officer demanding to enter therein in pursuance of~~

1 ~~this section in the execution of his/her duty, or who obstructs or~~  
2 ~~attempts to obstruct the entry of such liquor enforcement officer,~~  
3 ~~inspector or officer of the peace, or who refuses to allow a liquor~~  
4 ~~enforcement officer, and/or an inspector to examine the books of the~~  
5 ~~licensee, or who refuses or neglects to make any return required by~~  
6 ~~this title or the regulations, shall be guilty of a violation of this~~  
7 ~~title.))~~

8       **Sec. 45.** RCW 69.50.501 and 1971 ex.s. c 308 s 69.50.501 are each  
9 amended to read as follows:

10       The state board of pharmacy may, subject to RCW 9A.52.070 and  
11 9A.52.080, make administrative inspections of controlled premises in  
12 accordance with the following provisions:

13       (1) For purposes of this section only, "controlled premises" means:

14       (a) places where persons registered or exempted from registration  
15 requirements under this chapter are required to keep records; and

16       (b) places including factories, warehouses, establishments, and  
17 conveyances in which persons registered or exempted from registration  
18 requirements under this chapter are permitted to hold, manufacture,  
19 compound, process, sell, deliver, or otherwise dispose of any  
20 controlled substance.

21       (2) When authorized by an administrative inspection warrant issued  
22 pursuant to RCW 69.50.502 an officer or employee designated by the  
23 board, upon presenting the warrant and appropriate credentials to the  
24 owner, operator, or agent in charge, may enter controlled premises for  
25 the purpose of conducting an administrative inspection.

26       (3) When authorized by an administrative inspection warrant, an  
27 officer or employee designated by the board may:

28       (a) inspect and copy records required by this chapter to be kept;

29       (b) inspect, within reasonable limits and in a reasonable manner,  
30 controlled premises and all pertinent equipment, finished and  
31 unfinished material, containers and labeling found therein, and, except  
32 as provided in subsection (5) of this section, all other things  
33 therein, including records, files, papers, processes, controls, and  
34 facilities bearing on violation of this chapter; and

35       (c) inventory any stock of any controlled substance therein and  
36 obtain samples thereof;

1 (4) This section does not prevent the inspection without a warrant  
2 of books and records pursuant to an administrative subpoena issued in  
3 accordance with chapter 34.05 RCW, nor does it prevent entries and  
4 administrative inspections, including seizures of property, (~~without~~  
5 ~~a warrant~~) subject to RCW 9A.52.070 and 9A.52.080:

6 (a) if the owner, operator, or agent in charge of the controlled  
7 premises consents;

8 (b) in situations presenting imminent danger to health or safety;

9 (c) in situations involving inspection of conveyances if there is  
10 reasonable cause to believe that the mobility of the conveyance makes  
11 it impracticable to obtain a warrant;

12 (d) in any other exceptional or emergency circumstance where time  
13 or opportunity to apply for a warrant is lacking; or,

14 (e) in all other situations in which a warrant is not  
15 constitutionally required;

16 (5) An inspection authorized by this section shall not extend to  
17 financial data, sales data, other than shipment data, or pricing data  
18 unless the owner, operator, or agent in charge of the controlled  
19 premises consents in writing.

20 **Sec. 46.** RCW 70.77.450 and 2012 c 117 s 395 are each amended to  
21 read as follows:

22 The chief of the Washington state patrol, through the director of  
23 fire protection, may make an examination of the books and records of  
24 any licensee, or other person relative to fireworks, and may, subject  
25 to RCW 9A.52.070 and 9A.52.080, visit and inspect the premises of any  
26 licensee he or she may deem at any time necessary for the purpose of  
27 enforcing the provisions of this chapter. (~~The licensee, owner,~~  
28 ~~lessee, manager, or operator of any such building or premises shall~~  
29 ~~permit the chief of the Washington state patrol, through the director~~  
30 ~~of fire protection, his or her deputies or salaried assistants, the~~  
31 ~~local fire official, and their authorized representatives to enter and~~  
32 ~~inspect the premises at the time and for the purpose stated in this~~  
33 ~~section.~~)

34 **Sec. 47.** RCW 70.87.120 and 2008 c 181 s 207 are each amended to  
35 read as follows:

36 (1) The department shall appoint and employ inspectors, as may be

1 necessary to carry out the provisions of this chapter, under the  
2 provisions of the rules adopted by the Washington personnel resources  
3 board in accordance with chapter 41.06 RCW.

4 (2)(a) Except as provided in (b) of this subsection, the department  
5 shall cause all conveyances to be inspected and tested at least once  
6 each year. Inspectors ~~((have the right))~~, during reasonable hours  
7 ((to)), and subject to RCW 9A.52.070 and 9A.52.080, may enter into and  
8 upon any building or premises in the discharge of their official  
9 duties, for the purpose of making any inspection or testing any  
10 conveyance contained thereon or therein. Inspections and tests shall  
11 conform with the rules adopted by the department. The department shall  
12 inspect all installations before it issues any initial permit for  
13 operation. Permits shall not be issued until the fees required by this  
14 chapter have been paid.

15 (b)(i) Private residence conveyances operated exclusively for  
16 single-family use ~~((shall))~~ may, subject to RCW 9A.52.070 and  
17 9A.52.080, be inspected and tested only when required under RCW  
18 70.87.100 or as necessary for the purposes of subsection (4) of this  
19 section and shall be exempt from RCW 70.87.090 unless an annual  
20 inspection and operating permit are requested by the owner.

21 (ii) The department may perform additional inspections of a private  
22 residence conveyance at the request of the owner of the conveyance.  
23 Fees for these inspections shall be in accordance with the schedule of  
24 fees adopted for operating permits pursuant to RCW 70.87.030. An  
25 inspection requested under this subsection (2)(b)(ii) shall not be  
26 performed until the required fees have been paid.

27 (3) If inspection shows a conveyance to be in an unsafe condition,  
28 the department shall issue an inspection report in writing requiring  
29 the repairs or alterations to be made to the conveyance that are  
30 necessary to render it safe and may also suspend or revoke a permit  
31 pursuant to RCW 70.87.125 or order the operation of a conveyance  
32 discontinued pursuant to RCW 70.87.145.

33 (a) A penalty may be assessed under RCW 70.87.185 for failure to  
34 correct a violation within ninety days after the owner is notified in  
35 writing of inspection results.

36 (b) The owner may be assessed a penalty under RCW 70.87.185 for  
37 failure to submit official notification in writing to the department  
38 that all corrections have been completed.

1 (4) The department may investigate accidents and alleged or  
2 apparent violations of this chapter.

3 (5) During a state of emergency declared under RCW 43.06.010(12),  
4 the governor may waive or suspend the collection of fees under this  
5 section or any portion of this section or under any administrative  
6 rule, and issue any orders to facilitate the operation of state or  
7 local government or to promote and secure the safety and protection of  
8 the civilian population.

9 **Sec. 48.** RCW 70.97.160 and 2005 c 504 s 418 are each amended to  
10 read as follows:

11 (1) The department shall make or cause to be made at least one  
12 inspection of each facility prior to licensure and an unannounced full  
13 inspection of facilities at least once every eighteen months. The  
14 statewide average interval between full facility inspections must be  
15 fifteen months.

16 (2) Any duly authorized officer, employee, or agent of the  
17 department may, subject to RCW 9A.52.070 and 9A.52.080, enter and  
18 inspect any facility at any time to determine that the facility is in  
19 compliance with this chapter and applicable rules, and to enforce any  
20 provision of this chapter. Complaint inspections shall be unannounced  
21 and conducted in such a manner as to ensure maximum effectiveness. No  
22 advance notice shall be given of any inspection unless authorized or  
23 required by federal law.

24 (3) During inspections, the facility must give the department  
25 access to areas, materials, and equipment used to provide care or  
26 support to residents, including resident and staff records, accounts,  
27 and the physical premises, including the buildings, grounds, and  
28 equipment. The department has the authority to privately interview the  
29 provider, staff, residents, and other individuals familiar with  
30 resident care and treatment.

31 (4) Any public employee giving advance notice of an inspection in  
32 violation of this section shall be suspended from all duties without  
33 pay for a period of not less than five nor more than fifteen days.

34 (5) The department shall prepare a written report describing the  
35 violations found during an inspection, and shall provide a copy of the  
36 inspection report to the facility.

1 (6) The facility shall develop a written plan of correction for any  
2 violations identified by the department and provide a plan of  
3 correction to the department within ten working days from the receipt  
4 of the inspection report.

5 **Sec. 49.** RCW 70.105D.030 and 2009 c 560 s 10 are each amended to  
6 read as follows:

7 (1) The department may exercise the following powers in addition to  
8 any other powers granted by law:

9 (a) Investigate, provide for investigating, or require potentially  
10 liable persons to investigate any releases or threatened releases of  
11 hazardous substances, including but not limited to inspecting,  
12 sampling, or testing to determine the nature or extent of any release  
13 or threatened release. If there is a reasonable basis to believe that  
14 a release or threatened release of a hazardous substance may exist, the  
15 department's authorized employees, agents, or contractors may, subject  
16 to RCW 9A.52.070 and 9A.52.080, enter upon any property and conduct  
17 investigations. The department shall not violate RCW 9A.52.070 or  
18 9A.52.080 and shall give reasonable notice before entering property  
19 unless an emergency prevents such notice. The department may by  
20 subpoena require the attendance or testimony of witnesses and the  
21 production of documents or other information that the department deems  
22 necessary;

23 (b) Conduct, provide for conducting, or require potentially liable  
24 persons to conduct remedial actions (including investigations under (a)  
25 of this subsection) to remedy releases or threatened releases of  
26 hazardous substances. In carrying out such powers, the department's  
27 authorized employees, agents, or contractors may, subject to RCW  
28 9A.52.070 and 9A.52.080, enter upon property. The department shall not  
29 violate RCW 9A.52.070 or 9A.52.080 and shall give reasonable notice  
30 before entering property unless an emergency prevents such notice. In  
31 conducting, providing for, or requiring remedial action, the department  
32 shall give preference to permanent solutions to the maximum extent  
33 practicable and shall provide for or require adequate monitoring to  
34 ensure the effectiveness of the remedial action;

35 (c) Indemnify contractors retained by the department for carrying  
36 out investigations and remedial actions, but not for any contractor's  
37 reckless or willful misconduct;



1 (d) Carry out all state programs authorized under the federal  
2 cleanup law and the federal resource, conservation, and recovery act,  
3 42 U.S.C. Sec. 6901 et seq., as amended;

4 (e) Classify substances as hazardous substances for purposes of RCW  
5 70.105D.020 and classify substances and products as hazardous  
6 substances for purposes of RCW 82.21.020(1);

7 (f) Issue orders or enter into consent decrees or agreed orders  
8 that include, or issue written opinions under (i) of this subsection  
9 that may be conditioned upon, environmental covenants where necessary  
10 to protect human health and the environment from a release or  
11 threatened release of a hazardous substance from a facility. Prior to  
12 establishing an environmental covenant under this subsection, the  
13 department shall consult with and seek comment from a city or county  
14 department with land use planning authority for real property subject  
15 to the environmental covenant;

16 (g) Enforce the application of permanent and effective  
17 institutional controls that are necessary for a remedial action to be  
18 protective of human health and the environment and the notification  
19 requirements established in RCW 70.105D.110, and impose penalties for  
20 violations of that section consistent with RCW 70.105D.050;

21 (h) Require holders to conduct remedial actions necessary to abate  
22 an imminent or substantial endangerment pursuant to RCW  
23 70.105D.020(17)(b)(ii)(C);

24 (i) Provide informal advice and assistance to persons regarding the  
25 administrative and technical requirements of this chapter. This may  
26 include site-specific advice to persons who are conducting or otherwise  
27 interested in independent remedial actions. Any such advice or  
28 assistance shall be advisory only, and shall not be binding on the  
29 department. As a part of providing this advice and assistance for  
30 independent remedial actions, the department may prepare written  
31 opinions regarding whether the independent remedial actions or  
32 proposals for those actions meet the substantive requirements of this  
33 chapter or whether the department believes further remedial action is  
34 necessary at the facility. Nothing in this chapter may be construed to  
35 preclude the department from issuing a written opinion on whether  
36 further remedial action is necessary at any portion of the real  
37 property located within a facility, even if further remedial action is  
38 still necessary elsewhere at the same facility. Such a written opinion

1 on a portion of a facility must also provide an opinion on the status  
2 of the facility as a whole. The department may collect, from persons  
3 requesting advice and assistance, the costs incurred by the department  
4 in providing such advice and assistance; however, the department shall,  
5 where appropriate, waive collection of costs in order to provide an  
6 appropriate level of technical assistance in support of public  
7 participation. The state, the department, and officers and employees  
8 of the state are immune from all liability, and no cause of action of  
9 any nature may arise from any act or omission in providing, or failing  
10 to provide, informal advice and assistance; and

11 (j) Take any other actions necessary to carry out the provisions of  
12 this chapter, including the power to adopt rules under chapter 34.05  
13 RCW.

14 (2) The department shall immediately implement all provisions of  
15 this chapter to the maximum extent practicable, including investigative  
16 and remedial actions where appropriate. The department shall adopt,  
17 and thereafter enforce, rules under chapter 34.05 RCW to:

18 (a) Provide for public participation, including at least (i) public  
19 notice of the development of investigative plans or remedial plans for  
20 releases or threatened releases and (ii) concurrent public notice of  
21 all compliance orders, agreed orders, enforcement orders, or notices of  
22 violation;

23 (b) Establish a hazard ranking system for hazardous waste sites;

24 (c) Provide for requiring the reporting by an owner or operator of  
25 releases of hazardous substances to the environment that may be a  
26 threat to human health or the environment within ninety days of  
27 discovery, including such exemptions from reporting as the department  
28 deems appropriate, however this requirement shall not modify any  
29 existing requirements provided for under other laws;

30 (d) Establish reasonable deadlines not to exceed ninety days for  
31 initiating an investigation of a hazardous waste site after the  
32 department receives notice or otherwise receives information that the  
33 site may pose a threat to human health or the environment and other  
34 reasonable deadlines for remedying releases or threatened releases at  
35 the site;

36 (e) Publish and periodically update minimum cleanup standards for  
37 remedial actions at least as stringent as the cleanup standards under

1 section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at  
2 least as stringent as all applicable state and federal laws, including  
3 health-based standards under state and federal law; and

4 (f) Apply industrial clean-up standards at industrial properties.  
5 Rules adopted under this subsection shall ensure that industrial  
6 properties cleaned up to industrial standards cannot be converted to  
7 nonindustrial uses without approval from the department. The  
8 department may require that a property cleaned up to industrial  
9 standards is cleaned up to a more stringent applicable standard as a  
10 condition of conversion to a nonindustrial use. Industrial clean-up  
11 standards may not be applied to industrial properties where hazardous  
12 substances remaining at the property after remedial action pose a  
13 threat to human health or the environment in adjacent nonindustrial  
14 areas.

15 (3) To achieve and protect the state's long-term ecological health,  
16 the department shall prioritize sufficient funding to clean up  
17 hazardous waste sites and prevent the creation of future hazards due to  
18 improper disposal of toxic wastes, and create financing tools to clean  
19 up large-scale hazardous waste sites requiring multiyear commitments.  
20 To effectively monitor toxic accounts expenditures, the department  
21 shall develop a comprehensive ten-year financing report that identifies  
22 long-term remedial action project costs, tracks expenses, and projects  
23 future needs.

24 (4) Before December 20th of each even-numbered year, the department  
25 shall:

26 (a) Develop a comprehensive ten-year financing report in  
27 coordination with all local governments with clean-up responsibilities  
28 that identifies the projected biennial hazardous waste site remedial  
29 action needs that are eligible for funding from the local toxics  
30 control account;

31 (b) Work with local governments to develop working capital reserves  
32 to be incorporated in the ten-year financing report;

33 (c) Identify the projected remedial action needs for orphaned,  
34 abandoned, and other clean-up sites that are eligible for funding from  
35 the state toxics control account;

36 (d) Project the remedial action need, cost, revenue, and any  
37 recommended working capital reserve estimate to the next biennium's  
38 long-term remedial action needs from both the local toxics control

1 account and the state toxics control account, and submit this  
2 information to the appropriate standing fiscal and environmental  
3 committees of the senate and house of representatives. This submittal  
4 must also include a ranked list of such remedial action projects for  
5 both accounts; and

6 (e) Provide the legislature and the public each year with an  
7 accounting of the department's activities supported by appropriations  
8 from the state and local toxics control accounts, including a list of  
9 known hazardous waste sites and their hazard rankings, actions taken  
10 and planned at each site, how the department is meeting its waste  
11 management priorities under RCW 70.105.150, and all funds expended  
12 under this chapter.

13 (5) The department shall establish a program to identify potential  
14 hazardous waste sites and to encourage persons to provide information  
15 about hazardous waste sites.

16 (6) For all facilities where an environmental covenant has been  
17 required under subsection (1)(f) of this section, including all  
18 facilities where the department has required an environmental covenant  
19 under an order, agreed order, or consent decree, or as a condition of  
20 a written opinion issued under the authority of subsection (1)(i) of  
21 this section, the department shall periodically review the  
22 environmental covenant for effectiveness. Except as otherwise provided  
23 in (c) of this subsection, the department shall conduct a review at  
24 least once every five years after an environmental covenant is  
25 recorded.

26 (a) The review shall consist of, at a minimum:

27 (i) A review of the title of the real property subject to the  
28 environmental covenant to determine whether the environmental covenant  
29 was properly recorded and, if applicable, amended or terminated;

30 (ii) A physical inspection of the real property subject to the  
31 environmental covenant to determine compliance with the environmental  
32 covenant, including whether any development or redevelopment of the  
33 real property has violated the terms of the environmental covenant; and

34 (iii) A review of the effectiveness of the environmental covenant  
35 in limiting or prohibiting activities that may interfere with the  
36 integrity of the remedial action or that may result in exposure to or  
37 migration of hazardous substances. This shall include a review of  
38 available monitoring data.

1 (b) If an environmental covenant has been amended or terminated  
2 without proper authority, or if the terms of an environmental covenant  
3 have been violated, or if the environmental covenant is no longer  
4 effective in limiting or prohibiting activities that may interfere with  
5 the integrity of the remedial action or that may result in exposure to  
6 or migration of hazardous substances, then the department shall take  
7 any and all appropriate actions necessary to ensure compliance with the  
8 environmental covenant and the policies and requirements of this  
9 chapter.

10 (c) For facilities where an environmental covenant required by the  
11 department under subsection (1)(f) of this section was required before  
12 July 1, 2007, the department shall:

13 (i) Enter all required information about the environmental covenant  
14 into the registry established under RCW 64.70.120 by June 30, 2008;

15 (ii) For those facilities where more than five years has elapsed  
16 since the environmental covenant was required and the department has  
17 yet to conduct a review, conduct an initial review according to the  
18 following schedule:

19 (A) By December 30, 2008, fifty facilities;

20 (B) By June 30, 2009, fifty additional facilities; and

21 (C) By June 30, 2010, the remainder of the facilities;

22 (iii) Once this initial review has been completed, conduct  
23 subsequent reviews at least once every five years.

24 **Sec. 50.** RCW 70.119A.150 and 1993 c 305 s 4 are each amended to  
25 read as follows:

26 (1)(a) Except as otherwise provided in (b) of this subsection, the  
27 secretary or his or her designee (~~(shall have the right to)~~) may,  
28 subject to RCW 9A.52.070 and 9A.52.080, enter a premises under the  
29 control of a public water system at reasonable times with prior  
30 notification in order to determine compliance with laws and rules  
31 administered by the department of health to test, inspect, or sample  
32 features of a public water system and inspect, copy, or photograph  
33 monitoring equipment or other features of a public water system, or  
34 records required to be kept under laws or rules regulating public water  
35 systems. For the purposes of this section, "premises under the control  
36 of a public water system" does not include the premises or private

1 property of a customer of a public water system past the point on the  
2 system where the service connection is made.

3 (b) The secretary or his or her designee need not give prior  
4 notification to enter a premises under (a) of this subsection if the  
5 purpose of the entry is to ensure compliance by the public water system  
6 with a prior order of the department or if the secretary or the  
7 secretary's designee has reasonable cause to believe the public water  
8 system is violating the law and poses a serious threat to public health  
9 and safety.

10 (2) The secretary or his or her designee may apply for an  
11 administrative search warrant to a court official authorized to issue  
12 a criminal search warrant. An administrative search warrant may be  
13 issued for the purposes of inspecting or examining property, buildings,  
14 premises, place, books, records, or other physical evidence, or  
15 conducting tests or taking samples. The warrant shall be issued upon  
16 probable cause. It is sufficient probable cause to show any of the  
17 following:

18 (a) The inspection, examination, test, or sampling is pursuant to  
19 a general administrative plan to determine compliance with laws or  
20 rules administered by the department; or

21 (b) The secretary or his or her designee has reason to believe that  
22 a violation of a law or rule administered by the department has  
23 occurred, is occurring, or may occur.

24 (3) The local health officer or the designee of a local health  
25 officer of a local board of health that is enforcing rules regulating  
26 public water systems under an agreement with the department allocating  
27 state and local responsibility is authorized to conduct investigations  
28 and to apply for, obtain, and execute administrative search warrants  
29 necessary to perform the local board's agreed-to responsibilities under  
30 the same limitations and requirements imposed on the department under  
31 this section.

32 **Sec. 51.** RCW 76.04.035 and 1986 c 100 s 4 are each amended to read  
33 as follows:

34 (1) The department may appoint any of its employees as wardens, at  
35 the times and localities as it considers the public welfare demands,  
36 within any area of the state where there is forest land requiring

1 protection. The duties and authority of wardens are subject to RCW  
2 9A.52.070 and 9A.52.080.

3 (2) The duties of wardens shall be:

4 (a) To provide forest fire prevention and protection information to  
5 the public;

6 (b) To investigate discovered or reported fires on forest lands and  
7 take appropriate action;

8 (c) To patrol their areas as necessary;

9 (d) To visit all parts of their area, and frequented places and  
10 camps as far as possible, and warn campers or other users and visitors  
11 of fire hazards;

12 (e) To see that all locomotives and all steam, internal combustion,  
13 and other spark-emitting equipment are provided with spark arresters  
14 and adequate devices for preventing the escape of fire or sparks in  
15 accordance with the law;

16 (f) To see that operations or activities on forest land have all  
17 required fire prevention and suppression equipment or devices as  
18 required by law;

19 (g) To extinguish wildfires;

20 (h) To set back-fires to control fires;

21 (i) To summons, impress, and employ help in controlling wildfires;

22 (j) To see that all laws for the protection of forests are  
23 enforced;

24 (k) To investigate, arrest, and initiate prosecution of all  
25 offenders of this chapter or other chapters as allowed by law; and

26 (l) To perform all other duties as prescribed by law and as the  
27 department directs.

28 (3) All wardens and rangers shall render reports to the department  
29 on blanks or forms, or in the manner and at the times as may be  
30 ordered, giving a summary of how employed, the area visited, expenses  
31 incurred, and other information as required by the department.

32 (4) The department may suspend the authority of any warden who may  
33 be incompetent or unwilling to discharge properly the duties of the  
34 office.

35 (5) The department shall determine the placement of the wardens  
36 and, upon its request to the county commissioners of any county, the  
37 county commissioners shall designate and furnish the wardens with  
38 suitably equipped office quarters in the county courthouse.

1 (6) The authority of the wardens regarding the prevention,  
2 suppression, and control of forest fires, summoning, impressing, or  
3 employing help, or making arrests for violations of this chapter may  
4 extend to any part of the state.

5 **Sec. 52.** RCW 76.06.130 and 2003 c 314 s 3 are each amended to read  
6 as follows:

7 The department is authorized to contribute resources and expertise  
8 to assist the department of agriculture in control or eradication  
9 efforts authorized under chapter 17.24 RCW in order to protect forest  
10 lands of the state.

11 If either the department of agriculture has not taken action under  
12 chapter 17.24 RCW or the commissioner finds that additional efforts are  
13 required to control or prevent an outbreak of an exotic forest insect  
14 or disease which has not become so habituated that it can no longer be  
15 eradicated and that poses an imminent danger of damage to the forested  
16 environment by threatening the diversity, abundance, and survivability  
17 of native tree species, or both, the commissioner may declare a forest  
18 health emergency.

19 Upon declaration of a forest health emergency, the department must  
20 delineate the area at risk and determine the most appropriate  
21 integrated pest management methods to control the outbreak, in  
22 consultation with other interested agencies, affected tribes, and  
23 affected forest landowners. The department must notify affected forest  
24 landowners of its intent to conduct control operations.

25 Upon declaration of a forest health emergency by the commissioner,  
26 the department is authorized to enter into agreements with forest  
27 landowners, companies, individuals, tribal entities, and federal,  
28 state, and local agencies to accomplish control of exotic forest  
29 insects or diseases on any affected forest lands using such funds as  
30 have been, or may be, made available.

31 The department must proceed with the control of the exotic forest  
32 insects or diseases on affected nonfederal and nontribal forest lands  
33 with or without the cooperation of the owner. The department may  
34 reimburse cooperating forest landowners and agencies for actual cost of  
35 equipment, labor, and materials utilized in cooperative exotic forest  
36 insect or disease control projects, as agreed to by the department.



1 Any such control, eradication, or destruction is subject to RCW  
2 9A.52.070 and 9A.52.080.

3 A forest health emergency no longer exists when the department  
4 finds that the exotic forest insect or disease has been controlled or  
5 eradicated, that the imminent threat no longer exists, or that there is  
6 no longer good likelihood of effective control.

7 Nothing under this chapter diminishes the authority and  
8 responsibility of the department of agriculture under chapter 17.24  
9 RCW.

10 **Sec. 53.** RCW 76.09.150 and 2012 1st sp.s. c 1 s 207 are each  
11 amended to read as follows:

12 (1) The department shall make inspections of forest lands, before,  
13 during, and after the conducting of forest practices as necessary for  
14 the purpose of ensuring compliance with this chapter, the forest  
15 practices rules, including forest practices rules incorporated under  
16 RCW 76.09.040(3), and to ensure that no material damage occurs to the  
17 natural resources of this state as a result of forest practices.

18 (2) Any duly authorized representative of the department (~~shall~~  
19 ~~have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter  
20 upon forest land at any reasonable time to enforce the provisions of  
21 this chapter and the forest practices rules.

22 (3) The department or the department of ecology may apply for an  
23 administrative inspection warrant to either Thurston county superior  
24 court, or the superior court in the county in which the property is  
25 located. An administrative inspection warrant may be issued where:

26 (a) The department has attempted an inspection of forest lands  
27 under this chapter to ensure compliance with this chapter and the  
28 forest practices rules or to ensure that no potential or actual  
29 material damage occurs to the natural resources of this state, and  
30 access to all or part of the forest lands has been actually or  
31 constructively denied; or

32 (b) The department has reasonable cause to believe that a violation  
33 of this chapter or of rules adopted under this chapter is occurring or  
34 has occurred.

35 (4) In connection with any watershed analysis, any review of a  
36 pending application by an identification team appointed by the  
37 department, any compliance studies, any effectiveness monitoring, or

1 other research that has been agreed to by a landowner, the department  
2 may invite representatives of other agencies, tribes, and interest  
3 groups to accompany a department representative and, at the landowner's  
4 election, the landowner, on any such inspections. Reasonable efforts  
5 shall be made by the department to notify the landowner of the persons  
6 being invited onto the property and the purposes for which they are  
7 being invited.

8 **Sec. 54.** RCW 76.09.160 and 1974 ex.s. c 137 s 16 are each amended  
9 to read as follows:

10 Any duly authorized representative of the department of ecology  
11 (~~shall have the right to~~) may, subject to RCW 9A.52.070 and  
12 9A.52.080, enter upon forest land at any reasonable time to administer  
13 the provisions of this chapter and RCW 90.48.420.

14 **Sec. 55.** RCW 77.12.154 and 1998 c 190 s 71 are each amended to  
15 read as follows:

16 The director, fish and wildlife officers, ex officio fish and  
17 wildlife officers, and department employees may, subject to RCW  
18 9A.52.070 and 9A.52.080, enter upon any land or waters and remain there  
19 while performing their duties without liability for trespass.

20 Subject to RCW 9A.52.070 and 9A.52.080, it is lawful for aircraft  
21 operated by the department to land and take off from the beaches or  
22 waters of the state.

23 **Sec. 56.** RCW 78.04.015 and 1897 c 60 s 2 are each amended to read  
24 as follows:

25 Every corporation incorporated or that may hereafter be  
26 incorporated under the laws of this state or any state or territory of  
27 the United States, and doing business in this state, for the purpose of  
28 acquiring, owning or operating mines, mills or reduction works, or  
29 mining or milling gold and silver or other minerals, which may desire  
30 to erect and operate surface tramways or elevated cable tramways for  
31 the purpose of carrying, conveying or transporting the products of such  
32 mines, mills or reduction works, (~~shall have the right to~~) may,  
33 subject to RCW 9A.52.070 and 9A.52.080, enter upon any land between the  
34 termini of the proposed lines for the purpose of examining, locating  
35 and surveying such lines, doing no unnecessary damage thereby.

1           **Sec. 57.** RCW 78.04.040 and 1901 c 120 s 1 are each amended to read  
2 as follows:

3           Any owner of stock to the amount of one thousand shares, in any  
4 corporation doing business under the laws of the state of Washington  
5 for the purposes of mining, (~~shall~~) may, at all hours of business or  
6 labor on or about the premises or property of such corporation, (~~have~~  
7 ~~the right to~~) and subject to RCW 9A.52.070 and 9A.52.080, enter upon  
8 such property and examine the same, either on the surface or  
9 underground. (~~And it is hereby made the duty of any and all officers,~~  
10 ~~managers, agents, superintendents, or persons in charge, to allow any~~  
11 ~~such stockholder to enter upon and examine any of the property of such~~  
12 ~~corporation at any time during the hours of business or labor; and~~)  
13 The presentation of certificates of stock in the corporation of the  
14 amount of one thousand shares, to the officer or person in charge,  
15 shall be prima facie evidence of ownership (~~and right to enter upon or~~  
16 ~~into, and make examinations of the property of the corporation~~)).

17           **Sec. 58.** RCW 79.14.440 and 2003 c 334 s 412 are each amended to  
18 read as follows:

19           Any person designated by the department (~~shall have the right at~~  
20 ~~any time to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon  
21 the lands and inspect and examine the structures, works, and mines  
22 situated thereon, and (~~shall also have the right to~~) may examine such  
23 books, records, and accounts of the lessee as are directly connected  
24 with the determination of royalties on the property under lease from  
25 the state but it shall be unlawful for any person so appointed to  
26 disclose any information thus obtained to any person other than the  
27 departmental officials and employees, except the attorney general and  
28 prosecuting attorneys of the state.

29           **Sec. 59.** RCW 79.14.450 and 2003 c 334 s 413 are each amended to  
30 read as follows:

31           The state shall have the right to sell or otherwise dispose of any  
32 surface resource, timber, rock, gravel, sand, silt, coal, or  
33 hydrocarbons, except minerals or materials specifically covered by a  
34 mineral prospecting lease or mining contract, found upon the land  
35 during the period covered by the lease or contract. The state (~~shall~~  
36 ~~also have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080,

1 enter upon such land and remove same, and shall not be obliged to  
2 withhold from any sale any timber for prospecting or mining purposes.  
3 The lessee shall, upon payment to the department, have the right to cut  
4 and use timber found on the leased premises for mining purposes as  
5 provided in rules adopted by the department.

6 **Sec. 60.** RCW 79.14.530 and 2003 c 334 s 420 are each amended to  
7 read as follows:

8 The commissioner or any person designated by the commissioner (~~has~~  
9 ~~the right at any time to~~) may, subject to RCW 9A.52.070 and 9A.52.080,  
10 enter upon the lands and inspect and examine the structures, works, and  
11 mines situated thereon, and (~~also has the right to~~) may examine such  
12 books, records, and accounts of the lessee as are directly connected  
13 with the operation of the mine on the property under lease from the  
14 state; but it shall be unlawful for the commissioner or any person so  
15 appointed to disclose any information thus obtained to any person other  
16 than the commissioner or an employee of the department, except the  
17 attorney general and prosecuting attorneys of the state.

18 **Sec. 61.** RCW 79.14.540 and 2003 c 334 s 421 are each amended to  
19 read as follows:

20 The state shall have the right to sell or otherwise dispose of any  
21 timber, stone, or other valuable materials, except coal, found upon the  
22 land during the period covered by any option contract, or lease issued  
23 under the foregoing provisions, (~~with the right to~~) and may, subject  
24 to RCW 9A.52.070 and 9A.52.080, enter upon such lands and cut and  
25 remove the same, and shall not be obliged to withhold from sale any  
26 timber for coal mining or prospecting purposes. However, the lessee  
27 shall be permitted to use in mining operations any timber found upon  
28 the land, first paying therefor to the department the value thereof as  
29 fixed by the department. Further, any bill of sale for the removal of  
30 timber, stone, or other material given subsequent to the coal lease  
31 shall contain provisions preventing any interference with the  
32 operations of the coal lease.

33 **Sec. 62.** RCW 80.32.070 and 1961 c 14 s 80.32.070 are each amended  
34 to read as follows:

35 Every such corporation (~~shall have the right to~~) may, subject to

1 RCW 9A.52.070 and 9A.52.080, enter upon any land between the termini of  
2 the proposed lines for the purpose of examining, locating and surveying  
3 such lines, doing no unnecessary damage thereby.

4 **Sec. 63.** RCW 80.36.020 and 1985 c 450 s 16 are each amended to  
5 read as follows:

6 Every corporation incorporated under the laws of this state or any  
7 state or territory of the United States for the purpose of  
8 constructing, operating or maintaining any telecommunications line in  
9 this state (~~(shall have the right to)~~) may, subject to RCW 9A.52.070  
10 and 9A.52.080, enter upon any land between the termini of its proposed  
11 telecommunications lines for the purpose of examining, locating and  
12 surveying the telecommunications line, doing no unnecessary damage  
13 thereby.

14 **Sec. 64.** RCW 80.36.030 and 1985 c 450 s 17 are each amended to  
15 read as follows:

16 Such telecommunications company may appropriate so much land as may  
17 be actually necessary for its telecommunications line, (~~(with the right~~  
18 ~~to)~~) and may, subject to RCW 9A.52.070 and 9A.52.080, enter upon lands  
19 immediately adjacent thereto, for the purpose of constructing,  
20 maintaining and operating its line and making all necessary repair.  
21 Such telecommunications company may also, for the purpose aforesaid and  
22 subject to RCW 9A.52.070 and 9A.52.080, enter upon and appropriate such  
23 portion of the right-of-way of any railroad company as may be necessary  
24 for the construction, maintenance and operation of its  
25 telecommunications line: PROVIDED, That such appropriation shall not  
26 obstruct such railroad of the travel thereupon, nor interfere with the  
27 operation of such railroad.

28 **Sec. 65.** RCW 81.36.020 and 1961 c 14 s 81.36.020 are each amended  
29 to read as follows:

30 A corporation organized for the construction of any railway,  
31 macadamized road, plank road, clay road, canal or bridge, (~~(shall have~~  
32 ~~a right to)~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon  
33 any land, real estate or premises, or any of the lands granted to the  
34 state of Washington for school, university or other purposes, between

1 the termini thereof, for the purpose of examining, locating and  
2 surveying the line of such road or canal, or the site of such bridge,  
3 doing no unnecessary damage thereby.

4 **Sec. 66.** RCW 81.64.050 and 1961 c 14 s 81.64.050 are each amended  
5 to read as follows:

6 Every such corporation (~~(shall have the right to)~~) may, subject to  
7 RCW 9A.52.070 and 9A.52.080, enter upon any land between the termini of  
8 the proposed lines for the purpose of examining, locating and surveying  
9 such lines, doing no unnecessary damage thereby.

10 **Sec. 67.** RCW 82.26.060 and 2009 c 154 s 3 are each amended to read  
11 as follows:

12 (1) Every distributor shall keep at each place of business complete  
13 and accurate records for that place of business, including itemized  
14 invoices, of tobacco products held, purchased, manufactured, brought in  
15 or caused to be brought in from without the state, or shipped or  
16 transported to retailers in this state, and of all sales of tobacco  
17 products made.

18 (2) These records shall show the names and addresses of purchasers,  
19 the inventory of all tobacco products, and other pertinent papers and  
20 documents relating to the purchase, sale, or disposition of tobacco  
21 products. All invoices and other records required by this section to  
22 be kept shall be preserved for a period of five years from the date of  
23 the invoices or other documents or the date of the entries appearing in  
24 the records.

25 (3) At any time during usual business hours the department, board,  
26 or its duly authorized agents or employees, may, subject to RCW  
27 9A.52.070 and 9A.52.080, enter any place of business of a distributor,  
28 without a search warrant, and inspect the premises, the records  
29 required to be kept under this chapter, and the tobacco products  
30 contained therein, to determine whether or not all the provisions of  
31 this chapter are being fully complied with. (~~(If the department,~~  
32 ~~board, or any of its agents or employees, are denied free access or are~~  
33 ~~hindered or interfered with in making such examination, the~~  
34 ~~registration certificate issued under RCW 82.32.030 of the distributor~~  
35 ~~at such premises shall be subject to revocation, and any licenses~~

1 ~~issued under this chapter or chapter 82.24 RCW are subject to~~  
2 ~~suspension or revocation, by the department or board.))~~

3 **Sec. 68.** RCW 82.26.080 and 2005 c 180 s 5 are each amended to read  
4 as follows:

5 (1) Every retailer shall procure itemized invoices of all tobacco  
6 products purchased. The invoices shall show the seller's name and  
7 address, the date of purchase, and all prices and discounts.

8 (2) The retailer shall keep at each retail outlet copies of  
9 complete, accurate, and legible invoices for that retail outlet or  
10 place of business. All invoices required to be kept under this section  
11 shall be preserved for five years from the date of purchase.

12 (3) At any time during usual business hours the department, board,  
13 or its duly authorized agents or employees may, subject to RCW  
14 9A.52.070 and 9A.52.080, enter any retail outlet without a search  
15 warrant, and inspect the premises for invoices required to be kept  
16 under this section and the tobacco products contained in the retail  
17 outlet, to determine whether or not all the provisions of this chapter  
18 are being fully complied with. (~~If the department, board, or any of~~  
19 ~~its agents or employees, are denied free access or are hindered or~~  
20 ~~interfered with in making the inspection, the registration certificate~~  
21 ~~issued under RCW 82.32.030 of the retailer at the premises is subject~~  
22 ~~to revocation, and any licenses issued under this chapter or chapter~~  
23 ~~82.24 RCW are subject to suspension or revocation by the department.))~~

24 **Sec. 69.** RCW 86.09.226 and 1937 c 72 s 76 are each amended to read  
25 as follows:

26 The district board and its agents and employees (~~shall have the~~  
27 ~~right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any  
28 land, to make surveys and may locate the necessary flood control works  
29 and the line for canal or canals, dike or dikes and other  
30 instrumentalities and the necessary branches and parts for the same on  
31 any lands which may be deemed necessary for such location.

32 **Sec. 70.** RCW 87.03.140 and 1921 c 129 s 6 are each amended to read  
33 as follows:

34 The board, and its agents and employees, (~~shall have the right~~  
35 ~~to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land

1 to make surveys, and may locate the necessary irrigation or drainage  
2 works, power plants, power sites or power lines and the line for any  
3 canal or canals, and the necessary branches of laterals for the same,  
4 on any lands which may be deemed best for such location. Said board  
5 shall also have the power to acquire, either by purchase or  
6 condemnation, or other legal means, all lands, waters, water rights,  
7 and other property necessary for the construction, use, supply,  
8 maintenance, repair and improvements of said canal or canals and  
9 irrigation and drainage works, including canals and works constructed  
10 or being constructed by private owners, or any other person, lands for  
11 reservoirs for the storage of needful waters and all necessary  
12 appurtenances. The board may also construct the necessary dams,  
13 reservoirs and works for the collection of water for the said district,  
14 and may enter into contracts for a water supply to be delivered to the  
15 canals and works of the district, and do any and every lawful act  
16 necessary to be done in order to carry out the purposes of this act;  
17 and in carrying out the aforesaid purposes the bonds of the district  
18 may be used by the board, at not less than ninety percent of their par  
19 value in payment. The board may enter into any obligation or contract  
20 with the United States or with the state of Washington for the  
21 supervision of the construction, for the construction, reconstruction,  
22 betterment, extension, sale or purchase, or operation and maintenance  
23 of the necessary works for the delivery and distribution of water  
24 therefrom under the provisions of the state reclamation act, or under  
25 the provisions of the federal reclamation act, and all amendments or  
26 extensions thereof, and the rules and regulations established  
27 thereunder, or it may contract with the United States for a water  
28 supply or for reclamation purposes in general under any act of congress  
29 which, for the purposes of this act, shall be deemed to include any act  
30 of congress for reclamation purposes heretofore or hereafter enacted  
31 providing for and permitting such contract, or for the collection of  
32 money due or to become due to the United States, or for the assumption  
33 of the control and management of the works; and in case contract has  
34 been or may hereafter be made with the United States, as herein  
35 provided, bonds of the district may be deposited with the United States  
36 as payment or as security for future payment at not less than ninety  
37 percent of their par value, the interest on said bonds to be provided  
38 for by assessment and levy as in the case of other bonds of the



1 district, and regularly paid to the United States to be applied as  
2 provided in such contract, and if bonds of the district are not so  
3 deposited, it shall be the duty of the board of directors to include as  
4 part of any levy or assessment provided in RCW 87.03.260 an amount  
5 sufficient to meet each year all payments accruing under the terms of  
6 any such contract. The board may accept on behalf of the district  
7 appointment of the district as fiscal agent of the United States or the  
8 state of Washington or other authorization of the district by the  
9 United States or the state of Washington to make collections of money  
10 for or on behalf of the United States or the state of Washington in  
11 connection with any federal or other reclamation project, whereupon the  
12 district, and the county treasurer for the district, shall be  
13 authorized to so act and to assume the duties and liability incident to  
14 such action, and the said board shall have full power to do any and all  
15 things required by the federal statutes now or hereafter enacted in  
16 connection therewith, and all things required by the rules and  
17 regulations now or that may hereafter be established by any department  
18 of the federal government in regard thereto.

19 The use of all water required for the irrigation of the lands  
20 within any district, together with rights-of-way for canals, laterals,  
21 ditches, sites for reservoirs, power plants, sites, and lines, and all  
22 other property required in fully carrying out the purposes of the  
23 organization of the district is hereby declared to be a public use; and  
24 in condemnation proceedings to acquire any property or property rights  
25 for the use of the district, the board of directors shall proceed in  
26 the name of the district, in the manner provided in this state in cases  
27 of appropriation of lands, real estate and other property by private  
28 corporations: PROVIDED, That the irrigation district, at its option,  
29 pursuant to resolution to that end duly passed by its board of  
30 directors may unite in a single action proceedings for the acquisition  
31 and condemnation of different tracts of land needed by it for rights-  
32 of-way for canals, laterals, power plants, sites, and lines and other  
33 irrigation works which are held by separate owners. And the court may,  
34 on the motion of any party, consolidate into a single action separate  
35 suits for the condemnation of rights-of-way for such irrigation works  
36 whenever from motives of economy or the expediting of business it  
37 appears desirable so to do: PROVIDED FURTHER, That there shall be a

1 separate finding of the court or jury as to each tract held in separate  
2 ownership.

3 In any condemnation proceeding brought under the provisions of this  
4 act to acquire canals, laterals and ditches and rights-of-way therefor,  
5 sites, reservoirs, power plants and pumping plants and sites therefor,  
6 power canals, transmission lines, electrical equipment and any other  
7 property, and if the owner or owners thereof or their predecessors  
8 shall have issued contracts or deeds agreeing to deliver to the holders  
9 of said contracts or deeds water for irrigation purposes, or  
10 authorizing the holders thereof to take or receive water for irrigation  
11 purposes from any portion of said property or works, and if the  
12 delivery of said water or the right to take or receive the same shall  
13 in any manner constitute a charge upon, or a right in the property and  
14 works sought to be acquired, or any portion thereof, the district shall  
15 be authorized to institute and maintain said condemnation proceedings  
16 for the purpose of acquiring said property and works, and the interest  
17 of the owners therein subject to the rights of the holders of such  
18 contracts or deeds, and the court or jury making the award shall  
19 determine and award to such owner or owners the value of the interest  
20 to be so appropriated in said condemnation proceedings.

21 **Sec. 71.** RCW 89.30.211 and 1933 c 149 s 11 are each amended to  
22 read as follows:

23 The reclamation district board and its agents and employees (~~shall~~  
24 ~~have the right to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter  
25 upon any land, to make surveys and may locate the necessary irrigation  
26 works and the line for canal or canals and the necessary branches for  
27 the same or for necessary transmission power lines on any lands which  
28 may be deemed necessary for such location.

29 **Sec. 72.** RCW 90.16.040 and 1901 c 143 s 2 are each amended to read  
30 as follows:

31 Every corporation that is now or that may hereafter be incorporated  
32 under the laws of this state, or of any other state or territory of the  
33 United States and doing business in this state, for the purpose of  
34 conveying water by ditches, flumes, pipe lines, tunnels or any other  
35 means for the utilization of water power, (~~shall have the right to~~)  
36 may, subject to RCW 9A.52.070 and 9A.52.080, enter upon any land

1 between the termini of the proposed ditches, flumes, pipe lines,  
2 tunnels or any other means for the utilization of water power, for the  
3 purpose of examining, locating and surveying such ditches, flumes, pipe  
4 lines, tunnels or any other means for the utilization of water power,  
5 doing no unnecessary damage thereby.

6 **Sec. 73.** RCW 90.48.090 and 1994 c 232 s 21 are each amended to  
7 read as follows:

8 The department or its duly appointed agent (~~(shall have the right~~  
9 ~~to~~) may, subject to RCW 9A.52.070 and 9A.52.080, enter at all  
10 reasonable times in or upon any property, public or private, for the  
11 purpose of inspecting and investigating conditions relating to the  
12 pollution of or the possible pollution of any of the waters of this  
13 state.

14 The department shall have special inspection requirements for  
15 metals mining and milling operations regulated under chapter 232, Laws  
16 of 1994. The department shall inspect these mining and milling  
17 operations at least quarterly in order to ensure compliance with the  
18 intent and any permit issued pursuant to this chapter. The department  
19 shall conduct additional inspections as needed during the construction  
20 phase of these mining operations in order to ensure compliance with  
21 this chapter.

22 **Sec. 74.** RCW 90.76.060 and 1998 c 155 s 5 are each amended to read  
23 as follows:

24 (1) If necessary to determine compliance with the requirements of  
25 this chapter, an authorized representative of the state engaged in  
26 compliance inspections, monitoring, and testing may, by request,  
27 require an owner or operator to submit relevant information or  
28 documents. The department may subpoena witnesses, documents, and other  
29 relevant information that the department deems necessary. In the case  
30 of any refusal to obey the subpoena, the superior court for any county  
31 in which the person is found, resides, or transacts business has  
32 jurisdiction to issue an order requiring the person to appear before  
33 the department and give testimony or produce documents. Any failure to  
34 obey the order of the court may be punished by the court as contempt.

35 (2) Any authorized representative of the state may require an owner  
36 or operator to conduct monitoring or testing.

1           (3) Upon reasonable notice and subject to RCW 9A.52.070 and  
2 9A.52.080, an authorized representative of the state may enter a  
3 premises or site subject to regulation under this chapter or in which  
4 records relevant to the operation of an underground storage tank system  
5 are kept. In the event of an emergency or in circumstances where  
6 notice would undermine the effectiveness of an inspection, notice is  
7 not required. The authorized representative may copy these records,  
8 obtain samples of regulated substances, and inspect or conduct  
9 monitoring or testing of an underground storage tank system.

10           (4) For purposes of this section, the term "authorized  
11 representative" or "authorized representative of the state" means an  
12 enforcement officer, employee, or representative of the department.

--- END ---