
HOUSE BILL 2716

State of Washington 56th Legislature 2000 Regular Session

By Representatives Delvin, Lovick, O'Brien and Hurst

Read first time 01/19/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to vehicle impounds; amending RCW 46.55.010,
2 46.55.100, 46.55.110, 46.55.113, and 46.70.180; reenacting and amending
3 RCW 46.55.120; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.55.010 and 1999 c 398 s 2 are each amended to read
6 as follows:

7 The definitions set forth in this section apply throughout this
8 chapter:

9 (1) "Abandoned vehicle" means a vehicle that a registered tow truck
10 operator has impounded and held in the operator's possession for one
11 hundred twenty consecutive hours.

12 (2) "Abandoned vehicle report" means the document prescribed by the
13 state that the towing operator forwards to the department after a
14 vehicle has become abandoned.

15 (3) "Impound" means to take and hold a vehicle in legal custody.
16 There are two types of impounds--public and private.

17 (a) "Public impound" means that the vehicle has been impounded at
18 the direction of a law enforcement officer or by a public official

1 having jurisdiction over the public property upon which the vehicle was
2 located.

3 (b) "Private impound" means that the vehicle has been impounded at
4 the direction of a person having control or possession of the private
5 property upon which the vehicle was located.

6 (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as
7 meeting at least three of the following requirements:

8 (a) Is three years old or older;

9 (b) Is extensively damaged, such damage including but not limited
10 to any of the following: A broken window or windshield, or missing
11 wheels, tires, motor, or transmission;

12 (c) Is apparently inoperable;

13 (d) Has an approximate fair market value equal only to the
14 approximate value of the scrap in it.

15 (5) "Master log" means the document or an electronic facsimile
16 prescribed by the department and the Washington state patrol in which
17 an operator records transactions involving impounded vehicles.

18 (6) "Registered tow truck operator" or "operator" means any person
19 who engages in the impounding, transporting, or storage of unauthorized
20 vehicles or the disposal of abandoned vehicles.

21 (7) "Residential property" means property that has no more than
22 four living units located on it.

23 (8) "Alcohol-related offense" means a violation of RCW 46.61.502 or
24 46.61.504, or of RCW 46.61.520 or 46.61.522 if committed while under
25 the influence.

26 (9) "Alcohol-related impound" means an impound ordered under RCW
27 46.55.113 because the operator was arrested for an alcohol-related
28 offense.

29 (10) "Suspended license impound" means an impound ordered under RCW
30 46.55.113 because the operator was arrested for a violation of RCW
31 46.20.342 or ~~((46.20.420))~~ 46.20.345.

32 ~~((+9))~~ (11) "Tow truck" means a motor vehicle that is equipped for
33 and used in the business of towing vehicles with equipment as approved
34 by the state patrol.

35 ~~((+10))~~ (12) "Tow truck number" means the number issued by the
36 department to tow trucks used by a registered tow truck operator in the
37 state of Washington.

1 number, and any other necessary, pertinent information. The initial
2 notice of impoundment shall be followed by a written or electronic
3 facsimile notice within twenty-four hours. In the case of a vehicle
4 from another state, time requirements of this subsection do not apply
5 until the requesting law enforcement agency in this state receives the
6 information.

7 (2) The operator shall immediately send an abandoned vehicle report
8 to the department for any vehicle, and for any items of personal
9 property registered or titled with the department, that are in the
10 operator's possession after the one hundred twenty hour abandonment
11 period. Such report need not be sent when the impoundment is pursuant
12 to a writ, court order, or police hold that is not a suspended license
13 impound or an alcohol-related impound. The owner notification and
14 abandonment process shall be initiated by the registered tow truck
15 operator immediately following notification by a court or law
16 enforcement officer that the writ, court order, or police hold that is
17 not a suspended license impound or an alcohol-related impound is no
18 longer in effect.

19 (3) Following the submittal of an abandoned vehicle report, the
20 department shall provide the registered tow truck operator with owner
21 information within seventy-two hours.

22 (4) Within fourteen days of the sale of an abandoned vehicle at
23 public auction, the towing operator shall send a copy of the abandoned
24 vehicle report showing the disposition of the abandoned vehicle and any
25 other items of personal property registered or titled with the
26 department to the crime information center of the Washington state
27 patrol.

28 (5) If the operator sends an abandoned vehicle report to the
29 department and the department finds no owner information, an operator
30 may proceed with an inspection of the vehicle and any other items of
31 personal property registered or titled with the department to determine
32 whether owner identification is within the vehicle.

33 (6) If the operator finds no owner identification, the operator
34 shall immediately notify the appropriate law enforcement agency, which
35 shall search the vehicle and any other items of personal property
36 registered or titled with the department for the vehicle identification
37 number or other appropriate identification numbers and check the
38 necessary records to determine the vehicle's or other property's
39 owners.

1 **Sec. 3.** RCW 46.55.110 and 1999 c 398 s 6 are each amended to read
2 as follows:

3 (1) When an unauthorized vehicle is impounded, the impounding
4 towing operator shall notify the legal and registered owners of the
5 impoundment of the unauthorized vehicle and the owners of any other
6 items of personal property registered or titled with the department.
7 The notification shall be sent by first-class mail within twenty-four
8 hours after the impoundment to the last known registered and legal
9 owners of the vehicle, and the owners of any other items of personal
10 property registered or titled with the department, as provided by the
11 law enforcement agency, and shall inform the owners of the identity of
12 the person or agency authorizing the impound. The notification shall
13 include the name of the impounding tow firm, its address, and telephone
14 number. The notice shall also include the location, time of the
15 impound, and by whose authority the vehicle was impounded. The notice
16 shall also include the written notice of the right of redemption and
17 opportunity for a hearing to contest the validity of the impoundment
18 pursuant to RCW 46.55.120.

19 (2) In addition, if a suspended license impound or an alcohol-
20 related impound has been ordered, the notice must state the length of
21 the impound, the requirement of the posting of a security deposit to
22 ensure payment of the costs of removal, towing, and storage,
23 notification that if the security deposit is not posted the vehicle
24 will immediately be processed and sold at auction as an abandoned
25 vehicle, and the requirements set out in RCW 46.55.120(1)(b) regarding
26 the payment of the costs of removal, towing, and storage as well as
27 providing proof of satisfaction of any penalties, fines, or forfeitures
28 before redemption. The notice must also state that the registered
29 owner is ineligible to purchase the vehicle at the abandoned vehicle
30 auction, if held.

31 (3) In the case of an abandoned vehicle, or other item of personal
32 property registered or titled with the department, within twenty-four
33 hours after receiving information on the owners from the department
34 through the abandoned vehicle report, the tow truck operator shall send
35 by certified mail, with return receipt requested, a notice of custody
36 and sale to the legal and registered owners.

37 (4) If the date on which a notice required by subsection (3) of
38 this section is to be mailed falls upon a Saturday, Sunday, or a postal

1 holiday, the notice may be mailed on the next day that is neither a
2 Saturday, Sunday, nor a postal holiday.

3 (5) No notices need be sent to the legal or registered owners of an
4 impounded vehicle or other item of personal property registered or
5 titled with the department, if the vehicle or personal property has
6 been redeemed.

7 **Sec. 4.** RCW 46.55.113 and 1998 c 203 s 4 are each amended to read
8 as follows:

9 Whenever the driver of a vehicle is arrested for a violation of RCW
10 46.61.502 or 46.61.504, or of RCW 46.61.500 or 46.61.522 if committed
11 while under the influence, or of RCW 46.20.342 or ~~((46.20.420))~~
12 46.20.345, the vehicle is subject to impoundment(~~((, pursuant to~~
13 ~~applicable local ordinance or state agency rule))~~) at the direction of
14 a law enforcement officer. In addition, a police officer may take
15 custody of a vehicle and provide for its prompt removal to a place of
16 safety under any of the following circumstances:

17 (1) Whenever a police officer finds a vehicle standing upon the
18 roadway in violation of any of the provisions of RCW 46.61.560, the
19 officer may provide for the removal of the vehicle or require the
20 driver or other person in charge of the vehicle to move the vehicle to
21 a position off the roadway;

22 (2) Whenever a police officer finds a vehicle unattended upon a
23 highway where the vehicle constitutes an obstruction to traffic or
24 jeopardizes public safety;

25 (3) Whenever a police officer finds an unattended vehicle at the
26 scene of an accident or when the driver of a vehicle involved in an
27 accident is physically or mentally incapable of deciding upon steps to
28 be taken to protect his or her property;

29 (4) Whenever the driver of a vehicle is arrested and taken into
30 custody by a police officer;

31 (5) Whenever a police officer discovers a vehicle that the officer
32 determines to be a stolen vehicle;

33 (6) Whenever a vehicle without a special license plate, card, or
34 decal indicating that the vehicle is being used to transport a disabled
35 person under RCW 46.16.381 is parked in a stall or space clearly and
36 conspicuously marked under RCW 46.61.581 which space is provided on
37 private property without charge or on public property;

1 (7) Upon determining that a person is operating a motor vehicle
2 without a valid driver's license in violation of RCW 46.20.005 or with
3 a license that has been expired for ninety days or more.

4 Nothing in this section may derogate from the powers of police
5 officers under the common law. For the purposes of this section, a
6 place of safety may include the business location of a registered tow
7 truck operator.

8 **Sec. 5.** RCW 46.55.120 and 1999 c 398 s 7 and 1999 c 327 s 5 are
9 each reenacted and amended to read as follows:

10 (1) Vehicles or other items of personal property registered or
11 titled with the department that are impounded by registered tow truck
12 operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140
13 may be redeemed only under the following circumstances:

14 (a) Only the legal owner, the registered owner, a person authorized
15 in writing by the registered owner or the vehicle's insurer, a person
16 who is determined and verified by the operator to have the permission
17 of the registered owner of the vehicle or other item of personal
18 property registered or titled with the department, or one who has
19 purchased a vehicle or item of personal property registered or titled
20 with the department from the registered owner who produces proof of
21 ownership or written authorization and signs a receipt therefor, may
22 redeem an impounded vehicle or items of personal property registered or
23 titled with the department. In addition, a vehicle impounded because
24 the operator is in violation of RCW 46.20.342(~~((1)(e))~~) or of an
25 alcohol-related offense shall not be released until a person eligible
26 to redeem it under this subsection (1)(a) satisfies the requirements of
27 (e) of this subsection, including paying all towing, removal, and
28 storage fees, notwithstanding the fact that the hold was ordered by a
29 government agency. (~~((If the department's records show that the~~
30 ~~operator has been convicted of a violation of RCW 46.20.342 or a~~
31 ~~similar local ordinance within the past five years, the vehicle may be~~
32 ~~held for up to thirty days at the written direction of the agency~~
33 ~~ordering the vehicle impounded.))~~) A vehicle impounded because the
34 operator is arrested for a violation of RCW 46.20.342 or for an
35 alcohol-related offense may be released only pursuant to a written
36 order from the agency that ordered the vehicle impounded or from the
37 court having jurisdiction. An agency may issue a written order to
38 release (~~((pursuant to a provision of an applicable state agency rule or~~

1 ~~local ordinance authorizing release~~) on the basis of economic or
2 personal hardship to the spouse of the operator, taking into
3 consideration public safety factors, including the operator's criminal
4 history and driving record.

5 If a vehicle is impounded because the operator is in violation of
6 RCW 46.20.342(1)(c) and the department's records show that the operator
7 has been convicted of a violation of RCW 46.20.342 or a similar local
8 ordinance within the past five years, the vehicle may be held for up to
9 thirty days at the written direction of the agency ordering the vehicle
10 impounded.

11 If a vehicle is impounded because the operator is in violation of
12 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty
13 days at the written direction of the agency ordering the vehicle
14 impounded. However, if the department's records show that the operator
15 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a
16 similar local ordinance within the past five years, the vehicle may be
17 held at the written direction of the agency ordering the vehicle
18 impounded for up to sixty days, and for up to ninety days if the
19 operator has two or more such prior offenses. (~~If a vehicle is~~
20 ~~impounded because the operator is arrested for a violation of RCW~~
21 ~~46.20.342, the vehicle may not be released until a person eligible to~~
22 ~~redeem it under this subsection (1)(a) satisfies the requirements of~~
23 ~~(c) of this subsection, including paying all towing, removal, and~~
24 ~~storage fees, notwithstanding the fact that the hold was ordered by a~~
25 ~~government agency.))~~

26 If a vehicle is impounded because the operator is arrested for an
27 alcohol-related offense, the vehicle may be held at the written
28 direction of the agency ordering the vehicle impounded for up to thirty
29 days. However, if the operator has been convicted of an alcohol-
30 related offense within the past five years, the vehicle may be held for
31 up to sixty days, and for up to ninety days if the operator has two or
32 more such prior offenses.

33 (b) If the vehicle is directed to be held for a suspended license
34 impound or an alcohol-related impound, a person who desires to redeem
35 the vehicle at the end of the period of impound shall within five days
36 of the impound at the request of the tow truck operator pay a security
37 deposit to the tow truck operator of not more than one-half of the
38 applicable impound storage rate for each day of the proposed suspended
39 license impound or alcohol-related impound. The tow truck operator

1 shall credit this amount against the final bill for removal, towing,
2 and storage upon redemption. The tow truck operator may accept other
3 sufficient security in lieu of the security deposit. If the person
4 desiring to redeem the vehicle does not pay the security deposit or
5 provide other security acceptable to the tow truck operator, the tow
6 truck operator may process and sell at auction the vehicle as an
7 abandoned vehicle within the normal time limits set out in RCW
8 46.55.130(1). The security deposit required by this section may be
9 paid and must be accepted at any time up to twenty-four hours before
10 the beginning of the auction to sell the vehicle as abandoned. The
11 registered owner is not eligible to purchase the vehicle at the
12 auction, and the tow truck operator shall sell the vehicle to the
13 highest bidder who is not the registered owner.

14 (c) Notwithstanding (b) of this subsection, a rental car business
15 may immediately redeem a rental vehicle it owns by payment of the costs
16 of removal, towing, and storage, whereupon the vehicle will not be held
17 for a suspended license impound or an alcohol-related impound.

18 (d) Notwithstanding (b) of this subsection, a motor vehicle dealer
19 or lender with a perfected security interest in the vehicle may redeem
20 or lawfully repossess a vehicle immediately by payment of the costs of
21 removal, towing, and storage, whereupon the vehicle will not be held
22 for a suspended license impound or an alcohol-related impound. A motor
23 vehicle dealer or lender with a perfected security interest in the
24 vehicle may not knowingly and intentionally engage in collusion with a
25 registered owner to repossess and then return or resell a vehicle to
26 the registered owner in an attempt to avoid a suspended license impound
27 or an alcohol-related impound. However, this provision does not
28 preclude a vehicle dealer or a lender with a perfected security
29 interest in the vehicle from repossessing the vehicle and then selling,
30 leasing, or otherwise disposing of it in accordance with chapter 62A.9
31 RCW, including providing redemption rights to the debtor under RCW
32 62A.9-506. If the debtor is the registered owner of the vehicle, the
33 debtor's right to redeem the vehicle under chapter 62A.9 RCW is
34 conditioned upon the debtor obtaining and providing proof from the
35 impounding authority or court having jurisdiction that any fines,
36 penalties, and forfeitures owed by the registered owner, as a result of
37 the suspended license impound or alcohol-related impound, have been
38 paid, and proof of the payment must be tendered to the vehicle dealer
39 or lender at the time the debtor tenders all other obligations required

1 to redeem the vehicle. Vehicle dealers or lenders are not liable for
2 damages if they rely in good faith on an order from the impounding
3 agency or a court in releasing a vehicle held under a suspended license
4 impound or an alcohol-related impound.

5 (e) The vehicle or other item of personal property registered or
6 titled with the department shall be released upon the presentation to
7 any person having custody of the vehicle of commercially reasonable
8 tender sufficient to cover the costs of towing, storage, or other
9 services rendered during the course of towing, removing, impounding, or
10 storing any such vehicle, with credit being given for the amount of any
11 security deposit paid under (b) of this subsection. In addition, if a
12 vehicle is impounded because the operator was arrested for a violation
13 of RCW 46.20.342 or ~~((46.20.420))~~ 46.20.345, or for an alcohol-related
14 offense, and was being operated by the registered owner when it was
15 impounded ~~((under local ordinance or agency rule))~~, it must not be
16 released to any person until the registered owner establishes with the
17 agency that ordered the vehicle impounded or the court having
18 jurisdiction that any penalties, fines, or forfeitures owed by him or
19 her have been satisfied. Registered tow truck operators are not liable
20 for damages if they rely in good faith on an order from the impounding
21 agency or a court in releasing a vehicle held under a suspended license
22 impound or an alcohol-related impound. Commercially reasonable tender
23 shall include, without limitation, cash, major bank credit cards, or
24 personal checks drawn on in-state banks if accompanied by two pieces of
25 valid identification, one of which may be required by the operator to
26 have a photograph. If the towing firm can determine through the
27 customer's bank or a check verification service that the presented
28 check would not be paid by the bank or guaranteed by the service, the
29 towing firm may refuse to accept the check. Any person who stops
30 payment on a personal check or credit card, or does not make
31 restitution within ten days from the date a check becomes insufficient
32 due to lack of funds, to a towing firm that has provided a service
33 pursuant to this section or in any other manner defrauds the towing
34 firm in connection with services rendered pursuant to this section
35 shall be liable for damages in the amount of twice the towing and
36 storage fees, plus costs and reasonable attorney's fees.

37 (2)(a) The registered tow truck operator shall give to each person
38 who seeks to redeem an impounded vehicle, or item of personal property
39 registered or titled with the department, written notice of the right

1 of redemption and opportunity for a hearing, which notice shall be
2 accompanied by a form to be used for requesting a hearing, the name of
3 the person or agency authorizing the impound, and a copy of the towing
4 and storage invoice. The registered tow truck operator shall maintain
5 a record evidenced by the redeeming person's signature that such
6 notification was provided.

7 (b) Any person seeking to redeem an impounded vehicle under this
8 section has a right to a hearing in the district or municipal court for
9 the jurisdiction in which the vehicle was impounded to contest the
10 validity of the impoundment or the amount of towing and storage
11 charges. The district court has jurisdiction to determine the issues
12 involving all impoundments including those authorized by the state or
13 its agents. The municipal court has jurisdiction to determine the
14 issues involving impoundments authorized by agents of the municipality.
15 Any request for a hearing shall be made in writing on the form provided
16 for that purpose and must be received by the appropriate court within
17 ten days of the date the opportunity was provided for in subsection
18 (2)(a) of this section and more than five days before the date of the
19 auction. At the time of the filing of the hearing request, the
20 petitioner shall pay to the court clerk a filing fee in the same amount
21 required for the filing of a suit in district court. If the hearing
22 request is not received by the court within the ten-day period, the
23 right to a hearing is waived and the registered owner is liable for any
24 towing, storage, or other impoundment charges permitted under this
25 chapter. Upon receipt of a timely hearing request, the court shall
26 proceed to hear and determine the validity of the impoundment.

27 (3)(a) The court, within five days after the request for a hearing,
28 shall notify the registered tow truck operator, the person requesting
29 the hearing if not the owner, the registered and legal owners of the
30 vehicle or other item of personal property registered or titled with
31 the department, and the person or agency authorizing the impound in
32 writing of the hearing date and time.

33 (b) At the hearing, the person or persons requesting the hearing
34 may produce any relevant evidence to show that the impoundment, towing,
35 or storage fees charged were not proper. The court may consider a
36 written report made under oath by the officer who authorized the
37 impoundment in lieu of the officer's personal appearance at the
38 hearing.

1 (c) At the conclusion of the hearing, the court shall determine
2 whether the impoundment was proper, whether the towing or storage fees
3 charged were in compliance with the posted rates, and who is
4 responsible for payment of the fees. The court may not adjust fees or
5 charges that are in compliance with the posted or contracted rates.

6 (d) If the impoundment is found proper, the impoundment, towing,
7 and storage fees as permitted under this chapter together with court
8 costs shall be assessed against the person or persons requesting the
9 hearing, unless the operator did not have a signed and valid
10 impoundment authorization from a private property owner or an
11 authorized agent.

12 (e) If the impoundment is determined to be in violation of this
13 chapter, then the registered and legal owners of the vehicle or other
14 item of personal property registered or titled with the department
15 shall bear no impoundment, towing, or storage fees, and any security
16 shall be returned or discharged as appropriate, and the person or
17 agency who authorized the impoundment shall be liable for any towing,
18 storage, or other impoundment fees permitted under this chapter. The
19 court shall enter judgment in favor of the registered tow truck
20 operator against the person or agency authorizing the impound for the
21 impoundment, towing, and storage fees paid. In addition, the court
22 shall enter judgment in favor of the registered and legal owners of the
23 vehicle, or other item of personal property registered or titled with
24 the department, for the amount of the filing fee required by law for
25 the impound hearing petition as well as reasonable damages for loss of
26 the use of the vehicle during the time the same was impounded, for not
27 less than fifty dollars per day, against the person or agency
28 authorizing the impound. However, if an impoundment arising from an
29 alleged violation of RCW 46.20.342 or (~~46.20.420~~) 46.20.345 is
30 determined to be in violation of this chapter, then the law enforcement
31 officer directing the impoundment and the government employing the
32 officer are not liable for damages if the officer relied in good faith
33 and without gross negligence on the records of the department in
34 ascertaining that the operator of the vehicle had a suspended or
35 revoked driver's license. If an impoundment arising from an alleged
36 alcohol-related offense is determined to be in violation of this
37 chapter, then the law enforcement officer directing the impoundment and
38 the government employing the officer are not liable for damages if the
39 officer had probable cause to believe the driver of the vehicle

1 committed an alcohol-related offense. If any judgment entered is not
2 paid within fifteen days of notice in writing of its entry, the court
3 shall award reasonable attorneys' fees and costs against the defendant
4 in any action to enforce the judgment. Notice of entry of judgment may
5 be made by registered or certified mail, and proof of mailing may be
6 made by affidavit of the party mailing the notice. Notice of the entry
7 of the judgment shall read essentially as follows:

8 TO:
9 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the
10 Court located at in the sum of
11 \$., in an action entitled, Case No.
12 YOU ARE FURTHER NOTIFIED that attorneys fees and costs
13 will be awarded against you under RCW . . . if the judgment is
14 not paid within 15 days of the date of this notice.
15 DATED this day of, (year) . . .
16 Signature
17 Typed name and address
18 of party mailing notice

19 (4) Any impounded abandoned vehicle or item of personal property
20 registered or titled with the department that is not redeemed within
21 fifteen days of mailing of the notice of custody and sale as required
22 by RCW 46.55.110(3) shall be sold at public auction in accordance with
23 all the provisions and subject to all the conditions of RCW 46.55.130.
24 A vehicle or item of personal property registered or titled with the
25 department may be redeemed at any time before the start of the auction
26 upon payment of the applicable towing and storage fees.

27 **Sec. 6.** RCW 46.70.180 and 1999 c 398 s 10 are each amended to read
28 as follows:

29 Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

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

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

33 (a) Is subject to the dealer's, or his or her authorized
34 representative's future acceptance, and the dealer fails or refuses
35 within three calendar days, exclusive of Saturday, Sunday, or legal
36 holiday, and prior to any further negotiations with said buyer, either
37 (i) to deliver to the buyer the dealer's signed acceptance, or (ii) to
38 void the order, offer, or contract document and tender the return of
39 any initial payment or security made or given by the buyer, including

1 but not limited to money, check, promissory note, vehicle keys, a
2 trade-in, or certificate of title to a trade-in; or

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

6 (i) Failure to disclose that the vehicle's certificate of ownership
7 has been branded for any reason, including, but not limited to, status
8 as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

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

13 (iii) Excessive additional miles or a discrepancy in the mileage.
14 "Excessive additional miles" means the addition of five hundred miles
15 or more, as reflected on the vehicle's odometer, between the time the
16 vehicle was first valued by the dealer for purposes of determining its
17 trade-in value and the time of actual delivery of the vehicle to the
18 dealer. "A discrepancy in the mileage" means (A) a discrepancy between
19 the mileage reflected on the vehicle's odometer and the stated mileage
20 on the signed odometer statement; or (B) a discrepancy between the
21 mileage stated on the signed odometer statement and the actual mileage
22 on the vehicle; or

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

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

30 (6) For any vehicle dealer or vehicle salesperson to refuse to
31 furnish, upon request of a prospective purchaser, for vehicles
32 previously registered to a business or governmental entity, the name
33 and address of the business or governmental entity.

34 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
35 46.37.425.

36 (8) To commit any offense relating to a dealer's temporary license
37 permit, including but not limited to failure to properly complete each
38 such permit, or the issuance of more than one such permit on any one

1 vehicle. However, a dealer may issue a second temporary permit on a
2 vehicle if the following conditions are met:

3 (a) The lienholder fails to deliver the vehicle title to the dealer
4 within the required time period;

5 (b) The dealer has satisfied the lien; and

6 (c) The dealer has proof that payment of the lien was made within
7 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,
8 after the sales contract has been executed by all parties and all
9 conditions and contingencies in the sales contract have been met or
10 otherwise satisfied.

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

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

38 (11) For a vehicle dealer to pay to or receive from any person,
39 firm, partnership, association, or corporation acting, either directly

1 or through a subsidiary, as a buyer's agent for consumers, any
2 compensation, fee, purchase moneys or funds that have been deposited
3 into or withdrawn out of any account controlled or used by any buyer's
4 agent, gratuity, or reward in connection with the purchase or sale of
5 a new motor vehicle.

6 (12) For a buyer's agent, acting directly or through a subsidiary,
7 to pay to or to receive from any motor vehicle dealer any compensation,
8 fee, gratuity, or reward in connection with the purchase or sale of a
9 new motor vehicle. In addition, it is unlawful for any buyer's agent
10 to engage in any of the following acts on behalf of or in the name of
11 the consumer:

12 (a) Receiving or paying any purchase moneys or funds into or out of
13 any account controlled or used by any buyer's agent;

14 (b) Signing any vehicle purchase orders, sales contract, odometer
15 statements, or title documents, or having the name of the buyer's agent
16 appear on the vehicle purchase order, sales contract, or title; or

17 (c) Signing any other documentation relating to the purchase, sale,
18 or transfer of any new motor vehicle.

19 It is unlawful for a buyer's agent to use a power of attorney
20 obtained from the consumer to accomplish or effect the purchase, sale,
21 or transfer of ownership documents of any new motor vehicle by any
22 means which would otherwise be prohibited under (a) through (c) of this
23 subsection. However, the buyer's agent may use a power of attorney for
24 physical delivery of motor vehicle license plates to the consumer.

25 Further, it is unlawful for a buyer's agent to engage in any false,
26 deceptive, or misleading advertising, disseminated in any manner
27 whatsoever, including but not limited to making any claim or statement
28 that the buyer's agent offers, obtains, or guarantees the lowest price
29 on any motor vehicle or words to similar effect.

30 (13) For a buyer's agent to arrange for or to negotiate the
31 purchase, or both, of a new motor vehicle through an out-of-state
32 dealer without disclosing in writing to the customer that the new
33 vehicle would not be subject to chapter 19.118 RCW. In addition, it is
34 unlawful for any buyer's agent to fail to have a written agreement with
35 the customer that: (a) Sets forth the terms of the parties' agreement;
36 (b) discloses to the customer the total amount of any fees or other
37 compensation being paid by the customer to the buyer's agent for the
38 agent's services; and (c) further discloses whether the fee or any
39 portion of the fee is refundable. The department of licensing shall by

1 December 31, 1996, in rule, adopt standard disclosure language for
2 buyer's agent agreements under RCW 46.70.011, 46.70.070, and this
3 section.

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

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

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

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

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

36 (e) Refuse to deliver any vehicle publicly advertised for immediate
37 delivery to any duly licensed vehicle dealer having a franchise or
38 contractual agreement for the retail sale of new and unused vehicles
39 sold or distributed by such manufacturer within sixty days after such

1 dealer's order has been received in writing unless caused by inability
2 to deliver because of shortage or curtailment of material, labor,
3 transportation, or utility services, or by any labor or production
4 difficulty, or by any cause beyond the reasonable control of the
5 manufacturer;

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

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

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

24 (16) To knowingly and intentionally engage in collusion with a
25 registered owner of a vehicle to repossess and return or resell the
26 vehicle to the registered owner in an attempt to avoid a suspended
27 license impound or an alcohol-related impound under chapter 46.55 RCW.
28 However, compliance with chapter 62A.9 RCW in repossessing, selling,
29 leasing, or otherwise disposing of the vehicle, including providing
30 redemption rights to the debtor, is not a violation of this section.

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