

2 **HB 1379** - S COMM AMD
3 By Committee on Transportation

4 ADOPTED 4/14/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 46.12.050 and 1990 c 238 s 3 are each amended to read
8 as follows:

9 The department, if satisfied from the statements upon the
10 application that the applicant is the legal owner of the vehicle or
11 otherwise entitled to have ~~((the))~~ a certificate of ownership thereof
12 in the applicant's name, shall ~~((thereupon))~~ issue an appropriate
13 electronic record of ownership or a written certificate of ownership,
14 over the director's signature, authenticated by seal, and if required,
15 a new written certificate of license registration if certificate of
16 license registration is required.

17 ~~((Both))~~ The certificates of ownership and the certificates of
18 license registration shall contain upon the face thereof, the date of
19 application, the registration number assigned to the registered owner
20 and to the vehicle, the name and address of the registered owner and
21 legal owner, the vehicle identification number, and such other
22 description of the vehicle and facts as the department shall require,
23 and in addition thereto, if the vehicle described in such certificates
24 shall have ever been licensed and operated as an exempt vehicle or a
25 taxicab, or if it is less than four years old and has been rebuilt
26 after having been totaled out by an insurance carrier, such fact shall
27 be clearly shown thereon.

28 All certificates of ownership of motor vehicles issued after April
29 30, 1990, shall reflect the odometer reading as provided by the
30 odometer disclosure statement submitted with the title application
31 involving a ~~((change of registration))~~ transfer of ownership.

32 A blank space shall be provided on the face of the certificate of
33 license registration for the signature of the registered owner.

34 Upon issuance of the certificate of license registration and
35 certificate of ownership and upon any reissue thereof, the department
36 shall deliver the certificate of license registration to the registered

1 owner and the certificate of ownership to the legal owner, or both to
2 the person who is both the registered owner and legal owner.

3 **Sec. 2.** RCW 46.68.010 and 1989 c 68 s 1 are each amended to read
4 as follows:

5 Whenever any license fee, paid under the provisions of this title,
6 has been erroneously paid, either wholly or in part, the ((~~person~~
7 ~~paying the fee, upon satisfactory proof to the director of licensing,~~
8 ~~shall be~~)) payor is entitled to have refunded the amount so erroneously
9 paid. A renewal license fee paid prior to the actual expiration date
10 of the license being renewed shall be deemed to be erroneously paid if
11 the vehicle for which the renewal license ((~~is being~~)) was purchased is
12 destroyed or permanently removed from the state prior to the beginning
13 date of the registration period for which the renewal fee ((~~is being~~))
14 was paid. Upon such refund being certified to the state treasurer by
15 the director as correct and being claimed in the time required by law
16 the state treasurer shall mail or deliver the amount of each refund to
17 the person entitled thereto((~~:- PROVIDED, That~~)). No claim for refund
18 shall be allowed for such erroneous payments unless filed with the
19 director within ((~~thirteen months~~)) three years after such claimed
20 erroneous payment was made.

21 If due to error a person has been required to pay a vehicle license
22 fee under this title and an excise tax ((~~which~~)) under Title 82 RCW
23 that amounts to an overpayment of ten dollars or more, that person
24 shall be entitled to a refund of the entire amount of the overpayment,
25 regardless of whether a refund of the overpayment has been requested.
26 If due to error the department or its agent has failed to collect the
27 full amount of the license fee and excise tax due and the underpayment
28 is in the amount of ten dollars or more, the department shall charge
29 and collect such additional amount as will constitute full payment of
30 the tax and fees.

31 Any person who makes a false statement under which he or she
32 obtains a refund to which he or she is not entitled under this section
33 is guilty of a gross misdemeanor.

34 **Sec. 3.** RCW 82.44.120 and 1990 c 42 s 307 are each amended to read
35 as follows:

36 Whenever any person has paid a motor vehicle license fee, and
37 together therewith has paid an excise tax imposed under the provisions

1 of this chapter, and the director (~~(of licensing)~~) determines that the
2 payor is entitled to a refund of the entire amount of the license fee
3 as provided by law, then the payor shall also be entitled to a refund
4 of the entire excise tax collected under the provisions of this
5 chapter. In case the director determines that any person is entitled
6 to a refund of only a part of the license fee so paid, the payor shall
7 be entitled to a refund of the difference, if any, between the excise
8 tax collected and that which should have been collected.

9 In case no claim is to be made for the refund of the license fee or
10 any part thereof, but claim is made by any person that he or she has
11 paid an erroneously excessive amount of excise tax, the department
12 shall determine in the manner generally provided in this chapter the
13 amount of such excess, if any, that has been paid and shall certify to
14 the state treasurer that such person is entitled to a refund in such
15 amount.

16 In any case where due to error, a person has been required to pay
17 an excise tax pursuant to this chapter and a vehicle license fee
18 pursuant to Title 46 RCW which amounts to an overpayment of ten dollars
19 or more, such person shall be entitled to a refund of the entire amount
20 of such overpayment, regardless of whether or not a refund of the
21 overpayment has been requested. Conversely, if due to error, the
22 department or its agents has failed to collect the full amount of the
23 license fee and excise tax due, which underpayment is in the amount of
24 ten dollars or more, the department shall charge and collect such
25 additional amount as will constitute full payment of the tax.

26 Any claim for refund of an erroneously excessive amount of excise
27 tax or overpayment of excise tax with a motor vehicle license fee must
28 be filed with the director within three years after the claimed
29 erroneous payment was made.

30 If the department approves the claim it shall notify the state
31 treasurer to that effect, and the treasurer shall make such approved
32 refunds (~~(and the other refunds herein provided for)~~) from the general
33 fund and shall mail or deliver the same to the person entitled thereto.

34 Any person making any false statement under which he or she obtains
35 any amount of refund to which he or she is not entitled under the
36 provisions of this section is guilty of a gross misdemeanor.

37 **Sec. 4.** RCW 46.70.021 and 1988 c 287 s 2 are each amended to read
38 as follows:

1 It is unlawful for any person, firm, or association to act as a
2 vehicle dealer or vehicle manufacturer, to engage in business as such,
3 serve in the capacity of such, advertise himself, herself, or
4 themselves as such, solicit sales as such, or distribute or transfer
5 vehicles for resale in this state, without first obtaining and holding
6 a current license as provided in this chapter, unless the title of the
7 vehicle is in the name of the seller. It is unlawful for any person
8 other than a licensed vehicle dealer to display a vehicle for sale
9 unless the registered owner or legal owner is the displayer or holds a
10 notarized power of attorney. A person or firm engaged in buying and
11 offering for sale, or buying and selling five or more vehicles in a
12 twelve-month period, or in any other way engaged in dealer activity
13 without holding a vehicle dealer license, is guilty of a gross
14 misdemeanor, and upon conviction is subject to a fine of up to ((one))
15 five thousand dollars for each violation and up to one year in jail.
16 A second offense is a class C felony punishable under chapter 9A.20
17 RCW. A violation of this section is also a per se violation of chapter
18 19.86 RCW and is considered a deceptive practice. The department of
19 licensing, the Washington state patrol, the attorney general's office,
20 and the department of revenue shall cooperate in the enforcement of
21 this section. A distributor, factory branch, or factory representative
22 shall not be required to have a vehicle manufacturer license so long as
23 the vehicle manufacturer so represented is properly licensed pursuant
24 to this chapter. Nothing in this chapter prohibits financial
25 institutions from cooperating with vehicle dealers licensed under this
26 chapter in dealer sales or leases. However, financial institutions
27 shall not broker vehicles and cooperation is limited to organizing,
28 promoting, and financing of such dealer sales or leases.

29 **Sec. 5.** RCW 46.70.023 and 1991 c 339 s 28 are each amended to read
30 as follows:

31 (1) An "established place of business" requires a permanent,
32 enclosed commercial building located within the state of Washington
33 easily accessible at all reasonable times. An established place of
34 business shall have an improved display area of not less than three
35 thousand square feet in or immediately adjoining the building, or a
36 display area large enough to display six or more vehicles of the type
37 the dealer is licensed to sell, whichever area is larger. The business
38 of a vehicle dealer, including the display ((and repair)) of vehicles,

1 may be lawfully carried on at an established place of business in
2 accordance with the terms of all applicable building code, zoning, and
3 other land-use regulatory ordinances. The dealer shall keep the
4 building open to the public so that they may contact the vehicle dealer
5 or the dealer's salespersons at all reasonable times. The books,
6 records, and files necessary to conduct the business shall be kept and
7 maintained at that place. The established place of business shall
8 display an exterior sign with the business name and nature of the
9 business, such as auto sales, permanently affixed to the land or
10 building, with letters clearly visible to the major avenue of traffic.
11 In no event may a room or rooms in a hotel, rooming house, or apartment
12 house building or part of a single or multiple-unit dwelling house be
13 considered an "established place of business" unless the ground floor
14 of such a dwelling is devoted principally to and occupied for
15 commercial purposes and the dealer offices are located on the ground
16 floor. A mobile office or mobile home may be used as an office if it
17 is connected to utilities and is set up in accordance with state law.
18 This subsection does not apply to auction companies that do not own
19 vehicle inventory or sell vehicles from an auction yard.

20 (2) An auction company shall have office facilities within the
21 state. The books, records, and files necessary to conduct the business
22 shall be maintained at the office facilities. All storage facilities
23 for inventory shall be listed with the department, and shall meet local
24 zoning and land use ordinances. An auction company shall maintain a
25 telecommunications system.

26 (3) Auction companies shall post their vehicle dealer license at
27 each auction where vehicles are offered, and shall provide the
28 department with the address of the auction at least three days before
29 the auction.

30 (4) If a dealer maintains a place of business at more than one
31 location or under more than one name in this state, he or she shall
32 designate one location as the principal place of business of the firm,
33 one name as the principal name of the firm, and all other locations or
34 names as subagencies. A subagency license is required for each and
35 every subagency: PROVIDED, That the department may grant an exception
36 to the subagency requirement in the specific instance where a licensed
37 dealer is unable to locate their used vehicle sales facilities adjacent
38 to or at the established place of business. This exception shall be

1 granted and defined under the promulgation of rules consistent with the
2 Administrative Procedure Act.

3 (5) All vehicle dealers shall maintain ownership or leasehold
4 throughout the license year of the real property from which they do
5 business. The dealer shall provide the department with evidence of
6 ownership or leasehold whenever the ownership changes or the lease is
7 terminated.

8 (6) A subagency shall comply with all requirements of an
9 established place of business, except that auction companies shall
10 comply with the requirements in subsection (2) of this section.

11 (7) A temporary subagency shall meet all local zoning and building
12 codes for the type of merchandising being conducted. The dealer
13 license certificate shall be posted at the location. No other
14 requirements of an established place of business apply to a temporary
15 subagency. Auction companies are not required to obtain a temporary
16 subagency license.

17 (8) A wholesale vehicle dealer shall have office facilities in a
18 commercial building within this state, and all storage facilities for
19 inventory shall be listed with the department, and shall meet local
20 zoning and land use ordinances. A wholesale vehicle dealer shall
21 maintain a telecommunications system. An exterior sign visible from
22 the nearest street shall identify the business name and the nature of
23 business. A wholesale dealer need not maintain a display area as
24 required in this section. When two or more vehicle dealer businesses
25 share a location, all records, office facilities, and inventory, if
26 any, must be physically segregated and clearly identified.

27 (9) A retail vehicle dealer shall be open during normal business
28 hours, maintain office and display facilities in a commercially zoned
29 location or in a location complying with all applicable building and
30 land use ordinances, and maintain a business telephone listing in the
31 local directory. When two or more vehicle dealer businesses share a
32 location, all records, office facilities, and inventory shall be
33 physically segregated and clearly identified.

34 (10) A listing dealer need not have a display area if the dealer
35 does not physically maintain any vehicles for display.

36 (11) A subagency license is not required for a mobile home dealer
37 to display an on-site display model, a consigned mobile home not
38 relocated from its site, or a repossessed mobile home if sales are
39 handled from a principal place of business or subagency. A mobile home

1 dealer shall identify on-site display models, repossessed mobile homes,
2 and those consigned at their sites with a sign that includes the
3 dealer's name and telephone number.

4 (12) Every vehicle dealer shall advise the department of the
5 location of each and every place of business of the firm and the name
6 or names under which the firm is doing business at such location or
7 locations. If any name or location is changed, the dealer shall notify
8 the department of such change within ten days. The license issued by
9 the department shall reflect the name and location of the firm and
10 shall be posted in a conspicuous place at that location by the dealer.

11 (13) A vehicle dealer's license shall upon the death or incapacity
12 of an individual vehicle dealer authorize the personal representative
13 of such dealer, subject to payment of license fees, to continue the
14 business for a period of six months from the date of the death or
15 incapacity.

16 **Sec. 6.** RCW 46.70.041 and 1990 c 250 s 64 are each amended to read
17 as follows:

18 (1) Every application for a vehicle dealer license shall contain
19 the following information to the extent it applies to the applicant:

20 (a) Proof as the department may require concerning the applicant's
21 identity, including but not limited to his fingerprints, the honesty,
22 truthfulness, and good reputation of the applicant for the license, or
23 of the officers of a corporation making the application;

24 (b) The applicant's form and place of organization including if the
25 applicant is a corporation, proof that the corporation is licensed to
26 do business in this state;

27 (c) The qualification and business history of the applicant and any
28 partner, officer, or director;

29 (d) The applicant's financial condition or history including a bank
30 reference and whether the applicant or any partner, officer, or
31 director has ever been adjudged bankrupt or has any unsatisfied
32 judgment in any federal or state court;

33 (e) Whether the applicant has been adjudged guilty of a crime which
34 directly relates to the business for which the license is sought and
35 the time elapsed since the conviction is less than ten years, or has
36 suffered any judgment within the preceding five years in any civil
37 action involving fraud, misrepresentation, or conversion and in the

1 case of a corporation or partnership, all directors, officers, or
2 partners;

3 (f) A business telephone with a listing in the local directory;

4 (g) The name or names of new vehicles the vehicle dealer wishes to
5 sell;

6 (h) The names and addresses of each manufacturer from whom the
7 applicant has received a franchise;

8 ~~(i) ((Whether the applicant intends to sell used vehicles, and if
9 so, whether he has space available for servicing and repairs;~~

10 ~~(j))~~ A certificate by a representative of the department, that the
11 applicant's principal place of business and each subagency business
12 location in the state of Washington meets the location requirements as
13 required by this chapter. The certificate shall include proof of the
14 applicant's ownership or lease of the real property where the
15 applicant's principal place of business is established;

16 ~~((k))~~ (j) A copy of a current service agreement with a
17 manufacturer, or distributor for a foreign manufacturer, requiring the
18 applicant, upon demand of any customer receiving a new vehicle warranty
19 to perform or arrange for, within a reasonable distance of his
20 established place of business, the service repair and replacement work
21 required of the manufacturer or distributor by such vehicle warranty.
22 This requirement applies only to applicants seeking to sell, to
23 exchange, to offer, to auction, to solicit, or to advertise new or
24 current-model vehicles with factory or distributor warranties;

25 ~~((l))~~ (k) The class of vehicles the vehicle dealer will be
26 buying, selling, listing, exchanging, offering, brokering, leasing with
27 an option to purchase, auctioning, soliciting, or advertising, and
28 which classification or classifications the dealer wishes to be
29 designated as;

30 ~~((m))~~ (l) Any other information the department may reasonably
31 require.

32 (2) If the applicant is a manufacturer the application shall
33 contain the following information to the extent it is applicable to the
34 applicant:

35 (a) The name and address of the principal place of business of the
36 applicant and, if different, the name and address of the Washington
37 state representative of the applicant;

38 (b) The name or names under which the applicant will do business in
39 the state of Washington;

1 (c) Evidence that the applicant is authorized to do business in the
2 state of Washington;

3 (d) The name or names of the vehicles that the licensee
4 manufactures;

5 (e) The name or names and address or addresses of each and every
6 distributor, factory branch, and factory representative;

7 (f) The name or names and address or addresses of resident
8 employees or agents to provide service or repairs to vehicles located
9 in the state of Washington only under the terms of any warranty
10 attached to new or unused vehicles manufactured, unless such
11 manufacturer requires warranty service to be performed by all of its
12 dealers pursuant to a current service agreement on file with the
13 department;

14 (g) Any other information the department may reasonably require.

15 **Sec. 7.** RCW 46.70.051 and 1989 c 301 s 3 are each amended to read
16 as follows:

17 (1) After the application has been filed, the fee paid, and bond
18 posted, if required the department shall, if no denial order is in
19 effect and no proceeding is pending under RCW (~~46.70.180~~—or
20 ~~46.70.200~~) 46.70.101, issue the appropriate license, which license, in
21 the case of a vehicle dealer, shall designate the classification of the
22 dealer. Nothing prohibits a vehicle dealer from obtaining licenses for
23 more than one classification, and nothing prevents any vehicle dealer
24 from dealing in other classes of vehicles on an isolated basis.

25 (2) An auction company licensed under chapter 18.11 RCW may sell at
26 auction all classifications of vehicles under a motor vehicle dealer's
27 license issued under this chapter including motor vehicles,
28 miscellaneous type vehicles, and mobile homes and travel trailers.

29 **Sec. 8.** RCW 46.70.083 and 1991 c 140 s 2 are each amended to read
30 as follows:

31 The license of a vehicle dealer or a vehicle manufacturer expires
32 on the date that is twelve consecutive months from the date of
33 issuance. The license may be renewed by filing with the department
34 prior to the expiration of the license, a renewal application
35 containing such information as the department may require to indicate
36 the number of vehicle sales transacted during the past year, and any
37 material change in the information contained in the original

1 application. Failure by the dealer to comply is grounds for denial of
2 the renewal application or dealer license plate renewal.

3 The dealer's established place of business shall be certified by a
4 representative of the department at least once every (~~thirty-two~~)
5 thirty-six months, or more frequently as determined necessary by the
6 department. The certification will verify compliance with the
7 requirements of this chapter for an established place of business.
8 Failure by the dealer to comply at any time is grounds for license
9 suspension or revocation, denial of the renewal application, or
10 monetary assessment.

11 **Sec. 9.** RCW 46.70.140 and 1973 1st ex.s. c 132 s 17 are each
12 amended to read as follows:

13 Any vehicle dealer who (~~shall~~) knowingly or with reason to know,
14 buys or receives, sells or disposes of, conceals or (~~have in his~~) has
15 in the dealer's possession, any vehicle from which the motor or serial
16 number has been removed, defaced, covered, altered, or destroyed, or
17 any dealer, who (~~shall~~) removes from or installs in any motor vehicle
18 registered with the department by motor block number, a new or used
19 motor block without immediately notifying the department of such fact
20 upon a form provided by the department, or any vehicle dealer who
21 (~~shall~~) loans or permits the use of vehicle dealer license plates by
22 any person not entitled to the use thereof, (~~shall be~~) is guilty of
23 a gross misdemeanor.

24 **Sec. 10.** RCW 46.70.290 and 1971 ex.s. c 231 s 23 are each amended
25 to read as follows:

26 The provisions of chapter 46.70 RCW shall apply to the distribution
27 and sale of mobile homes and to mobile home dealers, (~~salesmen,~~)
28 distributors, manufacturers, factory representatives, or other persons
29 engaged in such distribution and sale to the same extent as for motor
30 vehicles.

31 **Sec. 11.** RCW 46.70.300 and 1981 c 152 s 2 are each amended to read
32 as follows:

33 (1) The provisions of this chapter relating to the licensing and
34 regulation of vehicle dealers(~~, salesmen,~~) and manufacturers shall be
35 exclusive, and no county, city, or other political subdivision of this

1 state shall enact any laws, rules, or regulations licensing or
2 regulating vehicle dealers(~~(,salesmen,)~~) or manufacturers.

3 (2) This section shall not be construed to prevent a political
4 subdivision of this state from levying a business and occupation tax
5 upon vehicle dealers or manufacturers maintaining an office within
6 that political subdivision if a business and occupation tax is levied
7 by such a political subdivision upon other types of businesses within
8 its boundaries.

9 **Sec. 12.** RCW 46.87.020 and 1991 c 163 s 4 are each amended to read
10 as follows:

11 Terms used in this chapter have the meaning given to them in the
12 International Registration Plan (IRP), the Uniform Vehicle
13 Registration, Proration, and Reciprocity Agreement (Western Compact),
14 chapter 46.04 RCW, or as otherwise defined in this section.
15 Definitions given to terms by the IRP and the Western Compact, as
16 applicable, shall prevail unless given a different meaning in this
17 chapter or in rules adopted under authority of this chapter.

18 (1) "Apportionable vehicle" has the meaning given by the IRP,
19 except that it does not include vehicles with a declared gross weight
20 of twelve thousand pounds or less. Apportionable vehicles include
21 trucks, tractors, truck tractors, road tractors, and buses, each as
22 separate and licensable vehicles. For IRP jurisdictions that require
23 the registration of nonmotor vehicles, this term may include trailers,
24 semitrailers, and pole trailers as applicable, each as separate and
25 licensable vehicles.

26 (2) "Cab card" is a certificate of registration issued for a
27 vehicle by the registering jurisdiction under the Western Compact.
28 Under the IRP, it is a certificate of registration issued by the base
29 jurisdiction for a vehicle upon which is disclosed the jurisdictions
30 and registered gross weights in such jurisdictions for which the
31 vehicle is registered.

32 (3) "Commercial vehicle" is a term used by the Western Compact and
33 means any vehicle, except recreational vehicles, vehicles displaying
34 restricted plates, and government owned or leased vehicles, that is
35 operated and registered in more than one jurisdiction and is used or
36 maintained for the transportation of persons for hire, compensation, or
37 profit, or is designed, used, or maintained primarily for the
38 transportation of property and:

1 (a) Is a motor vehicle having a declared gross weight in excess of
2 twenty-six thousand pounds; or

3 (b) Is a motor vehicle having three or more axles with a declared
4 gross weight in excess of twelve thousand pounds; or

5 (c) Is a motor vehicle, trailer, pole trailer, or semitrailer used
6 in combination when the gross weight or declared gross weight of the
7 combination exceeds twenty-six thousand pounds combined gross weight.
8 The nonmotor vehicles mentioned are only applicable to those
9 jurisdictions requiring the registration of such vehicles.

10 Although a two-axle motor vehicle, trailer, pole trailer,
11 semitrailer, or any combination of such vehicles with an actual or
12 declared gross weight or declared combined gross weight exceeding
13 twelve thousand pounds but not more than twenty-six thousand is not
14 considered to be a commercial vehicle, at the option of the owner, such
15 vehicles may be considered as "commercial vehicles" for the purpose of
16 proportional registration. The nonmotor vehicles mentioned are only
17 applicable to those jurisdictions requiring the registration of such
18 vehicles.

19 Commercial vehicles include trucks, tractors, truck tractors, road
20 tractors, and buses. Trailers, pole trailers, and semitrailers, will
21 also be considered as commercial vehicles for those jurisdictions who
22 require registration of such vehicles.

23 (4) "Credentials" means cab cards, apportioned plates (for
24 Washington-based fleets), and validation tabs issued for proportionally
25 registered vehicles.

26 (5) "Declared combined gross weight" means the total unladen weight
27 of any combination of vehicles plus the weight of the maximum load to
28 be carried on the combination of vehicles as set by the registrant in
29 the application pursuant to chapter 46.44 RCW and for which
30 registration fees have been or are to be paid.

31 (6) "Declared gross weight" means the total unladen weight of any
32 vehicle plus the weight of the maximum load to be carried on the
33 vehicle as set by the registrant in the application pursuant to chapter
34 46.44 RCW and for which registration fees have been or are to be paid.
35 In the case of a bus, auto stage, or a passenger-carrying for hire
36 vehicle with a seating capacity of more than six, the declared gross
37 weight shall be determined by multiplying the average load factor of
38 one hundred and fifty pounds by the number of seats in the vehicle,
39 including the driver's seat, and add this amount to the unladen weight

1 of the vehicle. If the resultant gross weight is not listed in RCW
2 46.16.070, it will be increased to the next higher gross weight so
3 listed pursuant to chapter 46.44 RCW.

4 (7) "Department" means the department of licensing.

5 (8) "Fleet" means one or more commercial vehicles in the Western
6 Compact and one or more apportionable vehicles in the IRP.

7 (9) "In-jurisdiction miles" means the total miles accumulated in a
8 jurisdiction during the preceding year by vehicles of the fleet while
9 they were a part of the fleet.

10 (10) "IRP" means the International Registration Plan.

11 (11) "Jurisdiction" means and includes a state, territory or
12 possession of the United States, the District of Columbia, the
13 Commonwealth of Puerto Rico, a foreign (~~county~~~~{country}~~) country,
14 and a state or province of a foreign country.

15 (12) "Owner" means a person or business firm who holds the legal
16 title to a vehicle, or if a vehicle is the subject of an agreement for
17 its conditional sale with the right of purchase upon performance of the
18 conditions stated in the agreement and with an immediate right of
19 possession vested in the conditional vendee, or if a vehicle is subject
20 to a lease, contract, or other legal arrangement vesting right of
21 possession or control, for security or otherwise, or if a mortgagor of
22 a vehicle is entitled to possession, then the owner is deemed to be the
23 person or business firm in whom is vested right of possession or
24 control.

25 (13) "Preceding year" means the period of twelve consecutive months
26 (~~immediately prior to July 1st of the year immediately preceding the~~
27 ~~commencement of~~) ending three months before the registration or
28 license year for which proportional registration is sought.

29 (14) "Properly registered," as applied to the place of registration
30 under the provisions of the Western Compact, means:

31 (a) In the case of a commercial vehicle, the jurisdiction in which
32 it is registered if the commercial enterprise in which the vehicle is
33 used has a place of business therein, and, if the vehicle is most
34 frequently dispatched, garaged, serviced, maintained, operated, or
35 otherwise controlled in or from that place of business, and the vehicle
36 has been assigned to that place of business; or

37 (b) In the case of a commercial vehicle, the jurisdiction where,
38 because of an agreement or arrangement between two or more

1 jurisdictions, or pursuant to a declaration, the vehicle has been
2 registered as required by that jurisdiction.

3 In case of doubt or dispute as to the proper place of registration
4 of a commercial vehicle, the department shall make the final
5 determination, but in making such determination, may confer with
6 departments of the other jurisdictions affected.

7 (15) "Prorate percentage" is the factor that is applied to the
8 total proratable fees and taxes to determine the apportionable or
9 prorate fees required for registration in a particular jurisdiction.
10 It is determined by dividing the in-jurisdiction miles for a particular
11 jurisdiction by the total miles. This term is synonymous with the term
12 "mileage percentage."

13 (16) "Registrant" means a person, business firm, or corporation in
14 whose name or names a vehicle or fleet of vehicles is registered.

15 (17) "Registration year" means the twelve-month period during which
16 the registration plates issued by the base jurisdiction are valid
17 according to the laws of the base jurisdiction. (~~The "registration~~
18 ~~year" for Washington is the period from January 1st through December~~
19 ~~31st of each calendar year.~~)

20 (18) "Total miles" means the total number of miles accumulated in
21 all jurisdictions during the preceding year by all vehicles of the
22 fleet while they were a part of the fleet. Mileage accumulated by
23 vehicles of the fleet that did not engage in interstate operations is
24 not included in the fleet miles.

25 (19) "Western Compact" means the Uniform Vehicle Registration,
26 Proration, and Reciprocity Agreement.

27 **Sec. 13.** RCW 46.87.030 and 1987 c 244 s 18 are each amended to
28 read as follows:

29 (1) When application to register an apportionable or commercial
30 vehicle is made after (~~March 31st of a~~) the third month of the
31 owner's registration year, the Washington prorated fees may be reduced
32 by one-twelfth for each full registration month that has elapsed at the
33 time a temporary authorization permit (TAP) was issued or if no TAP was
34 issued, at such time as an application for registration is received in
35 the department. (~~The filing of any application with the department~~
36 ~~incurs liability for the fees and taxes applicable to the vehicles~~
37 ~~contained in the application.~~) If a vehicle is being added to a
38 currently registered fleet, the prorate percentage previously

1 established for the fleet for such registration year shall be used in
2 the computation of the proportional fees and taxes due.

3 (2) If any vehicle is withdrawn from a proportionally registered
4 fleet during the period for which it is registered under this chapter,
5 the registrant of the fleet shall notify the department on appropriate
6 forms prescribed by the department. The department may require the
7 registrant to surrender credentials that were issued to the vehicle.
8 If a motor vehicle is permanently withdrawn from a proportionally
9 registered fleet because it has been destroyed, sold, or otherwise
10 completely removed from the service of the fleet registrant, the unused
11 portion of the licensing fee paid under RCW 46.16.070 with respect to
12 the vehicle reduced by one-twelfth for each calendar month and fraction
13 thereof elapsing between the first day of the month of the current
14 registration year in which the vehicle was registered and the date the
15 notice of withdrawal, accompanied by such credentials as may be
16 required, is received in the department, shall be credited to the fleet
17 proportional registration account of the registrant. Credit shall be
18 applied against the licensing fee liability for subsequent additions of
19 motor vehicles to be proportionally registered in the fleet during such
20 registration year or for additional licensing fees due under RCW
21 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit
22 is less than fifteen dollars, no credit will be entered. In lieu of
23 credit, the registrant may choose to transfer the unused portion of the
24 licensing fee for the motor vehicle to the new owner, in which case it
25 shall remain with the motor vehicle for which it was originally paid.
26 In no event may any amount be credited against fees other than those
27 for the registration year from which the credit was obtained nor is any
28 amount subject to refund.

29 **Sec. 14.** RCW 46.87.080 and 1987 c 244 s 23 are each amended to
30 read as follows:

31 (1) Upon making satisfactory application and payment of applicable
32 fees and taxes for proportional registration under this chapter, the
33 department shall issue a cab card and validation tab for each vehicle,
34 and to vehicles of Washington-based fleets, two distinctive
35 apportionable license plates for each motor vehicle and one such plate
36 for each trailer, semitrailer, pole trailer, or converter gear listed
37 on the application. License plates shall be displayed on vehicles as
38 required by RCW 46.16.240. The number and plate shall be of a design,

1 size, and color determined by the department. The plates shall be
2 treated with reflectorized material and clearly marked with the words
3 "WASHINGTON" and "APPORTIONED," both words to appear in full and
4 without abbreviation.

5 (2) The cab card serves as the certificate of registration for a
6 proportionally registered vehicle. The face of the cab card shall
7 contain the name and address of the registrant as contained in the
8 records of the department, the license plate number assigned to the
9 vehicle by the base jurisdiction, the vehicle identification number,
10 and such other description of the vehicle and data as the department
11 may require. The cab card shall be signed by the registrant, or a
12 designated person if the registrant is a business firm, and shall at
13 all times be carried in or on the vehicle to which it was issued. In
14 the case of nonpowered vehicles, the cab card may be carried in or on
15 the vehicle supplying the motive power instead of in or on the
16 nonpowered vehicle.

17 (3) The apportioned license plates are not transferrable from
18 vehicle to vehicle unless otherwise determined by rule and shall be
19 used only on the vehicle to which they are assigned by the department
20 for as long as they are legible or until such time as the department
21 requires them to be removed and returned to the department.

22 (4) ((A)) Distinctive validation tab(s) of a design, size, and
23 color determined by the department shall be affixed to the apportioned
24 license plate(s) as prescribed by the department to indicate the month,
25 if necessary, and year for which the vehicle is registered. Foreign-
26 based vehicles proportionally registered in this state under the
27 provisions of the Western Compact shall display the validation tab on
28 a backing plate or as otherwise prescribed by the department.

29 (5) Renewals shall be effected by the issuance and display of such
30 tab(s) after making satisfactory application and payment of applicable
31 fees and taxes.

32 (6) Fleet vehicles so registered and identified shall be deemed to
33 be fully licensed and registered in this state for any type of movement
34 or operation. However, in those instances in which a grant of
35 authority is required for interstate or intrastate movement or
36 operation, no such vehicle may be operated in interstate or intrastate
37 commerce in this state unless the owner has been granted interstate
38 operating authority by the interstate commerce commission in the case
39 of interstate operations or intrastate operating authority by the

1 Washington utility and transportation commission in the case of
2 intrastate operations and unless the vehicle is being operated in
3 conformity with that authority.

4 (7) The department may issue temporary authorization permits (TAPs)
5 to qualifying operators for the operation of vehicles pending issuance
6 of license identification. A fee of one dollar plus a one dollar
7 filing fee shall be collected for each permit issued. The permit fee
8 shall be deposited in the motor vehicle fund, and the filing fee shall
9 be deposited in the highway safety fund. The department may adopt
10 rules for use and issuance of the permits.

11 (8) The department may refuse to issue any license or permit
12 authorized by subsection (1) or (7) of this section to any person: (a)
13 Who formerly held any type of license or permit issued by the
14 department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or
15 82.38 RCW that has been revoked for cause, which cause has not been
16 removed; or (b) who is a subterfuge for the real party in interest
17 whose license or permit issued by the department pursuant to chapter
18 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW and has been revoked
19 for cause, which cause has not been removed; or (c) who, as an
20 individual licensee, or officer, director, owner, or managing employee
21 of a nonindividual licensee, has had a license or permit issued by the
22 department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or
23 82.38 RCW which has been revoked for cause, which cause has not been
24 removed; or (d) who has an unsatisfied debt to the state assessed under
25 either chapter 46.16, 46.85, 46.87, 82.36, 82.37, 82.38, or 82.44 RCW.

26 (9) The department may revoke the license or permit authorized by
27 subsection (1) or (7) of this section issued to any person for any of
28 the grounds constituting cause for denial of licenses or permits set
29 forth in subsection (8) of this section.

30 (10) Before such refusal or revocation under subsection (8) or (9)
31 of this section, the department shall grant the applicant a hearing and
32 at least ten days written notice of the time and place of the hearing.

33 **Sec. 15.** RCW 46.87.310 and 1987 c 244 s 44 are each amended to
34 read as follows:

35 Any owner whose application for proportional registration has been
36 accepted shall preserve the records on which the application is based
37 for a period of four years following the preceding year or period upon
38 which the application is based. These records shall be complete and

1 shall include, but not be limited to, the following: Copies of
2 proportional registration applications and supplements for all
3 jurisdictions in which the fleet is prorated; proof of proportional or
4 full registration with other jurisdictions; vehicle license or trip
5 permits; temporary authorization permits; documents establishing the
6 latest purchase year and cost of each fleet vehicle in ready-for-the-
7 road condition; weight certificates indicating the unladen, ready-for-
8 the-road, weight of each vehicle in the fleet; periodic summaries of
9 mileage by fleet and by individual vehicles; individual trip reports,
10 driver's daily logs, or other source documents maintained for each
11 individual trip that provide trip dates, points of origin and
12 destinations, total miles traveled, miles traveled in each
13 jurisdiction, routes traveled, vehicle equipment number, driver's full
14 name, and all other information pertinent to each trip. Upon request
15 of the department, the owner shall make the records available to the
16 department at its designated office for audit as to accuracy of
17 records, computations, and payments. The department shall assess and
18 collect any unpaid fees and taxes found to be due the state and provide
19 credits or refunds for overpayments of Washington fees and taxes as
20 determined in accordance with formulas and other requirements
21 prescribed in this chapter. If the owner fails to maintain complete
22 records as required by this section, the department shall attempt to
23 reconstruct or reestablish such records. However, if the department is
24 unable to do so and the missing or incomplete records involve mileages
25 accrued by vehicles while they are part of the fleet, the department
26 may assess an amount not to exceed the difference between the
27 Washington proportional fees and taxes paid and one hundred percent of
28 the fees and taxes. Further, if the owner fails to maintain complete
29 records as required by this section, or if the department determines
30 that the owner should have registered more vehicles in this state under
31 this chapter, the department may deny the owner the right of any
32 further benefits provided by this chapter until any final audit or
33 assessment made under this chapter has been satisfied.

34 The department may audit the records of any owner and may make
35 arrangements with agencies of other jurisdictions administering motor
36 vehicle registration laws for joint audits of any such owner. No
37 assessment for deficiency or claim for credit may be made for any
38 period for which records are no longer required. Any fees, taxes,
39 penalties, or interest found to be due and owing the state upon audit

1 shall bear interest at (~~twelve percent per annum from the date on~~
2 ~~which the deficiency is incurred~~) the rate of one percent per month,
3 or fraction thereof, from the first day of the calendar month after the
4 amount should have been paid until the date of payment. If the audit
5 discloses a deliberate and willful intent to evade the requirements of
6 payment under RCW 46.87.140, a penalty of ten percent shall also be
7 assessed.

8 If the audit discloses that an overpayment to the state in excess
9 of five dollars has been made, the department shall certify the
10 overpayment to the state treasurer who shall issue a warrant for the
11 overpayment to the vehicle operator. Overpayments shall bear interest
12 at the rate of eight percent per annum from the date on which the
13 overpayment is incurred until the date of payment.

14 **Sec. 16.** RCW 46.87.340 and 1987 c 244 s 47 are each amended to
15 read as follows:

16 If an owner of proportionally registered vehicles liable for the
17 remittance of fees and taxes imposed by this chapter (~~for which an~~
18 ~~assessment has become final~~) fails to pay the fees and taxes, the
19 amount thereof, including any interest, penalty, or addition to the
20 fees and taxes together with any additional costs that may accrue,
21 constitutes a lien in favor of the state upon all franchises, property,
22 and rights to property, whether the property is employed by the person
23 for personal or business use or is in the hands of a trustee, receiver,
24 or assignee for the benefit of creditors, from the date the fees and
25 taxes were due and payable until the amount of the lien is paid or the
26 property is sold to pay the lien. The lien has priority over any lien
27 or encumbrance whatsoever, except the lien of other state taxes having
28 priority by law, and except that the lien is not valid as against any
29 bona fide mortgagee, pledgee, judgment creditor, or purchaser whose
30 rights have attached before the time the department has filed and
31 recorded notice of the lien as provided in this chapter.

32 In order to avail itself of the lien created by this section, the
33 department shall file with any county auditor a statement of claim and
34 lien specifying the amount of delinquent fees and taxes, penalties, and
35 interest claimed by the department. From the time of filing for
36 record, the amount required to be paid constitutes a lien upon all
37 franchises, property, and rights to property, whether real or personal,
38 then belonging to or thereafter acquired by the person in the county.

1 Any lien as provided in this section may also be filed in the office of
2 the secretary of state. Filing in the office of the secretary of state
3 is of no effect, however, until the lien or a copy of it has been filed
4 with the county auditor in the county where the property is located.
5 When a lien is filed in compliance with this section and with the
6 secretary of state, the filing has the same effect as if the lien had
7 been duly filed for record in the office of each county auditor of this
8 state.

9 NEW SECTION. **Sec. 17.** A new section is added to chapter 46.87 RCW
10 to read as follows:

11 The department may extend or diminish vehicle license registration
12 periods for the purpose of staggering renewal periods. The extension
13 or diminishment of a vehicle license registration period must be by
14 rule of the department. The rule shall provide for the collection of
15 proportionally increased or decreased vehicle license registration fees
16 and of excise or other taxes required to be paid at the time of
17 registration.

18 It is the intent of the legislature that there shall be neither a
19 significant net gain nor loss of revenue to the state general fund or
20 the motor vehicle fund as the result of implementing and maintaining a
21 staggered vehicle registration system.

22 NEW SECTION. **Sec. 18.** Unless the context clearly requires
23 otherwise, the definitions in this section apply throughout this
24 chapter.

25 (1) "Vessel" means every watercraft used or capable of being used
26 as a means of transportation on the water, other than a seaplane.

27 (2) "Owner" means a person who has a lawful right to possession of
28 a vessel by purchase, exchange, gift, lease, inheritance, or legal
29 action whether or not the vessel is subject to a security interest.

30 (3) "Dealer" means a person, partnership, association, or
31 corporation engaged in the business of selling vessels at wholesale or
32 retail in this state.

33 (4) "Department" means the department of licensing.

34 NEW SECTION. **Sec. 19.** (1) Vessel dealer display decals may only
35 be used:

1 (a) To demonstrate vessels held for sale when operated by a
2 prospective customer holding a dated demonstration permit, and must be
3 carried in the vessel at all times it is being operated by the
4 individual;

5 (b) On vessels owned or consigned for sale that are in fact
6 available for sale and being used only for vessel dealer business
7 purposes by an officer of the corporation, a partner, a proprietor, or
8 by a bona fide employee of the firm if a card so identifying the
9 individual is carried in the vessel at all times it is so operated.

10 (2) A violation of this section and the rules adopted by the
11 department under this section is a misdemeanor punishable only by a
12 fine not to exceed one hundred dollars per vessel for the first
13 violation. Subsequent violations in the same year are subject to the
14 following fines:

15 (a) For the second violation, a fine of two hundred dollars per
16 vessel;

17 (b) For the third and successive violations, a fine of four hundred
18 dollars per vessel.

19 (3) After subtraction of court costs and administrative collection
20 fees, moneys collected under this section shall be credited to the
21 current expense fund of the arresting jurisdiction.

22 (4) All law enforcement officers have the authority to enforce this
23 section and the rules adopted by the department under this section.

24 NEW SECTION. **Sec. 20.** (1) Vessel dealers shall maintain an
25 established place of business as follows:

26 (a) A place of business in the state of Washington, in an area
27 where vessel dealer business may be lawfully conducted in accordance
28 with the terms of all applicable building code, zoning, and other land
29 use regulatory ordinances;

30 (b) Display of a sign, permanently affixed to the land or building,
31 clearly visible to the public, identifying the nature of the business
32 as marine sales, service, repair, or manufacturing;

33 (c) The dealer shall keep the place of business open or maintain a
34 telecommunications system so that the public and representatives of the
35 department may contact the vessel dealer or dealer's salesperson at
36 reasonable times;

37 (d) The books, records, and files necessary to conduct the business
38 shall be kept and maintained at the place of business listed on the

1 vessel dealer's registration, and shall be available for inspection by
2 representatives of the department at reasonable times.

3 (2) The department may waive any requirements pertaining to a
4 vessel dealer's established place of business if the waiver both serves
5 the purposes of this chapter and is necessary due to unique
6 circumstances such as a highly specialized business or impediments to
7 displaying a sign.

8 NEW SECTION. **Sec. 21.** For the purposes of an investigation or
9 proceeding under this chapter the director or an officer designated by
10 the director may administer oaths and affirmations, subpoena witnesses
11 and records, compel their attendance, take evidence, and require the
12 production of documents or records that the director deems relevant or
13 material to the inquiry.

14 NEW SECTION. **Sec. 22.** A vessel dealer who receives cash or a
15 negotiable instrument of deposit in excess of one thousand dollars, or
16 a deposit of any amount that will be held for more than fourteen
17 calendar days, shall place the funds in a separate trust account. Only
18 cash or negotiable instruments from a retail purchaser are required to
19 be placed in a trust account.

20 (1) Upon receipt, the cash or negotiable instrument must be
21 immediately set aside and endorsed to the trust account.

22 (2) The dealer shall deposit the cash or negotiable instrument in
23 the trust account by the close of banking hours on the day after
24 receipt.

25 (3) After delivery of the purchaser's vessel the vessel dealer
26 shall remove the deposited funds from the trust account.

27 (4) The dealer shall not commingle the trust account funds with any
28 other funds.

29 (5) The funds must remain in the trust account until the delivery
30 of the purchased vessel. However, upon written agreement from the
31 purchaser, the vessel dealer may remove and release trust funds before
32 delivery.

33 NEW SECTION. **Sec. 23.** If it appears that a person has engaged or
34 is about to engage in an act or practice constituting a violation of
35 this chapter, or a rule adopted or an order issued under this chapter,
36 the director may issue an order directing the person to cease and

1 desist from continuing the act or practice. The director shall give
2 reasonable notice of an opportunity for hearing. The director may
3 issue a temporary order pending a hearing. The temporary order remains
4 in effect until ten days after the hearing is held and becomes final if
5 the person to whom notice is addressed does not request a hearing
6 within twenty days after receipt of this notice.

7 NEW SECTION. **Sec. 24.** The department may adopt rules under
8 chapter 34.05 RCW to ensure the implementation, proper operation, and
9 enforcement of this chapter.

10 NEW SECTION. **Sec. 25.** RCW 46.12.120 and 46.12.140 are each
11 recodified as sections in chapter 46.70 RCW.

12 NEW SECTION. **Sec. 26.** Sections 18 through 24 of this act and the
13 following sections, upon recodification, shall constitute a new chapter
14 in Title 88 RCW: RCW 88.02.060, 88.02.112, 88.02.115, 88.02.118,
15 88.02.125, 88.02.184, 88.02.188, 88.02.210, and 88.02.230.

16 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
17 each repealed:

- 18 (1) RCW 46.70.150 and 1961 c 12 s 46.70.150;
- 19 (2) RCW 46.87.160 and 1987 c 244 s 29;
- 20 (3) RCW 88.02.023 and 1987 c 149 s 4;
- 21 (4) RCW 88.02.078 and 1987 c 149 s 2; and
- 22 (5) RCW 88.02.220 and 1991 c 339 s 33 & 1987 c 149 s 11.

23 NEW SECTION. **Sec. 28.** The code reviser's office may correct all
24 statutory references affected by the recodifications directed by
25 sections 25 and 26 of this act."

26 **HB 1379** - S COMM AMD
27 By Committee on Transportation

28 ADOPTED 4/14/93

29 In line 1 of the title, after "vehicles;" strike the remainder of
30 the title and insert "amending RCW 46.12.050, 46.68.010, 82.44.120,
31 46.70.021, 46.70.023, 46.70.041, 46.70.051, 46.70.083, 46.70.140,
32 46.70.290, 46.70.300, 46.87.020, 46.87.030, 46.87.080, 46.87.310, and

1 46.87.340; adding a new section to chapter 46.87 RCW; adding new
2 sections to chapter 46.70 RCW; adding a new chapter to Title 88 RCW;
3 recodifying RCW 46.12.120, 46.12.140, 88.02.060, 88.08.112, 88.02.115,
4 88.02.118, 88.02.125, 88.02.184, 88.02.188, 88.02.210, and 88.02.230;
5 repealing RCW 46.70.150, 46.87.160, 88.02.023, 88.02.078, and
6 88.02.220; and prescribing penalties."

7 **HB 1379** - S Amd
8 By Senator Vognild

9 ADOPTED 4/14/93

10 On page 1, line 1 of the title after "vehicles" insert "and
11 vessels"

--- END ---