
HOUSE BILL 2081

State of Washington

64th Legislature

2015 Regular Session

By Representative Hurst

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1 AN ACT Relating to adjudicative proceedings involving a state
2 agency that is also a party to the proceeding; amending RCW
3 34.05.030, 34.05.425, 34.05.461, 34.12.040, 34.12.060, 9.46.140,
4 9.46.231, 9A.88.150, 10.105.010, 18.27.225, 18.27.310, 18.235.030,
5 19.28.131, 19.28.490, 19.290.230, 26.23.120, 28A.300.120, 41.05.021,
6 43.19.008, 43.43.395, 43.215.030, 46.12.735, 46.20.331, 46.55.180,
7 49.12.285, 49.48.084, 49.60.250, 49.70.165, 49.74.040, 49.86.120,
8 66.24.010, 69.50.331, 74.09.741, 82.24.550, 82.26.220, and 88.16.090;
9 reenacting and amending RCW 18.130.050 and 48.04.010; adding a new
10 section to chapter 34.05 RCW; adding a new section to chapter 34.12
11 RCW; repealing RCW 46.20.332 and 46.20.333; and providing an
12 effective date.

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

14 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05
15 RCW to read as follows:

16 (1) Except when a state agency is excluded under RCW 34.05.030 or
17 chapter 34.12 RCW, whenever a statute or rule provides for a state
18 agency to conduct or preside over a hearing or an adjudicative
19 proceeding as defined in RCW 34.05.010, and that state agency is also
20 a party to the hearing or proceeding, the hearing or proceeding shall
21 be presided over by an administrative law judge assigned under

1 chapter 34.12 RCW. The administrative law judge shall issue a final
2 decision or final order, including findings of fact and conclusions
3 of law and all matters required by RCW 34.05.461(3), which is
4 appealable only by judicial review. Relief ordered by an
5 administrative law judge under this section may be enforced by
6 petition to a court.

7 (2) Appeals to the department of revenue under Title 82 or 84 are
8 not subject to the provisions of this act.

9 **Sec. 2.** RCW 34.05.030 and 2011 1st sp.s. c 43 s 431 are each
10 amended to read as follows:

11 (1) This chapter shall not apply to:

12 (a) The state militia, or

13 (b) The board of clemency and pardons, or

14 (c) The department of corrections or the indeterminate sentencing
15 review board with respect to persons who are in their custody or are
16 subject to the jurisdiction of those agencies.

17 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not
18 apply:

19 (a) To adjudicative proceedings of the board of industrial
20 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

21 (b) ~~((Except for actions pursuant to chapter 46.29 RCW, to the
22 denial, suspension, or revocation of a driver's license by the
23 department of licensing;~~

24 ~~(e))~~ To the department of labor and industries where another
25 statute expressly provides for review of adjudicative proceedings of
26 a department action, order, decision, or award before the board of
27 industrial insurance appeals;

28 ~~((d))~~ (c) Unless section 1 of this act applies, to actions of
29 the Washington personnel resources board, the human resources
30 director, or the office of financial management and the department of
31 enterprise services when carrying out their duties under chapter
32 41.06 RCW;

33 ~~((e))~~ (d) To adjustments by the department of revenue of the
34 amount of the surcharge imposed under RCW 82.04.261; or

35 ~~((f))~~ (e) To the extent they are inconsistent with any
36 provisions of chapter 43.43 RCW.

37 (3) Unless a party makes an election for a formal hearing
38 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through

1 34.05.598 do not apply to a review hearing conducted by the board of
2 tax appeals.

3 (4) The rule-making provisions of this chapter do not apply to:

4 (a) Reimbursement unit values, fee schedules, arithmetic
5 conversion factors, and similar arithmetic factors used to determine
6 payment rates that apply to goods and services purchased under
7 contract for clients eligible under chapter 74.09 RCW; and

8 (b) Adjustments by the department of revenue of the amount of the
9 surcharge imposed under RCW 82.04.261.

10 (5) All other agencies, whether or not formerly specifically
11 excluded from the provisions of all or any part of the administrative
12 procedure act, shall be subject to the entire act.

13 **Sec. 3.** RCW 34.05.425 and 2013 c 109 s 4 are each amended to
14 read as follows:

15 (1) Except as provided in subsection (2) of this section(~~(7)~~):

16 (a) Where the agency is not a party to the administrative
17 hearing, in the discretion of the agency head, the presiding officer
18 in an administrative hearing shall be:

19 ~~((a))~~ (i) The agency head or one or more members of the agency
20 head;

21 ~~((b))~~ (ii) If the agency has statutory authority to do so, a
22 person other than the agency head or an administrative law judge
23 designated by the agency head to make the final decision and enter
24 the final order;

25 ~~((c))~~ (iii) One or more administrative law judges assigned by
26 the office of administrative hearings in accordance with chapter
27 34.12 RCW; or

28 ~~((d))~~ (iv) A person or persons designated by the secretary of
29 health pursuant to RCW 43.70.740.

30 (b) Where the agency is a party to the administrative hearing,
31 the presiding officer in an administrative hearing shall be an
32 administrative law judge assigned under chapter 34.12 RCW, or a
33 person or persons designated by the secretary of health pursuant to
34 RCW 43.70.740.

35 (2) An agency expressly exempted under RCW 34.12.020(4) or other
36 statute from the provisions of chapter 34.12 RCW or an institution of
37 higher education shall designate a presiding officer as provided by
38 rules adopted by the agency.

1 (3) Any individual serving or designated to serve alone or with
2 others as presiding officer is subject to disqualification for bias,
3 prejudice, interest, or any other cause provided in this chapter or
4 for which a judge is disqualified.

5 (4) Any party may petition for the disqualification of an
6 individual promptly after receipt of notice indicating that the
7 individual will preside or, if later, promptly upon discovering facts
8 establishing grounds for disqualification.

9 (5) The individual whose disqualification is requested shall
10 determine whether to grant the petition, stating facts and reasons
11 for the determination.

12 (6) When the presiding officer is an administrative law judge,
13 the provisions of this section regarding disqualification for cause
14 are in addition to the motion of prejudice available under RCW
15 34.12.050.

16 (7) If a substitute is required for an individual who becomes
17 unavailable as a result of disqualification or any other reason, the
18 substitute must be appointed by the appropriate appointing authority.

19 (8) Any action taken by a duly appointed substitute for an
20 unavailable individual is as effective as if taken by the unavailable
21 individual.

22 **Sec. 4.** RCW 34.05.461 and 2013 c 110 s 2 are each amended to
23 read as follows:

24 (1) Except as provided in subsection (2) of this section:

25 (a) If the presiding officer is the agency head or one or more
26 members of the agency head, the presiding officer may enter an
27 initial order if further review is available within the agency, or a
28 final order if further review is not available;

29 (b) If the presiding officer is a person designated by the agency
30 to make the final decision and enter the final order, the presiding
31 officer shall enter a final order; and

32 (c) If the presiding officer is one or more administrative law
33 judges, the presiding officer shall enter an initial order unless the
34 hearing is subject to section 1 of this act, and then the presiding
35 officer shall enter a final order.

36 (2) With respect to agencies exempt from chapter 34.12 RCW or an
37 institution of higher education, the presiding officer shall transmit
38 a full and complete record of the proceedings, including such
39 comments upon demeanor of witnesses as the presiding officer deems

1 relevant, to each agency official who is to enter a final or initial
2 order after considering the record and evidence so transmitted.

3 (3) Initial and final orders shall include a statement of
4 findings and conclusions, and the reasons and basis therefor, on all
5 the material issues of fact, law, or discretion presented on the
6 record, including the remedy or sanction and, if applicable, the
7 action taken on a petition for a stay of effectiveness. Any findings
8 based substantially on credibility of evidence or demeanor of
9 witnesses shall be so identified. Findings set forth in language that
10 is essentially a repetition or paraphrase of the relevant provision
11 of law shall be accompanied by a concise and explicit statement of
12 the underlying evidence of record to support the findings. The order
13 shall also include a statement of the available procedures and time
14 limits for seeking reconsideration or other administrative relief. An
15 initial order shall include a statement of any circumstances under
16 which the initial order, without further notice, may become a final
17 order.

18 (4) Findings of fact shall be based exclusively on the evidence
19 of record in the adjudicative proceeding and on matters officially
20 noticed in that proceeding. Findings shall be based on the kind of
21 evidence on which reasonably prudent persons are accustomed to rely
22 in the conduct of their affairs. Findings may be based on such
23 evidence even if it would be inadmissible in a civil trial. However,
24 the presiding officer shall not base a finding exclusively on such
25 inadmissible evidence unless the presiding officer determines that
26 doing so would not unduly abridge the parties' opportunities to
27 confront witnesses and rebut evidence. The basis for this
28 determination shall appear in the order.

29 (5) Where it bears on the issues presented, the agency's
30 experience, technical competency, and specialized knowledge may be
31 used in the evaluation of evidence.

32 (6) If a person serving or designated to serve as presiding
33 officer becomes unavailable for any reason before entry of the order,
34 a substitute presiding officer shall be appointed as provided in RCW
35 34.05.425. The substitute presiding officer shall use any existing
36 record and may conduct any further proceedings appropriate in the
37 interests of justice.

38 (7) The presiding officer may allow the parties a designated time
39 after conclusion of the hearing for the submission of memos, briefs,
40 or proposed findings.

1 (8)(a) Except as otherwise provided in (b) of this subsection,
2 initial or final orders shall be served in writing within ninety days
3 after conclusion of the hearing or after submission of memos, briefs,
4 or proposed findings in accordance with subsection (7) of this
5 section unless this period is waived or extended for good cause
6 shown. The initial or final order may be served on a party via
7 electronic distribution, with a party's agreement.

8 (b) This subsection does not apply to the final order of the
9 shorelines hearings board on appeal under RCW 90.58.180(3).

10 (9) The presiding officer shall cause copies of the order to be
11 served on each party and the agency.

12 **Sec. 5.** RCW 34.12.040 and 2013 c 109 s 5 are each amended to
13 read as follows:

14 Except pursuant to RCW 43.70.740, unless a hearing is subject to
15 section 1 of this act, whenever a state agency conducts a hearing
16 which is not presided over by officials of the agency who are to
17 render the final decision, the hearing shall be conducted by an
18 administrative law judge assigned under this chapter. In assigning
19 administrative law judges, the chief administrative law judge shall
20 wherever practical (1) use personnel having expertise in the field or
21 subject matter of the hearing, and (2) assign administrative law
22 judges primarily to the hearings of particular agencies on a long-
23 term basis.

24 **Sec. 6.** RCW 34.12.060 and 2011 c 336 s 763 are each amended to
25 read as follows:

26 Except as provided in section 1 of this act, when an
27 administrative law judge presides at a hearing under this chapter and
28 a majority of the officials of the agency who are to render the final
29 decision have not heard substantially all of the oral testimony and
30 read all exhibits submitted by any party, it shall be the duty of
31 such judge, or in the event of his or her unavailability or
32 incapacity, of another judge appointed by the chief administrative
33 law judge, to issue an initial decision or proposal for decision
34 including findings of fact and conclusions of law in accordance with
35 RCW 34.05.461 or 34.05.485. However, this section does not apply to a
36 state patrol disciplinary hearing conducted under RCW 43.43.090.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 34.12
2 RCW to read as follows:

3 For state agency hearings where the state agency is exclusively
4 or principally also a party to the hearing:

5 (1) All state employees who have exclusively or principally
6 conducted or presided over hearings for state agencies prior to July
7 1, 2015, shall be transferred to the office.

8 (2) All state employees who have exclusively or principally
9 served as support staff for those employees transferred under
10 subsection (1) of this section shall be transferred to the office.

11 (3) All equipment or other tangible property in possession of
12 state agencies, used or held exclusively or principally by personnel
13 transferred under subsection (1) or (2) of this section shall be
14 transferred to the office unless the office of financial management,
15 in consultation with the head of the agency and the chief
16 administrative law judge, determines that the equipment or property
17 will be more efficiently used by the agency if such property is not
18 transferred.

19 **Sec. 8.** RCW 9.46.140 and 1989 c 175 s 42 are each amended to
20 read as follows:

21 (1) The commission or its authorized representative may:

22 (a) Make necessary public or private investigations within or
23 outside of this state to determine whether any person has violated or
24 is about to violate this chapter or any rule or order hereunder, or
25 to aid in the enforcement of this chapter or in the prescribing of
26 rules and forms hereunder; and

27 (b) Inspect the books, documents, and records of any person
28 lending money to or in any manner financing any license holder or
29 applicant for a license or receiving any income or profits from the
30 use of such license for the purpose of determining compliance or
31 noncompliance with the provisions of this chapter or the rules and
32 regulations adopted pursuant thereto.

33 (2) Except as required under section 1 of this act, for the
34 purpose of any investigation or proceeding under this chapter, the
35 commission or an administrative law judge appointed under chapter
36 34.12 RCW may conduct hearings, administer oaths or affirmations, or
37 upon the commission's or administrative law judge's motion or upon
38 request of any party may subpoena witnesses, compel attendance, take
39 depositions, take evidence, or require the production of any matter

1 which is relevant to the investigation or proceeding, including but
2 not limited to the existence, description, nature, custody,
3 condition, or location of any books, documents, or other tangible
4 things, or the identity or location of persons having knowledge or
5 relevant facts, or any other matter reasonably calculated to lead to
6 the discovery of material evidence.

7 (3) Upon failure to obey a subpoena or to answer questions
8 propounded by the administrative law judge and upon reasonable notice
9 to all persons affected thereby, the director may apply to the
10 superior court for an order compelling compliance.

11 (4) The administrative law judges appointed under chapter 34.12
12 RCW (~~may~~) shall conduct hearings with authority to render final
13 decisions respecting the suspension, revocation, or denial of
14 licenses, who may administer oaths, admit or deny admission of
15 evidence, compel the attendance of witnesses, issue subpoenas, issue
16 orders, and exercise all other powers and perform all other functions
17 set out in RCW 34.05.446, 34.05.449, and 34.05.452.

18 (5) Except as otherwise provided in this chapter, all proceedings
19 under this chapter shall be in accordance with the Administrative
20 Procedure Act, chapter 34.05 RCW.

21 **Sec. 9.** RCW 9.46.231 and 2008 c 6 s 629 are each amended to read
22 as follows:

23 (1) The following are subject to seizure and forfeiture and no
24 property right exists in them:

25 (a) All gambling devices as defined in this chapter;

26 (b) All furnishings, fixtures, equipment, and stock, including
27 without limitation furnishings and fixtures adaptable to nongambling
28 uses and equipment and stock for printing, recording, computing,
29 transporting, or safekeeping, used in connection with professional
30 gambling or maintaining a gambling premises;

31 (c) All conveyances, including aircraft, vehicles, or vessels,
32 that are used, or intended for use, in any manner to facilitate the
33 sale, delivery, receipt, or operation of any gambling device, or the
34 promotion or operation of a professional gambling activity, except
35 that:

36 (i) A conveyance used by any person as a common carrier in the
37 transaction of business as a common carrier is not subject to
38 forfeiture under this section unless it appears that the owner or

1 other person in charge of the conveyance is a consenting party or
2 privy to a violation of this chapter;

3 (ii) A conveyance is not subject to forfeiture under this section
4 by reason of any act or omission established by the owner thereof to
5 have been committed or omitted without the owner's knowledge or
6 consent;

7 (iii) A forfeiture of a conveyance encumbered by a bona fide
8 security interest is subject to the interest of the secured party if
9 the secured party neither had knowledge of nor consented to the act
10 or omission; and

11 (iv) If the owner of a conveyance has been arrested under this
12 chapter the conveyance in which the person is arrested may not be
13 subject to forfeiture unless it is seized or process is issued for
14 its seizure within ten days of the owner's arrest;

15 (d) All books, records, and research products and materials,
16 including formulas, microfilm, tapes, and electronic data that are
17 used, or intended for use, in violation of this chapter;

18 (e) All moneys, negotiable instruments, securities, or other
19 tangible or intangible property of value at stake or displayed in or
20 in connection with professional gambling activity or furnished or
21 intended to be furnished by any person to facilitate the promotion or
22 operation of a professional gambling activity;

23 (f) All tangible or intangible personal property, proceeds, or
24 assets acquired in whole or in part with proceeds traceable to
25 professional gambling activity and all moneys, negotiable
26 instruments, and securities used or intended to be used to facilitate
27 any violation of this chapter. A forfeiture of money, negotiable
28 instruments, securities, or other tangible or intangible property
29 encumbered by a bona fide security interest is subject to the
30 interest of the secured party if, at the time the security interest
31 was created, the secured party neither had knowledge of nor consented
32 to the act or omission. Personal property may not be forfeited under
33 this subsection (1)(f), to the extent of the interest of an owner, by
34 reason of any act or omission that that owner establishes was
35 committed or omitted without the owner's knowledge or consent; and

36 (g) All real property, including any right, title, and interest
37 in the whole of any lot or tract of land, and any appurtenances or
38 improvements that:

39 (i) Have been used with the knowledge of the owner for the
40 manufacturing, processing, delivery, importing, or exporting of any

1 illegal gambling equipment, or operation of a professional gambling
2 activity that would constitute a felony violation of this chapter; or

3 (ii) Have been acquired in whole or in part with proceeds
4 traceable to a professional gambling activity, if the activity is not
5 less than a class C felony.

6 Real property forfeited under this chapter that is encumbered by
7 a bona fide security interest remains subject to the interest of the
8 secured party if the secured party, at the time the security interest
9 was created, neither had knowledge of nor consented to the act or
10 omission. Property may not be forfeited under this subsection, to the
11 extent of the interest of an owner, by reason of any act or omission
12 committed or omitted without the owner's knowledge or consent.

13 (2)(a) A law enforcement officer of this state may seize real or
14 personal property subject to forfeiture under this chapter upon
15 process issued by any superior court having jurisdiction over the
16 property. Seizure of real property includes the filing of a lis
17 pendens by the seizing agency. Real property seized under this
18 section may not be transferred or otherwise conveyed until ninety
19 days after seizure or until a judgment of forfeiture is entered,
20 whichever is later, but real property seized under this section may
21 be transferred or conveyed to any person or entity who acquires title
22 by foreclosure or deed in lieu of foreclosure of a bona fide security
23 interest.

24 (b) Seizure of personal property without process may be made if:

25 (i) The seizure is incident to an arrest or a search under a
26 search warrant or an inspection under an administrative inspection
27 warrant;

28 (ii) The property subject to seizure has been the subject of a
29 prior judgment in favor of the state in a criminal injunction or
30 forfeiture proceeding based upon this chapter;

31 (iii) A law enforcement officer has probable cause to believe
32 that the property is directly or indirectly dangerous to health or
33 safety; or

34 (iv) The law enforcement officer has probable cause to believe
35 that the property was used or is intended to be used in violation of
36 this chapter.

37 (3) In the event of seizure under subsection (2) of this section,
38 proceedings for forfeiture are deemed commenced by the seizure. The
39 law enforcement agency under whose authority the seizure was made
40 shall cause notice to be served within fifteen days following the

1 seizure on the owner of the property seized and the person in charge
2 thereof and any person having any known right or interest therein,
3 including any community property interest, of the seizure and
4 intended forfeiture of the seized property. Service of notice of
5 seizure of real property must be made according to the rules of civil
6 procedure. However, the state may not obtain a default judgment with
7 respect to real property against a party who is served by substituted
8 service absent an affidavit stating that a good faith effort has been
9 made to ascertain if the defaulted party is incarcerated within the
10 state, and that there is no present basis to believe that the party
11 is incarcerated within the state. Notice of seizure in the case of
12 property subject to a security interest that has been perfected by
13 filing a financing statement in accordance with chapter 62A.9A RCW,
14 or a certificate of title, must be made by service upon the secured
15 party or the secured party's assignee at the address shown on the
16 financing statement or the certificate of title. The notice of
17 seizure in other cases may be served by any method authorized by law
18 or court rule including but not limited to service by certified mail
19 with return receipt requested. Service by mail is deemed complete
20 upon mailing within the fifteen-day period following the seizure.

21 (4) If no person notifies the seizing law enforcement agency in
22 writing of the person's claim of ownership or right to possession of
23 items specified in subsection (1) of this section within forty-five
24 days of the seizure in the case of personal property and ninety days
25 in the case of real property, the item seized is deemed forfeited.
26 The community property interest in real property of a person whose
27 spouse or domestic partner committed a violation giving rise to
28 seizure of the real property may not be forfeited if the person did
29 not participate in the violation.

30 (5) If any person notifies the seizing law enforcement agency in
31 writing of the person's claim of ownership or right to possession of
32 items specified in subsection (1) of this section within forty-five
33 days of the seizure in the case of personal property and ninety days
34 in the case of real property, the person or persons must be afforded
35 a reasonable opportunity to be heard as to the claim or right. The
36 hearing must be before the chief law enforcement officer of the
37 seizing agency or the chief law enforcement officer's designee,
38 except if the seizing agency is a state agency as defined in RCW
39 34.12.020(4), the hearing must be before (~~the chief law enforcement~~
40 ~~officer of the seizing agency or~~) an administrative law judge

1 appointed under chapter 34.12 RCW with authority to render a final
2 decision, except that any person asserting a claim or right may
3 remove the matter to a court of competent jurisdiction. Removal of
4 any matter involving personal property may only be accomplished
5 according to the rules of civil procedure. The person seeking removal
6 of the matter must serve process against the state, county, political
7 subdivision, or municipality that operates the seizing agency, and
8 any other party of interest, in accordance with RCW 4.28.080 or
9 4.92.020, within forty-five days after the person seeking removal has
10 notified the seizing law enforcement agency of the person's claim of
11 ownership or right to possession. The court to which the matter is to
12 be removed must be the district court if the aggregate value of
13 personal property is within the jurisdictional limit set forth in RCW
14 3.66.020. A hearing before the seizing agency and any appeal
15 therefrom must be under Title 34 RCW. In a court hearing between two
16 or more claimants to the article or articles involved, the prevailing
17 party is entitled to a judgment for costs and reasonable attorneys'
18 fees. In cases involving personal property, the burden of producing
19 evidence is upon the person claiming to be the lawful owner or the
20 person claiming to have the lawful right to possession of the
21 property. In cases involving property seized under subsection (1)(a)
22 of this section, the only issues to be determined by the tribunal are
23 whether the item seized is a gambling device, and whether the device
24 is an antique device as defined by RCW 9.46.235. In cases involving
25 real property, the burden of producing evidence is upon the law
26 enforcement agency. The burden of proof that the seized real property
27 is subject to forfeiture is upon the law enforcement agency. The
28 seizing law enforcement agency shall promptly return the article or
29 articles to the claimant upon a final determination by the
30 administrative law judge or court that the claimant is the present
31 lawful owner or is lawfully entitled to possession thereof of items
32 specified in subsection (1) of this section.

33 (6) If property is forfeited under this chapter the seizing law
34 enforcement agency may:

35 (a) Retain it for official use or upon application by any law
36 enforcement agency of this state release the property to the agency
37 for training or use in enforcing this chapter;

38 (b) Sell that which is not required to be destroyed by law and
39 which is not harmful to the public; or

1 (c) Destroy any articles that may not be lawfully possessed
2 within the state of Washington, or that have a fair market value of
3 less than one hundred dollars.

4 (7)(a) If property is forfeited, the seizing agency shall keep a
5 record indicating the identity of the prior owner, if known, a
6 description of the property, the disposition of the property, the
7 value of the property at the time of seizure, and the amount of
8 proceeds realized from disposition of the property. The net proceeds
9 of forfeited property is the value of the forfeitable interest in the
10 property after deducting the cost of satisfying any bona fide
11 security interest to which the property is subject at the time of
12 seizure, and in the case of sold property, after deducting the cost
13 of sale, including reasonable fees or commissions paid to independent
14 selling agents.

15 (b) Each seizing agency shall retain records of forfeited
16 property for at least seven years.

17 (8) The seizing law enforcement agency shall retain forfeited
18 property and net proceeds exclusively for the expansion and
19 improvement of gambling-related law enforcement activity. Money
20 retained under this section may not be used to supplant preexisting
21 funding sources.

22 (9) Gambling devices that are possessed, transferred, sold, or
23 offered for sale in violation of this chapter are contraband and must
24 be seized and summarily forfeited to the state. Gambling equipment
25 that is seized or comes into the possession of a law enforcement
26 agency, the owners of which are unknown, are contraband and must be
27 summarily forfeited to the state.

28 (10) Upon the entry of an order of forfeiture of real property,
29 the court shall forward a copy of the order to the assessor of the
30 county in which the property is located. The superior court shall
31 enter orders for the forfeiture of real property, subject to court
32 rules. The seizing agency shall file such an order in the county
33 auditor's records in the county in which the real property is
34 located.

35 (11)(a) A landlord may assert a claim against proceeds from the
36 sale of assets seized and forfeited under subsection (6)(b) of this
37 section, only if:

38 (i) A law enforcement officer, while acting in his or her
39 official capacity, directly caused damage to the complaining

1 landlord's property while executing a search of a tenant's residence;
2 and

3 (ii) The landlord has applied any funds remaining in the tenant's
4 deposit, to which the landlord has a right under chapter 59.18 RCW,
5 to cover the damage directly caused by a law enforcement officer
6 before asserting a claim under this section.

7 (A) Only if the funds applied under (a)(ii) of this subsection
8 are insufficient to satisfy the damage directly caused by a law
9 enforcement officer, may the landlord seek compensation for the
10 damage by filing a claim against the governmental entity under whose
11 authority the law enforcement agency operates within thirty days
12 after the search; and

13 (B) Only if the governmental entity denies or fails to respond to
14 the landlord's claim within sixty days of the date of filing, may the
15 landlord collect damages under this subsection by filing within
16 thirty days of denial or the expiration of the sixty-day period,
17 whichever occurs first, a claim with the seizing law enforcement
18 agency. The seizing law enforcement agency shall notify the landlord
19 of the status of the claim by the end of the thirty-day period. This
20 section does not require the claim to be paid by the end of the
21 sixty-day or thirty-day period.

22 (b) For any claim filed under (a)(ii) of this subsection, the law
23 enforcement agency shall pay the claim unless the agency provides
24 substantial proof that the landlord either:

25 (i) Knew or consented to actions of the tenant in violation of
26 this chapter; or

27 (ii) Failed to respond to a notification of the illegal activity,
28 provided by a law enforcement agency within seven days of receipt of
29 notification of the illegal activity.

30 (12) The landlord's claim for damages under subsection (11) of
31 this section may not include a claim for loss of business and is
32 limited to:

33 (a) Damage to tangible property and clean-up costs;

34 (b) The lesser of the cost of repair or fair market value of the
35 damage directly caused by a law enforcement officer;

36 (c) The proceeds from the sale of the specific tenant's property
37 seized and forfeited under subsection (6)(b) of this section; and

38 (d) The proceeds available after the seizing law enforcement
39 agency satisfies any bona fide security interest in the tenant's

1 property and costs related to sale of the tenant's property as
2 provided by subsection (7)(a) of this section.

3 (13) Subsections (11) and (12) of this section do not limit any
4 other rights a landlord may have against a tenant to collect for
5 damages. However, if a law enforcement agency satisfies a landlord's
6 claim under subsection (11) of this section, the rights the landlord
7 has against the tenant for damages directly caused by a law
8 enforcement officer under the terms of the landlord and tenant's
9 contract are subrogated to the law enforcement agency.

10 (14) Liability is not imposed by this section upon any authorized
11 state, county, or municipal officer, including a commission special
12 agent, in the lawful performance of his or her duties.

13 **Sec. 10.** RCW 9A.88.150 and 2014 c 188 s 4 are each amended to
14 read as follows:

15 (1) The following are subject to seizure and forfeiture and no
16 property right exists in them:

17 (a) Any property or other interest acquired or maintained in
18 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070 to the extent of
19 the investment of funds, and any appreciation or income attributable
20 to the investment, from a violation of RCW 9.68A.100, 9.68A.101, or
21 9A.88.070;

22 (b) All conveyances, including aircraft, vehicles, or vessels,
23 which are used, or intended for use, in any manner to facilitate a
24 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, except that:

25 (i) No conveyance used by any person as a common carrier in the
26 transaction of business as a common carrier is subject to forfeiture
27 under this section unless it appears that the owner or other person
28 in charge of the conveyance is a consenting party or privy to a
29 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

30 (ii) No conveyance is subject to forfeiture under this section by
31 reason of any act or omission established by the owner thereof to
32 have been committed or omitted without the owner's knowledge or
33 consent;

34 (iii) A forfeiture of a conveyance encumbered by a bona fide
35 security interest is subject to the interest of the secured party if
36 the secured party neither had knowledge of nor consented to the act
37 or omission; and

38 (iv) When the owner of a conveyance has been arrested for a
39 violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, the conveyance

1 in which the person is arrested may not be subject to forfeiture
2 unless it is seized or process is issued for its seizure within ten
3 days of the owner's arrest;

4 (c) Any property, contractual right, or claim against property
5 used to influence any enterprise that a person has established,
6 operated, controlled, conducted, or participated in the conduct of,
7 in violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070;

8 (d) All proceeds traceable to or derived from an offense defined
9 in RCW 9.68A.100, 9.68A.101, or 9A.88.070 and all moneys, negotiable
10 instruments, securities, and other things of value significantly used
11 or intended to be used significantly to facilitate commission of the
12 offense;

13 (e) All books, records, and research products and materials,
14 including formulas, microfilm, tapes, and data which are used, or
15 intended for use, in violation of RCW 9.68A.100, 9.68A.101, or
16 9A.88.070;

17 (f) All moneys, negotiable instruments, securities, or other
18 tangible or intangible property of value furnished or intended to be
19 furnished by any person in exchange for a violation of RCW 9.68A.100,
20 9.68A.101, or 9A.88.070, all tangible or intangible personal
21 property, proceeds, or assets acquired in whole or in part with
22 proceeds traceable to an exchange or series of exchanges in violation
23 of RCW 9.68A.100, 9.68A.101, or 9A.88.070, and all moneys, negotiable
24 instruments, and securities used or intended to be used to facilitate
25 any violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070. A forfeiture
26 of money, negotiable instruments, securities, or other tangible or
27 intangible property encumbered by a bona fide security interest is
28 subject to the interest of the secured party if, at the time the
29 security interest was created, the secured party neither had
30 knowledge of nor consented to the act or omission. No personal
31 property may be forfeited under this subsection (1)(f), to the extent
32 of the interest of an owner, by reason of any act or omission, which
33 that owner establishes was committed or omitted without the owner's
34 knowledge or consent; and

35 (g) All real property, including any right, title, and interest
36 in the whole of any lot or tract of land, and any appurtenances or
37 improvements which are being used with the knowledge of the owner for
38 a violation of RCW 9.68A.100, 9.68A.101, or 9A.88.070, or which have
39 been acquired in whole or in part with proceeds traceable to an
40 exchange or series of exchanges in violation of RCW 9.68A.100,

1 9.68A.101, or 9A.88.070, if a substantial nexus exists between the
2 violation and the real property. However:

3 (i) No property may be forfeited pursuant to this subsection
4 (1)(g), to the extent of the interest of an owner, by reason of any
5 act or omission committed or omitted without the owner's knowledge or
6 consent;

7 (ii) A forfeiture of real property encumbered by a bona fide
8 security interest is subject to the interest of the secured party if
9 the secured party, at the time the security interest was created,
10 neither had knowledge of nor consented to the act or omission.

11 (2) Real or personal property subject to forfeiture under this
12 section may be seized by any law enforcement officer of this state
13 upon process issued by any superior court having jurisdiction over
14 the property. Seizure of real property shall include the filing of a
15 lis pendens by the seizing agency. Real property seized under this
16 section shall not be transferred or otherwise conveyed until ninety
17 days after seizure or until a judgment of forfeiture is entered,
18 whichever is later: PROVIDED, That real property seized under this
19 section may be transferred or conveyed to any person or entity who
20 acquires title by foreclosure or deed in lieu of foreclosure of a
21 security interest. Seizure of personal property without process may
22 be made if:

23 (a) The seizure is incident to an arrest or a search under a
24 search warrant;

25 (b) The property subject to seizure has been the subject of a
26 prior judgment in favor of the state in a criminal injunction or
27 forfeiture proceeding; or

28 (c) The law enforcement officer has probable cause to believe
29 that the property was used or is intended to be used in violation of
30 RCW 9.68A.100, 9.68A.101, or 9A.88.070.

31 (3) In the event of seizure pursuant to subsection (2) of this
32 section, proceedings for forfeiture shall be deemed commenced by the
33 seizure. The law enforcement agency under whose authority the seizure
34 was made shall cause notice to be served within fifteen days
35 following the seizure on the owner of the property seized and the
36 person in charge thereof and any person having any known right or
37 interest therein, including any community property interest, of the
38 seizure and intended forfeiture of the seized property. Service of
39 notice of seizure of real property shall be made according to the
40 rules of civil procedure. However, the state may not obtain a default

1 judgment with respect to real property against a party who is served
2 by substituted service absent an affidavit stating that a good faith
3 effort has been made to ascertain if the defaulted party is
4 incarcerated within the state, and that there is no present basis to
5 believe that the party is incarcerated within the state. Notice of
6 seizure in the case of property subject to a security interest that
7 has been perfected by filing a financing statement, or a certificate
8 of title, shall be made by service upon the secured party or the
9 secured party's assignee at the address shown on the financing
10 statement or the certificate of title. The notice of seizure in other
11 cases may be served by any method authorized by law or court rule
12 including, but not limited to, service by certified mail with return
13 receipt requested. Service by mail shall be deemed complete upon
14 mailing within the fifteen day period following the seizure.

15 (4) If no person notifies the seizing law enforcement agency in
16 writing of the person's claim of ownership or right to possession of
17 items specified in subsection (1) of this section within forty-five
18 days of the service of notice from the seizing agency in the case of
19 personal property and ninety days in the case of real property, the
20 item seized shall be deemed forfeited. The community property
21 interest in real property of a person whose spouse or domestic
22 partner committed a violation giving rise to seizure of the real
23 property may not be forfeited if the person did not participate in
24 the violation.

25 (5) If any person notifies the seizing law enforcement agency in
26 writing of the person's claim of ownership or right to possession of
27 items specified in subsection (1) of this section within forty-five
28 days of the service of notice from the seizing agency in the case of
29 personal property and ninety days in the case of real property, the
30 person or persons shall be afforded a reasonable opportunity to be
31 heard as to the claim or right. The notice of claim may be served by
32 any method authorized by law or court rule including, but not limited
33 to, service by first-class mail. Service by mail shall be deemed
34 complete upon mailing within the forty-five day period following
35 service of the notice of seizure in the case of personal property and
36 within the ninety day period following service of the notice of
37 seizure in the case of real property. The hearing shall be before the
38 chief law enforcement officer of the seizing agency or the chief law
39 enforcement officer's designee, except where the seizing agency is a
40 state agency as defined in RCW 34.12.020(4), the hearing shall be

1 before (~~the chief law enforcement officer of the seizing agency or~~)
2 an administrative law judge appointed under chapter 34.12 RCW with
3 authority to render a final decision, except that any person
4 asserting a claim or right may remove the matter to a court of
5 competent jurisdiction. Removal of any matter involving personal
6 property may only be accomplished according to the rules of civil
7 procedure. The person seeking removal of the matter must serve
8 process against the state, county, political subdivision, or
9 municipality that operates the seizing agency, and any other party of
10 interest, in accordance with RCW 4.28.080 or 4.92.020, within
11 forty-five days after the person seeking removal has notified the
12 seizing law enforcement agency of the person's claim of ownership or
13 right to possession. The court to which the matter is to be removed
14 shall be the district court when the aggregate value of personal
15 property is within the jurisdictional limit set forth in RCW
16 3.66.020. A hearing before the seizing agency and any appeal
17 therefrom shall be under Title 34 RCW. In all cases, the burden of
18 proof is upon the law enforcement agency to establish, by a
19 preponderance of the evidence, that the property is subject to
20 forfeiture.

21 The seizing law enforcement agency shall promptly return the
22 article or articles to the claimant upon a determination by the
23 administrative law judge or court that the claimant is the present
24 lawful owner or is lawfully entitled to possession thereof of items
25 specified in subsection (1) of this section.

26 (6) In any proceeding to forfeit property under this title, where
27 the claimant substantially prevails, the claimant is entitled to
28 reasonable attorneys' fees reasonably incurred by the claimant. In
29 addition, in a court hearing between two or more claimants to the
30 article or articles involved, the prevailing party is entitled to a
31 judgment for costs and reasonable attorneys' fees.

32 (7) When property is forfeited under this chapter, the seizing
33 law enforcement agency may:

34 (a) Retain it for official use or upon application by any law
35 enforcement agency of this state release the property to that agency
36 for the exclusive use of enforcing this chapter or chapter 9.68A RCW;

37 (b) Sell that which is not required to be destroyed by law and
38 which is not harmful to the public; or

1 (c) Request the appropriate sheriff or director of public safety
2 to take custody of the property and remove it for disposition in
3 accordance with law.

4 (8)(a) When property is forfeited, the seizing agency shall keep
5 a record indicating the identity of the prior owner, if known, a
6 description of the property, the disposition of the property, the
7 value of the property at the time of seizure, and the amount of
8 proceeds realized from disposition of the property.

9 (b) Each seizing agency shall retain records of forfeited
10 property for at least seven years.

11 (c) Each seizing agency shall file a report including a copy of
12 the records of forfeited property with the state treasurer each
13 calendar quarter.

14 (d) The quarterly report need not include a record of forfeited
15 property that is still being held for use as evidence during the
16 investigation or prosecution of a case or during the appeal from a
17 conviction.

18 (9)(a) By January 31st of each year, each seizing agency shall
19 remit to the state treasurer an amount equal to ten percent of the
20 net proceeds of any property forfeited during the preceding calendar
21 year. Money remitted shall be deposited in the prostitution
22 prevention and intervention account under RCW 43.63A.740.

23 (b) The net proceeds of forfeited property is the value of the
24 forfeitable interest in the property after deducting the cost of
25 satisfying any bona fide security interest to which the property is
26 subject at the time of seizure; and in the case of sold property,
27 after deducting the cost of sale, including reasonable fees or
28 commissions paid to independent selling agents, and the cost of any
29 valid landlord's claim for damages under subsection (12) of this
30 section.

31 (c) The value of sold forfeited property is the sale price. The
32 value of destroyed property and retained firearms or illegal property
33 is zero.

34 (10) Net proceeds not required to be paid to the state treasurer
35 shall be used for payment of all proper expenses of the investigation
36 leading to the seizure, including any money delivered to the subject
37 of the investigation by the law enforcement agency, and of the
38 proceedings for forfeiture and sale, including expenses of seizure,
39 maintenance of custody, advertising, actual costs of the prosecuting
40 or city attorney, and court costs. Money remaining after payment of

1 these expenses shall be retained by the seizing law enforcement
2 agency for the exclusive use of enforcing the provisions of this
3 chapter or chapter 9.68A RCW.

4 (11) Upon the entry of an order of forfeiture of real property,
5 the court shall forward a copy of the order to the assessor of the
6 county in which the property is located. Orders for the forfeiture of
7 real property shall be entered by the superior court, subject to
8 court rules. Such an order shall be filed by the seizing agency in
9 the county auditor's records in the county in which the real property
10 is located.

11 (12) A landlord may assert a claim against proceeds from the sale
12 of assets seized and forfeited under subsection (9) of this section,
13 only if:

14 (a) A law enforcement officer, while acting in his or her
15 official capacity, directly caused damage to the complaining
16 landlord's property while executing a search of a tenant's residence;

17 (b) The landlord has applied any funds remaining in the tenant's
18 deposit, to which the landlord has a right under chapter 59.18 RCW,
19 to cover the damage directly caused by a law enforcement officer
20 prior to asserting a claim under the provisions of this section:

21 (i) Only if the funds applied under (b) of this subsection are
22 insufficient to satisfy the damage directly caused by a law
23 enforcement officer, may the landlord seek compensation for the
24 damage by filing a claim against the governmental entity under whose
25 authority the law enforcement agency operates within thirty days
26 after the search;

27 (ii) Only if the governmental entity denies or fails to respond
28 to the landlord's claim within sixty days of the date of filing, may
29 the landlord collect damages under this subsection by filing within
30 thirty days of denial or the expiration of the sixty day period,
31 whichever occurs first, a claim with the seizing law enforcement
32 agency. The seizing law enforcement agency must notify the landlord
33 of the status of the claim by the end of the thirty day period.
34 Nothing in this section requires the claim to be paid by the end of
35 the sixty day or thirty day period; and

36 (c) For any claim filed under (b) of this subsection, the law
37 enforcement agency shall pay the claim unless the agency provides
38 substantial proof that the landlord either:

39 (i) Knew or consented to actions of the tenant in violation of
40 RCW 9.68A.100, 9.68A.101, or 9A.88.070; or

1 (ii) Failed to respond to a notification of the illegal activity,
2 provided by a law enforcement agency under RCW 59.18.075, within
3 seven days of receipt of notification of the illegal activity.

4 (13) The landlord's claim for damages under subsection (12) of
5 this section may not include a claim for loss of business and is
6 limited to:

7 (a) Damage to tangible property and clean-up costs;

8 (b) The lesser of the cost of repair or fair market value of the
9 damage directly caused by a law enforcement officer;

10 (c) The proceeds from the sale of the specific tenant's property
11 seized and forfeited under subsection (9) of this section; and

12 (d) The proceeds available after the seizing law enforcement
13 agency satisfies any bona fide security interest in the tenant's
14 property and costs related to sale of the tenant's property as
15 provided by subsection (12) of this section.

16 (14) Subsections (12) and (13) of this section do not limit any
17 other rights a landlord may have against a tenant to collect for
18 damages. However, if a law enforcement agency satisfies a landlord's
19 claim under subsection (12) of this section, the rights the landlord
20 has against the tenant for damages directly caused by a law
21 enforcement officer under the terms of the landlord and tenant's
22 contract are subrogated to the law enforcement agency.

23 **Sec. 11.** RCW 10.105.010 and 2009 c 479 s 15 are each amended to
24 read as follows:

25 (1) The following are subject to seizure and forfeiture and no
26 property right exists in them: All personal property, including, but
27 not limited to, any item, object, tool, substance, device, weapon,
28 machine, vehicle of any kind, money, security, or negotiable
29 instrument, which has been or was actually employed as an
30 instrumentality in the commission of, or in aiding or abetting in the
31 commission of any felony, or which was furnished or was intended to
32 be furnished by any person in the commission of, as a result of, or
33 as compensation for the commission of, any felony, or which was
34 acquired in whole or in part with proceeds traceable to the
35 commission of a felony. No property may be forfeited under this
36 section until after there has been a superior court conviction of the
37 owner of the property for the felony in connection with which the
38 property was employed, furnished, or acquired.

1 A forfeiture of property encumbered by a bona fide security
2 interest is subject to the interest of the secured party if at the
3 time the security interest was created, the secured party neither had
4 knowledge of nor consented to the commission of the felony.

5 (2) Personal property subject to forfeiture under this chapter
6 may be seized by any law enforcement officer of this state upon
7 process issued by any superior court having jurisdiction over the
8 property. Seizure of personal property without process may be made
9 if:

10 (a) The seizure is incident to an arrest or a search under a
11 search warrant;

12 (b) The property subject to seizure has been the subject of a
13 prior judgment in favor of the state in a criminal injunction or
14 forfeiture proceeding;

15 (c) A law enforcement officer has probable cause to believe that
16 the property is directly dangerous to health or safety; or

17 (d) The law enforcement officer has probable cause to believe
18 that the property was used or is intended to be used in the
19 commission of a felony.

20 (3) In the event of seizure pursuant to this section, proceedings
21 for forfeiture shall be deemed commenced by the seizure. The law
22 enforcement agency under whose authority the seizure was made shall
23 cause notice to be served within fifteen days following the seizure
24 on the owner of the property seized and the person in charge thereof
25 and any person having any known right or interest therein, including
26 any community property interest, of the seizure and intended
27 forfeiture of the seized property. The notice of seizure may be
28 served by any method authorized by law or court rule including but
29 not limited to service by certified mail with return receipt
30 requested. Service by mail shall be deemed complete upon mailing
31 within the fifteen day period following the seizure. Notice of
32 seizure in the case of property subject to a security interest that
33 has been perfected by filing a financing statement in accordance with
34 chapter 62A.9A RCW, or a certificate of title shall be made by
35 service upon the secured party or the secured party's assignee at the
36 address shown on the financing statement or the certificate of title.

37 (4) If no person notifies the seizing law enforcement agency in
38 writing of the person's claim of ownership or right to possession of
39 items specified in subsection (1) of this section within forty-five
40 days of the seizure, the item seized shall be deemed forfeited.

1 (5) If a person notifies the seizing law enforcement agency in
2 writing of the person's claim of ownership or right to possession of
3 the seized property within forty-five days of the seizure, the law
4 enforcement agency shall give the person or persons a reasonable
5 opportunity to be heard as to the claim or right. The hearing shall
6 be before the chief law enforcement officer of the seizing agency or
7 the chief law enforcement officer's designee, except where the
8 seizing agency is a state agency as defined in RCW 34.12.020(4), the
9 hearing shall be before (~~the chief law enforcement officer of the~~
10 ~~seizing agency or~~) an administrative law judge appointed under
11 chapter 34.12 RCW with authority to render a final decision, except
12 that any person asserting a claim or right may remove the matter to a
13 court of competent jurisdiction. Removal may only be accomplished
14 according to the rules of civil procedure. The person seeking removal
15 of the matter must serve process against the state, county, political
16 subdivision, or municipality that operates the seizing agency, and
17 any other party of interest, in accordance with RCW 4.28.080 or
18 4.92.020, within forty-five days after the person seeking removal has
19 notified the seizing law enforcement agency of the person's claim of
20 ownership or right to possession. The court to which the matter is to
21 be removed shall be the district court when the aggregate value of
22 the property is within the jurisdictional limit set forth in RCW
23 3.66.020. A hearing before the seizing agency and any appeal
24 therefrom shall be under Title 34 RCW. In a court hearing between two
25 or more claimants to the property involved, the prevailing party
26 shall be entitled to a judgment for costs and reasonable attorney's
27 fees. The burden of producing evidence shall be upon the person
28 claiming to be the lawful owner or the person claiming to have the
29 lawful right to possession of the property. The seizing law
30 enforcement agency shall promptly return the property to the claimant
31 upon a determination by the administrative law judge or court that
32 the claimant is the present lawful owner or is lawfully entitled to
33 possession of the property.

34 (6) When property is forfeited under this chapter, after
35 satisfying any court-ordered victim restitution, the seizing law
36 enforcement agency may:

37 (a) Retain it for official use or upon application by any law
38 enforcement agency of this state release such property to such agency
39 for the exclusive use of enforcing the criminal law;

1 (b) Sell that which is not required to be destroyed by law and
2 which is not harmful to the public.

3 (7) By January 31st of each year, each seizing agency shall remit
4 to the state treasurer an amount equal to ten percent of the net
5 proceeds of any property forfeited during the preceding calendar
6 year. Money remitted shall be deposited in the state general fund.

7 (a) The net proceeds of forfeited property is the value of the
8 forfeitable interest in the property after deducting the cost of
9 satisfying any bona fide security interest to which the property is
10 subject at the time of seizure; and in the case of sold property,
11 after deducting the cost of sale, including reasonable fees or
12 commissions paid to independent selling agents.

13 (b) The value of sold forfeited property is the sale price. The
14 value of retained forfeited property is the fair market value of the
15 property at the time of seizure, determined when possible by
16 reference to an applicable commonly used index, such as the index
17 used by the department of licensing for valuation of motor vehicles.
18 A seizing agency may use, but need not use, an independent qualified
19 appraiser to determine the value of retained property. If an
20 appraiser is used, the value of the property appraised is net of the
21 cost of the appraisal. The value of destroyed property and retained
22 firearms or illegal property is zero.

23 (c) Retained property and net proceeds not required to be paid to
24 the state treasurer, or otherwise required to be spent under this
25 section, shall be retained by the seizing law enforcement agency
26 exclusively for the expansion and improvement of law enforcement
27 activity. Money retained under this section may not be used to
28 supplant preexisting funding sources.

29 **Sec. 12.** RCW 18.27.225 and 1987 c 419 s 3 are each amended to
30 read as follows:

31 (1) If, upon inspection or investigation, the director or
32 authorized compliance inspector reasonably believes that a contractor
33 has failed to register in accordance with this chapter or the rules
34 adopted under this chapter, the director shall issue an order
35 immediately restraining further construction work at the job site by
36 the contractor. The order shall describe the specific violation that
37 necessitated issuance of the restraining order. The contractor or
38 representative to whom the restraining order is directed may request
39 a hearing before an administrative law judge assigned under chapter

1 34.12 RCW with authority to render a final decision, such hearing to
2 be conducted pursuant to chapter 34.05 RCW. A request for hearing
3 shall not stay the effect of the restraining order.

4 (2) In addition to and after having invoked the powers of
5 restraint vested in the director as provided in subsection (1) of
6 this section, the director, through the attorney general, may
7 petition the superior court of the state of Washington to enjoin any
8 activity in violation of this chapter. A prima facie case for
9 issuance of an injunction shall be established by affidavits and
10 supporting documentation demonstrating that a restraining order was
11 served upon the contractor and that the contractor continued to work
12 after service of the order. Upon the filing of the petition, the
13 superior court shall have jurisdiction to grant injunctive or other
14 appropriate relief, pending the outcome of enforcement proceedings
15 under this chapter, or to enforce restraining orders issued by the
16 director. If the contractor fails to comply with any court order, the
17 director shall request the attorney general to petition the superior
18 court for an order holding the contractor in contempt of court and
19 for any other appropriate relief.

20 **Sec. 13.** RCW 18.27.310 and 2007 c 436 s 17 are each amended to
21 read as follows:

22 (1) The administrative law judge assigned under chapter 34.12 RCW
23 shall conduct contractors' notice of infraction cases pursuant to
24 chapter 34.05 RCW.

25 (2) The burden of proof is on the department to establish the
26 commission of the infraction by a preponderance of the evidence,
27 unless the infraction is issued against an unregistered contractor in
28 which case the burden of proof is on the contractor. The notice of
29 infraction shall be dismissed if the appellant establishes that, at
30 the time the advertising occurred, offer or bid was made, or work was
31 performed, the appellant was registered by the department, without
32 suspension, or was exempt from registration.

33 (3) After consideration of the evidence and argument, the
34 administrative law judge shall determine whether the infraction was
35 committed. If it has not been established that the infraction was
36 committed, an order dismissing the notice shall be entered in the
37 record of the proceedings. If it has been established that the
38 infraction was committed, the administrative law judge shall issue

1 findings of fact and conclusions of law in its decision and order
2 determining whether the infraction was committed.

3 (4) An appeal from the administrative law judge's determination
4 or order shall be to the superior court. The decision of the superior
5 court is subject only to discretionary review pursuant to Rule 2.3 of
6 the Rules of Appellate Procedure.

7 **Sec. 14.** RCW 18.130.050 and 2013 c 109 s 1 and 2013 c 86 s 2 are
8 each reenacted and amended to read as follows:

9 Except as provided in RCW 18.130.062, the disciplining authority
10 has the following authority:

11 (1) To adopt, amend, and rescind such rules as are deemed
12 necessary to carry out this chapter;

13 (2) To investigate all complaints or reports of unprofessional
14 conduct as defined in this chapter;

15 (3) To hold hearings as provided in this chapter;

16 (4) To issue subpoenas and administer oaths in connection with
17 any investigation, consideration of an application for license,
18 hearing, or proceeding held under this chapter;

19 (5) To take or cause depositions to be taken and use other
20 discovery procedures as needed in any investigation, hearing, or
21 proceeding held under this chapter;

22 (6) To compel attendance of witnesses at hearings;

23 (7) In the course of investigating a complaint or report of
24 unprofessional conduct, to conduct practice reviews and to issue
25 citations and assess fines for failure to produce documents, records,
26 or other items in accordance with RCW 18.130.230;

27 (8) To take emergency action ordering summary suspension of a
28 license, or restriction or limitation of the license holder's
29 practice pending proceedings by the disciplining authority. Within
30 fourteen days of a request by the affected license holder, the
31 disciplining authority must provide a show cause hearing in
32 accordance with the requirements of RCW 18.130.135. In addition to
33 the authority in this subsection, a disciplining authority shall:

34 (a) Consistent with RCW 18.130.370, issue a summary suspension of
35 the license or temporary practice permit of a license holder
36 prohibited from practicing a health care profession in another state,
37 federal, or foreign jurisdiction because of an act of unprofessional
38 conduct that is substantially equivalent to an act of unprofessional
39 conduct prohibited by this chapter or any of the chapters specified

1 in RCW 18.130.040. The summary suspension remains in effect until
2 proceedings by the Washington disciplining authority have been
3 completed;

4 (b) Consistent with RCW 18.130.400, issue a summary suspension of
5 the license or temporary practice permit if, under RCW 74.39A.051,
6 the license holder is prohibited from employment in the care of
7 vulnerable adults based upon a department of social and health
8 services' final finding of abuse or neglect of a minor or abuse,
9 abandonment, neglect, or financial exploitation of a vulnerable
10 adult. The summary suspension remains in effect until proceedings by
11 the disciplining authority have been completed;

12 (9) To conduct show cause hearings in accordance with RCW
13 18.130.062 or 18.130.135 to review an action taken by the
14 disciplining authority to suspend a license or restrict or limit a
15 license holder's practice pending proceedings by the disciplining
16 authority;

17 (10) Except as required by section 1 of this act, to use a
18 presiding officer as authorized in RCW 18.130.095(3) or the office of
19 administrative hearings as authorized in chapter 34.12 RCW to conduct
20 hearings. Disciplining authorities identified in RCW 18.130.040(2)
21 shall make the final decision regarding disposition of the license
22 unless the disciplining authority elects to delegate in writing the
23 final decision to the presiding officer. Disciplining authorities
24 identified in RCW 18.130.040(2)(b) may not delegate the final
25 decision regarding disposition of the license or imposition of
26 sanctions to a presiding officer in any case pertaining to standards
27 of practice or where clinical expertise is necessary, including
28 deciding any motion that results in dismissal of any allegation
29 contained in the statement of charges. Presiding officers acting on
30 behalf of the secretary shall enter initial orders. The secretary
31 may, by rule, provide that initial orders in specified classes of
32 cases may become final without further agency action unless, within a
33 specified time period:

34 (a) The secretary upon his or her own motion determines that the
35 initial order should be reviewed; or

36 (b) A party to the proceedings files a petition for
37 administrative review of the initial order;

38 (11) To use individual members of the boards to direct
39 investigations and to authorize the issuance of a citation under

1 subsection (7) of this section. However, the member of the board
2 shall not subsequently participate in the hearing of the case;

3 (12) To enter into contracts for professional services determined
4 to be necessary for adequate enforcement of this chapter;

5 (13) To contract with license holders or other persons or
6 organizations to provide services necessary for the monitoring and
7 supervision of license holders who are placed on probation, whose
8 professional activities are restricted, or who are for any authorized
9 purpose subject to monitoring by the disciplining authority;

10 (14) To adopt standards of professional conduct or practice;

11 (15) To grant or deny license applications, and in the event of a
12 finding of unprofessional conduct by an applicant or license holder,
13 to impose any sanction against a license applicant or license holder
14 provided by this chapter. After January 1, 2009, all sanctions must
15 be issued in accordance with RCW 18.130.390;

16 (16) To restrict or place conditions on the practice of new
17 licensees in order to protect the public and promote the safety of
18 and confidence in the health care system;

19 (17) To designate individuals authorized to sign subpoenas and
20 statements of charges;

21 (18) To establish panels consisting of three or more members of
22 the board to perform any duty or authority within the board's
23 jurisdiction under this chapter;

24 (19) To review and audit the records of licensed health
25 facilities' or services' quality assurance committee decisions in
26 which a license holder's practice privilege or employment is
27 terminated or restricted. Each health facility or service shall
28 produce and make accessible to the disciplining authority the
29 appropriate records and otherwise facilitate the review and audit.
30 Information so gained shall not be subject to discovery or
31 introduction into evidence in any civil action pursuant to RCW
32 70.41.200(3).

33 **Sec. 15.** RCW 18.235.030 and 2002 c 86 s 104 are each amended to
34 read as follows:

35 The disciplinary authority has the power to:

36 (1) Adopt, amend, and rescind rules as necessary to carry out the
37 purposes of this chapter, including, but not limited to, rules
38 regarding standards of professional conduct and practice;

1 (2) Investigate complaints or reports of unprofessional conduct
2 and hold hearings as provided in this chapter;

3 (3) Issue subpoenas and administer oaths in connection with any
4 investigation, hearing, or proceeding held under this chapter;

5 (4) Take or cause depositions to be taken and use other discovery
6 procedures as needed in an investigation, hearing, or proceeding held
7 under this chapter;

8 (5) Compel attendance of witnesses at hearings;

9 (6) Conduct practice reviews in the course of investigating a
10 complaint or report of unprofessional conduct, unless the
11 disciplinary authority is authorized to audit or inspect applicants
12 or licensees under the chapters specified in RCW 18.235.020;

13 (7) Take emergency action ordering summary suspension of a
14 license, or restriction or limitation of the licensee's practice or
15 business pending proceedings by the disciplinary authority;

16 (8) Except as required by section 1 of this act, appoint a
17 presiding officer or authorize the office of administrative hearings,
18 as provided in chapter 34.12 RCW, to conduct hearings. The
19 disciplinary authority may make the final decision regarding
20 disposition of the license unless the disciplinary authority elects
21 to delegate, in writing, the final decision to the presiding officer;

22 (9) Use individual members of the boards and commissions to
23 direct investigations. However, the member of the board or commission
24 may not subsequently participate in the hearing of the case;

25 (10) Enter into contracts for professional services determined to
26 be necessary for adequate enforcement of this chapter;

27 (11) Grant or deny license applications, secure the return of a
28 license obtained through the mistake or inadvertence of the
29 department or the disciplinary authority after providing the person
30 so licensed with an opportunity for an adjudicative proceeding, and,
31 in the event of a finding of unprofessional conduct by an applicant
32 or license holder, impose any sanction against a license applicant or
33 license holder provided by this chapter;

34 (12) Designate individuals authorized to sign subpoenas and
35 statements of charges;

36 (13) Establish panels consisting of three or more members of the
37 board or commission to perform any duty or authority within the
38 board's or commission's jurisdiction under this chapter; and

39 (14) Contract with licensees, registrants, endorsement or permit
40 holders, or any other persons or organizations to provide services

1 necessary for the monitoring or supervision of licensees,
2 registrants, or endorsement or permit holders who are placed on
3 probation, whose professional or business activities are restricted,
4 or who are for an authorized purpose subject to monitoring by the
5 disciplinary authority. If the subject licensee, registrant, or
6 endorsement or permit holders may only practice or operate a business
7 under the supervision of another licensee, registrant, or endorsement
8 or permit holder under the terms of the law regulating that
9 occupation or business, the supervising licensee, registrant, or
10 endorsement or permit holder must consent to the monitoring or
11 supervision under this subsection, unless the supervising licensee,
12 registrant, or endorsement or permit holder is, at the time, the
13 subject of a disciplinary order.

14 **Sec. 16.** RCW 19.28.131 and 2014 c 190 s 2 are each amended to
15 read as follows:

16 Until July 1, 2007, the department shall issue a written warning
17 to any specialty contractor, performing the scope of work defined by
18 rule for the pump and irrigation or domestic pump specialties, not
19 having a valid electrical contractor license. The warning will state
20 that the contractor must be qualified for and apply for a specialty
21 electrical contractor license under the requirements in RCW 19.28.041
22 within thirty calendar days of the warning. Only one warning will be
23 issued to any contractor. If the contractor fails to comply with this
24 section, the department shall issue a penalty or penalties as
25 authorized in this section to the contractor. Any person, firm,
26 partnership, corporation, or other entity violating any of the
27 provisions of RCW 19.28.010 through 19.28.141 and 19.28.311 through
28 19.28.361 shall be assessed a penalty of not less than fifty dollars
29 or more than ten thousand dollars. The department shall set by rule a
30 schedule of penalties for violating RCW 19.28.010 through 19.28.141
31 and 19.28.311 through 19.28.361. The department shall notify the
32 person, firm, partnership, corporation, or other entity violating any
33 of the provisions of RCW 19.28.010 through 19.28.141 and 19.28.311
34 through 19.28.361 of the amount of the penalty and of the specific
35 violation using a method by which the mailing can be tracked or the
36 delivery can be confirmed sent to the last known address of the
37 assessed party. Any penalty is subject to review by an appeal to the
38 board. The filing of an appeal stays the effect of the penalty until
39 the board makes its decision. The appeal shall be filed within twenty

1 days after notice of the penalty is given to the assessed party using
2 a method by which the mailing can be tracked or the delivery can be
3 confirmed, sent to the last known address of the assessed party and
4 shall be made by filing a written notice of appeal with the
5 department. The notice shall be accompanied by a certified check for
6 two hundred dollars or ten percent of the penalty amount, whichever
7 is less, but in no event less than one hundred dollars, which shall
8 be returned to the assessed party if the decision of the department
9 is not sustained by the board. If the board sustains the decision of
10 the department, the amount of the check shall be applied by the
11 department to the payment of the per diem and expenses of the members
12 of the board incurred in the matter, and any balance remaining after
13 payment of per diem and expenses shall be paid into the electrical
14 license fund. The hearing and review procedures shall be conducted in
15 accordance with chapter 34.05 RCW. The board shall assign its
16 hearings to an administrative law judge appointed under chapter 34.12
17 RCW to conduct the hearing and issue a (~~proposed~~) final decision
18 and order. The board shall be allowed a minimum of twenty days to
19 review a proposed decision and shall issue its decision no later than
20 the next regularly scheduled board meeting.

21 **Sec. 17.** RCW 19.28.490 and 2014 c 190 s 4 are each amended to
22 read as follows:

23 Any person, firm, partnership, corporation, or other entity
24 violating any of the provisions of this chapter may be assessed a
25 penalty of not less than one hundred dollars or more than ten
26 thousand dollars per violation. The department, after consulting with
27 the board and receiving the board's recommendations, shall set by
28 rule a schedule of penalties for violating this chapter. The
29 department shall notify the person, firm, partnership, corporation,
30 or other entity violating any of these provisions of the amount of
31 the penalty and of the specific violation. The notice shall be sent
32 using a method by which the mailing can be tracked or the delivery
33 can be confirmed to the last known address of the assessed party.
34 Penalties are subject to review by an appeal to the board. The filing
35 of an appeal stays the effect of the penalty until the board makes
36 its decision. The appeal shall be filed within twenty days after
37 notice of the penalty is given to the assessed party, and shall be
38 made by filing a written notice of appeal with the department. The
39 notice shall be accompanied by a certified check for two hundred

1 dollars or ten percent of the penalty amount, whichever is less, but
2 in no event less than one hundred dollars. The check shall be
3 returned to the assessed party if the decision of the department is
4 not sustained by the board. If the board sustains the decision of the
5 department, the amount of the check shall be applied by the
6 department to the payment of the per diem and expenses of the members
7 of the board incurred in the matter, and any balance remaining after
8 payment of per diem and expenses shall be paid into the electrical
9 license fund. The hearing and review procedures shall be conducted in
10 accordance with chapter 34.05 RCW. The board shall assign its
11 hearings to an administrative law judge appointed under chapter 34.12
12 RCW to conduct the hearing and issue a (~~proposed~~) final decision
13 and order. The board shall be allowed a minimum of twenty days to
14 review a proposed decision and shall issue its decision no later than
15 the next regularly scheduled board meeting.

16 **Sec. 18.** RCW 19.290.230 and 2013 c 322 s 27 are each amended to
17 read as follows:

18 (1) The following personal property is subject to seizure and
19 forfeiture and no property right exists in them: All personal
20 property including, but not limited to, any item, object, tool,
21 substance, device, weapon, machine, vehicle of any kind, money,
22 security, or negotiable instrument, which the seizing agency proves
23 by a preponderance of the evidence was used or intended to be used by
24 its owner or the person in charge to knowingly or intentionally
25 facilitate the commission of, or to knowingly or intentionally abet
26 the commission of, a crime involving theft, trafficking, or unlawful
27 possession of commercial metal property, or which the seizing agency
28 proves by a preponderance of the evidence was knowingly or
29 intentionally furnished or was intended to be furnished by any person
30 in the commission of, as a result of, or as compensation for the
31 commission of, a crime involving theft, trafficking, or the unlawful
32 possession of commercial metal property, or which the property owner
33 acquired in whole or in part with proceeds traceable to a knowing or
34 intentional commission of a crime involving the theft, trafficking,
35 or unlawful possession of commercial metal property provided that
36 such activity is not less than a class C felony; except that:

37 (a) No vehicle used by any person as a common carrier in the
38 transaction of business as a common carrier is subject to forfeiture
39 under this section unless the seizing agency proves by a

1 preponderance of the evidence that the owner or other person in
2 charge of the vehicle is a consenting party or is privy to any crime
3 involving theft, trafficking, or the unlawful possession of
4 commercial metal property;

5 (b) A forfeiture of property encumbered by a bona fide security
6 interest is subject to the interest of the secured party if the
7 secured party neither had actual or constructive knowledge of nor
8 consented to the commission of any crime involving the theft,
9 trafficking, or unlawful possession of commercial metal property; and

10 (c) A property owner's property is not subject to seizure if an
11 employee or agent of that property owner uses the property owner's
12 property to knowingly or intentionally facilitate the commission of,
13 or to knowingly or intentionally aid and abet the commission of, a
14 crime involving theft, trafficking, or unlawful possession of
15 commercial metal property, in violation of that property owner's
16 instructions or policies against such activity, and without the
17 property owner's knowledge or consent.

18 (2) The following real property is subject to seizure and
19 forfeiture and no property right exists in them: All real property,
20 including any right, title, and interest in the whole of any lot or
21 tract of land, and any appurtenances or improvements, that the
22 seizing agency proves by a preponderance of the evidence are being
23 used with the knowledge of the owner for the intentional commission
24 of any crime involving the theft, trafficking, or unlawful possession
25 of commercial metal property, or which have been acquired in whole or
26 in part with proceeds traceable to the commission of any crime
27 involving the trafficking, theft, or unlawful possession of
28 commercial metal, if such activity is not less than a class C felony
29 and a substantial nexus exists between the commission of the
30 violation or crime and the real property. However:

31 (a) No property may be forfeited pursuant to this subsection (2),
32 to the extent of the interest of an owner, by reason of any act or
33 omission committed or omitted without the owner's actual or
34 constructive knowledge; and further, a property owner's real property
35 is not subject to seizure if an employee or agent of that property
36 owner uses the property owner's real property to knowingly or
37 intentionally facilitate the commission of, or to knowingly or
38 intentionally aid and abet the commission of, a crime involving
39 theft, trafficking, or unlawful possession of commercial metal
40 property, in violation of that property owner's instructions or

1 policies against such activity, and without the property owner's
2 knowledge or consent; and

3 (b) A forfeiture of real property encumbered by a bona fide
4 security interest is subject to the interest of the secured party if
5 the secured party, neither had actual or constructive knowledge, nor
6 consented to the act or omission.

7 (3) Property subject to forfeiture under this chapter may be
8 seized by any law enforcement officer of this state upon process
9 issued by any superior court having jurisdiction over the property.
10 Seizure of real property shall include the filing of a lis pendens by
11 the seizing agency. Real property seized under this section shall not
12 be transferred or otherwise conveyed until ninety days after seizure
13 or until a judgment of forfeiture is entered, whichever is later:
14 PROVIDED, That real property seized under this section may be
15 transferred or conveyed to any person or entity who acquires title by
16 foreclosure or deed in lieu of foreclosure of a security interest.
17 Seizure of personal property without process may be made if:

18 (a) The seizure is incident to an arrest or a search under a
19 search warrant; or

20 (b) The property subject to seizure has been the subject of a
21 prior judgment in favor of the state in a criminal injunction or
22 forfeiture proceeding.

23 (4) In the event of seizure pursuant to this section, proceedings
24 for forfeiture shall be deemed commenced by the seizure. The law
25 enforcement agency under whose authority the seizure was made shall
26 cause notice to be served within fifteen days following the seizure
27 on the owner of the property seized and the person in charge thereof
28 and any person having any known right or interest therein, including
29 any community property interest, of the seizure and intended
30 forfeiture of the seized property. Service of notice of seizure of
31 real property shall be made according to the rules of civil
32 procedure. However, the state may not obtain a default judgment with
33 respect to real property against a party who is served by substituted
34 service absent an affidavit stating that a good faith effort has been
35 made to ascertain if the defaulted party is incarcerated within the
36 state, and that there is no present basis to believe that the party
37 is incarcerated within the state. The notice of seizure of personal
38 property may be served by any method authorized by law or court rule
39 including but not limited to service by certified mail with return
40 receipt requested. Service by mail shall be deemed complete upon

1 mailing within the fifteen-day period following the seizure. Notice
2 of seizure in the case of property subject to a security interest
3 that has been perfected by filing a financing statement in accordance
4 with chapter 62A.9A RCW, or a certificate of title shall be made by
5 service upon the secured party or the secured party's assignee at the
6 address shown on the financing statement or the certificate of title.

7 (5) If no person notifies the seizing law enforcement agency in
8 writing of the person's claim of ownership or right to possession of
9 items specified in subsection (1) of this section within forty-five
10 days of the seizure in the case of personal property and ninety days
11 in the case of real property, the item seized shall be deemed
12 forfeited. The community property interest in real property of a
13 person whose spouse or domestic partner committed a violation giving
14 rise to seizure of the real property may not be forfeited if the
15 person did not participate in the violation.

16 (6) If a person notifies the seizing law enforcement agency in
17 writing of the person's claim of ownership or right to possession of
18 the seized property within forty-five days of the seizure in the case
19 of personal property and ninety days in the case of real property,
20 the law enforcement agency shall give the person or persons a
21 reasonable opportunity to be heard as to the claim or right. The
22 hearing shall be before the chief law enforcement officer of the
23 seizing agency or the chief law enforcement officer's designee,
24 except where the seizing agency is a state agency as defined in RCW
25 34.12.020(4), the hearing shall be before (~~the chief law enforcement~~
26 ~~officer of the seizing agency or~~) an administrative law judge
27 appointed under chapter 34.12 RCW with authority to render a final
28 decision, except that any person asserting a claim or right may
29 remove the matter to a court of competent jurisdiction. Removal may
30 only be accomplished according to the rules of civil procedure. The
31 person seeking removal of the matter must serve process against the
32 state, county, political subdivision, or municipality that operates
33 the seizing agency, and any other party of interest, in accordance
34 with RCW 4.28.080 or 4.92.020, within forty-five days after the
35 person seeking removal has notified the seizing law enforcement
36 agency of the person's claim of ownership or right to possession. The
37 court to which the matter is to be removed shall be the district
38 court when the aggregate value of the property is within the
39 jurisdictional limit set forth in RCW 3.66.020. A hearing before the
40 seizing agency and any appeal therefrom shall be under Title 34 RCW.

1 In a court hearing between two or more claimants to the property
2 involved, the prevailing party shall be entitled to a judgment for
3 costs and reasonable attorneys' fees. The burden of producing
4 evidence shall be upon the person claiming to be the lawful owner or
5 the person claiming to have the lawful right to possession of the
6 property.

7 (7) At the hearing, the seizing agency has the burden of proof to
8 establish by a preponderance of the evidence that seized property is
9 subject to forfeiture, and that the use or intended use of the seized
10 property in connection with a crime pursuant to this section occurred
11 with the owner's actual or constructive knowledge or consent. The
12 person claiming to be the lawful owner or the person claiming to have
13 the lawful right to possession of the property has the burden of
14 proof to establish by a preponderance of the evidence that the person
15 owns or has a right to possess the seized property. The possession of
16 bare legal title is not sufficient to establish ownership of seized
17 property if the seizing agency proves by a preponderance of the
18 evidence that the person claiming ownership or right to possession is
19 a nominal owner and did not actually own or exert a controlling
20 interest in the property.

21 The seizing law enforcement agency shall promptly return the
22 property to the claimant upon a determination by the administrative
23 law judge or court that the claimant is the present lawful owner or
24 is lawfully entitled to possession of the property.

25 (8) When property is forfeited under this chapter, after
26 satisfying any court-ordered victim restitution, the seizing law
27 enforcement agency may:

28 (a) Retain it for official use or, upon application by any law
29 enforcement agency of this state, release such property to such
30 agency; or

31 (b) Sell that which is not required to be destroyed by law and
32 which is not harmful to the public.

33 (9)(a) Within one hundred twenty days after the entry of an order
34 of forfeiture, each seizing agency shall remit to, if known, the
35 victim of the crime involving the seized property, an amount equal to
36 fifty percent of the net proceeds of any property forfeited.

37 (b) Retained property and net proceeds not required to be paid to
38 victims shall be retained by the seizing law enforcement agency
39 exclusively for the expansion and improvement of law enforcement

1 activity. Money retained under this section may not be used to
2 supplant preexisting funding sources.

3 (c) The net proceeds of forfeited property is the value of the
4 forfeitable interest in the property after deducting the cost of
5 satisfying any bona fide security interest to which the property is
6 subject at the time of seizure; and in the case of sold property,
7 after deducting the cost of sale, including reasonable fees or
8 commissions paid to independent selling agents, and the cost of any
9 valid landlord's claim for damages.

10 (d) The value of sold forfeited property is the sale price. The
11 value of retained forfeited property is the fair market value of the
12 property at the time of seizure, determined when possible by
13 reference to an applicable commonly used index, such as the index
14 used by the department of licensing for valuation of motor vehicles.
15 A seizing agency may use, but need not use, an independent qualified
16 appraiser to determine the value of retained property. If an
17 appraiser is used, the value of the property appraised is net of the
18 cost of the appraisal. The value of destroyed property and retained
19 firearms or illegal property is zero.

20 (10) Upon the entry of an order of forfeiture of real property,
21 the court shall forward a copy of the order to the assessor of the
22 county in which the property is located. Orders for the forfeiture of
23 real property shall be entered by the superior court, subject to
24 court rules. Such an order shall be filed by the seizing agency in
25 the county auditor's records in the county in which the real property
26 is located.

27 **Sec. 19.** RCW 26.23.120 and 2005 c 274 s 242 are each amended to
28 read as follows:

29 (1) Any information or records concerning individuals who owe a
30 support obligation or for whom support enforcement services are being
31 provided which are obtained or maintained by the Washington state
32 support registry, the division of child support, or under chapter
33 74.20 RCW shall be private and confidential and shall only be subject
34 to public disclosure as provided in subsection (2) of this section.

35 (2) The secretary of the department of social and health services
36 may adopt rules:

37 (a) That specify what information is confidential;

38 (b) That specify the individuals or agencies to whom this
39 information and these records may be disclosed;

1 (c) Limiting the purposes for which the information may be
2 disclosed;

3 (d) Establishing procedures to obtain the information or records;
4 or

5 (e) Establishing safeguards necessary to comply with federal law
6 requiring safeguarding of information.

7 (3) The rules adopted under subsection (2) of this section shall
8 provide for disclosure of the information and records, under
9 appropriate circumstances, which shall include, but not be limited
10 to:

11 (a) When authorized or required by federal statute or regulation
12 governing the support enforcement program;

13 (b) To the person the subject of the records or information,
14 unless the information is exempt from disclosure under chapter 42.56
15 RCW;

16 (c) To government agencies, whether state, local, or federal, and
17 including federally recognized tribes, law enforcement agencies,
18 prosecuting agencies, and the executive branch, if the disclosure is
19 necessary for child support enforcement purposes or required under
20 Title IV-D of the federal social security act;

21 (d) To the parties in a judicial or adjudicative proceeding upon
22 a specific written finding by the presiding officer that the need for
23 the information outweighs any reason for maintaining the privacy and
24 confidentiality of the information or records;

25 (e) To private persons, federally recognized tribes, or
26 organizations if the disclosure is necessary to permit private
27 contracting parties to assist in the management and operation of the
28 department;

29 (f) Disclosure of address and employment information to the
30 parties to an action for purposes relating to a child support order,
31 subject to the limitations in subsections (4) and (5) of this
32 section;

33 (g) Disclosure of information or records when necessary to the
34 efficient administration of the support enforcement program or to the
35 performance of functions and responsibilities of the support registry
36 and the division of child support as set forth in state and federal
37 statutes; or

38 (h) Disclosure of the information or records when authorized
39 under RCW 74.04.060.

1 (4) Prior to disclosing the whereabouts of a physical custodian,
2 custodial parent or a child to the other parent or party, a notice
3 shall be mailed, if appropriate under the circumstances, to the
4 parent or physical custodian whose whereabouts are to be disclosed,
5 at that person's last known address. The notice shall advise the
6 parent or physical custodian that a request for disclosure has been
7 made and will be complied with unless the department:

8 (a) Receives a copy of a court order within thirty days which
9 enjoins the disclosure of the information or restricts or limits the
10 requesting party's right to contact or visit the parent or party
11 whose address is to be disclosed or the child;

12 (b) Receives a hearing request within thirty days under
13 subsection (5) of this section; or

14 (c) Has reason to believe that the release of the information may
15 result in physical or emotional harm to the physical custodian whose
16 whereabouts are to be released, or to the child.

17 (5) A person receiving notice under subsection (4) of this
18 section may request an adjudicative proceeding under chapter 34.05
19 RCW, at which the person may show that there is reason to believe
20 that release of the information may result in physical or emotional
21 harm to the person or the child. ((The)) An administrative law judge
22 assigned under chapter 34.12 RCW with authority to render a final
23 decision shall determine whether the whereabouts of the person or
24 child should be disclosed based on subsection (4)(c) of this section,
25 however no hearing is necessary if the department has in its
26 possession a protective order or an order limiting visitation or
27 contact.

28 (6) The notice and hearing process in subsections (4) and (5) of
29 this section do not apply to protect the whereabouts of a
30 noncustodial parent, unless that parent has requested notice before
31 whereabouts information is released. A noncustodial parent may
32 request such notice by submitting a written request to the division
33 of child support.

34 (7) Nothing in this section shall be construed as limiting or
35 restricting the effect of RCW 42.56.070(9). Nothing in this section
36 shall be construed to prevent the disclosure of information and
37 records if all details identifying an individual are deleted or the
38 individual consents to the disclosure.

39 (8) It shall be unlawful for any person or agency in violation of
40 this section to solicit, publish, disclose, receive, make use of, or

1 to authorize, knowingly permit, participate in or acquiesce in the
2 use of any lists of names for commercial or political purposes or the
3 use of any information for purposes other than those purposes
4 specified in this section. A violation of this section shall be a
5 gross misdemeanor as provided in chapter 9A.20 RCW.

6 **Sec. 20.** RCW 28A.300.120 and 1985 c 225 s 1 are each amended to
7 read as follows:

8 Whenever a statute or rule provides for a formal administrative
9 hearing before the superintendent of public instruction under chapter
10 34.05 RCW, the superintendent of public instruction may contract with
11 the office of administrative hearings to conduct the hearing under
12 chapter 34.12 RCW (~~and may delegate to a designee of the~~
13 ~~superintendent of public instruction the~~) with authority to render
14 the final decision.

15 **Sec. 21.** RCW 41.05.021 and 2012 c 87 s 23 are each amended to
16 read as follows:

17 (1) The Washington state health care authority is created within
18 the executive branch. The authority shall have a director appointed
19 by the governor, with the consent of the senate. The director shall
20 serve at the pleasure of the governor. The director may employ a
21 deputy director, and such assistant directors and special assistants
22 as may be needed to administer the authority, who shall be exempt
23 from chapter 41.06 RCW, and any additional staff members as are
24 necessary to administer this chapter. The director may delegate any
25 power or duty vested in him or her by law, including authority to
26 make final decisions and enter final orders in hearings conducted
27 under chapter 34.05 RCW, except as required by section 1 of this act.
28 The primary duties of the authority shall be to: Administer state
29 employees' insurance benefits and retired or disabled school
30 employees' insurance benefits; administer the basic health plan
31 pursuant to chapter 70.47 RCW; administer the children's health
32 program pursuant to chapter 74.09 RCW; study state purchased health
33 care programs in order to maximize cost containment in these programs
34 while ensuring access to quality health care; implement state
35 initiatives, joint purchasing strategies, and techniques for
36 efficient administration that have potential application to all
37 state-purchased health services; and administer grants that further

1 the mission and goals of the authority. The authority's duties
2 include, but are not limited to, the following:

3 (a) To administer health care benefit programs for employees and
4 retired or disabled school employees as specifically authorized in
5 RCW 41.05.065 and in accordance with the methods described in RCW
6 41.05.075, 41.05.140, and other provisions of this chapter;

7 (b) To analyze state purchased health care programs and to
8 explore options for cost containment and delivery alternatives for
9 those programs that are consistent with the purposes of those
10 programs, including, but not limited to:

11 (i) Creation of economic incentives for the persons for whom the
12 state purchases health care to appropriately utilize and purchase
13 health care services, including the development of flexible benefit
14 plans to offset increases in individual financial responsibility;

15 (ii) Utilization of provider arrangements that encourage cost
16 containment, including but not limited to prepaid delivery systems,
17 utilization review, and prospective payment methods, and that ensure
18 access to quality care, including assuring reasonable access to local
19 providers, especially for employees residing in rural areas;

20 (iii) Coordination of state agency efforts to purchase drugs
21 effectively as provided in RCW 70.14.050;

22 (iv) Development of recommendations and methods for purchasing
23 medical equipment and supporting services on a volume discount basis;

24 (v) Development of data systems to obtain utilization data from
25 state purchased health care programs in order to identify cost
26 centers, utilization patterns, provider and hospital practice
27 patterns, and procedure costs, utilizing the information obtained
28 pursuant to RCW 41.05.031; and

29 (vi) In collaboration with other state agencies that administer
30 state purchased health care programs, private health care purchasers,
31 health care facilities, providers, and carriers:

32 (A) Use evidence-based medicine principles to develop common
33 performance measures and implement financial incentives in contracts
34 with insuring entities, health care facilities, and providers that:

35 (I) Reward improvements in health outcomes for individuals with
36 chronic diseases, increased utilization of appropriate preventive
37 health services, and reductions in medical errors; and

38 (II) Increase, through appropriate incentives to insuring
39 entities, health care facilities, and providers, the adoption and use

1 of information technology that contributes to improved health
2 outcomes, better coordination of care, and decreased medical errors;

3 (B) Through state health purchasing, reimbursement, or pilot
4 strategies, promote and increase the adoption of health information
5 technology systems, including electronic medical records, by
6 hospitals as defined in RCW 70.41.020(4), integrated delivery
7 systems, and providers that:

8 (I) Facilitate diagnosis or treatment;

9 (II) Reduce unnecessary duplication of medical tests;

10 (III) Promote efficient electronic physician order entry;

11 (IV) Increase access to health information for consumers and
12 their providers; and

13 (V) Improve health outcomes;

14 (C) Coordinate a strategy for the adoption of health information
15 technology systems using the final health information technology
16 report and recommendations developed under chapter 261, Laws of 2005;

17 (c) To analyze areas of public and private health care
18 interaction;

19 (d) To provide information and technical and administrative
20 assistance to the board;

21 (e) To review and approve or deny applications from counties,
22 municipalities, and other political subdivisions of the state to
23 provide state-sponsored insurance or self-insurance programs to their
24 employees in accordance with the provisions of RCW 41.04.205 and (g)
25 of this subsection, setting the premium contribution for approved
26 groups as outlined in RCW 41.05.050;

27 (f) To review and approve or deny the application when the
28 governing body of a tribal government applies to transfer their
29 employees to an insurance or self-insurance program administered
30 under this chapter. In the event of an employee transfer pursuant to
31 this subsection (1)(f), members of the governing body are eligible to
32 be included in such a transfer if the members are authorized by the
33 tribal government to participate in the insurance program being
34 transferred from and subject to payment by the members of all costs
35 of insurance for the members. The authority shall: (i) Establish the
36 conditions for participation; (ii) have the sole right to reject the
37 application; and (iii) set the premium contribution for approved
38 groups as outlined in RCW 41.05.050. Approval of the application by
39 the authority transfers the employees and dependents involved to the

1 insurance, self-insurance, or health care program approved by the
2 authority;

3 (g) To ensure the continued status of the employee insurance or
4 self-insurance programs administered under this chapter as a
5 governmental plan under section 3(32) of the employee retirement
6 income security act of 1974, as amended, the authority shall limit
7 the participation of employees of a county, municipal, school
8 district, educational service district, or other political
9 subdivision, the Washington health benefit exchange, or a tribal
10 government, including providing for the participation of those
11 employees whose services are substantially all in the performance of
12 essential governmental functions, but not in the performance of
13 commercial activities;

14 (h) To establish billing procedures and collect funds from school
15 districts in a way that minimizes the administrative burden on
16 districts;

17 (i) To publish and distribute to nonparticipating school
18 districts and educational service districts by October 1st of each
19 year a description of health care benefit plans available through the
20 authority and the estimated cost if school districts and educational
21 service district employees were enrolled;

22 (j) To apply for, receive, and accept grants, gifts, and other
23 payments, including property and service, from any governmental or
24 other public or private entity or person, and make arrangements as to
25 the use of these receipts to implement initiatives and strategies
26 developed under this section;

27 (k) To issue, distribute, and administer grants that further the
28 mission and goals of the authority;

29 (l) To adopt rules consistent with this chapter as described in
30 RCW 41.05.160 including, but not limited to:

31 (i) Setting forth the criteria established by the board under RCW
32 41.05.065 for determining whether an employee is eligible for
33 benefits;

34 (ii) Establishing an appeal process in accordance with chapter
35 34.05 RCW by which an employee may appeal an eligibility
36 determination;

37 (iii) Establishing a process to assure that the eligibility
38 determinations of an employing agency comply with the criteria under
39 this chapter, including the imposition of penalties as may be
40 authorized by the board;

1 (m)(i) To administer the medical services programs established
2 under chapter 74.09 RCW as the designated single state agency for
3 purposes of Title XIX of the federal social security act;

4 (ii) To administer the state children's health insurance program
5 under chapter 74.09 RCW for purposes of Title XXI of the federal
6 social security act;

7 (iii) To enter into agreements with the department of social and
8 health services for administration of medical care services programs
9 under Titles XIX and XXI of the social security act. The agreements
10 shall establish the division of responsibilities between the
11 authority and the department with respect to mental health, chemical
12 dependency, and long-term care services, including services for
13 persons with developmental disabilities. The agreements shall be
14 revised as necessary, to comply with the final implementation plan
15 adopted under section 116, chapter 15, Laws of 2011 1st sp. sess.;

16 (iv) To adopt rules to carry out the purposes of chapter 74.09
17 RCW;

18 (v) To appoint such advisory committees or councils as may be
19 required by any federal statute or regulation as a condition to the
20 receipt of federal funds by the authority. The director may appoint
21 statewide committees or councils in the following subject areas: (A)
22 Health facilities; (B) children and youth services; (C) blind
23 services; (D) medical and health care; (E) drug abuse and alcoholism;
24 (F) rehabilitative services; and (G) such other subject matters as
25 are or come within the authority's responsibilities. The statewide
26 councils shall have representation from both major political parties
27 and shall have substantial consumer representation. Such committees
28 or councils shall be constituted as required by federal law or as the
29 director in his or her discretion may determine. The members of the
30 committees or councils shall hold office for three years except in
31 the case of a vacancy, in which event appointment shall be only for
32 the remainder of the unexpired term for which the vacancy occurs. No
33 member shall serve more than two consecutive terms. Members of such
34 state advisory committees or councils may be paid their travel
35 expenses in accordance with RCW 43.03.050 and 43.03.060 as now
36 existing or hereafter amended;

37 (n) To review and approve or deny the application from the
38 governing board of the Washington health benefit exchange to provide
39 state-sponsored insurance or self-insurance programs to employees of
40 the exchange. The authority shall (i) establish the conditions for

1 participation; (ii) have the sole right to reject an application; and
2 (iii) set the premium contribution for approved groups as outlined in
3 RCW 41.05.050.

4 (2) On and after January 1, 1996, the public employees' benefits
5 board may implement strategies to promote managed competition among
6 employee health benefit plans. Strategies may include but are not
7 limited to:

8 (a) Standardizing the benefit package;

9 (b) Soliciting competitive bids for the benefit package;

10 (c) Limiting the state's contribution to a percent of the lowest
11 priced qualified plan within a geographical area;

12 (d) Monitoring the impact of the approach under this subsection
13 with regards to: Efficiencies in health service delivery, cost shifts
14 to subscribers, access to and choice of managed care plans statewide,
15 and quality of health services. The health care authority shall also
16 advise on the value of administering a benchmark employer-managed
17 plan to promote competition among managed care plans.

18 **Sec. 22.** RCW 43.19.008 and 2011 1st sp.s. c 43 s 104 are each
19 amended to read as follows:

20 (1) The executive powers and management of the department shall
21 be administered as described in this section.

22 (2) The executive head and appointing authority of the department
23 is the director. The director is appointed by the governor, subject
24 to confirmation by the senate. The director serves at the pleasure of
25 the governor. The director is paid a salary fixed by the governor in
26 accordance with RCW 43.03.040. If a vacancy occurs in the position of
27 director while the senate is not in session, the governor shall make
28 a temporary appointment until the next meeting of the senate at which
29 time he or she shall present to that body his or her nomination for
30 the position.

31 (3) The director may employ staff members, who are exempt from
32 chapter 41.06 RCW, and any additional staff members as are necessary
33 to administer this chapter, and such other duties as may be
34 authorized by law. The director may delegate any power or duty vested
35 in him or her by chapter 43, Laws of 2011 1st sp. sess. or other law,
36 including authority to make final decisions and enter final orders in
37 hearings conducted under chapter 34.05 RCW, except as required by
38 section 1 of this act.

1 (4) The internal affairs of the department are under the control
2 of the director in order that the director may manage the department
3 in a flexible and intelligent manner as dictated by changing
4 contemporary circumstances. Unless specifically limited by law, the
5 director has complete charge and supervisory powers over the
6 department. The director may create the administrative structures as
7 the director deems appropriate, except as otherwise specified by law,
8 and the director may employ personnel as may be necessary in
9 accordance with chapter 41.06 RCW, except as otherwise provided by
10 law.

11 (5) Until June 30, 2018, at the beginning of each fiscal
12 biennium, the office of financial management shall conduct a review
13 of the programs and services that are performed by the department to
14 determine whether the program or service may be performed by the
15 private sector in a more cost-efficient and effective manner than
16 being performed by the department. In conducting this review, the
17 office of financial management shall:

18 (a) Examine the existing activities currently being performed by
19 the department, including but not limited to an examination of
20 services for their performance, staffing, capital requirements, and
21 mission. Programs may be broken down into discrete services or
22 activities or reviewed as a whole; and

23 (b) Examine the activities to determine which specific services
24 are available in the marketplace and what potential for efficiency
25 gains or savings exist.

26 (i) As part of the review in this subsection (5), the office of
27 financial management shall select up to six activities or services
28 that have been determined as an activity that may be provided by the
29 private sector in a cost-effective and efficient manner, including
30 for the 2011-2013 fiscal biennium the bulk printing services. The
31 office of financial management may consult with affected industry
32 stakeholders in making its decision on which activities to contract
33 for services. Priority for selection shall be given to agency
34 activities or services that are significant, ongoing functions.

35 (ii) The office of financial management must consider the
36 consequences and potential mitigation of improper or failed
37 performance by the contractor.

38 (iii) For each of the selected activities, the department shall
39 use a request for information, request for proposal, or other
40 procurement process to determine if a contract for the activity would

1 result in the activity being provided at a reduced cost and with
2 greater efficiency.

3 (iv) The request for information, request for proposal, or other
4 procurement process must contain measurable standards for the
5 performance of the contract.

6 (v) The department may contract with one or more vendors to
7 provide the service as a result of the procurement process.

8 (vi) If the office of financial management determines via the
9 procurement process that the activity cannot be provided by the
10 private sector at a reduced cost and greater efficiency, the
11 department of enterprise services may cancel the procurement without
12 entering into a contract and shall promptly notify the legislative
13 fiscal committees of such a decision.

14 (vii) The department of enterprise services, in consultation with
15 the office of financial management, must establish a contract
16 monitoring process to measure contract performance, costs, service
17 delivery quality, and other contract standards, and to cancel
18 contracts that do not meet those standards. No contracts may be
19 renewed without a review of these measures.

20 (viii) The office of financial management shall prepare a
21 biennial report summarizing the results of the examination of the
22 agency's programs and services. In addition to the programs and
23 services examined and the result of the examination, the report shall
24 provide information on any procurement process that does not result
25 in a contract for the services. During each regular legislative
26 session held in odd-numbered years, the legislative fiscal committees
27 shall hold a public hearing on the report and the department's
28 activities under this section.

29 (ix) The joint legislative audit and review committee shall
30 conduct an audit of the implementation of this subsection (5), and
31 report to the legislature by January 1, 2018, on the results of the
32 audit. The report must include an estimate of additional costs or
33 savings to taxpayers as a result of the contracting out provisions.

34 **Sec. 23.** RCW 43.43.395 and 2013 2nd sp.s. c 35 s 9 are each
35 amended to read as follows:

36 (1) The state patrol shall by rule provide standards for the
37 certification, installation, repair, maintenance, monitoring,
38 inspection, and removal of ignition interlock devices, as defined
39 under RCW 46.04.215, and equipment as outlined under this section,

1 and may inspect the records and equipment of manufacturers and
2 vendors during regular business hours for compliance with statutes
3 and rules and may suspend or revoke certification for any
4 noncompliance.

5 (2)(a) When a certified service provider or individual installer
6 of ignition interlock devices is found to be out of compliance, the
7 installation privileges of that certified service provider or
8 individual installer may be suspended or revoked until the certified
9 service provider or individual installer comes into compliance.
10 During any suspension or revocation period, the certified service
11 provider or individual installer is responsible for notifying
12 affected customers of any changes in their service agreement.

13 (b) A certified service provider or individual installer whose
14 certification is suspended or revoked for noncompliance has a right
15 to an administrative hearing under chapter 34.05 RCW presided over by
16 an administrative law judge assigned under chapter 34.12 RCW to
17 contest the suspension or revocation, or both. For the administrative
18 hearing, the procedure and rules of evidence are as specified in
19 chapter 34.05 RCW, except as otherwise provided in this chapter. Any
20 request for an administrative hearing must be made in writing and
21 must be received by the state patrol within twenty days after the
22 receipt of the notice of suspension or revocation. The administrative
23 law judge shall render a final decision, appealable to the superior
24 court.

25 (3)(a) An ignition interlock device must employ fuel cell
26 technology. For the purposes of this subsection, "fuel cell
27 technology" consists of the following electrochemical method: An
28 electrolyte designed to oxidize the alcohol and release electrons to
29 be collected by an active electrode; a current flow is generated
30 within the electrode proportional to the amount of alcohol oxidized
31 on the fuel cell surface; and the electrical current is measured and
32 reported as breath alcohol concentration. Fuel cell technology is
33 highly specific for alcohols.

34 (b) When reasonably available in the area, as determined by the
35 state patrol, an ignition interlock device must employ technology
36 capable of taking a photo identification of the user giving the
37 breath sample and recording on the photo the time the breath sample
38 was given.

39 (c) To be certified, an ignition interlock device must:

1 (i) Meet or exceed the minimum test standards according to rules
2 adopted by the state patrol. Only a notarized statement from a
3 laboratory that is certified by the international organization of
4 standardization and is capable of performing the tests specified will
5 be accepted as proof of meeting or exceeding the standards. The
6 notarized statement must include the name and signature of the person
7 in charge of the tests under the certification statement. The state
8 patrol must adopt by rule the required language of the certification
9 statement that must, at a minimum, outline that the testing meets or
10 exceeds all specifications listed in the federal register adopted in
11 rule by the state patrol; and

12 (ii) Be maintained in accordance with the rules and standards
13 adopted by the state patrol.

14 **Sec. 24.** RCW 43.215.030 and 2006 c 265 s 104 are each amended to
15 read as follows:

16 (1) The executive head and appointing authority of the department
17 is the director. The director shall be appointed by the governor with
18 the consent of the senate, and shall serve at the pleasure of the
19 governor. The governor shall solicit input from all parties involved
20 in the private-public partnership concerning this appointment. The
21 director shall be paid a salary to be fixed by the governor in
22 accordance with RCW 43.03.040. If a vacancy occurs in the position of
23 director while the senate is not in session, the governor shall make
24 a temporary appointment until the next meeting of the senate when the
25 governor's nomination for the office of director shall be presented.

26 (2) The director may employ staff members, who shall be exempt
27 from chapter 41.06 RCW, and any additional staff members as are
28 necessary to administer this chapter. The director may delegate any
29 power or duty vested in him or her by this chapter, including
30 authority to make final decisions and enter final orders in hearings
31 conducted under chapter 34.05 RCW, except as required by section 1 of
32 this act subject to the limits in RCW 43.215.310.

33 **Sec. 25.** RCW 46.12.735 and 2011 c 171 s 40 are each amended to
34 read as follows:

35 (1) Any person may submit a written request for a hearing to
36 establish a claim of ownership or right to lawful possession of the

1 vehicle, watercraft, camper, or component part thereof seized
2 pursuant to this section.

3 (2) Upon receipt of a request for hearing, one shall be held
4 before the chief law enforcement officer of the seizing agency or an
5 administrative law judge appointed under chapter 34.12 RCW, except if
6 the seizing agency is a state agency as defined in RCW 34.12.020(4),
7 the hearing must be before an administrative law judge appointed
8 under chapter 34.12 RCW with authority to render a final decision.

9 (3) Such hearing shall be held within a reasonable time after
10 receipt of a request therefor. Reasonable investigative activities,
11 including efforts to establish the identity of the article or
12 articles and the identity of the person entitled to the lawful
13 possession or custody of the article or articles shall be considered
14 in determining the reasonableness of the time within which a hearing
15 must be held.

16 (4) The hearing and any appeal therefrom shall be conducted in
17 accordance with Title 34 RCW.

18 (5) The burden of producing evidence shall be upon the person
19 claiming to be the lawful owner or to have the lawful right of
20 possession to the article or articles.

21 (6) Any person claiming ownership or right to possession of an
22 article or articles subject to disposition under RCW 46.12.725
23 through 46.12.740 may remove the matter to a court of competent
24 jurisdiction if the aggregate value of the article or articles
25 involved is two hundred dollars or more. In a court hearing between
26 two or more claimants to the article or articles involved, the
27 prevailing party shall be entitled to judgment for costs and
28 reasonable attorney's fees. For purposes of this section the seizing
29 law enforcement agency shall not be considered a claimant.

30 (7) The seizing law enforcement agency shall promptly release the
31 article or articles to the claimant upon a determination by the
32 administrative law judge or court that the claimant is the present
33 lawful owner or is lawfully entitled to possession thereof.

34 **Sec. 26.** RCW 46.20.331 and 1989 c 175 s 111 are each amended to
35 read as follows:

36 The director ((may)) shall appoint ((a designee, or designees,))
37 an administrative law judge assigned under chapter 34.12 RCW to
38 preside over hearings in adjudicative proceedings ((that may result
39 in the denial, restriction, suspension, or revocation of a driver's

1 ~~license or driving privilege, or in the imposition of requirements to~~
2 ~~be met prior to issuance or reissuance of a driver's license,))~~ under
3 Title 46 RCW. ~~((The director may delegate to any such designees the~~
4 ~~authority to render the final decision of the department in such~~
5 ~~proceedings. Chapter 34.12 RCW shall not apply to such proceedings.))~~
6 The administrative law judge shall render a final decision,
7 appealable to the superior court.

8 **Sec. 27.** RCW 46.55.180 and 1989 c 111 s 15 are each amended to
9 read as follows:

10 The director or the chief of the state patrol ~~((may))~~ shall use
11 ~~((a hearing officer or))~~ an administrative law judge, assigned under
12 chapter 34.12 RCW with authority to render a final decision, for
13 presiding over a hearing regarding licensing provisions under this
14 chapter or rules adopted under it.

15 **Sec. 28.** RCW 48.04.010 and 2000 c 221 s 8 and 2000 c 79 s 1 are
16 each reenacted and amended to read as follows:

17 (1) Except as required under section 1 of this act, the
18 commissioner may hold a hearing for any purpose within the scope of
19 this code as he or she may deem necessary. The commissioner shall
20 hold a hearing:

21 (a) If required by any provision of this code; or

22 (b) Except under RCW 48.13.475, upon written demand for a hearing
23 made by any person aggrieved by any act, threatened act, or failure
24 of the commissioner to act, if such failure is deemed an act under
25 any provision of this code, or by any report, promulgation, or order
26 of the commissioner other than an order on a hearing of which such
27 person was given actual notice or at which such person appeared as a
28 party, or order pursuant to the order on such hearing.

29 (2) Any such demand for a hearing shall specify in what respects
30 such person is so aggrieved and the grounds to be relied upon as
31 basis for the relief to be demanded at the hearing.

32 (3) Unless a person aggrieved by a written order of the
33 commissioner demands a hearing thereon within ninety days after
34 receiving notice of such order, or in the case of a licensee under
35 Title 48 RCW within ninety days after the commissioner has mailed the
36 order to the licensee at the most recent address shown in the
37 commissioner's licensing records for the licensee, the right to such
38 hearing shall conclusively be deemed to have been waived.

1 (4) If a hearing is demanded by a licensee whose license has been
2 temporarily suspended pursuant to RCW 48.17.540, the commissioner
3 shall hold such hearing demanded within thirty days after receipt of
4 the demand or within thirty days of the effective date of a temporary
5 license suspension issued after such demand, unless postponed by
6 mutual consent.

7 (5) A licensee under this title may request that a hearing
8 authorized under this section be presided over by an administrative
9 law judge assigned under chapter 34.12 RCW. Any such request shall
10 not be denied.

11 (6) Any hearing held relating to RCW 48.20.025, 48.44.017, or
12 48.46.062 shall be presided over by an administrative law judge
13 assigned under chapter 34.12 RCW.

14 **Sec. 29.** RCW 49.12.285 and 1988 c 236 s 5 are each amended to
15 read as follows:

16 The department may issue a notice of infraction if the department
17 reasonably believes that an employer has failed to comply with RCW
18 49.12.270 or 49.12.275. The form of the notice of infraction shall be
19 adopted by rule pursuant to chapter 34.05 RCW. An employer who is
20 found to have committed an infraction under RCW 49.12.270 or
21 49.12.275 may be assessed a monetary penalty not to exceed two
22 hundred dollars for each violation. An employer who repeatedly
23 violates RCW 49.12.270 or 49.12.275 may be assessed a monetary
24 penalty not to exceed one thousand dollars for each violation. For
25 purposes of this section, the failure to comply with RCW 49.12.275 as
26 to an employee or the failure to comply with RCW 49.12.270 as to a
27 period of leave sought by an employee shall each constitute separate
28 violations. An employer has twenty days to appeal the notice of
29 infraction. Any appeal of a violation determined to be an infraction
30 shall be heard and determined by an administrative law judge assigned
31 under chapter 34.12 RCW with authority to render a final decision.
32 Monetary penalties collected under this section shall be deposited
33 into the general fund.

34 **Sec. 30.** RCW 49.48.084 and 2010 c 42 s 3 are each amended to
35 read as follows:

36 (1) A person, firm, or corporation aggrieved by a citation and
37 notice of assessment or a determination of compliance issued by the
38 department under RCW 49.48.083 or the assessment of civil penalty due

1 to a determination of status as a repeat willful violator may appeal
2 the citation and notice of assessment, the determination of
3 compliance, or the assessment of civil penalty to the director by
4 filing a notice of appeal with the director within thirty days of the
5 department's issuance of the citation and notice of assessment, the
6 determination of compliance, or the assessment of civil penalty. A
7 citation and notice of assessment, a determination of compliance, or
8 an assessment of a civil penalty not appealed within thirty days is
9 final and binding, and not subject to further appeal.

10 (2) A notice of appeal filed with the director under this section
11 shall stay the effectiveness of the citation and notice of
12 assessment, the determination of compliance, or the assessment of
13 civil penalty pending final review of the appeal by the director as
14 provided for in chapter 34.05 RCW.

15 (3) Upon receipt of a notice of appeal, the director shall assign
16 the hearing to an administrative law judge of the office of
17 administrative hearings to conduct the hearing and issue ~~((an~~
18 ~~initial))~~ a final decision or order. The hearing and review
19 procedures shall be conducted in accordance with chapter 34.05 RCW,
20 and the standard of review by the administrative law judge of an
21 appealed citation and notice of assessment, an appealed determination
22 of compliance, or an appealed assessment of civil penalty shall be de
23 novo. ~~((Any party who seeks to challenge an initial order shall file~~
24 ~~a petition for administrative review with the director within thirty~~
25 ~~days after service of the initial order. The director shall conduct~~
26 ~~administrative review in accordance with chapter 34.05 RCW.))~~

27 (4) ~~((The director shall issue all final orders after appeal of~~
28 ~~the initial order.))~~ The final order ~~((of the director))~~ is subject
29 to judicial review in accordance with chapter 34.05 RCW.

30 (5) Orders that are not appealed within the time period specified
31 in this section and chapter 34.05 RCW are final and binding, and not
32 subject to further appeal.

33 (6) An employer who fails to allow adequate inspection of records
34 in an investigation by the department under this chapter within a
35 reasonable time period may not use such records in any appeal under
36 this section to challenge the correctness of any determination by the
37 department of wages owed or penalty assessed.

38 **Sec. 31.** RCW 49.60.250 and 2008 c 266 s 8 are each amended to
39 read as follows:

1 (1) In case of failure to reach an agreement for the elimination
2 of such unfair practice, and upon the entry of findings to that
3 effect, the entire file, including the complaint and any and all
4 findings made, shall be certified to the chairperson of the
5 commission. The chairperson of the commission shall thereupon request
6 the appointment of an administrative law judge (~~under Title 34~~
7 RCW), assigned under chapter 34.12 RCW with authority to render a
8 final decision, to hear the complaint and shall cause to be issued
9 and served in the name of the commission a written notice, together
10 with a copy of the complaint, as the same may have been amended,
11 requiring the respondent to answer the charges of the complaint at a
12 hearing before the administrative law judge, at a time and place to
13 be specified in such notice.

14 (2) The place of any such hearing may be the office of the
15 commission or another place designated by it. The case in support of
16 the complaint shall be presented at the hearing by counsel for the
17 commission: PROVIDED, That the complainant may retain independent
18 counsel and submit testimony and be fully heard. No member or
19 employee of the commission who previously made the investigation or
20 caused the notice to be issued shall participate in the hearing
21 except as a witness, nor shall the member or employee participate in
22 the deliberations of the administrative law judge in such case. Any
23 endeavors or negotiations for conciliation shall not be received in
24 evidence.

25 (3) The respondent shall file a written answer to the complaint
26 and appear at the hearing in person or otherwise, with or without
27 counsel, and submit testimony and be fully heard. The respondent has
28 the right to cross-examine the complainant.

29 (4) The administrative law judge conducting any hearing may
30 permit reasonable amendment to any complaint or answer. Testimony
31 taken at the hearing shall be under oath and recorded.

32 (5) If, upon all the evidence, the administrative law judge finds
33 that the respondent has engaged in any unfair practice, the
34 administrative law judge shall state findings of fact and shall issue
35 and file with the commission and cause to be served on such
36 respondent an order requiring such respondent to cease and desist
37 from such unfair practice and to take such affirmative action,
38 including, (but not limited to) hiring, reinstatement or upgrading of
39 employees, with or without back pay, an admission or restoration to
40 full membership rights in any respondent organization, or to take

1 such other action as, in the judgment of the administrative law
2 judge, will effectuate the purposes of this chapter, including action
3 that could be ordered by a court, except that damages for humiliation
4 and mental suffering shall not exceed twenty thousand dollars, and
5 including a requirement for report of the matter on compliance.
6 Relief available for violations of RCW 49.60.222 through 49.60.224
7 shall be limited to the relief specified in RCW 49.60.225.

8 (6) If a determination is made that retaliatory action, as
9 defined in RCW 42.40.050, has been taken against a whistleblower, as
10 defined in RCW 42.40.020, the administrative law judge may, in
11 addition to any other remedy, require restoration of benefits, back
12 pay, and any increases in compensation that would have occurred, with
13 interest; impose a civil penalty upon the retaliator of up to five
14 thousand dollars; and issue an order to the state employer to suspend
15 the retaliator for up to thirty days without pay. At a minimum, the
16 administrative law judge shall require that a letter of reprimand be
17 placed in the retaliator's personnel file. No agency shall issue any
18 nondisclosure order or policy, execute any nondisclosure agreement,
19 or spend any funds requiring information that is public under the
20 public records act, chapter 42.56 RCW, be kept confidential; except
21 that nothing in this section shall affect any state or federal law
22 requiring information be kept confidential. All penalties recovered
23 shall be paid into the state treasury and credited to the general
24 fund.

25 (7) The final order of the administrative law judge shall include
26 a notice to the parties of the right to obtain judicial review of the
27 order by appeal in accordance with the provisions of RCW 34.05.510
28 through 34.05.598, and that such appeal must be served and filed
29 within thirty days after the service of the order on the parties.

30 (8) If, upon all the evidence, the administrative law judge finds
31 that the respondent has not engaged in any alleged unfair practice,
32 the administrative law judge shall state findings of fact and shall
33 similarly issue and file an order dismissing the complaint.

34 (9) An order dismissing a complaint may include an award of
35 reasonable attorneys' fees in favor of the respondent if the
36 administrative law judge concludes that the complaint was frivolous,
37 unreasonable, or groundless.

38 (10) The commission shall establish rules of practice to govern,
39 expedite, and effectuate the foregoing procedure.

1 (11) Instead of filing with the commission, a complainant may
2 pursue arbitration conducted by the American arbitration association
3 or another arbitrator mutually agreed by the parties, with the cost
4 of arbitration shared equally by the complainant and the respondent.

5 **Sec. 32.** RCW 49.70.165 and 1985 c 409 s 4 are each amended to
6 read as follows:

7 (1) The department shall adopt rules in accordance with chapter
8 34.05 RCW establishing criteria for evaluating the validity of trade
9 secret claims and procedures for issuing a trade secret exemption.
10 Manufacturers or importers that make a trade secret claim to the
11 department must notify direct purchasers if a trade secret claim has
12 been made on a product being offered for sale.

13 (2) If a trade secret claim exists, a manufacturer, importer, or
14 employer may require a written statement of need or confidentiality
15 agreement before the specific chemical identity of a hazardous
16 substance is released. However, if a treating physician or nurse
17 determines that a medical emergency exists and the specific chemical
18 identity of a hazardous substance is necessary for emergency or first
19 aid treatment, the manufacturer, importer, or employer shall
20 immediately disclose the specific chemical identity to that treating
21 physician or nurse, regardless of the existence of a written
22 statement of need or a confidentiality agreement. The chemical
23 manufacturer, importer, or employer may require a written statement
24 of need and confidentiality agreement, as defined by rule, as soon as
25 circumstances permit.

26 (3) Any challenge to the denial of a trade secret claim shall be
27 heard by an administrative law judge, assigned under chapter 34.12
28 RCW with authority to render a final decision, in accordance with
29 chapter 34.05 RCW.

30 **Sec. 33.** RCW 49.74.040 and 2002 c 354 s 248 are each amended to
31 read as follows:

32 If no agreement can be reached under RCW 49.74.030, the
33 commission (~~may~~) shall refer the matter to (~~the~~) an
34 administrative law judge, assigned under chapter 34.12 RCW with
35 authority to render a final decision, for hearing pursuant to RCW
36 49.60.250. If the administrative law judge finds that the state
37 agency, institution of higher education, or state patrol has not made
38 a good faith effort to correct the noncompliance, the administrative

1 law judge shall order the state agency, institution of higher
2 education, or state patrol to comply with this chapter. The
3 administrative law judge may order any action that may be necessary
4 to achieve compliance, provided such action is not inconsistent with
5 the rules adopted under RCW 41.06.150(~~(+6)~~) (5) and 43.43.340(5),
6 whichever is appropriate.

7 An order by the administrative law judge may be appealed to
8 superior court.

9 **Sec. 34.** RCW 49.86.120 and 2007 c 357 s 14 are each amended to
10 read as follows:

11 (1) A person aggrieved by a decision of the department under this
12 chapter must file a notice of appeal with the director, by mail or
13 personally, within thirty days after the date on which a copy of the
14 department's decision was communicated to the person. Upon receipt of
15 the notice of appeal, the director shall request the assignment of an
16 administrative law judge (~~(in accordance with chapter 34.05 RCW)~~),
17 under chapter 34.12 RCW, to conduct a hearing and issue a
18 (~~(proposed)~~) final decision and order. The hearing shall be conducted
19 in accordance with chapter 34.05 RCW subject to judicial review as
20 provided in chapter 34.05 RCW.

21 (~~(2) (The administrative law judge's proposed decision and order~~
22 ~~shall be final and not subject to further appeal unless, within~~
23 ~~thirty days after the decision is communicated to the interested~~
24 ~~parties, a party petitions for review by the director. If the~~
25 ~~director's review is timely requested, the director may order~~
26 ~~additional evidence by the administrative law judge. On the basis of~~
27 ~~the evidence before the administrative law judge and such additional~~
28 ~~evidence as the director may order to be taken, the director shall~~
29 ~~render a decision affirming, modifying, or setting aside the~~
30 ~~administrative law judge's decision. The director's decision becomes~~
31 ~~final and not subject to further appeal unless, within thirty days~~
32 ~~after the decision is communicated to the interested parties, a party~~
33 ~~files a petition for judicial review as provided in chapter 34.05~~
34 ~~RCW.)~~) The director or department is a party to any judicial action
35 involving the (~~(director's)~~) department's decision and shall be
36 represented in the action by the attorney general.

37 (3) If, upon administrative or judicial review, the final
38 decision of the department is reversed or modified, the
39 administrative law judge or the court in its discretion may award

1 reasonable attorneys' fees and costs to the prevailing party.
2 Attorneys' fees and costs owed by the department, if any, are payable
3 from the family leave insurance account.

4 **Sec. 35.** RCW 66.24.010 and 2012 c 39 s 4 are each amended to
5 read as follows:

6 (1) Every license must be issued in the name of the applicant,
7 and the holder thereof may not allow any other person to use the
8 license.

9 (2) For the purpose of considering any application for a license,
10 or the renewal of a license, the board may cause an inspection of the
11 premises to be made, and may inquire into all matters in connection
12 with the construction and operation of the premises. For the purpose
13 of reviewing any application for a license and for considering the
14 denial, suspension, revocation, or renewal or denial thereof, of any
15 license, the liquor control board may consider any prior criminal
16 conduct of the applicant including an administrative violation
17 history record with the board and a criminal history record
18 information check. The board may submit the criminal history record
19 information check to the Washington state patrol and to the
20 identification division of the federal bureau of investigation in
21 order that these agencies may search their records for prior arrests
22 and convictions of the individual or individuals who filled out the
23 forms. The board must require fingerprinting of any applicant whose
24 criminal history record information check is submitted to the federal
25 bureau of investigation. The provisions of RCW 9.95.240 and of
26 chapter 9.96A RCW do not apply to such cases. Subject to the
27 provisions of this section, the board may, in its discretion, grant
28 or deny the renewal or license applied for. Denial may be based on,
29 without limitation, the existence of chronic illegal activity
30 documented in objections submitted pursuant to subsections (8)(d) and
31 (12) of this section. Authority to approve an uncontested or
32 unopposed license may be granted by the board to any staff member the
33 board designates in writing. Conditions for granting such authority
34 must be adopted by rule. No retail license of any kind may be issued
35 to:

36 (a) A person doing business as a sole proprietor who has not
37 resided in the state for at least one month prior to receiving a
38 license, except in cases of licenses issued to dining places on
39 railroads, boats, or aircraft;

1 (b) A copartnership, unless all of the members thereof are
2 qualified to obtain a license, as provided in this section;

3 (c) A person whose place of business is conducted by a manager or
4 agent, unless such manager or agent possesses the same qualifications
5 required of the licensee;

6 (d) A corporation or a limited liability company, unless it was
7 created under the laws of the state of Washington or holds a
8 certificate of authority to transact business in the state of
9 Washington.

10 (3)(a) The board may, in its discretion, subject to the
11 provisions of RCW 66.08.150, suspend or cancel any license; and all
12 rights of the licensee to keep or sell liquor thereunder must be
13 suspended or terminated, as the case may be.

14 (b) The board must immediately suspend the license or certificate
15 of a person who has been certified pursuant to RCW 74.20A.320 by the
16 department of social and health services as a person who is not in
17 compliance with a support order. If the person has continued to meet
18 all other requirements for reinstatement during the suspension,
19 reissuance of the license or certificate is automatic upon the
20 board's receipt of a release issued by the department of social and
21 health services stating that the licensee is in compliance with the
22 order.

23 (c) Upon written notification by the department of revenue in
24 accordance with RCW 82.08.155 that a person is more than thirty days
25 delinquent in reporting or remitting spirits taxes to the department,
26 the board must suspend all spirits licenses held by that person. The
27 board must also refuse to renew any existing spirits license of, or
28 issue any new spirits license to, the person or any other applicant
29 controlled directly or indirectly by that person. The board may not
30 reinstate a person's spirits license or renew or issue a new spirits
31 license to that person, or an applicant controlled directly or
32 indirectly by that person, until such time as the department of
33 revenue notifies the board that the person is current in reporting
34 and remitting spirits taxes or that the department consents to the
35 reinstatement or renewal of the person's spirits license or the
36 issuance of a new spirits license to the person. For purposes of this
37 section: (i) "Spirits license" means any license issued by the board
38 under the authority of this chapter that authorizes the licensee to
39 sell spirits; and (ii) "spirits taxes" has the same meaning as in RCW
40 82.08.155.

1 (d) The board may request the appointment of administrative law
2 judges under chapter 34.12 RCW who must have power to administer
3 oaths, issue subpoenas for the attendance of witnesses and the
4 production of papers, books, accounts, documents, and testimony,
5 examine witnesses, and to receive testimony in any inquiry,
6 investigation, hearing, or proceeding in any part of the state, under
7 such rules and regulations as the board may adopt.

8 (e) Witnesses are allowed fees and mileage each way to and from
9 any such inquiry, investigation, hearing, or proceeding at the rate
10 authorized by RCW 34.05.446. Fees need not be paid in advance of
11 appearance of witnesses to testify or to produce books, records, or
12 other legal evidence.

13 (f) In case of disobedience of any person to comply with the
14 order of the board or a subpoena issued by the board, or any of its
15 members, or administrative law judges, or on the refusal of a witness
16 to testify to any matter regarding which he or she may be lawfully
17 interrogated, the judge of the superior court of the county in which
18 the person resides, on application of any member of the board or
19 administrative law judge, must compel obedience by contempt
20 proceedings, as in the case of disobedience of the requirements of a
21 subpoena issued from said court or a refusal to testify therein.

22 (4) Upon receipt of notice of the suspension or cancellation of a
23 license, the licensee must forthwith deliver up the license to the
24 board. Where the license has been suspended only, the board must
25 return the license to the licensee at the expiration or termination
26 of the period of suspension. The board must notify all vendors in the
27 city or place where the licensee has its premises of the suspension
28 or cancellation of the license; and no employee may allow or cause
29 any liquor to be delivered to or for any person at the premises of
30 that licensee.

31 (5)(a) At the time of the original issuance of a spirits, beer,
32 and wine restaurant license, the board must prorate the license fee
33 charged to the new licensee according to the number of calendar
34 quarters, or portion thereof, remaining until the first renewal of
35 that license is required.

36 (b) Unless sooner canceled, every license issued by the board
37 must expire at midnight of the thirtieth day of June of the fiscal
38 year for which it was issued. However, if the board deems it feasible
39 and desirable to do so, it may establish, by rule pursuant to chapter
40 34.05 RCW, a system for staggering the annual renewal dates for any

1 and all licenses authorized by this chapter. If such a system of
2 staggered annual renewal dates is established by the board, the
3 license fees provided by this chapter must be appropriately prorated
4 during the first year that the system is in effect.

5 (6) Every license issued under this section is subject to all
6 conditions and restrictions imposed by this title or by rules adopted
7 by the board. All conditions and restrictions imposed by the board in
8 the issuance of an individual license may be listed on the face of
9 the individual license along with the trade name, address, and
10 expiration date. Conditions and restrictions imposed by the board may
11 also be included in official correspondence separate from the
12 license. All spirits licenses are subject to the condition that the
13 spirits license holder must report and remit to the department of
14 revenue all spirits taxes by the date due.

15 (7) Every licensee must post and keep posted its license, or
16 licenses, and any additional correspondence containing conditions and
17 restrictions imposed by the board in a conspicuous place on the
18 premises.

19 (8)(a) Unless (b) of this subsection applies, before the board
20 issues a new or renewal license to an applicant it must give notice
21 of such application to the chief executive officer of the
22 incorporated city or town, if the application is for a license within
23 an incorporated city or town, or to the county legislative authority,
24 if the application is for a license outside the boundaries of
25 incorporated cities or towns.

26 (b) If the application for a special occasion license is for an
27 event held during a county, district, or area fair as defined by RCW
28 15.76.120, and the county, district, or area fair is located on
29 property owned by the county but located within an incorporated city
30 or town, the county legislative authority must be the entity notified
31 by the board under (a) of this subsection. The board must send a
32 duplicate notice to the incorporated city or town within which the
33 fair is located.

34 (c) The incorporated city or town through the official or
35 employee selected by it, or the county legislative authority or the
36 official or employee selected by it, has the right to file with the
37 board within twenty days after the date of transmittal of such notice
38 for applications, or at least thirty days prior to the expiration
39 date for renewals, written objections against the applicant or
40 against the premises for which the new or renewal license is asked.

1 The board may extend the time period for submitting written
2 objections.

3 (d) The written objections must include a statement of all facts
4 upon which such objections are based, and in case written objections
5 are filed, the city or town or county legislative authority may
6 request and the liquor control board may in its discretion hold a
7 hearing subject to the applicable provisions of Title 34 RCW. If the
8 board makes an initial decision to deny a license or renewal based on
9 the written objections of an incorporated city or town or county
10 legislative authority, the applicant may request a hearing (~~subject~~
11 ~~to the applicable provisions of Title 34 RCW~~) before an
12 administrative law judge assigned under chapter 34.12 RCW with
13 authority to render a final decision. If such a hearing is held at
14 the request of the applicant, liquor control board representatives
15 must present and defend the board's initial decision to deny a
16 license or renewal.

17 (e) Upon the granting of a license under this title the board
18 must send written notification to the chief executive officer of the
19 incorporated city or town in which the license is granted, or to the
20 county legislative authority if the license is granted outside the
21 boundaries of incorporated cities or towns. When the license is for a
22 special occasion license for an event held during a county, district,
23 or area fair as defined by RCW 15.76.120, and the county, district,
24 or area fair is located on county-owned property but located within
25 an incorporated city or town, the written notification must be sent
26 to both the incorporated city or town and the county legislative
27 authority.

28 (9)(a) Before the board issues any license to any applicant, it
29 shall give (i) due consideration to the location of the business to
30 be conducted under such license with respect to the proximity of
31 churches, schools, and public institutions and (ii) written notice,
32 with receipt verification, of the application to public institutions
33 identified by the board as appropriate to receive such notice,
34 churches, and schools within five hundred feet of the premises to be
35 licensed. The board may not issue a liquor license for either on-
36 premises or off-premises consumption covering any premises not now
37 licensed, if such premises are within five hundred feet of the
38 premises of any tax-supported public elementary or secondary school
39 measured along the most direct route over or across established
40 public walks, streets, or other public passageway from the main

1 entrance of the school to the nearest public entrance of the premises
2 proposed for license, and if, after receipt by the school of the
3 notice as provided in this subsection, the board receives written
4 objection, within twenty days after receiving such notice, from an
5 official representative or representatives of the school within five
6 hundred feet of said proposed licensed premises, indicating to the
7 board that there is an objection to the issuance of such license
8 because of proximity to a school. The board may extend the time
9 period for submitting objections. For the purpose of this section,
10 "church" means a building erected for and used exclusively for
11 religious worship and schooling or other activity in connection
12 therewith. For the purpose of this section, "public institution"
13 means institutions of higher education, parks, community centers,
14 libraries, and transit centers.

15 (b) No liquor license may be issued or reissued by the board to
16 any motor sports facility or licensee operating within the motor
17 sports facility unless the motor sports facility enforces a program
18 reasonably calculated to prevent alcohol or alcoholic beverages not
19 purchased within the facility from entering the facility and such
20 program is approved by local law enforcement agencies.

21 (c) It is the intent under this subsection (9) that a retail
22 license may not be issued by the board where doing so would, in the
23 judgment of the board, adversely affect a private school meeting the
24 requirements for private schools under Title 28A RCW, which school is
25 within five hundred feet of the proposed licensee. The board must
26 fully consider and give substantial weight to objections filed by
27 private schools. If a license is issued despite the proximity of a
28 private school, the board must state in a letter addressed to the
29 private school the board's reasons for issuing the license.

30 (10) The restrictions set forth in subsection (9) of this section
31 do not prohibit the board from authorizing the assumption of existing
32 licenses now located within the restricted area by other persons or
33 licenses or relocations of existing licensed premises within the
34 restricted area. In no case may the licensed premises be moved closer
35 to a church or school than it was before the assumption or
36 relocation.

37 (11)(a) Nothing in this section prohibits the board, in its
38 discretion, from issuing a temporary retail or distributor license to
39 an applicant to operate the retail or distributor premises during the

1 period the application for the license is pending. The board may
2 establish a fee for a temporary license by rule.

3 (b) A temporary license issued by the board under this section
4 must be for a period not to exceed sixty days. A temporary license
5 may be extended at the discretion of the board for additional periods
6 of sixty days upon payment of an additional fee and upon compliance
7 with all conditions required in this section.

8 (c) Refusal by the board to issue or extend a temporary license
9 shall not entitle the applicant to request a hearing. A temporary
10 license may be canceled or suspended summarily at any time if the
11 board determines that good cause for cancellation or suspension
12 exists. RCW 66.08.130 applies to temporary licenses.

13 (d) Application for a temporary license must be on such form as
14 the board shall prescribe. If an application for a temporary license
15 is withdrawn before issuance or is refused by the board, the fee
16 which accompanied such application must be refunded in full.

17 (12) In determining whether to grant or deny a license or renewal
18 of any license, the board must give substantial weight to objections
19 from an incorporated city or town or county legislative authority
20 based upon chronic illegal activity associated with the applicant's
21 operations of the premises proposed to be licensed or the applicant's
22 operation of any other licensed premises, or the conduct of the
23 applicant's patrons inside or outside the licensed premises. "Chronic
24 illegal activity" means (a) a pervasive pattern of activity that
25 threatens the public health, safety, and welfare of the city, town,
26 or county including, but not limited to, open container violations,
27 assaults, disturbances, disorderly conduct, or other criminal law
28 violations, or as documented in crime statistics, police reports,
29 emergency medical response data, calls for service, field data, or
30 similar records of a law enforcement agency for the city, town,
31 county, or any other municipal corporation or any state agency; or
32 (b) an unreasonably high number of citations for violations of RCW
33 46.61.502 associated with the applicant's or licensee's operation of
34 any licensed premises as indicated by the reported statements given
35 to law enforcement upon arrest.

36 **Sec. 36.** RCW 69.50.331 and 2013 c 3 s 6 are each amended to read
37 as follows:

38 (1) For the purpose of considering any application for a license
39 to produce, process, or sell marijuana, or for the renewal of a

1 license to produce, process, or sell marijuana, the state liquor
2 control board may cause an inspection of the premises to be made, and
3 may inquire into all matters in connection with the construction and
4 operation of the premises. For the purpose of reviewing any
5 application for a license and for considering the denial, suspension,
6 revocation, or renewal or denial thereof, of any license, the state
7 liquor control board may consider any prior criminal conduct of the
8 applicant including an administrative violation history record with
9 the state liquor control board and a criminal history record
10 information check. The state liquor control board may submit the
11 criminal history record information check to the Washington state
12 patrol and to the identification division of the federal bureau of
13 investigation in order that these agencies may search their records
14 for prior arrests and convictions of the individual or individuals
15 who filled out the forms. The state liquor control board shall
16 require fingerprinting of any applicant whose criminal history record
17 information check is submitted to the federal bureau of
18 investigation. The provisions of RCW 9.95.240 and of chapter 9.96A
19 RCW shall not apply to these cases. Subject to the provisions of this
20 section, the state liquor control board may, in its discretion, grant
21 or deny the renewal or license applied for. Denial may be based on,
22 without limitation, the existence of chronic illegal activity
23 documented in objections submitted pursuant to subsections (7)(c) and
24 (9) of this section. Authority to approve an uncontested or unopposed
25 license may be granted by the state liquor control board to any staff
26 member the board designates in writing. Conditions for granting this
27 authority shall be adopted by rule. No license of any kind may be
28 issued to:

29 (a) A person under the age of twenty-one years;

30 (b) A person doing business as a sole proprietor who has not
31 lawfully resided in the state for at least three months prior to
32 applying to receive a license;

33 (c) A partnership, employee cooperative, association, nonprofit
34 corporation, or corporation unless formed under the laws of this
35 state, and unless all of the members thereof are qualified to obtain
36 a license as provided in this section; or

37 (d) A person whose place of business is conducted by a manager or
38 agent, unless the manager or agent possesses the same qualifications
39 required of the licensee.

1 (2)(a) The state liquor control board may, in its discretion,
2 subject to the provisions of RCW 69.50.334, suspend or cancel any
3 license; and all protections of the licensee from criminal or civil
4 sanctions under state law for producing, processing, or selling
5 marijuana, useable marijuana, or marijuana-infused products
6 thereunder shall be suspended or terminated, as the case may be.

7 (b) The state liquor control board shall immediately suspend the
8 license of a person who has been certified pursuant to RCW 74.20A.320
9 by the department of social and health services as a person who is
10 not in compliance with a support order. If the person has continued
11 to meet all other requirements for reinstatement during the
12 suspension, reissuance of the license shall be automatic upon the
13 state liquor control board's receipt of a release issued by the
14 department of social and health services stating that the licensee is
15 in compliance with the order.

16 (c) The state liquor control board may request the appointment of
17 administrative law judges under chapter 34.12 RCW who shall have
18 power to administer oaths, issue subpoenas for the attendance of
19 witnesses and the production of papers, books, accounts, documents,
20 and testimony, examine witnesses, and to receive testimony in any
21 inquiry, investigation, hearing, or proceeding in any part of the
22 state, under rules and regulations the state liquor control board may
23 adopt.

24 (d) Witnesses shall be allowed fees and mileage each way to and
25 from any inquiry, investigation, hearing, or proceeding at the rate
26 authorized by RCW 34.05.446. Fees need not be paid in advance of
27 appearance of witnesses to testify or to produce books, records, or
28 other legal evidence.

29 (e) In case of disobedience of any person to comply with the
30 order of the state liquor control board or a subpoena issued by the
31 state liquor control board, or any of its members, or administrative
32 law judges, or on the refusal of a witness to testify to any matter
33 regarding which he or she may be lawfully interrogated, the judge of
34 the superior court of the county in which the person resides, on
35 application of any member of the board or administrative law judge,
36 shall compel obedience by contempt proceedings, as in the case of
37 disobedience of the requirements of a subpoena issued from said court
38 or a refusal to testify therein.

39 (3) Upon receipt of notice of the suspension or cancellation of a
40 license, the licensee shall forthwith deliver up the license to the

1 state liquor control board. Where the license has been suspended
2 only, the state liquor control board shall return the license to the
3 licensee at the expiration or termination of the period of
4 suspension. The state liquor control board shall notify all other
5 licensees in the county where the subject licensee has its premises
6 of the suspension or cancellation of the license; and no other
7 licensee or employee of another licensee may allow or cause any
8 marijuana, useable marijuana, or marijuana-infused products to be
9 delivered to or for any person at the premises of the subject
10 licensee.

11 (4) Every license issued under chapter 3, Laws of 2013 shall be
12 subject to all conditions and restrictions imposed by chapter 3, Laws
13 of 2013 or by rules adopted by the state liquor control board to
14 implement and enforce chapter 3, Laws of 2013. All conditions and
15 restrictions imposed by the state liquor control board in the
16 issuance of an individual license shall be listed on the face of the
17 individual license along with the trade name, address, and expiration
18 date.

19 (5) Every licensee shall post and keep posted its license, or
20 licenses, in a conspicuous place on the premises.

21 (6) No licensee shall employ any person under the age of twenty-
22 one years.

23 (7)(a) Before the state liquor control board issues a new or
24 renewed license to an applicant it shall give notice of the
25 application to the chief executive officer of the incorporated city
26 or town, if the application is for a license within an incorporated
27 city or town, or to the county legislative authority, if the
28 application is for a license outside the boundaries of incorporated
29 cities or towns.

30 (b) The incorporated city or town through the official or
31 employee selected by it, or the county legislative authority or the
32 official or employee selected by it, shall have the right to file
33 with the state liquor control board within twenty days after the date
34 of transmittal of the notice for applications, or at least thirty
35 days prior to the expiration date for renewals, written objections
36 against the applicant or against the premises for which the new or
37 renewed license is asked. The state liquor control board may extend
38 the time period for submitting written objections.

39 (c) The written objections shall include a statement of all facts
40 upon which the objections are based, and in case written objections

1 are filed, the city or town or county legislative authority may
2 request, and the state liquor control board may in its discretion
3 hold, a hearing subject to the applicable provisions of Title 34 RCW.
4 If the state liquor control board makes an initial decision to deny a
5 license or renewal based on the written objections of an incorporated
6 city or town or county legislative authority, the applicant may
7 request a hearing (~~subject to the applicable provisions of Title 34~~
8 RCW) before an administrative law judge assigned under chapter 34.12
9 RCW with authority to render a final decision. If a hearing is held
10 at the request of the applicant, state liquor control board
11 representatives shall present and defend the state liquor control
12 board's initial decision to deny a license or renewal.

13 (d) Upon the granting of a license under this title the state
14 liquor control board shall send written notification to the chief
15 executive officer of the incorporated city or town in which the
16 license is granted, or to the county legislative authority if the
17 license is granted outside the boundaries of incorporated cities or
18 towns.

19 (8) The state liquor control board shall not issue a license for
20 any premises within one thousand feet of the perimeter of the grounds
21 of any elementary or secondary school, playground, recreation center
22 or facility, child care center, public park, public transit center,
23 or library, or any game arcade admission to which is not restricted
24 to persons aged twenty-one years or older.

25 (9) In determining whether to grant or deny a license or renewal
26 of any license, the state liquor control board shall give substantial
27 weight to objections from an incorporated city or town or county
28 legislative authority based upon chronic illegal activity associated
29 with the applicant's operations of the premises proposed to be
30 licensed or the applicant's operation of any other licensed premises,
31 or the conduct of the applicant's patrons inside or outside the
32 licensed premises. "Chronic illegal activity" means (a) a pervasive
33 pattern of activity that threatens the public health, safety, and
34 welfare of the city, town, or county including, but not limited to,
35 open container violations, assaults, disturbances, disorderly
36 conduct, or other criminal law violations, or as documented in crime
37 statistics, police reports, emergency medical response data, calls
38 for service, field data, or similar records of a law enforcement
39 agency for the city, town, county, or any other municipal corporation
40 or any state agency; or (b) an unreasonably high number of citations

1 for violations of RCW 46.61.502 associated with the applicant's or
2 licensee's operation of any licensed premises as indicated by the
3 reported statements given to law enforcement upon arrest.

4 **Sec. 37.** RCW 74.09.741 and 2011 1st sp.s. c 15 s 53 are each
5 amended to read as follows:

6 (1) The following persons have the right to an adjudicative
7 proceeding:

8 (a) Any applicant or recipient who is aggrieved by a decision of
9 the authority or an authorized agency of the authority; or

10 (b) A current or former recipient who is aggrieved by the
11 authority's claim that he or she owes a debt for overpayment of
12 assistance.

13 (2) For purposes of this section:

14 (a) "Applicant" means any person who has made a request, or on
15 behalf of whom a request has been made to the authority for any
16 medical services program established under chapter 74.09 RCW.

17 (b) "Recipient" means a person who is receiving benefits from the
18 authority for any medical services program established in this
19 chapter.

20 (3) An applicant or recipient has no right to an adjudicative
21 proceeding when the sole basis for the authority's decision is a
22 federal or state law requiring an assistance adjustment for a class
23 of applicants or recipients.

24 (4) An applicant or recipient may file an application for an
25 adjudicative proceeding with either the authority or the department
26 and must do so within ninety calendar days after receiving notice of
27 the aggrieving decision. The authority shall determine which agency
28 is responsible for representing the state of Washington in the
29 hearing, in accordance with agreements entered pursuant to RCW
30 41.05.021.

31 (5)(a) The adjudicative proceeding is governed by the
32 administrative procedure act, chapter 34.05 RCW, and this subsection.
33 The following requirements shall apply to adjudicative proceedings in
34 which an appellant seeks review of decisions made by more than one
35 agency. When an appellant files a single application for an
36 adjudicative proceeding seeking review of decisions by more than one
37 agency, this review shall be conducted initially in one adjudicative
38 proceeding. The presiding officer may sever the proceeding into
39 multiple proceedings on the motion of any of the parties, when:

1 (i) All parties consent to the severance; or
2 (ii) Either party requests severance without another party's
3 consent, and the presiding officer finds there is good cause for
4 severing the matter and that the proposed severance is not likely to
5 prejudice the rights of an appellant who is a party to any of the
6 severed proceedings.

7 (b) If there are multiple adjudicative proceedings involving
8 common issues or parties where there is one appellant and both the
9 authority and the department are parties, upon motion of any party or
10 upon his or her own motion, the presiding officer may consolidate the
11 proceedings if he or she finds that the consolidation is not likely
12 to prejudice the rights of the appellant who is a party to any of the
13 consolidated proceedings.

14 (c) The adjudicative proceeding shall be conducted by an
15 administrative law judge, serving as the presiding officer, assigned
16 under chapter 34.12 RCW with authority to render a final decision, at
17 the local community services office or other location in Washington
18 convenient to the applicant or recipient and, upon agreement by the
19 applicant or recipient, may be conducted telephonically.

20 (d) The applicant or recipient, or his or her representative, has
21 the right to inspect his or her file from the authority and, upon
22 request, to receive copies of authority documents relevant to the
23 proceedings free of charge.

24 (e) The applicant or recipient has the right to a copy of the
25 audio recording of the adjudicative proceeding free of charge.

26 (f) If a final adjudicative order is issued in favor of an
27 applicant, medical services benefits must be provided from the date
28 of earliest eligibility, the date of denial of the application for
29 assistance, or forty-five days following the date of application,
30 whichever is soonest. If a final adjudicative order is issued in
31 favor of a recipient, medical services benefits must be provided from
32 the effective date of the authority's decision.

33 (g) The authority is limited to recovering an overpayment arising
34 from assistance being continued pending the adjudicative proceeding
35 to the amount recoverable up to the sixtieth day after the director's
36 receipt of the application for an adjudicative proceeding.

37 (6) If the director requires that a party seek administrative
38 review of an initial order to an adjudicative proceeding governed by
39 this section, in order for the party to exhaust administrative

1 remedies pursuant to RCW 34.05.534, the director shall adopt and
2 implement rules in accordance with this subsection.

3 (a) The director, in consultation with the secretary, shall adopt
4 rules to create a process for parties to seek administrative review
5 of initial orders issued pursuant to RCW 34.05.461 in adjudicative
6 proceedings governed by this subsection when multiple agencies are
7 parties.

8 (b) This process shall seek to minimize any procedural
9 complexities imposed on appellants that result from multiple agencies
10 being parties to the matter, without prejudicing the rights of
11 parties who are public assistance applicants or recipients.

12 (c) Nothing in this subsection shall impose or modify any legal
13 requirement that a party seek administrative review of initial orders
14 in order to exhaust administrative remedies pursuant to RCW
15 34.05.534.

16 (7) This subsection only applies to an adjudicative proceeding in
17 which the appellant is an applicant for or recipient of medical
18 services programs established under this chapter and the issue is his
19 or her eligibility or ineligibility due to the assignment or transfer
20 of a resource. The burden is on the authority or its authorized
21 agency to prove by a preponderance of the evidence that the person
22 knowingly and willingly assigned or transferred the resource at less
23 than market value for the purpose of qualifying or continuing to
24 qualify for medical services programs established under this chapter.
25 If the prevailing party in the adjudicative proceeding is the
26 applicant or recipient, he or she is entitled to reasonable
27 attorneys' fees.

28 (8) When an applicant or recipient files a petition for judicial
29 review as provided in RCW 34.05.514 of an adjudicative order entered
30 with respect to the medical services program, no filing fee may be
31 collected from the person and no bond may be required on any appeal.
32 In the event that the superior court, the court of appeals, or the
33 supreme court renders a decision in favor of the applicant or
34 recipient, the person is entitled to reasonable attorneys' fees and
35 costs. If a decision of the court is made in favor of an applicant,
36 assistance shall be paid from the date of earliest eligibility, the
37 date of the denial of the application for assistance, or forty-five
38 days following the date of application, whichever is soonest. If a
39 decision of the court is made in favor of a recipient, assistance
40 shall be paid from the effective date of the authority's decision.

1 (9) The provisions of RCW 74.08.080 do not apply to adjudicative
2 proceedings requested or conducted with respect to the medical
3 services program pursuant to this section.

4 (10) The authority shall adopt any rules it deems necessary to
5 implement this section.

6 **Sec. 38.** RCW 82.24.550 and 2009 c 154 s 2 are each amended to
7 read as follows:

8 (1) The board shall enforce the provisions of this chapter. The
9 board may adopt, amend, and repeal rules necessary to enforce and
10 administer the provisions of this chapter.

11 (2) The department may adopt, amend, and repeal rules necessary
12 to administer the provisions of this chapter. The board may revoke or
13 suspend the license or permit of any wholesale or retail cigarette
14 dealer in the state upon sufficient cause appearing of the violation
15 of this chapter or upon the failure of such licensee to comply with
16 any of the provisions of this chapter.

17 (3) A license shall not be suspended or revoked except upon
18 notice to the licensee and after a hearing as prescribed by the
19 board. The board, upon finding that the licensee has failed to comply
20 with any provision of this chapter or any rule adopted under this
21 chapter, shall, in the case of the first offense, suspend the license
22 or licenses of the licensee for a period of not less than thirty
23 consecutive business days, and, in the case of a second or further
24 offense, shall suspend the license or licenses for a period of not
25 less than ninety consecutive business days nor more than twelve
26 months, and, in the event the board finds the licensee has been
27 guilty of willful and persistent violations, it may revoke the
28 license or licenses.

29 (4) Any licenses issued under chapter 82.26 RCW to a person whose
30 license or licenses have been suspended or revoked under this section
31 shall also be suspended or revoked during the period of suspension or
32 revocation under this section.

33 (5) Any person whose license or licenses have been revoked under
34 this section may reapply to the board at the expiration of one year
35 from the date of revocation of the license or licenses. The license
36 or licenses may be approved by the board if it appears to the
37 satisfaction of the board that the licensee will comply with the
38 provisions of this chapter and the rules adopted under this chapter.

1 (6) A person whose license has been suspended or revoked shall
2 not sell cigarettes or tobacco products or permit cigarettes or
3 tobacco products to be sold during the period of such suspension or
4 revocation on the premises occupied by the person or upon other
5 premises controlled by the person or others or in any other manner or
6 form whatever.

7 (7) Any determination and order by the board, and any order of
8 suspension or revocation by the board of the license or licenses
9 issued under this chapter, or refusal to reinstate a license or
10 licenses after revocation shall be reviewable by an appeal to the
11 superior court of Thurston county. The superior court shall review
12 the order or ruling of the board and may hear the matter de novo,
13 having due regard to the provisions of this chapter and the duties
14 imposed upon the board.

15 (8) If the board makes an initial decision to deny a license or
16 renewal, or suspend or revoke a license, the applicant may request a
17 hearing (~~subject to the applicable provisions under Title 34 RCW~~)
18 before an administrative law judge assigned under chapter 34.12 RCW
19 with authority to render a final decision.

20 (9) For purposes of this section, "tobacco products" has the same
21 meaning as in RCW 82.26.010.

22 **Sec. 39.** RCW 82.26.220 and 2009 c 154 s 8 are each amended to
23 read as follows:

24 (1) The board shall enforce this chapter. The board may adopt,
25 amend, and repeal rules necessary to enforce and administer this
26 chapter.

27 (2) The department may adopt, amend, and repeal rules necessary
28 to administer this chapter. The board may revoke or suspend the
29 distributor's or retailer's license of any distributor or retailer of
30 tobacco products in the state upon sufficient cause showing a
31 violation of this chapter or upon the failure of the licensee to
32 comply with any of the rules adopted under it.

33 (3) A license shall not be suspended or revoked except upon
34 notice to the licensee and after a hearing as prescribed by the
35 board. The board, upon finding that the licensee has failed to comply
36 with any provision of this chapter or of any rule adopted under it,
37 shall, in the case of the first offense, suspend the license or
38 licenses of the licensee for a period of not less than thirty
39 consecutive business days, and in the case of a second or further

1 offense, suspend the license or licenses for a period of not less
2 than ninety consecutive business days but not more than twelve
3 months, and in the event the board finds the licensee has been guilty
4 of willful and persistent violations, it may revoke the license or
5 licenses.

6 (4) Any licenses issued under chapter 82.24 RCW to a person whose
7 license or licenses have been suspended or revoked under this section
8 shall also be suspended or revoked during the period of suspension or
9 revocation under this section.

10 (5) Any person whose license or licenses have been revoked under
11 this section may reapply to the board at the expiration of one year
12 of the license or licenses. The license or licenses may be approved
13 by the board if it appears to the satisfaction of the board that the
14 licensee will comply with the provisions of this chapter and the
15 rules adopted under it.

16 (6) A person whose license has been suspended or revoked shall
17 not sell tobacco products or cigarettes or permit tobacco products or
18 cigarettes to be sold during the period of suspension or revocation
19 on the premises occupied by the person or upon other premises
20 controlled by the person or others or in any other manner or form.

21 (7) Any determination and order by the board, and any order of
22 suspension or revocation by the board of the license or licenses
23 issued under this chapter, or refusal to reinstate a license or
24 licenses after revocation is reviewable by an appeal to the superior
25 court of Thurston county. The superior court shall review the order
26 or ruling of the board and may hear the matter de novo, having due
27 regard to the provisions of this chapter and the duties imposed upon
28 the board.

29 (8) If the board makes an initial decision to deny a license or
30 renewal, or suspend or revoke a license, the applicant may request a
31 hearing (~~subject to the applicable provisions under Title 34 RCW~~)
32 before an administrative law judge under chapter 34.12 RCW with
33 authority to render a final decision.

34 **Sec. 40.** RCW 88.16.090 and 2009 c 470 s 708 are each amended to
35 read as follows:

36 (1) A person may pilot any vessel subject to this chapter on
37 waters covered by this chapter only if licensed to pilot such vessels
38 on such waters under this chapter.

1 (2)(a) A person is eligible to be licensed as a pilot or a pilot
2 trainee if the person:

3 (i) Is a citizen of the United States;

4 (ii) Is over the age of twenty-five years and under the age of
5 seventy years;

6 (iii)(A) Holds at the time of application, as a minimum, a United
7 States government license as master of steam or motor vessels of not
8 more than one thousand six hundred gross register tons (three
9 thousand international tonnage convention tons) upon oceans, near
10 coastal waters, or inland waters; or the then most equivalent federal
11 license as determined by the board; any such license to have been
12 held by the applicant for a period of at least two years before
13 application;

14 (B) Holds at the time of licensure as a pilot, after successful
15 completion of the board-required training program, a first class
16 United States endorsement without restrictions on the United States
17 government license for the pilotage district in which the pilot
18 applicant desires to be licensed; however, all applicants for a pilot
19 examination scheduled to be given before July 1, 2008, must have the
20 United States pilotage endorsement at the time of application; and

21 (C) The board may require that applicants and pilots have federal
22 licenses and endorsements as it deems appropriate; and

23 (iv) Successfully completes a board-specified training program.

24 (b) In addition to the requirements of (a) of this subsection, a
25 pilot applicant must meet such other qualifications as may be
26 required by the board.

27 (c) A person applying for a license under this section shall not
28 have been convicted of an offense involving drugs or the personal
29 consumption of alcohol in the twelve months prior to the date of
30 application. This restriction does not apply to license renewals
31 under this section.

32 (3) The board may establish such other training license and pilot
33 license requirements as it deems appropriate.

34 (4) Pilot applicants shall be evaluated and may be ranked for
35 entry into a board-specified training program in a manner specified
36 by the board based on their performance on a written examination or
37 examinations established by the board, performance on other
38 evaluation exercises as may be required by the board, and other
39 criteria or qualifications as may be set by the board.

1 When the board determines that the demand for pilots requires
2 entry of an applicant into the training program it shall issue a
3 training license to that applicant, but under no circumstances may an
4 applicant be issued a training license more than four years after
5 taking the written entry examination. The training license authorizes
6 the trainee to do such actions as are specified in the training
7 program.

8 After the completion of the training program the board shall
9 evaluate the trainee's performance and knowledge. The board, as it
10 deems appropriate, may then issue a pilot license, delay the issuance
11 of the pilot license, deny the issuance of the pilot license, or
12 require further training and evaluation.

13 (5) The board may (a) appoint a special independent committee or
14 (b) contract with private or governmental entities knowledgeable and
15 experienced in the development, administration, and grading of
16 licensing examinations or simulator evaluations for marine pilots, or
17 (c) do both. Active, licensed pilots designated by the board may
18 participate in the development, administration, and grading of
19 examinations and other evaluation exercises. If the board does
20 appoint a special examination or evaluation development committee, it
21 is authorized to pay the members of the committee the same
22 compensation and travel expenses as received by members of the board.
23 Any person who willfully gives advance knowledge of information
24 contained on a pilot examination or other evaluation exercise is
25 guilty of a gross misdemeanor.

26 (6) This subsection applies to the review of a pilot applicant's
27 written examinations and evaluation exercises to qualify to be placed
28 on a waiting list to become a pilot trainee. Failure to comply with
29 the process set forth in this subsection renders the results of the
30 pilot applicant's written examinations and evaluation exercises
31 final. A pilot applicant may seek board review, administrative
32 review, and judicial review of the results of the written
33 examinations and evaluation exercises in the following manner:

34 (a) A pilot applicant who seeks a review of the results of his or
35 her written examinations or evaluation exercises must request from
36 the board-appointed or board-designated examination committee an
37 administrative review of the results of his or her written
38 examinations or evaluation exercises as set forth by board rule.

39 (b) The determination of the examination committee's review of a
40 pilot applicant's examination results becomes final after thirty days

1 from the date of service of written notification of the committee's
2 determination unless a full adjudicative hearing before an
3 administrative law judge has been requested by the pilot applicant
4 before the thirty-day period has expired, as set forth by board rule.

5 (c) When a full adjudicative hearing has been requested by the
6 pilot applicant, the board shall request the appointment of an
7 administrative law judge under chapter 34.12 RCW who has sufficient
8 experience and familiarity with pilotage matters to be able to
9 conduct a fair and impartial hearing. The hearing shall be governed
10 by chapter 34.05 RCW. The administrative law judge shall issue (~~an~~
11 ~~initial order~~) a final decision or order subject to judicial review
12 under chapter 34.05 RCW.

13 (~~(d) The initial order of the administrative law judge is final~~
14 ~~unless within thirty days of the date of service of the initial order~~
15 ~~the board or pilot applicant requests review of the initial order~~
16 ~~under chapter 34.05 RCW.~~

17 (~~(e) The board may appoint a person to review the initial order~~
18 ~~and to prepare and enter a final order as governed by chapter 34.05~~
19 ~~RCW and as set forth by board rule. The person appointed by the board~~
20 ~~under this subsection (6)(e) is called the board reviewing officer.~~)

21 (7) Pilots are licensed under this section for a term of five
22 years from and after the date of the issuance of their respective
23 state licenses. Licenses must thereafter be renewed as a matter of
24 course, unless the board withholds the license for good cause. Each
25 pilot shall pay to the state treasurer an annual license fee in an
26 amount set by the board by rule. Pursuant to RCW 43.135.055, the fees
27 established under this subsection may be increased through the fiscal
28 year ending June 30, 2011. The fees must be deposited in the pilotage
29 account. The board may assess partially active or inactive pilots a
30 reduced fee.

31 (8) All pilots and pilot trainees are subject to an annual
32 physical examination by a physician chosen by the board. The
33 physician shall examine the pilot's or pilot trainee's heart, blood
34 pressure, circulatory system, lungs and respiratory system, eyesight,
35 hearing, and such other items as may be prescribed by the board.
36 After consultation with a physician and the United States coast
37 guard, the board shall establish minimum health standards to ensure
38 that pilots and pilot trainees licensed by the state are able to
39 perform their duties. Within ninety days of the date of each annual
40 physical examination, and after review of the physician's report, the

1 board shall make a determination of whether the pilot or pilot
2 trainee is fully able to carry out the duties of a pilot or pilot
3 trainee under this chapter. The board may in its discretion check
4 with the appropriate authority for any convictions of or information
5 regarding offenses by a licensed pilot or pilot trainee involving
6 drugs or the personal consumption of alcohol in the prior twelve
7 months.

8 (9) The board may require vessel simulator training for a pilot
9 trainee and shall require vessel simulator training for a licensed
10 pilot subject to RCW 88.16.105. The board shall also require vessel
11 simulator training in the first year of active duty for a new pilot
12 and at least once every five years for all active pilots.

13 (10) The board shall prescribe, pursuant to chapter 34.05 RCW,
14 such reporting requirements and review procedures as may be necessary
15 to assure the accuracy and validity of license and service claims.
16 Willful misrepresentation of such required information by a pilot
17 applicant shall result in disqualification of the pilot applicant.

18 NEW SECTION. **Sec. 41.** The following acts or parts of acts are
19 each repealed:

20 (1) RCW 46.20.332 (Formal hearing—Evidence—Subpoenas—
21 Reexamination—Findings and recommendations) and 2010 c 8 s 9023, 1972
22 ex.s. c 29 s 2, & 1965 ex.s. c 121 s 37; and

23 (2) RCW 46.20.333 (Decision after formal hearing) and 2010 c 8 s
24 9024, 1972 ex.s. c 29 s 3, & 1965 ex.s. c 121 s 38.

25 NEW SECTION. **Sec. 42.** This act takes effect July 1, 2016.

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