
SUBSTITUTE SENATE BILL 5252

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Wood, Rasmussen, Morton and Long)

Read first time 03/06/95.

1 AN ACT Relating to regulating salvage vehicles; amending RCW
2 46.12.030 and 46.70.180; reenacting and amending RCW 46.63.020; adding
3 a new section to chapter 46.12 RCW; creating a new section; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (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;

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

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

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

9 (4) Section 3 of this act and RCW 46.12.050 require notification on
10 the certificates of ownership and registration as to whether a vehicle
11 has previously been destroyed or declared a total loss. The department
12 of licensing, in consultation with the study group members prescribed
13 in subsection (3) of this section, shall study the feasibility of
14 expanding the notification requirement to apply to all vehicles,
15 regardless of age. The study group shall also develop a recommendation
16 regarding the feasibility of differentiating on the certificates of
17 ownership and registration whether the vehicle has sustained cosmetic
18 damage or structural damage. The department shall report its findings
19 to the legislative transportation committee no later than January 1,
20 1996.

21 **Sec. 2.** RCW 46.12.030 and 1990 c 238 s 1 are each amended to read
22 as follows:

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

25 (1) A full description of the vehicle, which shall contain the
26 proper vehicle identification number, the number of miles indicated on
27 the odometer at the time of delivery of the vehicle, and any
28 distinguishing marks of identification;

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

32 (3) Such other information as the department may require. The
33 department may in any instance, in addition to the information required
34 on the application, require additional information and a physical
35 examination of the vehicle or of any class of vehicles, or either. A
36 physical examination of the vehicle is mandatory if it previously was
37 registered in any other state or country or if it has been rebuilt
38 after surrender of the certificate of ownership to the department under

1 RCW 46.12.070 due to the vehicle's destruction or declaration as a
2 total loss. The inspection must verify that the vehicle identification
3 number is genuine and agrees with the number shown on the foreign title
4 and registration certificate. If the vehicle is from a jurisdiction
5 that does not issue titles, the inspection must verify that the vehicle
6 identification number is genuine and agrees with the number shown on
7 the registration certificate. The inspection must also confirm that
8 the license plates on the vehicle are those assigned to the vehicle by
9 the jurisdiction in which the vehicle was previously licensed. The
10 inspection must be made by a member of the Washington state patrol or
11 other person authorized by the department to make such inspections.

12 The application shall be subscribed by the registered owner and be
13 sworn to by that applicant in the manner described by RCW 9A.72.085.
14 The department shall retain the application in either the original,
15 computer, or photostatic form.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.12 RCW
17 to read as follows:

18 (1) Effective January 1, 1997, the department shall issue a unique
19 certificate of ownership and certificate of license registration, as
20 required by chapter 46.16 RCW, for vehicles less than four years old
21 that are rebuilt after surrender of the certificate of ownership to the
22 department under RCW 46.12.070 due to the vehicle's destruction or
23 declaration as a total loss. Each certificate shall conspicuously
24 display across its front, a word indicating that the vehicle was
25 rebuilt.

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

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

33 (4) The department may adopt rules as necessary to implement this
34 section.

35 **Sec. 4.** RCW 46.63.020 and 1994 c 275 s 33 and 1994 c 141 s 2 are
36 each reenacted and amended to read as follows:

1 Failure to perform any act required or the performance of any act
2 prohibited by this title or an equivalent administrative regulation or
3 local law, ordinance, regulation, or resolution relating to traffic
4 including parking, standing, stopping, and pedestrian offenses, is
5 designated as a traffic infraction and may not be classified as a
6 criminal offense, except for an offense contained in the following
7 provisions of this title or a violation of an equivalent administrative
8 regulation or local law, ordinance, regulation, or resolution:

9 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
10 vehicle while under the influence of intoxicating liquor or a
11 controlled substance;

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

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

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

17 (5) Chapter 46.12 RCW relating to certificates of ownership and
18 registration and markings indicating that a vehicle has been destroyed
19 or declared a total loss;

20 (6) RCW 46.16.010 relating to initial registration of motor
21 vehicles;

22 (7) RCW 46.16.011 relating to permitting unauthorized persons to
23 drive;

24 (8) RCW 46.16.160 relating to vehicle trip permits;

25 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
26 acquisition of a special placard or license plate for disabled persons'
27 parking;

28 (10) RCW 46.20.021 relating to driving without a valid driver's
29 license;

30 (11) RCW 46.20.336 relating to the unlawful possession and use of
31 a driver's license;

32 (12) RCW 46.20.342 relating to driving with a suspended or revoked
33 license or status;

34 (13) RCW 46.20.410 relating to the violation of restrictions of an
35 occupational driver's license;

36 (14) RCW 46.20.420 relating to the operation of a motor vehicle
37 with a suspended or revoked license;

38 (15) RCW 46.20.750 relating to assisting another person to start a
39 vehicle equipped with an ignition interlock device;

1 (16) RCW 46.25.170 relating to commercial driver's licenses;
2 (17) Chapter 46.29 RCW relating to financial responsibility;
3 (18) RCW 46.30.040 relating to providing false evidence of
4 financial responsibility;
5 (19) RCW 46.37.435 relating to wrongful installation of
6 sunscreening material;
7 (20) RCW 46.44.180 relating to operation of mobile home pilot
8 vehicles;
9 (21) RCW 46.48.175 relating to the transportation of dangerous
10 articles;
11 (22) RCW 46.52.010 relating to duty on striking an unattended car
12 or other property;
13 (23) RCW 46.52.020 relating to duty in case of injury to or death
14 of a person or damage to an attended vehicle;
15 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
16 and appraisers;
17 (25) RCW 46.52.100 relating to driving under the influence of
18 liquor or drugs;
19 (26) RCW 46.52.130 relating to confidentiality of the driving
20 record to be furnished to an insurance company, an employer, and an
21 alcohol/drug assessment or treatment agency;
22 (27) RCW 46.55.020 relating to engaging in the activities of a
23 registered tow truck operator without a registration certificate;
24 (28) RCW 46.55.035 relating to prohibited practices by tow truck
25 operators;
26 (29) RCW 46.61.015 relating to obedience to police officers,
27 flagmen, or fire fighters;
28 (30) RCW 46.61.020 relating to refusal to give information to or
29 cooperate with an officer;
30 (31) RCW 46.61.022 relating to failure to stop and give
31 identification to an officer;
32 (32) RCW 46.61.024 relating to attempting to elude pursuing police
33 vehicles;
34 (33) RCW 46.61.500 relating to reckless driving;
35 (34) RCW 46.61.502, 46.61.504, 46.61.5051, 46.61.5052, and
36 46.61.5053 relating to persons under the influence of intoxicating
37 liquor or drugs;
38 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
39 (36) RCW 46.61.522 relating to vehicular assault;

- 1 (37) RCW 46.61.525 relating to negligent driving;
- 2 (38) RCW 46.61.527(4) relating to reckless endangerment of roadway
3 workers;
- 4 (39) RCW 46.61.530 relating to racing of vehicles on highways;
- 5 (40) RCW 46.61.685 relating to leaving children in an unattended
6 vehicle with the motor running;
- 7 (41) RCW 46.64.010 relating to unlawful cancellation of or attempt
8 to cancel a traffic citation;
- 9 (42) RCW 46.64.048 relating to attempting, aiding, abetting,
10 coercing, and committing crimes;
- 11 (43) Chapter 46.65 RCW relating to habitual traffic offenders;
- 12 (44) Chapter 46.70 RCW relating to unfair motor vehicle business
13 practices, except where that chapter provides for the assessment of
14 monetary penalties of a civil nature;
- 15 (45) Chapter 46.72 RCW relating to the transportation of passengers
16 in for hire vehicles;
- 17 (46) Chapter 46.80 RCW relating to motor vehicle wreckers;
- 18 (47) Chapter 46.82 RCW relating to driver's training schools;
- 19 (48) RCW 46.87.260 relating to alteration or forgery of a cab card,
20 letter of authority, or other temporary authority issued under chapter
21 46.87 RCW;
- 22 (49) RCW 46.87.290 relating to operation of an unregistered or
23 unlicensed vehicle under chapter 46.87 RCW.

24 **Sec. 5.** RCW 46.70.180 and 1994 c 284 s 13 are each amended to read
25 as follows:

26 Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

18 (3) To set up, promote, or aid in the promotion of a plan by which
19 vehicles are to be sold to a person for a consideration and upon
20 further consideration that the purchaser agrees to secure one or more
21 persons to participate in the plan by respectively making a similar
22 purchase and in turn agreeing to secure one or more persons likewise to
23 join in said plan, each purchaser being given the right to secure
24 money, credits, goods, or something of value, depending upon the number
25 of persons joining the plan.

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

30 (a) Is subject to the dealer's, or his or her authorized
31 representative's future acceptance, and the dealer fails or refuses
32 within forty-eight hours, exclusive of Saturday, Sunday, or legal
33 holiday, and prior to any further negotiations with said buyer, to
34 deliver to the buyer either the dealer's signed acceptance or all
35 copies of the order, offer, or contract document together with any
36 initial payment or security made or given by the buyer, including but
37 not limited to money, check, promissory note, vehicle keys, a trade-in,
38 or certificate of title to a trade-in; or

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

4 (i) Failure to disclose that the vehicle's certificate of ownership
5 has been branded for any reason, including, but not limited to, status
6 as a rebuilt vehicle as provided in RCW 46.12.050 and section 3 of this
7 act; and

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

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

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

19 (6) For any vehicle dealer or vehicle salesman to refuse to
20 furnish, upon request of a prospective purchaser, the name and address
21 of the previous registered owner of any used vehicle offered for sale.

22 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
23 46.37.425.

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

28 (9) For a dealer, salesman, or mobile home manufacturer, having
29 taken an instrument or cash "on deposit" from a purchaser prior to the
30 delivery of the bargained-for vehicle, to commingle the "on deposit"
31 funds with assets of the dealer, salesman, or mobile home manufacturer
32 instead of holding the "on deposit" funds as trustee in a separate
33 trust account until the purchaser has taken delivery of the bargained-
34 for vehicle. Delivery of a manufactured home shall be deemed to occur
35 in accordance with RCW 46.70.135(5). Failure, immediately upon
36 receipt, to endorse "on deposit" instruments to such a trust account,
37 or to set aside "on deposit" cash for deposit in such trust account,
38 and failure to deposit such instruments or cash in such trust account
39 by the close of banking hours on the day following receipt thereof,

1 shall be evidence of intent to commit this unlawful practice:
2 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
3 trust account which equals his or her customary total customer deposits
4 for vehicles for future delivery. For purposes of this section, "on
5 deposit" funds received from a purchaser of a manufactured home means
6 those funds that a seller requires a purchaser to advance before
7 ordering the manufactured home, but does not include any loan proceeds
8 or moneys that might have been paid on an installment contract.

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

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

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

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

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

31 (a) Coerce or attempt to coerce any vehicle dealer to order or
32 accept delivery of any vehicle or vehicles, parts or accessories, or
33 any other commodities which have not been voluntarily ordered by the
34 vehicle dealer: PROVIDED, That recommendation, endorsement,
35 exposition, persuasion, urging, or argument are not deemed to
36 constitute coercion;

37 (b) Cancel or fail to renew the franchise or selling agreement of
38 any vehicle dealer doing business in this state without fairly
39 compensating the dealer at a fair going business value for his or her

1 capital investment which shall include but not be limited to tools,
2 equipment, and parts inventory possessed by the dealer on the day he or
3 she is notified of such cancellation or termination and which are still
4 within the dealer's possession on the day the cancellation or
5 termination is effective, if: (i) The capital investment has been
6 entered into with reasonable and prudent business judgment for the
7 purpose of fulfilling the franchise; and (ii) the cancellation or
8 nonrenewal was not done in good faith. Good faith is defined as the
9 duty of each party to any franchise to act in a fair and equitable
10 manner towards each other, so as to guarantee one party freedom from
11 coercion, intimidation, or threats of coercion or intimidation from the
12 other party: PROVIDED, That recommendation, endorsement, exposition,
13 persuasion, urging, or argument are not deemed to constitute a lack of
14 good faith.

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

19 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
20 practice forbidden in this section by either threats of actual
21 cancellation or failure to renew the dealer's franchise agreement;

22 (e) Refuse to deliver any vehicle publicly advertised for immediate
23 delivery to any duly licensed vehicle dealer having a franchise or
24 contractual agreement for the retail sale of new and unused vehicles
25 sold or distributed by such manufacturer within sixty days after such
26 dealer's order has been received in writing unless caused by inability
27 to deliver because of shortage or curtailment of material, labor,
28 transportation, or utility services, or by any labor or production
29 difficulty, or by any cause beyond the reasonable control of the
30 manufacturer;

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

36 Nothing in this section may be construed to impair the obligations
37 of a contract or to prevent a manufacturer, distributor,
38 representative, or any other person, whether or not licensed under this
39 chapter, from requiring performance of a written contract entered into

1 with any licensee hereunder, nor does the requirement of such
2 performance constitute a violation of any of the provisions of this
3 section if any such contract or the terms thereof requiring
4 performance, have been freely entered into and executed between the
5 contracting parties. This paragraph and subsection (14)(b) of this
6 section do not apply to new motor vehicle manufacturers governed by
7 chapter 46.96 RCW.

8 (15) Unlawful transfer of an ownership interest in a motor vehicle
9 as defined in RCW 19.116.050.

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