

2 **ESHB 2439** - S AMD TO TR COMM AMD (S5375.1) - 1033
3 By Senators Brown and West

4 ADOPTED 3/12/98

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

7 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
8 Cooper Jones Act.

9 **Sec. 2.** RCW 43.59.010 and 1967 ex.s. c 147 s 1 are each amended to
10 read as follows:

11 (1) The purpose of this chapter is to establish a new agency of
12 state government to be known as the Washington traffic safety
13 commission. The functions and purpose of this commission shall be to
14 find solutions to the problems that have been created as a result of
15 the tremendous increase of motor vehicles on our highways and the
16 attendant traffic death and accident tolls; to plan and supervise
17 programs for the prevention of accidents on streets and highways
18 including but not limited to educational campaigns designed to reduce
19 traffic accidents in cooperation with all official and unofficial
20 organizations interested in traffic safety; to coordinate the
21 activities at the state and local level in the development of state-
22 wide and local traffic safety programs; to promote a uniform
23 enforcement of traffic safety laws and establish standards for
24 investigation and reporting of traffic accidents; to promote and
25 improve driver education; and to authorize the governor to perform all
26 functions required to be performed by him under the federal Highway
27 Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

28 (2) The legislature finds and declares that bicycling and walking
29 are becoming increasingly popular in Washington as clean and efficient
30 modes of transportation, as recreational activities, and as organized
31 sports. Future plans for the state's transportation system will
32 require increased access and safety for bicycles and pedestrians on our
33 common roadways, and federal transportation legislation and funding
34 programs have created strong incentives to implement these changes
35 quickly. As a result, many more people are likely to take up bicycling

1 in Washington both as a leisure activity and as a convenient,
2 inexpensive form of transportation. Bicyclists are more vulnerable to
3 injury and accident than motorists, and should be as knowledgeable as
4 possible about traffic laws, be highly visible and predictable when
5 riding in traffic, and be encouraged to wear bicycle safety helmets.
6 Hundreds of bicyclists and pedestrians are seriously injured every year
7 in accidents, and millions of dollars are spent on health care costs
8 associated with these accidents. There is clear evidence that
9 organized training in the rules and techniques of safe and effective
10 cycling can significantly reduce the incidence of serious injury and
11 accidents, increase cooperation among road users, and significantly
12 increase the incidence of bicycle helmet use, particularly among
13 minors. A reduction in accidents benefits the entire community.
14 Therefore it is appropriate for businesses and community organizations
15 to provide donations to bicycle and pedestrian safety training
16 programs.

17 NEW SECTION. Sec. 3. A new section is added to chapter 43.59 RCW
18 to read as follows:

19 (1) The Washington state traffic safety commission shall establish
20 a program for improving bicycle and pedestrian safety, and shall
21 cooperate with the stakeholders and independent representatives to form
22 an advisory committee to develop programs and create public private
23 partnerships which promote bicycle and pedestrian safety. The traffic
24 safety commission shall report and make recommendations to the
25 legislative transportation committee and the fiscal committees of the
26 house of representatives and the senate by December 1, 1998, regarding
27 the conclusions of the advisory committee.

28 (2) The bicycle and pedestrian safety account is created in the
29 state treasury. To the extent that private contributions are received
30 by the traffic safety commission for the purposes of bicycle and
31 pedestrian safety programs established under this section, the
32 appropriations from the highway safety account for this purpose shall
33 lapse.

34 NEW SECTION. Sec. 4. A new section is added to chapter 46.20 RCW
35 to read as follows:

36 The department of licensing shall incorporate a section on bicycle
37 safety and sharing the road into its instructional publications for

1 drivers and shall include questions in the written portion of the
2 driver's license examination on bicycle safety and sharing the road
3 with bicycles.

4 **Sec. 5.** RCW 46.20.095 and 1986 c 93 s 3 are each amended to read
5 as follows:

6 The department shall include information on the proper use of the
7 left-hand lane by motor vehicles on multilane highways and on
8 bicyclists' and pedestrians' rights and responsibilities in its
9 instructional publications for drivers.

10 **Sec. 6.** RCW 46.82.430 and 1986 c 93 s 5 are each amended to read
11 as follows:

12 Instructional material used in driver training schools shall
13 include information on the proper use of the left-hand lane by motor
14 vehicles on multilane highways and on bicyclists' and pedestrians'
15 rights and responsibilities and suggested riding procedures in common
16 traffic situations.

17 **Sec. 7.** RCW 46.83.040 and 1961 c 12 s 46.83.040 are each amended
18 to read as follows:

19 It shall be the purpose of every traffic school which may be
20 established hereunder to instruct, educate, and inform all persons
21 appearing for training in the proper, lawful, and safe operation of
22 motor vehicles, including but not limited to rules of the road and the
23 limitations of persons, vehicles, and bicycles and roads, streets, and
24 highways under varying conditions and circumstances.

25 **Sec. 8.** RCW 46.52.070 and 1967 c 32 s 57 are each amended to read
26 as follows:

27 (1) Any police officer of the state of Washington or of any county,
28 city, town or other political subdivision, present at the scene of any
29 accident or in possession of any facts concerning any accident whether
30 by way of official investigation or otherwise shall make report thereof
31 in the same manner as required of the parties to such accident and as
32 fully as the facts in his possession concerning such accident will
33 permit.

34 (2) The police officer shall report to the department, on a form
35 prescribed by the director: (a) When an accident has occurred that

1 results in a fatality or serious injury; (b) the identity of the
2 operator of a vehicle involved in the accident when the officer has
3 reasonable grounds to believe the operator who caused the fatality or
4 serious injury may not be competent to operate a motor vehicle; and (c)
5 the reason or reasons for such belief.

6 **Sec. 9.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read
7 as follows:

8 Every district court, municipal court, and clerk of superior court
9 shall keep or cause to be kept a record of every traffic complaint,
10 traffic citation, notice of infraction, or other legal form of traffic
11 charge deposited with or presented to the court or a traffic violations
12 bureau, and shall keep a record of every official action by the court
13 or its traffic violations bureau in reference thereto, including but
14 not limited to a record of every conviction, forfeiture of bail,
15 judgment of acquittal, finding that a traffic infraction has been
16 committed, dismissal of a notice of infraction, and the amount of fine,
17 forfeiture, or penalty resulting from every traffic complaint,
18 citation, or notice of infraction deposited with or presented to the
19 district court, municipal court, superior court, or traffic violations
20 bureau.

21 The Monday following the conviction, forfeiture of bail, or finding
22 that a traffic infraction was committed for violation of any provisions
23 of this chapter or other law regulating the operating of vehicles on
24 highways, every magistrate of the court or clerk of the court of record
25 in which such conviction was had, bail was forfeited, or the finding
26 made shall prepare and immediately forward to the director of licensing
27 at Olympia an abstract of the record of the court covering the case,
28 which abstract must be certified by the person so required to prepare
29 the same to be true and correct. Report need not be made of any
30 finding involving the illegal parking or standing of a vehicle.

31 The abstract must be made upon a form or forms furnished by the
32 director and shall include the name and address of the party charged,
33 the number, if any, of the party's driver's or chauffeur's license, the
34 registration number of the vehicle involved if required by the
35 director, the nature of the offense, the date of hearing, the plea, the
36 judgment, whether the offense was an alcohol-related offense as defined
37 in RCW 46.01.260(2), whether the incident that gave rise to the offense
38 charged resulted in any fatality, whether bail forfeited, whether the

1 determination that a traffic infraction was committed was contested,
2 and the amount of the fine, forfeiture, or penalty as the case may be.

3 Every court of record shall also forward a like report to the
4 director upon the conviction of any person of a felony in the
5 commission of which a vehicle was used.

6 The failure of any such judicial officer to comply with any of the
7 requirements of this section shall constitute misconduct in office and
8 shall be grounds for removal therefrom.

9 The director shall keep all abstracts received hereunder at the
10 director's office in Olympia and the same shall be open to public
11 inspection during reasonable business hours.

12 Venue in all district courts shall be before one of the two nearest
13 district judges in incorporated cities and towns nearest to the point
14 the violation allegedly occurred: PROVIDED, That in counties with
15 populations of one hundred twenty-five thousand or more such cases may
16 be tried in the county seat at the request of the defendant.

17 It shall be the duty of the officer, prosecuting attorney, or city
18 attorney signing the charge or information in any case involving a
19 charge of driving under the influence of intoxicating liquor or any
20 drug immediately to make request to the director for an abstract of
21 convictions and forfeitures which the director shall furnish.

22 **Sec. 10.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to
23 read as follows:

24 (1) The director shall keep a case record on every motor vehicle
25 driver licensed under the laws of this state, together with information
26 on each driver, showing all the convictions and findings of traffic
27 infractions certified by the courts, together with an index cross-
28 reference record of each accident reported relating to such individual
29 with a brief statement of the cause of the accident and whether or not
30 the accident resulted in any fatality. The chief of the Washington
31 state patrol shall furnish the index cross-reference record to the
32 director, with reference to each driver involved in the reported
33 accidents.

34 (2) The records shall be for the confidential use of the director,
35 the chief of the Washington state patrol, the director of the
36 Washington traffic safety commission, and for such police officers or
37 other cognizant public officials as may be designated by law. Such
38 case records shall not be offered as evidence in any court except in

1 case appeal is taken from the order of the director, suspending,
2 revoking, canceling, or refusing a vehicle driver's license.

3 (3) The director shall tabulate and analyze vehicle driver's case
4 records and suspend, revoke, cancel, or refuse a vehicle driver's
5 license to a person when it is deemed from facts contained in the case
6 record of such person that it is for the best interest of public safety
7 that such person be denied the privilege of operating a motor vehicle.
8 The director shall also suspend a person's driver's license if the
9 person fails to attend or complete a driver improvement interview or
10 fails to abide by conditions of probation under RCW 46.20.335.
11 Whenever the director orders the vehicle driver's license of any such
12 person suspended, revoked, or canceled, or refuses the issuance of a
13 vehicle driver's license, such suspension, revocation, cancellation, or
14 refusal is final and effective unless appeal from the decision of the
15 director is taken as provided by law.

16 **Sec. 11.** RCW 46.52.130 and 1997 c 66 s 12 are each amended to read
17 as follows:

18 A certified abstract of the driving record shall be furnished only
19 to the individual named in the abstract, an employer or prospective
20 employer or an agent acting on behalf of an employer or prospective
21 employer, the insurance carrier that has insurance in effect covering
22 the employer or a prospective employer, the insurance carrier that has
23 insurance in effect covering the named individual, the insurance
24 carrier to which the named individual has applied, an alcohol/drug
25 assessment or treatment agency approved by the department of social and
26 health services, to which the named individual has applied or been
27 assigned for evaluation or treatment, or city and county prosecuting
28 attorneys. City attorneys and county prosecuting attorneys may provide
29 the driving record to alcohol/drug assessment or treatment agencies
30 approved by the department of social and health services to which the
31 named individual has applied or been assigned for evaluation or
32 treatment. The director, upon proper request, shall furnish a
33 certified abstract covering the period of not more than the last three
34 years to insurance companies. Upon proper request, the director shall
35 furnish a certified abstract covering a period of not more than the
36 last five years to state approved alcohol/drug assessment or treatment
37 agencies, except that the certified abstract shall also include records
38 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a

1 period of not more than the last ten years. Upon proper request, a
2 certified abstract of the full driving record maintained by the
3 department shall be furnished to a city or county prosecuting attorney,
4 to the individual named in the abstract or to an employer or
5 prospective employer or an agent acting on behalf of an employer or
6 prospective employer of the named individual. The abstract, whenever
7 possible, shall include an enumeration of motor vehicle accidents in
8 which the person was driving; the total number of vehicles involved;
9 whether the vehicles were legally parked or moving; whether the
10 vehicles were occupied at the time of the accident; whether the
11 accident resulted in any fatality; any reported convictions,
12 forfeitures of bail, or findings that an infraction was committed based
13 upon a violation of any motor vehicle law; and the status of the
14 person's driving privilege in this state. The enumeration shall
15 include any reports of failure to appear in response to a traffic
16 citation or failure to respond to a notice of infraction served upon
17 the named individual by an arresting officer. Certified abstracts
18 furnished to prosecutors and alcohol/drug assessment or treatment
19 agencies shall also indicate whether a recorded violation is an
20 alcohol-related offense as defined in RCW 46.01.260(2) that was
21 originally charged as one of the alcohol-related offenses designated in
22 RCW 46.01.260(2)(b)(i).

23 The abstract provided to the insurance company shall exclude any
24 information, except that related to the commission of misdemeanors or
25 felonies by the individual, pertaining to law enforcement officers or
26 fire fighters as defined in RCW 41.26.030, or any officer of the
27 Washington state patrol, while driving official vehicles in the
28 performance of occupational duty. The abstract provided to the
29 insurance company shall include convictions for RCW 46.61.5249 and
30 46.61.525 except that the abstract shall report them only as negligent
31 driving without reference to whether they are for first or second
32 degree negligent driving. The abstract provided to the insurance
33 company shall exclude any deferred prosecution under RCW 10.05.060,
34 except that if a person is removed from a deferred prosecution under
35 RCW 10.05.090, the abstract shall show the deferred prosecution as well
36 as the removal.

37 The director shall collect for each abstract the sum of four
38 dollars and fifty cents which shall be deposited in the highway safety
39 fund.

1 Any insurance company or its agent receiving the certified abstract
2 shall use it exclusively for its own underwriting purposes and shall
3 not divulge any of the information contained in it to a third party.
4 No policy of insurance may be canceled, nonrenewed, denied, or have the
5 rate increased on the basis of such information unless the policyholder
6 was determined to be at fault. No insurance company or its agent for
7 underwriting purposes relating to the operation of commercial motor
8 vehicles may use any information contained in the abstract relative to
9 any person's operation of motor vehicles while not engaged in such
10 employment, nor may any insurance company or its agent for underwriting
11 purposes relating to the operation of noncommercial motor vehicles use
12 any information contained in the abstract relative to any person's
13 operation of commercial motor vehicles.

14 Any employer or prospective employer or an agent acting on behalf
15 of an employer or prospective employer receiving the certified abstract
16 shall use it exclusively for his or her own purpose to determine
17 whether the licensee should be permitted to operate a commercial
18 vehicle or school bus upon the public highways of this state and shall
19 not divulge any information contained in it to a third party.

20 Any alcohol/drug assessment or treatment agency approved by the
21 department of social and health services receiving the certified
22 abstract shall use it exclusively for the purpose of assisting its
23 employees in making a determination as to what level of treatment, if
24 any, is appropriate. The agency, or any of its employees, shall not
25 divulge any information contained in the abstract to a third party.

26 Release of a certified abstract of the driving record of an
27 employee or prospective employee requires a statement signed by: (1)
28 The employee or prospective employee that authorizes the release of the
29 record, and (2) the employer attesting that the information is
30 necessary to determine whether the licensee should be employed to
31 operate a commercial vehicle or school bus upon the public highways of
32 this state. If the employer or prospective employer authorizes an
33 agent to obtain this information on their behalf, this must be noted in
34 the statement.

35 Any violation of this section is a gross misdemeanor.

36 **Sec. 12.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to
37 read as follows:

1 The department is authorized to suspend the license of a driver
2 upon a showing by its records or other sufficient evidence that the
3 licensee:

4 (1) Has committed an offense for which mandatory revocation or
5 suspension of license is provided by law;

6 (2) Has, by reckless or unlawful operation of a motor vehicle,
7 caused or contributed to an accident resulting in death or injury to
8 any person or serious property damage;

9 (3) Has been convicted of offenses against traffic regulations
10 governing the movement of vehicles, or found to have committed traffic
11 infractions, with such frequency as to indicate a disrespect for
12 traffic laws or a disregard for the safety of other persons on the
13 highways;

14 (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

15 (5) Has failed to respond to a notice of traffic infraction, failed
16 to appear at a requested hearing, violated a written promise to appear
17 in court, or has failed to comply with the terms of a notice of traffic
18 infraction or citation, as provided in RCW 46.20.289;

19 (6) Is subject to suspension under RCW 46.20.305;

20 (7) Has committed one of the prohibited practices relating to
21 drivers' licenses defined in RCW 46.20.336; or

22 ((+7+)) (8) Has been certified by the department of social and
23 health services as a person who is not in compliance with a child
24 support order or a residential or visitation order as provided in RCW
25 74.20A.320.

26 **Sec. 13.** RCW 46.20.305 and 1965 ex.s. c 121 s 26 are each amended
27 to read as follows:

28 (1) The department, having good cause to believe that a licensed
29 driver is incompetent or otherwise not qualified to be licensed may
30 upon notice require him or her to submit to an examination.

31 (2) The department shall require a driver reported under RCW
32 46.52.070(2), when a fatality occurred, to submit to an examination.
33 The examination must be completed no later than one hundred twenty days
34 after the accident report required under RCW 46.52.070(2) is received
35 by the department unless the department, at the request of the
36 operator, extends the time for examination.

37 (3) The department may require a driver reported under RCW
38 46.52.070(2) to submit to an examination, or suspend the person's

1 license subject to RCW 46.20.322, when a serious injury occurred. The
2 examination must be completed no later than one hundred twenty days
3 after the accident report required under RCW 46.52.070(2) is received
4 by the department.

5 (4) The department may in addition to an examination under this
6 section require such person to obtain a certificate showing his or her
7 condition signed by a licensed physician or other proper authority
8 designated by the department.

9 (5) Upon the conclusion of (~~such~~) an examination under this
10 section the department shall take driver improvement action as may be
11 appropriate and may suspend or revoke the license of such person or
12 permit him or her to retain such license, or may issue a license
13 subject to restrictions as permitted under RCW 46.20.041. The
14 department may suspend or revoke the license of such person who refuses
15 or neglects to submit to such examination.

16 (6) The department may require payment of a fee by a person subject
17 to examination under this section. The department shall set the fee in
18 an amount that is sufficient to cover the additional cost of
19 administering examinations required by this section.

20 NEW SECTION. Sec. 14. The department of licensing may adopt rules
21 as necessary to implement this act.

22 NEW SECTION. Sec. 15. Sections 8 through 14 of this act take
23 effect January 1, 1999.

24 **Sec. 16.** RCW 46.37.280 and 1987 c 330 s 713 are each amended to
25 read as follows:

26 (1) During the times specified in RCW 46.37.020, any lighted lamp
27 or illuminating device upon a motor vehicle, other than head lamps,
28 spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle
29 warning lamps, warning lamps authorized by the state patrol and school
30 bus warning lamps, which projects a beam of light of an intensity
31 greater than three hundred candlepower shall be so directed that no
32 part of the high intensity portion of the beam will strike the level of
33 the roadway on which the vehicle stands at a distance of more than
34 seventy-five feet from the vehicle.

35 (2) Except as required in RCW 46.37.190 no person shall drive or
36 move any vehicle or equipment upon any highway with any lamp or device

1 thereon displaying a red light visible from directly in front of the
2 center thereof.

3 (3) Flashing lights are prohibited except as required in RCW
4 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ((and))
5 warning lamps authorized by the state patrol, and light-emitting diode
6 flashing taillights on bicycles.

7 **Sec. 17.** RCW 46.61.780 and 1987 c 330 s 746 are each amended to
8 read as follows:

9 (1) Every bicycle when in use during the hours of darkness as
10 defined in RCW 46.37.020 shall be equipped with a lamp on the front
11 which shall emit a white light visible from a distance of at least five
12 hundred feet to the front and with a red reflector on the rear of a
13 type approved by the state patrol which shall be visible from all
14 distances ((from one hundred feet)) up to six hundred feet to the rear
15 when directly in front of lawful lower beams of head lamps on a motor
16 vehicle. A lamp emitting a red light visible from a distance of five
17 hundred feet to the rear may be used in addition to the red reflector.
18 A light-emitting diode flashing taillight visible from a distance of
19 five hundred feet to the rear may also be used in addition to the red
20 reflector.

21 (2) Every bicycle shall be equipped with a brake which will enable
22 the operator to make the braked wheels skid on dry, level, clean
23 pavement.

24 NEW SECTION. **Sec. 18.** The sum of one hundred thousand dollars, or
25 as much thereof as may be necessary, is appropriated for the biennium
26 ending June 30, 1999, from the highway safety account to the bicycle
27 and pedestrian safety account for the purposes of this act."

28 **ESHB 2439** - S AMD TO TR COMM AMD (S5375.1) - 1033
29 By Senators Brown and West

30 ADOPTED 3/12/98

31 In line 1 of the title, after "education;" strike the remainder of
32 the title and insert "amending RCW 43.59.010, 46.20.095, 46.82.430,
33 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130, 46.20.291,
34 46.20.305, 46.37.280, and 46.61.780; adding new sections to chapter
35 43.59 RCW; adding a new section to chapter 46.20 RCW; creating a new

1 section; prescribing penalties; making an appropriation; and providing
2 an effective date."

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