
HOUSE BILL 1789

State of Washington 56th Legislature 1999 Regular Session

By Representatives Ogden, K. Schmidt, Fisher, Radcliff and Skinner

Read first time 02/05/1999. Referred to Committee on Transportation.

1 AN ACT Relating to the decriminalization of license fraud
2 violations and establishing a license fraud task force in the
3 Washington state patrol; amending RCW 47.68.240, 47.68.255, 82.48.020,
4 82.49.010, 82.50.400, 88.02.118, and 82.32.090; reenacting and amending
5 RCW 46.16.010; creating new sections; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that there are
8 residents of this state who intentionally register motor vehicles in
9 other states to evade payment of taxes and fees required by the laws of
10 this state. This results in a substantial loss of revenue to the
11 state. It is the intent of the legislature to decriminalize license
12 fraud and impose stronger civil penalties upon residents who defraud
13 the state, thereby enhancing compliance with state registration laws
14 and increasing state revenues. To further enhance enforcement and
15 collection efforts, the legislature intends to create a license fraud
16 task force within the Washington state patrol.

17 NEW SECTION. **Sec. 2.** The task force will consist of one sergeant
18 who will oversee: (1) Six task force detectives to investigate license

1 fraud; (2) two department of revenue tax discovery agents to assess and
2 recover delinquent taxes, penalties, and fees; (3) an assistant
3 attorney general to provide legal services to the task force; and (4)
4 one clerical support position for administrative support.

5 NEW SECTION. **Sec. 3.** A penalty assessed pursuant to RCW 46.16.010
6 is due and payable when the person incurring it receives a notice in
7 writing from the state patrol stating the violation and advising the
8 person that the penalty is due. The state patrol may, upon written
9 application for review received within fifteen days from the date of
10 the penalty assessment, remit or mitigate a penalty. Procedures for
11 these actions are governed by chapter 34.05 RCW. The penalty notice
12 has the effect of an agency order.

13 **Sec. 4.** RCW 46.16.010 and 1997 c 328 s 2 and 1997 c 241 s 13 are
14 each reenacted and amended to read as follows:

15 (1) It is ~~((unlawful))~~ a violation for a person to operate any
16 vehicle over and along a public highway of this state without first
17 having obtained and having in full force and effect a current and
18 proper vehicle license and display vehicle license number plates
19 therefor as by this chapter provided. ~~((Failure to make initial
20 registration before operation on the highways of this state is a
21 misdemeanor, and any person convicted thereof shall be punished by a
22 fine of no less than three hundred thirty dollars, no part of which may
23 be suspended or deferred.))~~ Failure to make initial registration of a
24 vehicle before operating it on the highways of this state is a
25 violation of this section. Anyone who violates this section is liable
26 for a penalty of three hundred fifty dollars for each violation in
27 addition to all other penalties provided by law. Persons violating
28 this subsection shall make payment as prescribed in subsection (2)(b)
29 of this section. Failure to renew an expired registration before
30 operation on the highways of this state is a traffic infraction.

31 (2)(a) The licensing of a vehicle in another state by a resident of
32 this state, as defined in RCW 46.16.028, ~~((evading))~~ to avoid the
33 payment of any tax or license fee imposed in connection with
34 registration, is a ~~((gross misdemeanor punishable as follows:))~~
35 violation of this section, and violators are liable for a monetary
36 penalty not less than one thousand dollars but not more than ten
37 thousand dollars for each violation.

1 ~~((a) For a first offense, up to one year in the county jail and a~~
2 ~~fine equal to twice the amount of delinquent taxes and fees, no part of~~
3 ~~which may be suspended or deferred;))~~

4 (b) ~~((For a second or subsequent offense, up to one year in the~~
5 ~~county jail and a fine equal to four times the amount of delinquent~~
6 ~~taxes and fees, no part of which may be suspended or deferred;))~~ The
7 penalty provided in this section is due and payable when the person
8 incurring it receives a notice in writing from the state patrol
9 describing the violation and advising the person that the penalty is
10 due. The state patrol may, upon written application for review,
11 received within fifteen days, remit or mitigate a penalty provided for
12 in this section or discontinue an action to recover the penalty upon
13 such terms it deems proper and may ascertain the facts in a manner and
14 under rules it deems proper. If the amount of the penalty is not paid
15 to the state patrol within fifteen days after receipt of the notice
16 imposing the penalty, or application for remission or mitigation has
17 not been made within fifteen days after the violator has received
18 notice of the disposition of the application, the attorney general
19 shall bring an action in the name of the state of Washington in the
20 superior court of Thurston county or of any other county in which the
21 violator resides or does business, to recover the penalty,
22 administrative fees, and attorneys' fees and costs incurred in
23 recovering the penalties. All penalties recovered under this section
24 shall be paid into the state treasury and credited to the state patrol
25 highway account of the motor vehicle fund for the license fraud task
26 force.

27 ~~(c) ((For fines levied under (b) of this subsection, an amount~~
28 ~~equal to the avoided taxes and fees owed shall be deposited in the~~
29 ~~vehicle licensing fraud account created in the state treasury;~~

30 ~~(d))~~ The avoided taxes and fees shall be deposited and distributed
31 in the same manner as if the taxes and fees were properly paid in a
32 timely fashion.

33 (3) These provisions shall not apply to the following vehicles:

34 (a) Electric-assisted bicycles;

35 (b) Farm vehicles if operated within a radius of fifteen miles of
36 the farm where principally used or garaged, farm tractors and farm
37 implements including trailers designed as cook or bunk houses used
38 exclusively for animal herding temporarily operating or drawn upon the
39 public highways, and trailers used exclusively to transport farm

1 implements from one farm to another during the daylight hours or at
2 night when such equipment has lights that comply with the law;

3 (c) Spray or fertilizer applicator rigs designed and used
4 exclusively for spraying or fertilization in the conduct of
5 agricultural operations and not primarily for the purpose of
6 transportation, and nurse rigs or equipment auxiliary to the use of and
7 designed or modified for the fueling, repairing, or loading of spray
8 and fertilizer applicator rigs and not used, designed, or modified
9 primarily for the purpose of transportation;

10 (d) Fork lifts operated during daylight hours on public highways
11 adjacent to and within five hundred feet of the warehouses which they
12 serve: PROVIDED FURTHER, That these provisions shall not apply to
13 vehicles used by the state parks and recreation commission exclusively
14 for park maintenance and operations upon public highways within state
15 parks;

16 (e) "Special highway construction equipment" defined as follows:
17 Any vehicle which is designed and used primarily for grading of
18 highways, paving of highways, earth moving, and other construction work
19 on highways and which is not designed or used primarily for the
20 transportation of persons or property on a public highway and which is
21 only incidentally operated or moved over the highway. It includes, but
22 is not limited to, road construction and maintenance machinery so
23 designed and used such as portable air compressors, air drills, asphalt
24 spreaders, bituminous mixers, bucket loaders, track laying tractors,
25 ditchers, leveling graders, finishing machines, motor graders, paving
26 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,
27 lighting plants, welders, pumps, power shovels and draglines, self-
28 propelled and tractor-drawn earth moving equipment and machinery,
29 including dump trucks and tractor-dump trailer combinations which
30 either (i) are in excess of the legal width, or (ii) which, because of
31 their length, height, or unladen weight, may not be moved on a public
32 highway without the permit specified in RCW 46.44.090 and which are not
33 operated laden except within the boundaries of the project limits as
34 defined by the contract, and other similar types of construction
35 equipment, or (iii) which are driven or moved upon a public highway
36 only for the purpose of crossing such highway from one property to
37 another, provided such movement does not exceed five hundred feet and
38 the vehicle is equipped with wheels or pads which will not damage the
39 roadway surface.

1 Exclusions:

2 "Special highway construction equipment" does not include any of
3 the following:

4 Dump trucks originally designed to comply with the legal size and
5 weight provisions of this code notwithstanding any subsequent
6 modification which would require a permit, as specified in RCW
7 46.44.090, to operate such vehicles on a public highway, including
8 trailers, truck-mounted transit mixers, cranes and shovels, or other
9 vehicles designed for the transportation of persons or property to
10 which machinery has been attached.

11 (4) The following vehicles, whether operated solo or in
12 combination, are exempt from license registration and displaying
13 license plates as required by this chapter:

14 (a) A converter gear used to convert a semitrailer into a trailer
15 or a two-axle truck or tractor into a three or more axle truck or
16 tractor or used in any other manner to increase the number of axles of
17 a vehicle. Converter gear includes an auxiliary axle, booster axle,
18 dolly, and jeep axle.

19 (b) A tow dolly that is used for towing a motor vehicle behind
20 another motor vehicle. The front or rear wheels of the towed vehicle
21 are secured to and rest on the tow dolly that is attached to the towing
22 vehicle by a tow bar.

23 **Sec. 5.** RCW 47.68.240 and 1993 c 238 s 3 are each amended to read
24 as follows:

25 Any person violating any of the provisions of this chapter, or any
26 of the rules, regulations, or orders issued pursuant thereto, shall be
27 guilty of a misdemeanor and shall be punished as provided under chapter
28 9A.20 RCW, except that any person violating any of the provisions of
29 RCW 47.68.220(~~(7)~~) or 47.68.230(~~(7 or 47.68.255)~~) shall be guilty of a
30 gross misdemeanor which shall be punished as provided under chapter
31 9A.20 RCW. In addition to, or in lieu of, the penalties provided in
32 this section, or as a condition to the suspension of a sentence which
33 may be imposed pursuant thereto, for violations of RCW 47.68.220 and
34 47.68.230, the court in its discretion may prohibit the violator from
35 operating an aircraft within the state for such period as it may
36 determine but not to exceed one year. Violation of the duly imposed
37 prohibition of the court may be treated as a separate offense under
38 this section or as a contempt of court.

1 **Sec. 6.** RCW 47.68.255 and 1996 c 184 s 3 are each amended to read
2 as follows:

3 (1)(a) A person who is required to register an aircraft under this
4 chapter and who registers an aircraft in another state or foreign
5 country (~~evading~~) avoiding the Washington aircraft (~~excise tax is~~
6 guilty of a gross misdemeanor) taxes, commits a violation of this
7 section and is liable for those unpaid taxes and for a monetary penalty
8 not less than one thousand dollars but not more than ten thousand
9 dollars for each violation. (~~For a second or subsequent offense, the~~
10 person convicted is also subject to a fine equal to four times the
11 amount of avoided taxes and fees, no part of which may be suspended or
12 deferred. Excise))

13 (b) Taxes owed and fines assessed shall be deposited in the manner
14 provided under RCW 46.16.010(2).

15 (2) The penalty provided in this section is due and payable when
16 the person incurring it receives a notice in writing from the state
17 patrol describing the violation and advising the person that the
18 penalty is due. The state patrol may, upon written application for
19 review, received within fifteen days, remit or mitigate a penalty
20 provided for in this section or discontinue an action to recover the
21 penalty upon such terms it deems proper and may ascertain the facts in
22 a manner and under rules it deems proper. If the amount of the penalty
23 is not paid to the state patrol within fifteen days after receipt of
24 the notice imposing the penalty, or application for remission or
25 mitigation has not been made within fifteen days after the violator has
26 received notice of the disposition of the application, the attorney
27 general shall bring an action in the name of the state of Washington in
28 the superior court of Thurston county or of any other county in which
29 the violator does business, to recover the penalty, administrative
30 fees, and attorneys' fees. In all such actions, the procedure and
31 rules of evidence are the same as an ordinary civil action except as
32 otherwise provided in this chapter. All penalties recovered under this
33 section shall be paid into the state treasury and credited to the state
34 patrol highway account of the motor vehicle fund for the license fraud
35 task force. The department of revenue may assess and collect the
36 unpaid excise tax under chapter 82.32 RCW, including the penalties and
37 interest provided in chapter 82.32 RCW.

1 **Sec. 7.** RCW 82.48.020 and 1993 c 238 s 5 are each amended to read
2 as follows:

3 (1) An annual excise tax is hereby imposed for the privilege of
4 using any aircraft in the state. A current certificate of air
5 worthiness with a current inspection date from the appropriate federal
6 agency and/or the purchase of aviation fuel shall constitute the
7 necessary evidence of aircraft use or intended use. The tax shall be
8 collected annually or under a staggered collection schedule as required
9 by the secretary by rule. No additional tax shall be imposed under
10 this chapter upon any aircraft upon the transfer of ownership thereof,
11 if the tax imposed by this chapter with respect to such aircraft has
12 already been paid for the year in which transfer of ownership occurs.
13 A violation of this subsection is a misdemeanor punishable as provided
14 under chapter 9A.20 RCW.

15 (2)(a) Persons who are required to register aircraft under chapter
16 47.68 RCW and who register aircraft in another state or foreign country
17 and avoid the Washington aircraft ((excise tax are liable for such
18 unpaid excise tax)) taxes, violate this section and are liable for a
19 monetary penalty of not less than one thousand dollars but not more
20 than ten thousand dollars for each violation. ((A violation of this
21 subsection is a gross misdemeanor.))

22 (b) The penalty provided in this section is due and payable when
23 the person incurring it receives a notice in writing from the state
24 patrol describing the violation and advising the person that the
25 penalty is due. The state patrol may, upon written application for
26 review, received within fifteen days, remit or mitigate a penalty
27 provided for in this section or discontinue an action to recover the
28 penalty upon such terms it deems proper and may ascertain the facts in
29 a manner and under rules it deems proper. If the amount of the penalty
30 is not paid to the state patrol within fifteen days after receipt of
31 the notice imposing the penalty, or application for remission or
32 mitigation has not been made within fifteen days after the violator has
33 received notice of the disposition of the application, the attorney
34 general shall bring an action in the name of the state of Washington in
35 the superior court of Thurston county or of any other county in which
36 the violator resides or does business, to recover the penalty,
37 administrative fees, and attorneys' fees. In all such actions, the
38 procedure and rules of evidence are the same as an ordinary civil
39 action except as otherwise provided in this chapter. All penalties

1 recovered under this section shall be paid into the state treasury and
2 credited to the state patrol highway account of the motor vehicle fund
3 for the license fraud task force.

4 (3) The department of revenue may assess and collect the unpaid
5 excise tax under chapter 82.32 RCW, including the penalties and
6 interest provided in chapter 82.32 RCW.

7 ~~((3))~~ (4) Except as provided under subsections (1) and (2) of
8 this section, a violation of this chapter is a misdemeanor punishable
9 as provided in chapter 9A.20 RCW.

10 **Sec. 8.** RCW 82.49.010 and 1993 c 238 s 6 are each amended to read
11 as follows:

12 (1) An excise tax is imposed for the privilege of using a vessel
13 upon the waters of this state, except vessels exempt under RCW
14 82.49.020. The annual amount of the excise tax is one-half of one
15 percent of fair market value, as determined under this chapter, or five
16 dollars, whichever is greater. Violation of this subsection is a
17 misdemeanor.

18 (2)(a) A person~~((s))~~ who ~~((are))~~ is required under chapter 88.02
19 RCW to register a vessel in this state and who registers the vessel in
20 another state or foreign country and avoids the Washington watercraft
21 ~~((excise tax are guilty of a gross misdemeanor and are liable for such~~
22 ~~unpaid excise tax))~~ taxes, violates this section and is liable for
23 those taxes and a monetary penalty not less than one thousand dollars
24 but not more than ten thousand dollars for each violation. ~~((The~~
25 ~~department of revenue may assess and collect the unpaid excise tax~~
26 ~~under chapter 82.32 RCW, including the penalties and interest provided~~
27 ~~in chapter 82.32 RCW.))~~

28 (b) The penalty provided in this section is due and payable when
29 the person incurring it receives a notice in writing from the state
30 patrol describing the violation and advising the person that the
31 penalty is due. The state patrol may, upon written application for
32 review, received within fifteen days, remit or mitigate a penalty
33 provided for in this section or discontinue an action to recover the
34 penalty upon such terms it deems proper and may ascertain the facts in
35 a manner and under rules it deems proper. If the amount of the penalty
36 is not paid to the state patrol within fifteen days after receipt of
37 the notice imposing the penalty, or application for remission or
38 mitigation has not been made within fifteen days after the violator has

1 received notice of the disposition of the application, the attorney
2 general shall bring an action in the name of the state of Washington in
3 the superior court of Thurston county or of any other county in which
4 the violator resides or does business, to recover the penalty,
5 administrative fees, and attorneys' fees. In all such actions, the
6 procedure and rules of evidence are the same as an ordinary civil
7 action except as otherwise provided in this chapter. All penalties
8 recovered under this section shall be paid into the state treasury and
9 credited to the state patrol highway account of the motor vehicle fund
10 for the license fraud task force.

11 (3) The excise tax upon a vessel registered for the first time in
12 this state shall be imposed for a twelve-month period, including the
13 month in which the vessel is registered, unless the director of
14 licensing extends or diminishes vessel registration periods for the
15 purpose of staggered renewal periods under RCW 88.02.050. A vessel is
16 registered for the first time in this state when the vessel was not
17 registered in this state for the immediately preceding registration
18 year, or when the vessel was registered in another jurisdiction for the
19 immediately preceding year. The excise tax on vessels required to be
20 registered in this state on June 30, 1983, shall be paid by June 30,
21 1983.

22 **Sec. 9.** RCW 82.50.400 and 1993 c 238 s 7 are each amended to read
23 as follows:

24 (1) An annual excise tax is imposed on the owner of any travel
25 trailer or camper for the privilege of using such travel trailer or
26 camper in this state. The excise tax hereby imposed shall be due and
27 payable to the department of licensing or its agents at the time of
28 registration of a travel trailer or camper. Whenever an application is
29 made to the department of licensing or its agents for a license for a
30 travel trailer or camper there shall be collected, in addition to the
31 amount of the license fee or renewal license fee, the amount of the
32 excise tax imposed by this chapter, and no dealer's license or license
33 plates, and no license or license plates for a travel trailer or camper
34 may be issued unless such tax is paid in full. No additional tax shall
35 be imposed under this chapter upon any travel trailer or camper upon
36 the transfer of ownership thereof, if the tax imposed by this chapter
37 with respect to such travel trailer or camper has already been paid for
38 the registration year or fractional part thereof in which such transfer

1 occurs. Violation of this subsection is a (~~misdemeanor~~) violation of
2 RCW 46.16.010, and penalties apply.

3 (2) Persons who are required to license travel trailers or campers
4 under chapter 46.16 RCW and who license travel trailers or campers in
5 another state or foreign country to avoid the Washington travel trailer
6 or camper tax are (~~guilty of a gross misdemeanor and are liable for~~
7 ~~such unpaid excise tax~~) in violation of RCW 46.16.010, and penalties
8 apply. The department of revenue may assess and collect the unpaid
9 excise tax under chapter 82.32 RCW, including the penalties and
10 interest provided in chapter 82.32 RCW.

11 **Sec. 10.** RCW 88.02.118 and 1996 c 184 s 4 are each amended to read
12 as follows:

13 (1)(a) It is a (~~gross misdemeanor punishable as provided under~~
14 chapter 9A.20 RCW)) violation for any person owning a vessel subject to
15 taxation under chapter 82.49 RCW to register a vessel in another state
16 to avoid Washington state vessel (~~excise tax~~) taxes required under
17 chapter 82.49 RCW or to obtain a vessel dealer's registration for the
18 purpose of (~~evading excise tax~~) avoiding taxes on vessels under
19 chapter 82.49 RCW. (~~For a second or subsequent offense, the person~~
20 convicted is also subject to a fine equal to four times the amount of
21 avoided taxes and fees, no part of which may be suspended or deferred.
22 Excise taxes owed and fines assessed shall be deposited in the manner
23 provided under RCW 46.16.010(2).)

24 (b) The monetary penalty is not less than one thousand dollars but
25 not more than ten thousand dollars for each violation.

26 (2) The penalty provided in this section is due and payable when
27 the person incurring it receives a notice in writing from the state
28 patrol describing the violation and advising the person that the
29 penalty is due. The state patrol may, upon written application for
30 review, received within fifteen days, remit or mitigate a penalty
31 provided for in this section or discontinue an action to recover the
32 penalty upon such terms it deems proper and may ascertain the facts in
33 a manner and under rules it deems proper. If the amount of the penalty
34 is not paid to the state patrol within fifteen days after receipt of
35 the notice imposing the penalty, or application for remission or
36 mitigation has not been made within fifteen days after the violator has
37 received notice of the disposition of the application, the attorney
38 general shall bring an action in the name of the state of Washington in

1 the superior court of Thurston county or of any other county in which
2 the violator resides or does business, to recover the penalty,
3 administrative fees, and attorneys' fees. In all such actions, the
4 procedure and rules of evidence are the same as an ordinary civil
5 action except as otherwise provided in this chapter. All penalties
6 recovered under this section shall be paid into the state treasury and
7 credited to the state patrol highway account of the motor vehicle fund
8 for the license fraud task force.

9 **Sec. 11.** RCW 82.32.090 and 1996 c 149 s 15 are each amended to
10 read as follows:

11 (1) If payment of any tax due on a return to be filed by a taxpayer
12 is not received by the department of revenue by the due date, there
13 shall be assessed a penalty of five percent of the amount of the tax;
14 and if the tax is not received on or before the last day of the month
15 following the due date, there shall be assessed a total penalty of ten
16 percent of the amount of the tax; and if the tax is not received on or
17 before the last day of the second month following the due date, there
18 shall be assessed a total penalty of twenty percent of the amount of
19 the tax. No penalty so added shall be less than five dollars.

20 (2) If payment of any tax assessed by the department of revenue is
21 not received by the department by the due date specified in the notice,
22 or any extension thereof, the department shall add a penalty of ten
23 percent of the amount of the additional tax found due. No penalty so
24 added shall be less than five dollars.

25 (3) If a warrant be issued by the department of revenue for the
26 collection of taxes, increases, and penalties, there shall be added
27 thereto a penalty of five percent of the amount of the tax, but not
28 less than ten dollars.

29 (4) If the department finds that all or any part of a deficiency
30 resulted from the disregard of specific written instructions as to
31 reporting or tax liabilities, the department shall add a penalty of ten
32 percent of the amount of the additional tax found due because of the
33 failure to follow the instructions. A taxpayer disregards specific
34 written instructions when the department of revenue has informed the
35 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
36 fails to act in accordance with those instructions unless the
37 department has not issued final instructions because the matter is
38 under appeal pursuant to this chapter or departmental regulations. The

1 department shall not assess the penalty under this section upon any
2 taxpayer who has made a good faith effort to comply with the specific
3 written instructions provided by the department to that taxpayer.
4 Specific written instructions may be given as a part of a tax
5 assessment, audit, determination, or closing agreement, provided that
6 such specific written instructions shall apply only to the taxpayer
7 addressed or referenced on such documents. Any specific written
8 instructions by the department of revenue shall be clearly identified
9 as such and shall inform the taxpayer that failure to follow the
10 instructions may subject the taxpayer to the penalties imposed by this
11 subsection.

12 (5)(a) If the department finds that all or any part of the
13 deficiency resulted from an intent to evade the tax payable hereunder,
14 a further penalty of fifty percent of the additional tax found to be
15 due shall be added.

16 (b) There is an irrebuttable presumption of a tax deficiency and
17 intent to avoid and evade the tax under the motor vehicle excise tax
18 under chapter 82.44 RCW, the aircraft excise tax under chapter 82.48
19 RCW, the watercraft excise tax under chapter 82.49 RCW, the trailers
20 and campers excise tax under chapter 82.50 RCW, or use tax under
21 chapter 82.12 RCW, if there is a finding resulting from a proceeding
22 brought under RCW 46.16.010, 47.68.255, 82.48.020, 82.49.010, or
23 88.02.118, that the person failed to properly register or license a
24 motor vehicle, an aircraft, a watercraft, a trailer, or a camper.

25 (6) The aggregate of penalties imposed under subsections (1), (2),
26 and (3) of this section shall not exceed thirty-five percent of the tax
27 due, or twenty dollars, whichever is greater. This subsection does not
28 prohibit or restrict the application of other penalties authorized by
29 law.

30 (7) The department of revenue may not impose both the evasion
31 penalty and the penalty for disregarding specific written instructions
32 on the same tax found to be due.

33 (8) For the purposes of this section, "return" means any document
34 a person is required by the state of Washington to file to satisfy or
35 establish a tax or fee obligation that is administered or collected by
36 the department of revenue, and that has a statutorily defined due date.

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