

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1379

Chapter 307, Laws of 1993

53rd Legislature
1993 Regular Session

MOTOR VEHICLES AND DEALERS--LICENSING

EFFECTIVE DATE: 7/25/93

Passed by the House March 8, 1993
Yeas 97 Nays 0

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 22, 1993
Yeas 42 Nays 0

JOEL PRITCHARD
President of the Senate

Approved May 12, 1993

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1379** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 12, 1993 - 10:32 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 1379

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives R. Fisher, Schmidt, Jones, Brumsickle, Horn, Quall, Brown, Brough, Orr and Wood; by request of Department of Licensing

Read first time 01/27/93. Referred to Committee on Transportation.

1 AN ACT Relating to motor vehicles; amending RCW 46.12.050,
2 46.68.010, 82.44.120, 46.70.021, 46.70.023, 46.70.041, 46.70.051,
3 46.70.083, 46.70.140, 46.70.290, 46.70.300, 46.87.020, 46.87.030,
4 46.87.080, 46.87.310, and 46.87.340; adding a new section to chapter
5 46.87 RCW; adding new sections to chapter 46.70 RCW; recodifying RCW
6 46.12.120 and 46.12.140; repealing RCW 46.70.150 and 46.87.160; and
7 prescribing penalties.

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

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

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

1 (~~Both~~) The certificates of ownership and the certificates of
2 license registration shall contain upon the face thereof, the date of
3 application, the registration number assigned to the registered owner
4 and to the vehicle, the name and address of the registered owner and
5 legal owner, the vehicle identification number, and such other
6 description of the vehicle and facts as the department shall require,
7 and in addition thereto, if the vehicle described in such certificates
8 shall have ever been licensed and operated as an exempt vehicle or a
9 taxicab, or if it is less than four years old and has been rebuilt
10 after having been totaled out by an insurance carrier, such fact shall
11 be clearly shown thereon.

12 All certificates of ownership of motor vehicles issued after April
13 30, 1990, shall reflect the odometer reading as provided by the
14 odometer disclosure statement submitted with the title application
15 involving a (~~change of registration~~) transfer of ownership.

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

18 Upon issuance of the certificate of license registration and
19 certificate of ownership and upon any reissue thereof, the department
20 shall deliver the certificate of license registration to the registered
21 owner and the certificate of ownership to the legal owner, or both to
22 the person who is both the registered owner and legal owner.

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

25 Whenever any license fee, paid under the provisions of this title,
26 has been erroneously paid, either wholly or in part, the (~~person~~
27 ~~paying the fee, upon satisfactory proof to the director of licensing,~~
28 ~~shall be~~) payor is entitled to have refunded the amount so erroneously
29 paid. A renewal license fee paid prior to the actual expiration date
30 of the license being renewed shall be deemed to be erroneously paid if
31 the vehicle for which the renewal license (~~is being~~) was purchased is
32 destroyed or permanently removed from the state prior to the beginning
33 date of the registration period for which the renewal fee (~~is being~~)
34 was paid. Upon such refund being certified to the state treasurer by
35 the director as correct and being claimed in the time required by law
36 the state treasurer shall mail or deliver the amount of each refund to
37 the person entitled thereto(~~(:—PROVIDED, That)~~). No claim for refund
38 shall be allowed for such erroneous payments unless filed with the

1 director within (~~thirteen months~~) three years after such claimed
2 erroneous payment was made.

3 If due to error a person has been required to pay a vehicle license
4 fee under this title and an excise tax (~~which~~) under Title 82 RCW
5 that amounts to an overpayment of ten dollars or more, that person
6 shall be entitled to a refund of the entire amount of the overpayment,
7 regardless of whether a refund of the overpayment has been requested.
8 If due to error the department or its agent has failed to collect the
9 full amount of the license fee and excise tax due and the underpayment
10 is in the amount of ten dollars or more, the department shall charge
11 and collect such additional amount as will constitute full payment of
12 the tax and fees.

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

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

18 Whenever any person has paid a motor vehicle license fee, and
19 together therewith has paid an excise tax imposed under the provisions
20 of this chapter, and the director (~~of licensing~~) determines that the
21 payor is entitled to a refund of the entire amount of the license fee
22 as provided by law, then the payor shall also be entitled to a refund
23 of the entire excise tax collected under the provisions of this
24 chapter. In case the director determines that any person is entitled
25 to a refund of only a part of the license fee so paid, the payor shall
26 be entitled to a refund of the difference, if any, between the excise
27 tax collected and that which should have been collected.

28 In case no claim is to be made for the refund of the license fee or
29 any part thereof, but claim is made by any person that he or she has
30 paid an erroneously excessive amount of excise tax, the department
31 shall determine in the manner generally provided in this chapter the
32 amount of such excess, if any, that has been paid and shall certify to
33 the state treasurer that such person is entitled to a refund in such
34 amount.

35 In any case where due to error, a person has been required to pay
36 an excise tax pursuant to this chapter and a vehicle license fee
37 pursuant to Title 46 RCW which amounts to an overpayment of ten dollars
38 or more, such person shall be entitled to a refund of the entire amount

1 of such overpayment, regardless of whether or not a refund of the
2 overpayment has been requested. Conversely, if due to error, the
3 department or its agents has failed to collect the full amount of the
4 license fee and excise tax due, which underpayment is in the amount of
5 ten dollars or more, the department shall charge and collect such
6 additional amount as will constitute full payment of the tax.

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

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

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

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

20 It is unlawful for any person, firm, or association to act as a
21 vehicle dealer or vehicle manufacturer, to engage in business as such,
22 serve in the capacity of such, advertise himself, herself, or
23 themselves as such, solicit sales as such, or distribute or transfer
24 vehicles for resale in this state, without first obtaining and holding
25 a current license as provided in this chapter, unless the title of the
26 vehicle is in the name of the seller. It is unlawful for any person
27 other than a licensed vehicle dealer to display a vehicle for sale
28 unless the registered owner or legal owner is the displayer or holds a
29 notarized power of attorney. A person or firm engaged in buying and
30 offering for sale, or buying and selling five or more vehicles in a
31 twelve-month period, or in any other way engaged in dealer activity
32 without holding a vehicle dealer license, is guilty of a gross
33 misdemeanor, and upon conviction is subject to a fine of up to ~~((one))~~
34 five thousand dollars for each violation and up to one year in jail.
35 A second offense is a class C felony punishable under chapter 9A.20
36 RCW. A violation of this section is also a per se violation of chapter
37 19.86 RCW and is considered a deceptive practice. The department of
38 licensing, the Washington state patrol, the attorney general's office,

1 and the department of revenue shall cooperate in the enforcement of
2 this section. A distributor, factory branch, or factory representative
3 shall not be required to have a vehicle manufacturer license so long as
4 the vehicle manufacturer so represented is properly licensed pursuant
5 to this chapter. Nothing in this chapter prohibits financial
6 institutions from cooperating with vehicle dealers licensed under this
7 chapter in dealer sales or leases. However, financial institutions
8 shall not broker vehicles and cooperation is limited to organizing,
9 promoting, and financing of such dealer sales or leases.

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

12 (1) An "established place of business" requires a permanent,
13 enclosed commercial building located within the state of Washington
14 easily accessible at all reasonable times. An established place of
15 business shall have an improved display area of not less than three
16 thousand square feet in or immediately adjoining the building, or a
17 display area large enough to display six or more vehicles of the type
18 the dealer is licensed to sell, whichever area is larger. The business
19 of a vehicle dealer, including the display (~~and repair~~) of vehicles,
20 may be lawfully carried on at an established place of business in
21 accordance with the terms of all applicable building code, zoning, and
22 other land-use regulatory ordinances. The dealer shall keep the
23 building open to the public so that they may contact the vehicle dealer
24 or the dealer's salespersons at all reasonable times. The books,
25 records, and files necessary to conduct the business shall be kept and
26 maintained at that place. The established place of business shall
27 display an exterior sign with the business name and nature of the
28 business, such as auto sales, permanently affixed to the land or
29 building, with letters clearly visible to the major avenue of traffic.
30 In no event may a room or rooms in a hotel, rooming house, or apartment
31 house building or part of a single or multiple-unit dwelling house be
32 considered an "established place of business" unless the ground floor
33 of such a dwelling is devoted principally to and occupied for
34 commercial purposes and the dealer offices are located on the ground
35 floor. A mobile office or mobile home may be used as an office if it
36 is connected to utilities and is set up in accordance with state law.
37 This subsection does not apply to auction companies that do not own
38 vehicle inventory or sell vehicles from an auction yard.

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

7 (3) Auction companies shall post their vehicle dealer license at
8 each auction where vehicles are offered, and shall provide the
9 department with the address of the auction at least three days before
10 the auction.

11 (4) If a dealer maintains a place of business at more than one
12 location or under more than one name in this state, he or she shall
13 designate one location as the principal place of business of the firm,
14 one name as the principal name of the firm, and all other locations or
15 names as subagencies. A subagency license is required for each and
16 every subagency: PROVIDED, That the department may grant an exception
17 to the subagency requirement in the specific instance where a licensed
18 dealer is unable to locate their used vehicle sales facilities adjacent
19 to or at the established place of business. This exception shall be
20 granted and defined under the promulgation of rules consistent with the
21 Administrative Procedure Act.

22 (5) All vehicle dealers shall maintain ownership or leasehold
23 throughout the license year of the real property from which they do
24 business. The dealer shall provide the department with evidence of
25 ownership or leasehold whenever the ownership changes or the lease is
26 terminated.

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

30 (7) A temporary subagency shall meet all local zoning and building
31 codes for the type of merchandising being conducted. The dealer
32 license certificate shall be posted at the location. No other
33 requirements of an established place of business apply to a temporary
34 subagency. Auction companies are not required to obtain a temporary
35 subagency license.

36 (8) A wholesale vehicle dealer shall have office facilities in a
37 commercial building within this state, and all storage facilities for
38 inventory shall be listed with the department, and shall meet local
39 zoning and land use ordinances. A wholesale vehicle dealer shall

1 maintain a telecommunications system. An exterior sign visible from
2 the nearest street shall identify the business name and the nature of
3 business. A wholesale dealer need not maintain a display area as
4 required in this section. When two or more vehicle dealer businesses
5 share a location, all records, office facilities, and inventory, if
6 any, must be physically segregated and clearly identified.

7 (9) A retail vehicle dealer shall be open during normal business
8 hours, maintain office and display facilities in a commercially zoned
9 location or in a location complying with all applicable building and
10 land use ordinances, and maintain a business telephone listing in the
11 local directory. When two or more vehicle dealer businesses share a
12 location, all records, office facilities, and inventory shall be
13 physically segregated and clearly identified.

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

16 (11) A subagency license is not required for a mobile home dealer
17 to display an on-site display model, a consigned mobile home not
18 relocated from its site, or a repossessed mobile home if sales are
19 handled from a principal place of business or subagency. A mobile home
20 dealer shall identify on-site display models, repossessed mobile homes,
21 and those consigned at their sites with a sign that includes the
22 dealer's name and telephone number.

23 (12) Every vehicle dealer shall advise the department of the
24 location of each and every place of business of the firm and the name
25 or names under which the firm is doing business at such location or
26 locations. If any name or location is changed, the dealer shall notify
27 the department of such change within ten days. The license issued by
28 the department shall reflect the name and location of the firm and
29 shall be posted in a conspicuous place at that location by the dealer.

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

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

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

- 1 (a) Proof as the department may require concerning the applicant's
2 identity, including but not limited to his fingerprints, the honesty,
3 truthfulness, and good reputation of the applicant for the license, or
4 of the officers of a corporation making the application;
- 5 (b) The applicant's form and place of organization including if the
6 applicant is a corporation, proof that the corporation is licensed to
7 do business in this state;
- 8 (c) The qualification and business history of the applicant and any
9 partner, officer, or director;
- 10 (d) The applicant's financial condition or history including a bank
11 reference and whether the applicant or any partner, officer, or
12 director has ever been adjudged bankrupt or has any unsatisfied
13 judgment in any federal or state court;
- 14 (e) Whether the applicant has been adjudged guilty of a crime which
15 directly relates to the business for which the license is sought and
16 the time elapsed since the conviction is less than ten years, or has
17 suffered any judgment within the preceding five years in any civil
18 action involving fraud, misrepresentation, or conversion and in the
19 case of a corporation or partnership, all directors, officers, or
20 partners;
- 21 (f) A business telephone with a listing in the local directory;
- 22 (g) The name or names of new vehicles the vehicle dealer wishes to
23 sell;
- 24 (h) The names and addresses of each manufacturer from whom the
25 applicant has received a franchise;
- 26 ~~(i) ((Whether the applicant intends to sell used vehicles, and if
27 so, whether he has space available for servicing and repairs;~~
- 28 ~~(j))~~ A certificate by a representative of the department, that the
29 applicant's principal place of business and each subagency business
30 location in the state of Washington meets the location requirements as
31 required by this chapter. The certificate shall include proof of the
32 applicant's ownership or lease of the real property where the
33 applicant's principal place of business is established;
- 34 ~~((k))~~ (j) A copy of a current service agreement with a
35 manufacturer, or distributor for a foreign manufacturer, requiring the
36 applicant, upon demand of any customer receiving a new vehicle warranty
37 to perform or arrange for, within a reasonable distance of his
38 established place of business, the service repair and replacement work
39 required of the manufacturer or distributor by such vehicle warranty.

1 This requirement applies only to applicants seeking to sell, to
2 exchange, to offer, to auction, to solicit, or to advertise new or
3 current-model vehicles with factory or distributor warranties;

4 ~~((l))~~ (k) The class of vehicles the vehicle dealer will be
5 buying, selling, listing, exchanging, offering, brokering, leasing with
6 an option to purchase, auctioning, soliciting, or advertising, and
7 which classification or classifications the dealer wishes to be
8 designated as;

9 ~~((m))~~ (l) Any other information the department may reasonably
10 require.

11 (2) If the applicant is a manufacturer the application shall
12 contain the following information to the extent it is applicable to the
13 applicant:

14 (a) The name and address of the principal place of business of the
15 applicant and, if different, the name and address of the Washington
16 state representative of the applicant;

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

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

21 (d) The name or names of the vehicles that the licensee
22 manufactures;

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

25 (f) The name or names and address or addresses of resident
26 employees or agents to provide service or repairs to vehicles located
27 in the state of Washington only under the terms of any warranty
28 attached to new or unused vehicles manufactured, unless such
29 manufacturer requires warranty service to be performed by all of its
30 dealers pursuant to a current service agreement on file with the
31 department;

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

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

35 (1) After the application has been filed, the fee paid, and bond
36 posted, if required the department shall, if no denial order is in
37 effect and no proceeding is pending under RCW ~~((46.70.180—or~~
38 ~~46.70.200))~~ 46.70.101, issue the appropriate license, which license, in

1 the case of a vehicle dealer, shall designate the classification of the
2 dealer. Nothing prohibits a vehicle dealer from obtaining licenses for
3 more than one classification, and nothing prevents any vehicle dealer
4 from dealing in other classes of vehicles on an isolated basis.

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

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

11 The license of a vehicle dealer or a vehicle manufacturer expires
12 on the date that is twelve consecutive months from the date of
13 issuance. The license may be renewed by filing with the department
14 prior to the expiration of the license, a renewal application
15 containing such information as the department may require to indicate
16 the number of vehicle sales transacted during the past year, and any
17 material change in the information contained in the original
18 application. Failure by the dealer to comply is grounds for denial of
19 the renewal application or dealer license plate renewal.

20 The dealer's established place of business shall be certified by a
21 representative of the department at least once every (~~thirty-two~~)
22 thirty-six months, or more frequently as determined necessary by the
23 department. The certification will verify compliance with the
24 requirements of this chapter for an established place of business.
25 Failure by the dealer to comply at any time is grounds for license
26 suspension or revocation, denial of the renewal application, or
27 monetary assessment.

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

30 Any vehicle dealer who (~~shall~~) knowingly or with reason to know,
31 buys or receives, sells or disposes of, conceals or (~~have in his~~) has
32 in the dealer's possession, any vehicle from which the motor or serial
33 number has been removed, defaced, covered, altered, or destroyed, or
34 any dealer, who (~~shall~~) removes from or installs in any motor vehicle
35 registered with the department by motor block number, a new or used
36 motor block without immediately notifying the department of such fact
37 upon a form provided by the department, or any vehicle dealer who

1 (~~shall~~) loans or permits the use of vehicle dealer license plates by
2 any person not entitled to the use thereof, (~~shall be~~) is guilty of
3 a gross misdemeanor.

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

6 The provisions of chapter 46.70 RCW shall apply to the distribution
7 and sale of mobile homes and to mobile home dealers, (~~salesmen~~)
8 distributors, manufacturers, factory representatives, or other persons
9 engaged in such distribution and sale to the same extent as for motor
10 vehicles.

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

13 (1) The provisions of this chapter relating to the licensing and
14 regulation of vehicle dealers(~~salesmen~~) and manufacturers shall be
15 exclusive, and no county, city, or other political subdivision of this
16 state shall enact any laws, rules, or regulations licensing or
17 regulating vehicle dealers(~~salesmen~~) or manufacturers.

18 (2) This section shall not be construed to prevent a political
19 subdivision of this state from levying a business and occupation tax
20 upon vehicle dealers or manufacturers maintaining an office within
21 that political subdivision if a business and occupation tax is levied
22 by such a political subdivision upon other types of businesses within
23 its boundaries.

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

26 Terms used in this chapter have the meaning given to them in the
27 International Registration Plan (IRP), the Uniform Vehicle
28 Registration, Proration, and Reciprocity Agreement (Western Compact),
29 chapter 46.04 RCW, or as otherwise defined in this section.
30 Definitions given to terms by the IRP and the Western Compact, as
31 applicable, shall prevail unless given a different meaning in this
32 chapter or in rules adopted under authority of this chapter.

33 (1) "Apportionable vehicle" has the meaning given by the IRP,
34 except that it does not include vehicles with a declared gross weight
35 of twelve thousand pounds or less. Apportionable vehicles include
36 trucks, tractors, truck tractors, road tractors, and buses, each as

1 separate and licensable vehicles. For IRP jurisdictions that require
2 the registration of nonmotor vehicles, this term may include trailers,
3 semitrailers, and pole trailers as applicable, each as separate and
4 licensable vehicles.

5 (2) "Cab card" is a certificate of registration issued for a
6 vehicle by the registering jurisdiction under the Western Compact.
7 Under the IRP, it is a certificate of registration issued by the base
8 jurisdiction for a vehicle upon which is disclosed the jurisdictions
9 and registered gross weights in such jurisdictions for which the
10 vehicle is registered.

11 (3) "Commercial vehicle" is a term used by the Western Compact and
12 means any vehicle, except recreational vehicles, vehicles displaying
13 restricted plates, and government owned or leased vehicles, that is
14 operated and registered in more than one jurisdiction and is used or
15 maintained for the transportation of persons for hire, compensation, or
16 profit, or is designed, used, or maintained primarily for the
17 transportation of property and:

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

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

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

27 Although a two-axle motor vehicle, trailer, pole trailer,
28 semitrailer, or any combination of such vehicles with an actual or
29 declared gross weight or declared combined gross weight exceeding
30 twelve thousand pounds but not more than twenty-six thousand is not
31 considered to be a commercial vehicle, at the option of the owner, such
32 vehicles may be considered as "commercial vehicles" for the purpose of
33 proportional registration. The nonmotor vehicles mentioned are only
34 applicable to those jurisdictions requiring the registration of such
35 vehicles.

36 Commercial vehicles include trucks, tractors, truck tractors, road
37 tractors, and buses. Trailers, pole trailers, and semitrailers, will
38 also be considered as commercial vehicles for those jurisdictions who
39 require registration of such vehicles.

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

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

9 (6) "Declared gross weight" means the total unladen weight of any
10 vehicle plus the weight of the maximum load to be carried on the
11 vehicle as set by the registrant in the application pursuant to chapter
12 46.44 RCW and for which registration fees have been or are to be paid.
13 In the case of a bus, auto stage, or a passenger-carrying for hire
14 vehicle with a seating capacity of more than six, the declared gross
15 weight shall be determined by multiplying the average load factor of
16 one hundred and fifty pounds by the number of seats in the vehicle,
17 including the driver's seat, and add this amount to the unladen weight
18 of the vehicle. If the resultant gross weight is not listed in RCW
19 46.16.070, it will be increased to the next higher gross weight so
20 listed pursuant to chapter 46.44 RCW.

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

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

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

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

28 (11) "Jurisdiction" means and includes a state, territory or
29 possession of the United States, the District of Columbia, the
30 Commonwealth of Puerto Rico, a foreign (~~county~~~~[country]~~) country,
31 and a state or province of a foreign country.

32 (12) "Owner" means a person or business firm who holds the legal
33 title to a vehicle, or if a vehicle is the subject of an agreement for
34 its conditional sale with the right of purchase upon performance of the
35 conditions stated in the agreement and with an immediate right of
36 possession vested in the conditional vendee, or if a vehicle is subject
37 to a lease, contract, or other legal arrangement vesting right of
38 possession or control, for security or otherwise, or if a mortgagor of
39 a vehicle is entitled to possession, then the owner is deemed to be the

1 person or business firm in whom is vested right of possession or
2 control.

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

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

9 (a) In the case of a commercial vehicle, the jurisdiction in which
10 it is registered if the commercial enterprise in which the vehicle is
11 used has a place of business therein, and, if the vehicle is most
12 frequently dispatched, garaged, serviced, maintained, operated, or
13 otherwise controlled in or from that place of business, and the vehicle
14 has been assigned to that place of business; or

15 (b) In the case of a commercial vehicle, the jurisdiction where,
16 because of an agreement or arrangement between two or more
17 jurisdictions, or pursuant to a declaration, the vehicle has been
18 registered as required by that jurisdiction.

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

23 (15) "Prorate percentage" is the factor that is applied to the
24 total proratable fees and taxes to determine the apportionable or
25 prorated fees required for registration in a particular jurisdiction.
26 It is determined by dividing the in-jurisdiction miles for a particular
27 jurisdiction by the total miles. This term is synonymous with the term
28 "mileage percentage."

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

31 (17) "Registration year" means the twelve-month period during which
32 the registration plates issued by the base jurisdiction are valid
33 according to the laws of the base jurisdiction. (~~The "registration~~
34 ~~year" for Washington is the period from January 1st through December~~
35 ~~31st of each calendar year.~~)

36 (18) "Total miles" means the total number of miles accumulated in
37 all jurisdictions during the preceding year by all vehicles of the
38 fleet while they were a part of the fleet. Mileage accumulated by

1 vehicles of the fleet that did not engage in interstate operations is
2 not included in the fleet miles.

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

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

7 (1) When application to register an apportionable or commercial
8 vehicle is made after ~~((March 31st of a))~~ the third month of the
9 owner's registration year, the Washington prorated fees may be reduced
10 by one-twelfth for each full registration month that has elapsed at the
11 time a temporary authorization permit (TAP) was issued or if no TAP was
12 issued, at such time as an application for registration is received in
13 the department. ~~((The filing of any application with the department~~
14 ~~incurs liability for the fees and taxes applicable to the vehicles~~
15 ~~contained in the application.))~~ If a vehicle is being added to a
16 currently registered fleet, the prorate percentage previously
17 established for the fleet for such registration year shall be used in
18 the computation of the proportional fees and taxes due.

19 (2) If any vehicle is withdrawn from a proportionally registered
20 fleet during the period for which it is registered under this chapter,
21 the registrant of the fleet shall notify the department on appropriate
22 forms prescribed by the department. The department may require the
23 registrant to surrender credentials that were issued to the vehicle.
24 If a motor vehicle is permanently withdrawn from a proportionally
25 registered fleet because it has been destroyed, sold, or otherwise
26 completely removed from the service of the fleet registrant, the unused
27 portion of the licensing fee paid under RCW 46.16.070 with respect to
28 the vehicle reduced by one-twelfth for each calendar month and fraction
29 thereof elapsing between the first day of the month of the current
30 registration year in which the vehicle was registered and the date the
31 notice of withdrawal, accompanied by such credentials as may be
32 required, is received in the department, shall be credited to the fleet
33 proportional registration account of the registrant. Credit shall be
34 applied against the licensing fee liability for subsequent additions of
35 motor vehicles to be proportionally registered in the fleet during such
36 registration year or for additional licensing fees due under RCW
37 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit
38 is less than fifteen dollars, no credit will be entered. In lieu of

1 credit, the registrant may choose to transfer the unused portion of the
2 licensing fee for the motor vehicle to the new owner, in which case it
3 shall remain with the motor vehicle for which it was originally paid.
4 In no event may any amount be credited against fees other than those
5 for the registration year from which the credit was obtained nor is any
6 amount subject to refund.

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

9 (1) Upon making satisfactory application and payment of applicable
10 fees and taxes for proportional registration under this chapter, the
11 department shall issue a cab card and validation tab for each vehicle,
12 and to vehicles of Washington-based fleets, two distinctive
13 apportionable license plates for each motor vehicle and one such plate
14 for each trailer, semitrailer, pole trailer, or converter gear listed
15 on the application. License plates shall be displayed on vehicles as
16 required by RCW 46.16.240. The number and plate shall be of a design,
17 size, and color determined by the department. The plates shall be
18 treated with reflectorized material and clearly marked with the words
19 "WASHINGTON" and "APPORTIONED," both words to appear in full and
20 without abbreviation.

21 (2) The cab card serves as the certificate of registration for a
22 proportionally registered vehicle. The face of the cab card shall
23 contain the name and address of the registrant as contained in the
24 records of the department, the license plate number assigned to the
25 vehicle by the base jurisdiction, the vehicle identification number,
26 and such other description of the vehicle and data as the department
27 may require. The cab card shall be signed by the registrant, or a
28 designated person if the registrant is a business firm, and shall at
29 all times be carried in or on the vehicle to which it was issued. In
30 the case of nonpowered vehicles, the cab card may be carried in or on
31 the vehicle supplying the motive power instead of in or on the
32 nonpowered vehicle.

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

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

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

11 (6) Fleet vehicles so registered and identified shall be deemed to
12 be fully licensed and registered in this state for any type of movement
13 or operation. However, in those instances in which a grant of
14 authority is required for interstate or intrastate movement or
15 operation, no such vehicle may be operated in interstate or intrastate
16 commerce in this state unless the owner has been granted interstate
17 operating authority by the interstate commerce commission in the case
18 of interstate operations or intrastate operating authority by the
19 Washington utility and transportation commission in the case of
20 intrastate operations and unless the vehicle is being operated in
21 conformity with that authority.

22 (7) The department may issue temporary authorization permits (TAPs)
23 to qualifying operators for the operation of vehicles pending issuance
24 of license identification. A fee of one dollar plus a one dollar
25 filing fee shall be collected for each permit issued. The permit fee
26 shall be deposited in the motor vehicle fund, and the filing fee shall
27 be deposited in the highway safety fund. The department may adopt
28 rules for use and issuance of the permits.

29 (8) The department may refuse to issue any license or permit
30 authorized by subsection (1) or (7) of this section to any person: (a)
31 Who formerly held any type of license or permit issued by the
32 department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or
33 82.38 RCW that has been revoked for cause, which cause has not been
34 removed; or (b) who is a subterfuge for the real party in interest
35 whose license or permit issued by the department pursuant to chapter
36 46.16, 46.85, 46.87, 82.36, 82.37, or 82.38 RCW and has been revoked
37 for cause, which cause has not been removed; or (c) who, as an
38 individual licensee, or officer, director, owner, or managing employee
39 of a nonindividual licensee, has had a license or permit issued by the

1 department pursuant to chapter 46.16, 46.85, 46.87, 82.36, 82.37, or
2 82.38 RCW which has been revoked for cause, which cause has not been
3 removed; or (d) who has an unsatisfied debt to the state assessed under
4 either chapter 46.16, 46.85, 46.87, 82.36, 82.37, 82.38, or 82.44 RCW.

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

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

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

14 Any owner whose application for proportional registration has been
15 accepted shall preserve the records on which the application is based
16 for a period of four years following the preceding year or period upon
17 which the application is based. These records shall be complete and
18 shall include, but not be limited to, the following: Copies of
19 proportional registration applications and supplements for all
20 jurisdictions in which the fleet is prorated; proof of proportional or
21 full registration with other jurisdictions; vehicle license or trip
22 permits; temporary authorization permits; documents establishing the
23 latest purchase year and cost of each fleet vehicle in ready-for-the-
24 road condition; weight certificates indicating the unladen, ready-for-
25 the-road, weight of each vehicle in the fleet; periodic summaries of
26 mileage by fleet and by individual vehicles; individual trip reports,
27 driver's daily logs, or other source documents maintained for each
28 individual trip that provide trip dates, points of origin and
29 destinations, total miles traveled, miles traveled in each
30 jurisdiction, routes traveled, vehicle equipment number, driver's full
31 name, and all other information pertinent to each trip. Upon request
32 of the department, the owner shall make the records available to the
33 department at its designated office for audit as to accuracy of
34 records, computations, and payments. The department shall assess and
35 collect any unpaid fees and taxes found to be due the state and provide
36 credits or refunds for overpayments of Washington fees and taxes as
37 determined in accordance with formulas and other requirements
38 prescribed in this chapter. If the owner fails to maintain complete

1 records as required by this section, the department shall attempt to
2 reconstruct or reestablish such records. However, if the department is
3 unable to do so and the missing or incomplete records involve mileages
4 accrued by vehicles while they are part of the fleet, the department
5 may assess an amount not to exceed the difference between the
6 Washington proportional fees and taxes paid and one hundred percent of
7 the fees and taxes. Further, if the owner fails to maintain complete
8 records as required by this section, or if the department determines
9 that the owner should have registered more vehicles in this state under
10 this chapter, the department may deny the owner the right of any
11 further benefits provided by this chapter until any final audit or
12 assessment made under this chapter has been satisfied.

13 The department may audit the records of any owner and may make
14 arrangements with agencies of other jurisdictions administering motor
15 vehicle registration laws for joint audits of any such owner. No
16 assessment for deficiency or claim for credit may be made for any
17 period for which records are no longer required. Any fees, taxes,
18 penalties, or interest found to be due and owing the state upon audit
19 shall bear interest at (~~twelve percent per annum from the date on~~
20 ~~which the deficiency is incurred~~) the rate of one percent per month,
21 or fraction thereof, from the first day of the calendar month after the
22 amount should have been paid until the date of payment. If the audit
23 discloses a deliberate and willful intent to evade the requirements of
24 payment under RCW 46.87.140, a penalty of ten percent shall also be
25 assessed.

26 If the audit discloses that an overpayment to the state in excess
27 of five dollars has been made, the department shall certify the
28 overpayment to the state treasurer who shall issue a warrant for the
29 overpayment to the vehicle operator. Overpayments shall bear interest
30 at the rate of eight percent per annum from the date on which the
31 overpayment is incurred until the date of payment.

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

34 If an owner of proportionally registered vehicles liable for the
35 remittance of fees and taxes imposed by this chapter (~~for which an~~
36 ~~assessment has become final~~) fails to pay the fees and taxes, the
37 amount thereof, including any interest, penalty, or addition to the
38 fees and taxes together with any additional costs that may accrue,

1 constitutes a lien in favor of the state upon all franchises, property,
2 and rights to property, whether the property is employed by the person
3 for personal or business use or is in the hands of a trustee, receiver,
4 or assignee for the benefit of creditors, from the date the fees and
5 taxes were due and payable until the amount of the lien is paid or the
6 property is sold to pay the lien. The lien has priority over any lien
7 or encumbrance whatsoever, except the lien of other state taxes having
8 priority by law, and except that the lien is not valid as against any
9 bona fide mortgagee, pledgee, judgment creditor, or purchaser whose
10 rights have attached before the time the department has filed and
11 recorded notice of the lien as provided in this chapter.

12 In order to avail itself of the lien created by this section, the
13 department shall file with any county auditor a statement of claim and
14 lien specifying the amount of delinquent fees and taxes, penalties, and
15 interest claimed by the department. From the time of filing for
16 record, the amount required to be paid constitutes a lien upon all
17 franchises, property, and rights to property, whether real or personal,
18 then belonging to or thereafter acquired by the person in the county.
19 Any lien as provided in this section may also be filed in the office of
20 the secretary of state. Filing in the office of the secretary of state
21 is of no effect, however, until the lien or a copy of it has been filed
22 with the county auditor in the county where the property is located.
23 When a lien is filed in compliance with this section and with the
24 secretary of state, the filing has the same effect as if the lien had
25 been duly filed for record in the office of each county auditor of this
26 state.

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

29 The department may extend or diminish vehicle license registration
30 periods for the purpose of staggering renewal periods. The extension
31 or diminishment of a vehicle license registration period must be by
32 rule of the department. The rule shall provide for the collection of
33 proportionally increased or decreased vehicle license registration fees
34 and of excise or other taxes required to be paid at the time of
35 registration.

36 It is the intent of the legislature that there shall be neither a
37 significant net gain nor loss of revenue to the state general fund or

1 the motor vehicle fund as the result of implementing and maintaining a
2 staggered vehicle registration system.

3 NEW SECTION. **Sec. 18.** RCW 46.12.120 and 46.12.140 are each
4 recodified as sections in chapter 46.70 RCW.

5 NEW SECTION. **Sec. 19.** The following acts or parts of acts are
6 each repealed:

7 (1) RCW 46.70.150 and 1961 c 12 s 46.70.150; and

8 (2) RCW 46.87.160 and 1987 c 244 s 29.

Passed the House March 8, 1993.

Passed the Senate April 22, 1993.

Approved by the Governor May 12, 1993.

Filed in Office of Secretary of State May 12, 1993.