

2 SSB 5685 - S AMD 133
3 By Senators Owen and Haugen

4 ADOPTED 3/11/95

5 On page 12, after line 9, insert the following:

6 NEW SECTION. **Sec. 22.** (1) The legislature recognizes that
7 currently the state patrol inspects rebuilt vehicles for stolen parts.
8 However, they are not authorized to perform complete safety
9 inspections.

10 (2) The state patrol shall assemble a study group and complete a
11 study, to be submitted to the legislative transportation committee no
12 later than January 1, 1996, on the feasibility of implementing safety
13 inspections for vehicles that are rebuilt after surrender of the
14 certificate of ownership to the department of licensing under RCW
15 46.12.070 due to the vehicle's destruction or declaration as a total
16 loss. The study shall include, but is not limited to:

17 (a) An examination of safety inspection systems in other states;

18 (b) A determination of how a safety inspection program might be
19 implemented in Washington state;

20 (c) An analysis of the cost of conducting a safety inspection and
21 who should be responsible for bearing those costs; and

22 (d) An evaluation of whether state agencies or private business
23 might most effectively and efficiently conduct safety inspections.

24 (3) The study group prescribed in subsection (2) of this section
25 must include representatives of the state patrol, the department of
26 licensing, the Washington traffic safety commission, the insurance
27 industry, the autobody industry, and other appropriate groups.

28 (4) Section 24 of this act and RCW 46.12.050 require notification
29 on the certificates of ownership and registration as to whether a
30 vehicle has previously been destroyed or declared a total loss. The
31 department of licensing, in consultation with the study group members
32 prescribed in subsection (3) of this section, shall study the
33 feasibility of expanding the notification requirement to apply to all
34 vehicles, regardless of age. The study group shall also develop a
35 recommendation regarding the feasibility of differentiating on the
36 certificates of ownership and registration whether the vehicle has

1 sustained cosmetic damage or structural damage. The department shall
2 report its findings to the legislative transportation committee no
3 later than January 1, 1996.

4 **Sec. 23.** RCW 46.12.030 and 1990 c 238 s 1 are each amended to read
5 as follows:

6 The application for certificate of ownership shall be upon a blank
7 form to be furnished by the department and shall contain:

8 (1) A full description of the vehicle, which shall contain the
9 proper vehicle identification number, the number of miles indicated on
10 the odometer at the time of delivery of the vehicle, and any
11 distinguishing marks of identification;

12 (2) The name and address of the person who is to be the registered
13 owner of the vehicle and, if the vehicle is subject to a security
14 interest, the name and address of the secured party;

15 (3) Such other information as the department may require. The
16 department may in any instance, in addition to the information required
17 on the application, require additional information and a physical
18 examination of the vehicle or of any class of vehicles, or either. A
19 physical examination of the vehicle is mandatory if it previously was
20 registered in any other state or country or if it has been rebuilt
21 after surrender of the certificate of ownership to the department under
22 RCW 46.12.070 due to the vehicle's destruction or declaration as a
23 total loss. The inspection must verify that the vehicle identification
24 number is genuine and agrees with the number shown on the foreign title
25 and registration certificate. If the vehicle is from a jurisdiction
26 that does not issue titles, the inspection must verify that the vehicle
27 identification number is genuine and agrees with the number shown on
28 the registration certificate. The inspection must also confirm that
29 the license plates on the vehicle are those assigned to the vehicle by
30 the jurisdiction in which the vehicle was previously licensed. The
31 inspection must be made by a member of the Washington state patrol or
32 other person authorized by the department to make such inspections.

33 The application shall be subscribed by the registered owner and be
34 sworn to by that applicant in the manner described by RCW 9A.72.085.
35 The department shall retain the application in either the original,
36 computer, or photostatic form.

37 NEW SECTION. **Sec. 24.** A new section is added to chapter 46.12 RCW

1 to read as follows:

2 (1) Effective January 1, 1997, the department shall issue a unique
3 certificate of ownership and certificate of license registration, as
4 required by chapter 46.16 RCW, for vehicles less than four years old
5 that are rebuilt after surrender of the certificate of ownership to the
6 department under RCW 46.12.070 due to the vehicle's destruction or
7 declaration as a total loss. Each certificate shall conspicuously
8 display across its front, a word indicating that the vehicle was
9 rebuilt.

10 (2) Beginning January 1, 1997, upon inspection of a vehicle that
11 has been rebuilt under RCW 46.12.030, the state patrol shall securely
12 affix or inscribe a marking at the driver's door latch indicating that
13 the vehicle has previously been destroyed or declared a total loss.

14 (3) It is unlawful for a person to remove the marking prescribed in
15 subsection (2) of this section. Upon conviction, the person is guilty
16 of a class C felony.

17 (4) The department may adopt rules as necessary to implement this
18 section.

19 **Sec. 25.** RCW 46.63.020 and 1994 c 275 s 33 and 1994 c 141 s 2 are
20 each reenacted and amended to read as follows:

21 Failure to perform any act required or the performance of any act
22 prohibited by this title or an equivalent administrative regulation or
23 local law, ordinance, regulation, or resolution relating to traffic
24 including parking, standing, stopping, and pedestrian offenses, is
25 designated as a traffic infraction and may not be classified as a
26 criminal offense, except for an offense contained in the following
27 provisions of this title or a violation of an equivalent administrative
28 regulation or local law, ordinance, regulation, or resolution:

29 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
30 vehicle while under the influence of intoxicating liquor or a
31 controlled substance;

32 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

33 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
34 while under the influence of intoxicating liquor or narcotics or
35 habit-forming drugs or in a manner endangering the person of another;

36 (4) RCW 46.10.130 relating to the operation of snowmobiles;

37 (5) Chapter 46.12 RCW relating to certificates of ownership and
38 registration and markings indicating that a vehicle has been destroyed

1 or declared a total loss;
2 (6) RCW 46.16.010 relating to initial registration of motor
3 vehicles;
4 (7) RCW 46.16.011 relating to permitting unauthorized persons to
5 drive;
6 (8) RCW 46.16.160 relating to vehicle trip permits;
7 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
8 acquisition of a special placard or license plate for disabled persons'
9 parking;
10 (10) RCW 46.20.021 relating to driving without a valid driver's
11 license;
12 (11) RCW 46.20.336 relating to the unlawful possession and use of
13 a driver's license;
14 (12) RCW 46.20.342 relating to driving with a suspended or revoked
15 license or status;
16 (13) RCW 46.20.410 relating to the violation of restrictions of an
17 occupational driver's license;
18 (14) RCW 46.20.420 relating to the operation of a motor vehicle
19 with a suspended or revoked license;
20 (15) RCW 46.20.750 relating to assisting another person to start a
21 vehicle equipped with an ignition interlock device;
22 (16) RCW 46.25.170 relating to commercial driver's licenses;
23 (17) Chapter 46.29 RCW relating to financial responsibility;
24 (18) RCW 46.30.040 relating to providing false evidence of
25 financial responsibility;
26 (19) RCW 46.37.435 relating to wrongful installation of
27 sunscreening material;
28 (20) RCW 46.44.180 relating to operation of mobile home pilot
29 vehicles;
30 (21) RCW 46.48.175 relating to the transportation of dangerous
31 articles;
32 (22) RCW 46.52.010 relating to duty on striking an unattended car
33 or other property;
34 (23) RCW 46.52.020 relating to duty in case of injury to or death
35 of a person or damage to an attended vehicle;
36 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
37 and appraisers;
38 (25) RCW 46.52.100 relating to driving under the influence of
39 liquor or drugs;

1 (26) RCW 46.52.130 relating to confidentiality of the driving
2 record to be furnished to an insurance company, an employer, and an
3 alcohol/drug assessment or treatment agency;

4 (27) RCW 46.55.020 relating to engaging in the activities of a
5 registered tow truck operator without a registration certificate;

6 (28) RCW 46.55.035 relating to prohibited practices by tow truck
7 operators;

8 (29) RCW 46.61.015 relating to obedience to police officers,
9 flagmen, or fire fighters;

10 (30) RCW 46.61.020 relating to refusal to give information to or
11 cooperate with an officer;

12 (31) RCW 46.61.022 relating to failure to stop and give
13 identification to an officer;

14 (32) RCW 46.61.024 relating to attempting to elude pursuing police
15 vehicles;

16 (33) RCW 46.61.500 relating to reckless driving;

17 (34) RCW 46.61.502, 46.61.504, 46.61.5051, 46.61.5052, and
18 46.61.5053 relating to persons under the influence of intoxicating
19 liquor or drugs;

20 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

21 (36) RCW 46.61.522 relating to vehicular assault;

22 (37) RCW 46.61.525 relating to negligent driving;

23 (38) RCW 46.61.527(4) relating to reckless endangerment of roadway
24 workers;

25 (39) RCW 46.61.530 relating to racing of vehicles on highways;

26 (40) RCW 46.61.685 relating to leaving children in an unattended
27 vehicle with the motor running;

28 (41) RCW 46.64.010 relating to unlawful cancellation of or attempt
29 to cancel a traffic citation;

30 (42) RCW 46.64.048 relating to attempting, aiding, abetting,
31 coercing, and committing crimes;

32 (43) Chapter 46.65 RCW relating to habitual traffic offenders;

33 (44) Chapter 46.70 RCW relating to unfair motor vehicle business
34 practices, except where that chapter provides for the assessment of
35 monetary penalties of a civil nature;

36 (45) Chapter 46.72 RCW relating to the transportation of passengers
37 in for hire vehicles;

38 (46) Chapter 46.80 RCW relating to motor vehicle wreckers;

39 (47) Chapter 46.82 RCW relating to driver's training schools;

1 (48) RCW 46.87.260 relating to alteration or forgery of a cab card,
2 letter of authority, or other temporary authority issued under chapter
3 46.87 RCW;

4 (49) RCW 46.87.290 relating to operation of an unregistered or
5 unlicensed vehicle under chapter 46.87 RCW.

6 **Sec. 26.** RCW 46.70.180 and 1994 c 284 s 13 are each amended to
7 read as follows:

8 Each of the following acts or practices is unlawful:

9 (1) To cause or permit to be advertised, printed, displayed,
10 published, distributed, broadcasted, televised, or disseminated in any
11 manner whatsoever, any statement or representation with regard to the
12 sale or financing of a vehicle which is false, deceptive, or
13 misleading, including but not limited to the following:

14 (a) That no down payment is required in connection with the sale of
15 a vehicle when a down payment is in fact required, or that a vehicle
16 may be purchased for a smaller down payment than is actually required;

17 (b) That a certain percentage of the sale price of a vehicle may be
18 financed when such financing is not offered in a single document
19 evidencing the entire security transaction;

20 (c) That a certain percentage is the amount of the service charge
21 to be charged for financing, without stating whether this percentage
22 charge is a monthly amount or an amount to be charged per year;

23 (d) That a new vehicle will be sold for a certain amount above or
24 below cost without computing cost as the exact amount of the factory
25 invoice on the specific vehicle to be sold;

26 (e) That a vehicle will be sold upon a monthly payment of a certain
27 amount, without including in the statement the number of payments of
28 that same amount which are required to liquidate the unpaid purchase
29 price.

30 (2) To incorporate within the terms of any purchase and sale
31 agreement any statement or representation with regard to the sale or
32 financing of a vehicle which is false, deceptive, or misleading,
33 including but not limited to terms that include as an added cost to the
34 selling price of a vehicle an amount for licensing or transfer of title
35 of that vehicle which is not actually due to the state, unless such
36 amount has in fact been paid by the dealer prior to such sale.

37 (3) To set up, promote, or aid in the promotion of a plan by which
38 vehicles are to be sold to a person for a consideration and upon

1 further consideration that the purchaser agrees to secure one or more
2 persons to participate in the plan by respectively making a similar
3 purchase and in turn agreeing to secure one or more persons likewise to
4 join in said plan, each purchaser being given the right to secure
5 money, credits, goods, or something of value, depending upon the number
6 of persons joining the plan.

7 (4) To commit, allow, or ratify any act of "bushing" which is
8 defined as follows: Taking from a prospective buyer of a vehicle a
9 written order or offer to purchase, or a contract document signed by
10 the buyer, which:

11 (a) Is subject to the dealer's, or his or her authorized
12 representative's future acceptance, and the dealer fails or refuses
13 within forty-eight hours, exclusive of Saturday, Sunday, or legal
14 holiday, and prior to any further negotiations with said buyer, to
15 deliver to the buyer either the dealer's signed acceptance or all
16 copies of the order, offer, or contract document together with any
17 initial payment or security made or given by the buyer, including but
18 not limited to money, check, promissory note, vehicle keys, a trade-in,
19 or certificate of title to a trade-in; or

20 (b) Permits the dealer to renegotiate a dollar amount specified as
21 trade-in allowance on a vehicle delivered or to be delivered by the
22 buyer as part of the purchase price, for any reason except:

23 (i) Failure to disclose that the vehicle's certificate of ownership
24 has been branded for any reason, including, but not limited to, status
25 as a rebuilt vehicle as provided in RCW 46.12.050 and section 24 of
26 this act; and

27 (ii) Substantial physical damage or latent mechanical defect
28 occurring before the dealer took possession of the vehicle and which
29 could not have been reasonably discoverable at the time of the taking
30 of the order, offer, or contract; or

31 (c) Fails to comply with the obligation of any written warranty or
32 guarantee given by the dealer requiring the furnishing of services or
33 repairs within a reasonable time.

34 (5) To commit any offense relating to odometers, as such offenses
35 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
36 violation of this subsection is a class C felony punishable under
37 chapter 9A.20 RCW.

38 (6) For any vehicle dealer or vehicle salesman to refuse to
39 furnish, upon request of a prospective purchaser, the name and address

1 of the previous registered owner of any used vehicle offered for sale.

2 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
3 46.37.425.

4 (8) To commit any offense relating to a dealer's temporary license
5 permit, including but not limited to failure to properly complete each
6 such permit, or the issuance of more than one such permit on any one
7 vehicle.

8 (9) For a dealer, salesman, or mobile home manufacturer, having
9 taken an instrument or cash "on deposit" from a purchaser prior to the
10 delivery of the bargained-for vehicle, to commingle the "on deposit"
11 funds with assets of the dealer, salesman, or mobile home manufacturer
12 instead of holding the "on deposit" funds as trustee in a separate
13 trust account until the purchaser has taken delivery of the bargained-
14 for vehicle. Delivery of a manufactured home shall be deemed to occur
15 in accordance with RCW 46.70.135(5). Failure, immediately upon
16 receipt, to endorse "on deposit" instruments to such a trust account,
17 or to set aside "on deposit" cash for deposit in such trust account,
18 and failure to deposit such instruments or cash in such trust account
19 by the close of banking hours on the day following receipt thereof,
20 shall be evidence of intent to commit this unlawful practice:
21 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
22 trust account which equals his or her customary total customer deposits
23 for vehicles for future delivery. For purposes of this section, "on
24 deposit" funds received from a purchaser of a manufactured home means
25 those funds that a seller requires a purchaser to advance before
26 ordering the manufactured home, but does not include any loan proceeds
27 or moneys that might have been paid on an installment contract.

28 (10) For a dealer or manufacturer to fail to comply with the
29 obligations of any written warranty or guarantee given by the dealer or
30 manufacturer requiring the furnishing of goods and services or repairs
31 within a reasonable period of time, or to fail to furnish to a
32 purchaser, all parts which attach to the manufactured unit including
33 but not limited to the undercarriage, and all items specified in the
34 terms of a sales agreement signed by the seller and buyer.

35 (11) For a vehicle dealer to pay to or receive from any person,
36 firm, partnership, association, or corporation acting, either directly
37 or through a subsidiary, as a buyer's agent for consumers, any
38 compensation, fee, gratuity, or reward in connection with the purchase
39 or sale of a new motor vehicle.

1 (12) For a buyer's agent acting directly or through a subsidiary to
2 pay to or to receive from any motor vehicle dealer any compensation,
3 fee, gratuity, or reward in connection with the purchase or sale of a
4 new motor vehicle.

5 (13) For a buyer's agent to arrange for or to negotiate the
6 purchase, or both, of a new motor vehicle through an out-of-state
7 dealer without disclosing in writing to the customer that the new
8 vehicle would not be subject to chapter 19.118 RCW.

9 (14) Being a manufacturer, other than a motorcycle manufacturer
10 governed by chapter 46.94 RCW, to:

11 (a) Coerce or attempt to coerce any vehicle dealer to order or
12 accept delivery of any vehicle or vehicles, parts or accessories, or
13 any other commodities which have not been voluntarily ordered by the
14 vehicle dealer: PROVIDED, That recommendation, endorsement,
15 exposition, persuasion, urging, or argument are not deemed to
16 constitute coercion;

17 (b) Cancel or fail to renew the franchise or selling agreement of
18 any vehicle dealer doing business in this state without fairly
19 compensating the dealer at a fair going business value for his or her
20 capital investment which shall include but not be limited to tools,
21 equipment, and parts inventory possessed by the dealer on the day he or
22 she is notified of such cancellation or termination and which are still
23 within the dealer's possession on the day the cancellation or
24 termination is effective, if: (i) The capital investment has been
25 entered into with reasonable and prudent business judgment for the
26 purpose of fulfilling the franchise; and (ii) the cancellation or
27 nonrenewal was not done in good faith. Good faith is defined as the
28 duty of each party to any franchise to act in a fair and equitable
29 manner towards each other, so as to guarantee one party freedom from
30 coercion, intimidation, or threats of coercion or intimidation from the
31 other party: PROVIDED, That recommendation, endorsement, exposition,
32 persuasion, urging, or argument are not deemed to constitute a lack of
33 good faith.

34 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
35 vehicles through any false, deceptive, or misleading sales or financing
36 practices including but not limited to those practices declared
37 unlawful in this section;

38 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
39 practice forbidden in this section by either threats of actual

1 cancellation or failure to renew the dealer's franchise agreement;

2 (e) Refuse to deliver any vehicle publicly advertised for immediate
3 delivery to any duly licensed vehicle dealer having a franchise or
4 contractual agreement for the retail sale of new and unused vehicles
5 sold or distributed by such manufacturer within sixty days after such
6 dealer's order has been received in writing unless caused by inability
7 to deliver because of shortage or curtailment of material, labor,
8 transportation, or utility services, or by any labor or production
9 difficulty, or by any cause beyond the reasonable control of the
10 manufacturer;

11 (f) To provide under the terms of any warranty that a purchaser of
12 any new or unused vehicle that has been sold, distributed for sale, or
13 transferred into this state for resale by the vehicle manufacturer may
14 only make any warranty claim on any item included as an integral part
15 of the vehicle against the manufacturer of that item.

16 Nothing in this section may be construed to impair the obligations
17 of a contract or to prevent a manufacturer, distributor,
18 representative, or any other person, whether or not licensed under this
19 chapter, from requiring performance of a written contract entered into
20 with any licensee hereunder, nor does the requirement of such
21 performance constitute a violation of any of the provisions of this
22 section if any such contract or the terms thereof requiring
23 performance, have been freely entered into and executed between the
24 contracting parties. This paragraph and subsection (14)(b) of this
25 section do not apply to new motor vehicle manufacturers governed by
26 chapter 46.96 RCW.

27 (15) Unlawful transfer of an ownership interest in a motor vehicle
28 as defined in RCW 19.116.050."

29 Renumber the section following consecutively.

30 **SSB 5685** - S AMD
31 By Senatorsd Owen and Haugen

32 ADOPTED 3/11/95

33 In line 4 of the title, after "46.80.170," strike the remainder of
34 the title and insert "."

--- END ---