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HOUSE BILL 2368

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Goodman, Rodne, Sawyer, Haler, and Appleton; by request of Statute Law Committee

Prefiled 01/03/18. Read first time 01/08/18. Referred to Committee on Judiciary.

1 AN ACT Relating to making technical corrections and removing  
2 obsolete language from the Revised Code of Washington pursuant to RCW  
3 1.08.025; amending RCW 1.20.051, 6.23.120, 6.27.060, 9A.56.130,  
4 11.02.005, 13.40.193, 15.24.100, 26.50.070, 43.43.823, 46.55.080, and  
5 90.56.335; reenacting RCW 43.21B.005 and 51.32.095; creating a new  
6 section; repealing RCW 82.04.4483; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** RCW 1.08.025 directs the code reviser,  
9 with the approval of the statute law committee, to prepare  
10 legislation for submission to the legislature "concerning  
11 deficiencies, conflicts, or obsolete provisions" in statutes. This  
12 act makes technical, nonsubstantive amendments as follows:

13 (1) Section 2 of this act amends RCW 1.20.051 to conform the  
14 start and end dates of daylight saving time to the dates in federal  
15 law, 15 U.S.C. Sec. 260a.

16 (2) Section 3 of this act is intended to correct an apparent  
17 error in RCW 6.23.120. The legislature apparently intended to refer  
18 to one hundred twenty percent of the redemption amount, rather than  
19 one hundred twenty percent greater than the redemption amount.  
20 *P.H.T.S., LLC v. Vantage Capital, LLC*, 186 Wn. App. 281, 289 n.8, 345  
21 P.3d 20, 24 (2015).

1 (3) Section 4 of this act is intended to correct an apparent  
2 error in RCW 6.27.060. The section contains a cross-reference to the  
3 fee schedule in RCW 36.18.020, when the actual fee is found in RCW  
4 36.18.016(6).

5 (4) Section 5 of this act amends RCW 9A.56.130 to reflect  
6 multiple changes in subsection numbering of a cross-referenced  
7 section.

8 (5) Section 6 of this act is intended to correct an apparent  
9 error in RCW 11.02.005(10). One sentence in the subsection is  
10 repeated in nearly identical form in the same subsection.

11 (6) Section 7 of this act amends RCW 13.40.193 to reflect a  
12 change in subsection numbering of a cross-referenced section.

13 (7) Section 8 of this act is intended to correct an apparent  
14 error in RCW 15.24.100. Section 8, chapter 15, Laws of 2016 sp. sess.  
15 removed the language authorizing an assessment in RCW 15.24.100. The  
16 assessment referred to appears to be the assessment authorized in RCW  
17 15.24.090.

18 (8) Section 9 of this act clarifies language in RCW 26.50.070(4)  
19 by consistently using the term "ex parte temporary order" throughout  
20 the subsection.

21 (9) Section 10 of this act merges a double amendment created when  
22 section 39, chapter 7, Laws of 2010 1st sp. sess. amended RCW  
23 43.21B.005 without reference to the amendments made by section 4,  
24 chapter 210, Laws of 2010.

25 (10) Section 11 of this act is intended to correct an apparent  
26 error in RCW 43.43.823(5). RCW 9.41.114 provides a five-day deadline  
27 for firearms dealers to report certain information, but the  
28 informational form in RCW 43.43.823(5) states that the deadline is  
29 two days.

30 (11) Section 12 of this act amends RCW 46.55.080 to reflect a  
31 change in subsection numbering of a cross-referenced section.

32 (12) Section 13 of this act is intended to remove doubt as to the  
33 validity of portions of RCW 51.32.095. Section 3, chapter 137, Laws  
34 of 2015 repealed the expiration date of 2013 and 2011 amendments to  
35 RCW 51.32.095, but allowed 2007 amendments to the section to expire  
36 on June 30, 2016.

37 (13) Section 14 of this act repeals RCW 82.04.4483, which was  
38 previously repealed by section 504, chapter 323, Laws of 2017 without  
39 cognizance of technical amendments made by section 19, chapter 135,  
40 Laws of 2017.

1 (14) Section 15 of this act is intended to clarify the expiration  
2 date of RCW 90.56.335. Section 950, chapter 36, Laws of 2016 sp.  
3 sess. (the supplemental omnibus appropriations act) amended RCW  
4 90.56.335 without cognizance of the section's expiration date.

5 **Sec. 2.** RCW 1.20.051 and 1963 c 14 s 1 are each amended to read  
6 as follows:

7 At two o'clock antemeridian Pacific Standard Time of the (~~last~~)  
8 second Sunday in (~~April~~) March each year the time of the state of  
9 Washington shall be advanced one hour, and at two o'clock  
10 antemeridian Pacific Standard Time of the (~~last~~) first Sunday in  
11 (~~October~~) November in each year the time of the state of Washington  
12 shall, by the retarding of one hour, be returned to Pacific Standard  
13 Time.

14 **Sec. 3.** RCW 6.23.120 and 1987 c 442 s 712 are each amended to  
15 read as follows:

16 (1) Except as provided in subsection (4) of this section, during  
17 the period of redemption for any property that a person would be  
18 entitled to claim as a homestead, any licensed real estate broker  
19 within the county in which the property is located may nonexclusively  
20 list the property for sale whether or not there is a listing  
21 contract. If the property is not redeemed by the judgment debtor and  
22 a sheriff's deed is issued under RCW 6.21.120, then the property  
23 owner shall accept the highest current qualifying offer upon tender  
24 of full cash payment within two banking days after notice of the  
25 pending acceptance is received by the offeror. If timely tender is  
26 not made, such offer shall no longer be deemed to be current and the  
27 opportunity shall pass to the next highest current qualifying offer,  
28 if any. Notice of pending acceptance shall be given for the first  
29 highest current qualifying offer within five days after delivery of  
30 the sheriff's deed under RCW 6.21.120 and for each subsequent highest  
31 current qualifying offer within five days after the offer becoming  
32 the highest current qualifying offer. An offer is qualifying if the  
33 offer is made during the redemption period through a licensed real  
34 estate broker listing the property and is at least equal to the sum  
35 of: (a) One hundred twenty percent (~~greater than~~) of the redemption  
36 amount determined under RCW 6.23.020 and (b) the normal commission of  
37 the real estate broker or agent handling the offer.

1 (2) The proceeds shall be divided at the time of closing with:  
2 (a) One hundred twenty percent of the redemption amount determined  
3 under RCW 6.23.020 paid to the property owner, (b) the real estate  
4 broker's or agent's normal commission paid, and (c) any excess paid  
5 to the judgment debtor.

6 (3) Notice, tender, payment, and closing shall be made through  
7 the real estate broker or agent handling the offer.

8 (4) This section shall not apply to mortgage or deed of trust  
9 foreclosures under chapter 61.12 or 61.24 RCW.

10 **Sec. 4.** RCW 6.27.060 and 2003 c 222 s 17 are each amended to  
11 read as follows:

12 The judgment creditor as the plaintiff or someone in the judgment  
13 creditor's behalf shall apply for a writ of garnishment by affidavit,  
14 stating the following facts: (1) The plaintiff has a judgment wholly  
15 or partially unsatisfied in the court from which the writ is sought;  
16 (2) the amount alleged to be due under that judgment; (3) the  
17 plaintiff has reason to believe, and does believe that the garnishee,  
18 stating the garnishee's name and residence or place of business, is  
19 indebted to the defendant in amounts exceeding those exempted from  
20 garnishment by any state or federal law, or that the garnishee has  
21 possession or control of personal property or effects belonging to  
22 the defendant which are not exempted from garnishment by any state or  
23 federal law; and (4) whether or not the garnishee is the employer of  
24 the judgment debtor.

25 The judgment creditor shall pay to the clerk of the superior  
26 court the fee provided by RCW (~~(36.18.020)~~) 36.18.016(6), or to the  
27 clerk of the district court the fee provided by RCW 3.62.060.

28 **Sec. 5.** RCW 9A.56.130 and 2002 c 47 s 2 are each amended to read  
29 as follows:

30 (1) A person is guilty of extortion in the second degree if he or  
31 she commits extortion by means of a wrongful threat as defined in RCW  
32 9A.04.110(~~((+25+))~~)(28) (d) through (j).

33 (2) In any prosecution under this section based on a threat to  
34 accuse any person of a crime or cause criminal charges to be  
35 instituted against any person, it is a defense that the actor  
36 reasonably believed the threatened criminal charge to be true and  
37 that his or her sole purpose was to compel or induce the person

1 threatened to take reasonable action to make good the wrong which was  
2 the subject of such threatened criminal charge.

3 (3) Extortion in the second degree is a class C felony.

4 **Sec. 6.** RCW 11.02.005 and 2014 c 58 s 18 are each amended to  
5 read as follows:

6 When used in this title, unless otherwise required from the  
7 context:

8 (1) "Administrator" means a personal representative of the estate  
9 of a decedent and the term may be used in lieu of "personal  
10 representative" wherever required by context.

11 (2) "Codicil" means a will that modifies or partially revokes an  
12 existing earlier will. A codicil need not refer to or be attached to  
13 the earlier will.

14 (3) "Degree of kinship" means the degree of kinship as computed  
15 according to the rules of the civil law; that is, by counting upward  
16 from the intestate to the nearest common ancestor and then downward  
17 to the relative, the degree of kinship being the sum of these two  
18 counts.

19 (4) "Executor" means a personal representative of the estate of a  
20 decedent appointed by will and the term may be used in lieu of  
21 "personal representative" wherever required by context.

22 (5) "Guardian" or "limited guardian" means a personal  
23 representative of the person or estate of an incompetent or disabled  
24 person as defined in RCW 11.88.010 and the term may be used in lieu  
25 of "personal representative" wherever required by context.

26 (6) "Heirs" denotes those persons, including the surviving spouse  
27 or surviving domestic partner, who are entitled under the statutes of  
28 intestate succession to the real and personal property of a decedent  
29 on the decedent's death intestate.

30 (7) "Internal revenue code" means the United States internal  
31 revenue code of 1986, as amended or renumbered as of January 1, 2001.

32 (8) "Issue" means all the lineal descendants of an individual. An  
33 adopted individual is a lineal descendant of each of his or her  
34 adoptive parents and of all individuals with regard to which each  
35 adoptive parent is a lineal descendant. A child conceived prior to  
36 the death of a parent but born after the death of the deceased parent  
37 is considered to be the surviving issue of the deceased parent for  
38 purposes of this title.

1 (9) "Net estate" refers to the real and personal property of a  
2 decedent exclusive of homestead rights, exempt property, the family  
3 allowance and enforceable claims against, and debts of, the deceased  
4 or the estate.

5 (10) "Nonprobate asset" means those rights and interests of a  
6 person having beneficial ownership of an asset that pass on the  
7 person's death under a written instrument or arrangement other than  
8 the person's will. "Nonprobate asset" includes, but is not limited  
9 to, a right or interest passing under a joint tenancy with right of  
10 survivorship, joint bank account with right of survivorship, transfer  
11 on death deed, payable on death or trust bank account, transfer on  
12 death security or security account, deed or conveyance if possession  
13 has been postponed until the death of the person, trust of which the  
14 person is grantor and that becomes effective or irrevocable only upon  
15 the person's death, community property agreement, individual  
16 retirement account or bond, or note or other contract the payment or  
17 performance of which is affected by the death of the person.  
18 "Nonprobate asset" does not include: A payable-on-death provision of  
19 a life insurance policy, annuity, or other similar contract, or of an  
20 employee benefit plan; a right or interest passing by descent and  
21 distribution under chapter 11.04 RCW; a right or interest if, before  
22 death, the person has irrevocably transferred the right or interest,  
23 the person has waived the power to transfer it or, in the case of  
24 contractual arrangement, the person has waived the unilateral right  
25 to rescind or modify the arrangement; or a right or interest held by  
26 the person solely in a fiduciary capacity. For the definition of  
27 "nonprobate asset" relating to revocation of a provision for a former  
28 spouse upon dissolution of marriage or declaration of invalidity of  
29 marriage, RCW 11.07.010(5) applies. (~~For the definition of~~  
30 ~~"nonprobate asset" relating to revocation of a provision for a former~~  
31 ~~spouse upon dissolution of marriage or declaration of invalidity of~~  
32 ~~marriage, see RCW 11.07.010(5).~~) For the definition of "nonprobate  
33 asset" relating to testamentary disposition of nonprobate assets, see  
34 RCW 11.11.010(7).

35 (11) "Personal representative" includes executor, administrator,  
36 special administrator, and guardian or limited guardian and special  
37 representative.

38 (12) "Real estate" includes, except as otherwise specifically  
39 provided herein, all lands, tenements, and hereditaments, and all

1 rights thereto, and all interest therein possessed and claimed in fee  
2 simple, or for the life of a third person.

3 (13) "Representation" refers to a method of determining  
4 distribution in which the takers are in unequal degrees of kinship  
5 with respect to a decedent, and is accomplished as follows: After  
6 first determining who, of those entitled to share in the estate, are  
7 in the nearest degree of kinship, the estate is divided into equal  
8 shares, the number of shares being the sum of the number of persons  
9 who survive the decedent who are in the nearest degree of kinship and  
10 the number of persons in the same degree of kinship who died before  
11 the decedent but who left issue surviving the decedent; each share of  
12 a deceased person in the nearest degree must be divided among those  
13 of the deceased person's issue who survive the decedent and have no  
14 ancestor then living who is in the line of relationship between them  
15 and the decedent, those more remote in degree taking together the  
16 share which their ancestor would have taken had he or she survived  
17 the decedent.

18 (14) References to "section 2033A" of the internal revenue code  
19 in wills, trust agreements, powers of appointment, beneficiary  
20 designations, and other instruments governed by or subject to this  
21 title are deemed to refer to the comparable or corresponding  
22 provisions of section 2057 of the internal revenue code, as added by  
23 section 6006(b) of the internal revenue service restructuring act of  
24 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A  
25 "exclusion" are deemed to mean the section 2057 deduction.

26 (15) "Settlor" has the same meaning as provided for "trustor" in  
27 this section.

28 (16) "Special administrator" means a personal representative of  
29 the estate of a decedent appointed for limited purposes and the term  
30 may be used in lieu of "personal representative" wherever required by  
31 context.

32 (17) "Surviving spouse" or "surviving domestic partner" does not  
33 include an individual whose marriage to or state registered domestic  
34 partnership with the decedent has been terminated, dissolved, or  
35 invalidated unless, by virtue of a subsequent marriage or state  
36 registered domestic partnership, he or she is married to or in a  
37 domestic partnership with the decedent at the time of death. A decree  
38 of separation that does not terminate the status of spouses or  
39 domestic partners is not a dissolution or invalidation for purposes  
40 of this subsection.

1 (18) "Trustee" means an original, added, or successor trustee and  
2 includes the state, or any agency thereof, when it is acting as the  
3 trustee of a trust to which chapter 11.98 RCW applies.

4 (19) "Trustor" means a person, including a testator, who creates,  
5 or contributes property to, a trust.

6 (20) "Will" means an instrument validly executed as required by  
7 RCW 11.12.020.

8 Words that import the singular number may also be applied to the  
9 plural of persons and things.

10 Words importing the masculine gender only may be extended to  
11 females also.

12 **Sec. 7.** RCW 13.40.193 and 2014 c 117 s 1 are each amended to  
13 read as follows:

14 (1) If a respondent is found to have been in possession of a  
15 firearm in violation of RCW 9.41.040(2)(a)(~~(iii)~~)(iv), the court  
16 shall impose a minimum disposition of ten days of confinement. If the  
17 offender's standard range of disposition for the offense as indicated  
18 in RCW 13.40.0357 is more than thirty days of confinement, the court  
19 shall commit the offender to the department for the standard range  
20 disposition. The offender shall not be released until the offender  
21 has served a minimum of ten days in confinement.

22 (2)(a) If a respondent is found to have been in possession of a  
23 firearm in violation of RCW 9.41.040, the disposition must include a  
24 requirement that the respondent participate in a qualifying program  
25 as described in (b) of this subsection, when available, unless the  
26 court makes a written finding based on the outcome of the juvenile  
27 court risk assessment that participation in a qualifying program  
28 would not be appropriate.

29 (b) For purposes of this section, "qualifying program" means an  
30 aggression replacement training program, a functional family therapy  
31 program, or another program applicable to the juvenile firearm  
32 offender population that has been identified as evidence-based or  
33 research-based and cost-beneficial in the current list prepared at  
34 the direction of the legislature by the Washington state institute  
35 for public policy.

36 (3) If the court finds that the respondent or an accomplice was  
37 armed with a firearm, the court shall determine the standard range  
38 disposition for the offense pursuant to RCW 13.40.160. If the  
39 offender or an accomplice was armed with a firearm when the offender



1 committed any felony other than possession of a machine gun,  
2 possession of a stolen firearm, drive-by shooting, theft of a  
3 firearm, unlawful possession of a firearm in the first and second  
4 degree, or use of a machine gun in a felony, the following periods of  
5 total confinement must be added to the sentence: For a class A  
6 felony, six months; for a class B felony, four months; and for a  
7 class C felony, two months. The additional time shall be imposed  
8 regardless of the offense's juvenile disposition offense category as  
9 designated in RCW 13.40.0357.

10 (4) When a disposition under this section would effectuate a  
11 manifest injustice, the court may impose another disposition. When a  
12 judge finds a manifest injustice and imposes a disposition of  
13 confinement exceeding thirty days, the court shall commit the  
14 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)  
15 shall be used to determine the range. When a judge finds a manifest  
16 injustice and imposes a disposition of confinement less than thirty  
17 days, the disposition shall be comprised of confinement or community  
18 supervision or both.

19 (5) Any term of confinement ordered pursuant to this section  
20 shall run consecutively to any term of confinement imposed in the  
21 same disposition for other offenses.

22 **Sec. 8.** RCW 15.24.100 and 2016 sp.s. c 15 s 8 are each amended  
23 to read as follows:

24 (1) A petition may be filed with the commission to reduce the  
25 assessment authorized in (~~this section~~) RCW 15.24.090 to zero. To  
26 be valid, the petition must be signed by at least eight percent of  
27 all apple growers eligible to vote in commission referendum  
28 elections. The petition shall contain the name of a person designated  
29 to represent the petitioners.

30 (2) Upon receipt of a valid petition, the commission shall  
31 prepare a document discussing the substance of the petition. A  
32 statement in favor of the petition shall be written by the proponents  
33 of the petition. A statement opposing the petition may be written by  
34 the commission or an opponent. The document and a notice of public  
35 hearing shall be sent to apple growers eligible to vote in commission  
36 referendum elections at least twenty days prior to the scheduled  
37 public hearings. The commission shall hold public hearings in Yakima  
38 and Wenatchee on the petition.

1 (3) Following the public hearings, the question of whether to  
2 reduce the assessment authorized in (~~this section~~) RCW 15.24.090 to  
3 zero shall be referred to a referendum mail ballot. The commission  
4 shall certify to the director a list of apple growers eligible to  
5 vote in commission referendum elections. The referendum shall be  
6 conducted and supervised by the director using the certified list.  
7 Inadvertent failure to notify a grower does not invalidate a  
8 referendum.

9 (4) The referendum will be approved if a simple majority of apple  
10 growers voting in the referendum election vote in favor of the  
11 elimination of the assessment. The director will certify the results  
12 of the vote.

13 (5) The referendum vote shall be binding and may not be  
14 overturned by action of the commission or director. If the referendum  
15 is approved, the commission shall immediately commence activities to  
16 wind down its operations. However, the elimination of the assessment  
17 shall not be effective until six months from the date the referendum  
18 result is certified by the director. If the referendum fails, neither  
19 the commission nor the director will take further action on the  
20 petition.

21 (6) The commission is responsible for all its own costs and all  
22 the director's costs associated with the hearing, notice, and  
23 referendum process. A subsequent petition may not be filed any sooner  
24 than five years following the certification of the results of any  
25 previously held referendum conducted under this section.

26 **Sec. 9.** RCW 26.50.070 and 2010 c 274 s 305 are each amended to  
27 read as follows:

28 (1) Where an application under this section alleges that  
29 irreparable injury could result from domestic violence if an order is  
30 not issued immediately without prior notice to the respondent, the  
31 court may grant an ex parte temporary order for protection, pending a  
32 full hearing, and grant relief as the court deems proper, including  
33 an order:

34 (a) Restraining any party from committing acts of domestic  
35 violence;

36 (b) Restraining any party from going onto the grounds of or  
37 entering the dwelling that the parties share, from the residence,  
38 workplace, or school of the other, or from the day care or school of  
39 a child until further order of the court;

1 (c) Prohibiting any party from knowingly coming within, or  
2 knowingly remaining within, a specified distance from a specified  
3 location;

4 (d) Restraining any party from interfering with the other's  
5 custody of the minor children or from removing the children from the  
6 jurisdiction of the court;

7 (e) Restraining any party from having any contact with the victim  
8 of domestic violence or the victim's children or members of the  
9 victim's household;

10 (f) Considering the provisions of RCW 9.41.800; and

11 (g) Restraining the respondent from harassing, following, keeping  
12 under physical or electronic surveillance, cyberstalking as defined  
13 in RCW 9.61.260, and using telephonic, audiovisual, or other  
14 electronic means to monitor the actions, location, or communication  
15 of a victim of domestic violence, the victim's children, or members  
16 of the victim's household. For the purposes of this subsection,  
17 "communication" includes both "wire communication" and "electronic  
18 communication" as defined in RCW 9.73.260.

19 (2) Irreparable injury under this section includes but is not  
20 limited to situations in which the respondent has recently threatened  
21 petitioner with bodily injury or has engaged in acts of domestic  
22 violence against the petitioner.

23 (3) The court shall hold an ex parte hearing in person or by  
24 telephone on the day the petition is filed or on the following  
25 judicial day.

26 (4) An ex parte temporary order for protection shall be effective  
27 for a fixed period not to exceed fourteen days or twenty-four days if  
28 the court has permitted service by publication under RCW 26.50.085 or  
29 by mail under RCW 26.50.123. The ex parte temporary order may be  
30 reissued. A full hearing, as provided in this chapter, shall be set  
31 for not later than fourteen days from the issuance of the ex parte  
32 temporary order or not later than twenty-four days if service by  
33 publication or by mail is permitted. Except as provided in RCW  
34 26.50.050, 26.50.085, and 26.50.123, the respondent shall be  
35 personally served with a copy of the ex parte temporary order along  
36 with a copy of the petition and notice of the date set for the  
37 hearing.

38 (5) Any order issued under this section shall contain the date  
39 and time of issuance and the expiration date and shall be entered

1 into a statewide judicial information system by the clerk of the  
2 court within one judicial day after issuance.

3 (6) If the court declines to issue an ex parte temporary order  
4 for protection the court shall state the particular reasons for the  
5 court's denial. The court's denial of a motion for an ex parte order  
6 of protection shall be filed with the court.

7 **Sec. 10.** RCW 43.21B.005 and 2010 1st sp.s. c 7 s 39 and 2010 c  
8 210 s 4 are each reenacted to read as follows:

9 (1) There is created an environmental and land use hearings  
10 office of the state of Washington. The environmental and land use  
11 hearings office consists of the pollution control hearings board  
12 created in RCW 43.21B.010, the shorelines hearings board created in  
13 RCW 90.58.170, and the growth management hearings board created in  
14 RCW 36.70A.250. The governor shall designate one of the members of  
15 the pollution control hearings board or growth management hearings  
16 board to be the director of the environmental and land use hearings  
17 office during the term of the governor. Membership, powers,  
18 functions, and duties of the pollution control hearings board, the  
19 shorelines hearings board, and the growth management hearings board  
20 shall be as provided by law.

21 (2) The director of the environmental and land use hearings  
22 office may appoint one or more administrative appeals judges in cases  
23 before the environmental boards and, with the consent of the chair of  
24 the growth management hearings board, one or more hearing examiners  
25 in cases before the land use board comprising the office. The  
26 administrative appeals judges shall possess the powers and duties  
27 conferred by the administrative procedure act, chapter 34.05 RCW,  
28 have a demonstrated knowledge of environmental law, and shall be  
29 admitted to the practice of law in the state of Washington. The  
30 hearing examiners possess the powers and duties provided for in RCW  
31 36.70A.270.

32 (3) Administrative appeals judges are not subject to chapter  
33 41.06 RCW. The administrative appeals judges appointed under  
34 subsection (2) of this section are subject to discipline and  
35 termination, for cause, by the director of the environmental and land  
36 use hearings office. Upon written request by the person so  
37 disciplined or terminated, the director of the environmental and land  
38 use hearings office shall state the reasons for such action in  
39 writing. The person affected has a right of review by the superior

1 court of Thurston county on petition for reinstatement or other  
2 remedy filed within thirty days of receipt of such written reasons.

3 (4) The director of the environmental and land use hearings  
4 office may appoint, discharge, and fix the compensation of such  
5 administrative or clerical staff as may be necessary.

6 (5) The director of the environmental and land use hearings  
7 office may also contract for required services.

8 **Sec. 11.** RCW 43.43.823 and 2017 c 261 s 3 are each amended to  
9 read as follows:

10 (1) Upon receipt of the information from the Washington  
11 association of sheriffs and police chiefs pursuant to RCW 36.28A.400,  
12 the Washington state patrol must incorporate the information into its  
13 electronic database accessible to law enforcement agencies and  
14 officers, including federally recognized Indian tribes, that have a  
15 connection to the Washington state patrol electronic database.

16 (2) Upon receipt of documentation that a person has appealed a  
17 background check denial, the Washington state patrol shall  
18 immediately remove the record of the person initially reported  
19 pursuant to RCW 36.28A.400 from its electronic database accessible to  
20 law enforcement agencies and officers. The Washington state patrol  
21 must keep a separate record of the person's information for a period  
22 of one year or until such time as the appeal has been resolved. Every  
23 twelve months, the Washington state patrol shall notify the person  
24 that the person must provide documentation that his or her appeal is  
25 still pending or the record of the person's background check denial  
26 will be put back in its electronic database accessible to law  
27 enforcement agencies and officers. At any time, upon receipt of  
28 documentation that a person's appeal has been granted, the Washington  
29 state patrol shall remove any record of the person's denied firearms  
30 purchase or transfer application from its electronic database  
31 accessible to law enforcement agencies and officers.

32 (3) Upon receipt of satisfactory proof that a person who was  
33 reported to the Washington state patrol pursuant to RCW 36.28A.400 is  
34 no longer ineligible to possess a firearm under state or federal law,  
35 the Washington state patrol must remove any record of the person's  
36 denied firearms purchase or transfer application from its electronic  
37 database accessible to law enforcement agencies and officers.

38 (4) Upon receipt of notification from the Washington association  
39 of sheriffs and police chiefs that a person originally denied the

1 purchase or transfer of a firearm as the result of a background check  
2 or completed and submitted firearm purchase or transfer application  
3 that indicates the applicant is ineligible to possess a firearm under  
4 state or federal law has subsequently been approved for the purchase  
5 or transfer, the Washington state patrol must remove any record of  
6 the person's denied firearms purchase or transfer application from  
7 its electronic database accessible to law enforcement agencies and  
8 officers within five business days.

9 (5) The Washington state patrol shall generate and distribute a  
10 notice form to all firearm dealers, to be provided by the dealers to  
11 applicants denied the purchase or transfer of a firearm as a result  
12 of a background check that indicates the applicant is ineligible to  
13 possess a firearm. The notice form must contain the following  
14 statements:

15 State law requires that I transmit the following information  
16 to the Washington association of sheriffs and police chiefs  
17 as a result of your firearm purchase or transfer denial  
18 within (~~two~~) five days of the denial:

- 19 (a) Identifying information of the applicant;  
20 (b) The date of the application and denial of the  
21 application;  
22 (c) Other information as prescribed by the Washington  
23 association of sheriffs and police chiefs.

24 If you believe this denial is in error, and you do not  
25 exercise your right to appeal, you may be subject to criminal  
26 investigation by the Washington state patrol and/or a local  
27 law enforcement agency.

28 The notice form shall also contain information directing the  
29 applicant to a web site describing the process of appealing a  
30 national instant criminal background check system denial through the  
31 federal bureau of investigation and refer the applicant to local law  
32 enforcement for information on a denial based on a state background  
33 check. The notice form shall also contain a phone number for a  
34 contact at the Washington state patrol to direct the person to  
35 resources regarding an individual's right to appeal a background  
36 check denial.

37 (6) The Washington state patrol may adopt rules as are necessary  
38 to carry out the purposes of this section.

1       **Sec. 12.** RCW 46.55.080 and 1999 c 398 s 4 are each amended to  
2 read as follows:

3       (1) If a vehicle is in violation of the time restrictions of RCW  
4 46.55.010(~~((+13))~~)(14), it may be impounded by a registered tow truck  
5 operator at the direction of a law enforcement officer or other  
6 public official with jurisdiction if the vehicle is on public  
7 property, or at the direction of the property owner or an agent if it  
8 is on private property. A law enforcement officer may also direct the  
9 impoundment of a vehicle pursuant to a writ or court order.

10       (2) The person requesting a private impound or a law enforcement  
11 officer or public official requesting a public impound shall provide  
12 a signed authorization for the impound at the time and place of the  
13 impound to the registered tow truck operator before the operator may  
14 proceed with the impound. A registered tow truck operator, employee,  
15 or his or her agent may not serve as an agent of a property owner for  
16 the purposes of signing an impound authorization or, independent of  
17 the property owner, identify a vehicle for impound.

18       (3) In the case of a private impound, the impound authorization  
19 shall include the following statement: "A person authorizing this  
20 impound, if the impound is found in violation of chapter 46.55 RCW,  
21 may be held liable for the costs incurred by the vehicle owner."

22       (4) A registered tow truck operator shall record and keep in the  
23 operator's files the date and time that a vehicle is put in the  
24 operator's custody and released. The operator shall make an entry  
25 into a master log regarding transactions relating to impounded  
26 vehicles. The operator shall make this master log available, upon  
27 request, to representatives of the department or the state patrol.

28       (5) A person who engages in or offers to engage in the activities  
29 of a registered tow truck operator may not be associated in any way  
30 with a person or business whose main activity is authorizing the  
31 impounding of vehicles.

32       **Sec. 13.** RCW 51.32.095 and 2015 c 137 s 2 are each reenacted to  
33 read as follows:

34       (1) One of the primary purposes of this title is to enable the  
35 injured worker to become employable at gainful employment. To this  
36 end, the department or self-insurers must utilize the services of  
37 individuals and organizations, public or private, whose experience,  
38 training, and interests in vocational rehabilitation and retraining  
39 qualify them to lend expert assistance to the supervisor of

1 industrial insurance in such programs of vocational rehabilitation as  
2 may be reasonable to make the worker employable consistent with his  
3 or her physical and mental status. Where, after evaluation and  
4 recommendation by such individuals or organizations and prior to  
5 final evaluation of the worker's permanent disability and in the sole  
6 opinion of the supervisor or supervisor's designee, whether or not  
7 medical treatment has been concluded, vocational rehabilitation is  
8 both necessary and likely to enable the injured worker to become  
9 employable at gainful employment, the supervisor or supervisor's  
10 designee may, in his or her sole discretion, pay or, if the employer  
11 is a self-insurer, direct the self-insurer to pay the cost as  
12 provided in subsection (5) of this section or RCW 51.32.099, as  
13 appropriate. An injured worker may not participate in vocational  
14 rehabilitation under this section or RCW 51.32.099 if such  
15 participation would result in a payment of benefits as described in  
16 RCW 51.32.240(5), and any benefits so paid must be recovered  
17 according to the terms of that section.

18 (2) Vocational rehabilitation services may be provided to an  
19 injured worker when in the sole discretion of the supervisor or the  
20 supervisor's designee vocational rehabilitation is both necessary and  
21 likely to make the worker employable at gainful employment. In  
22 determining whether to provide vocational services and at what level,  
23 the following list must be used, in order of priority with the  
24 highest priority given to returning a worker to employment:

- 25 (a) Return to the previous job with the same employer;
- 26 (b) Modification of the previous job with the same employer  
27 including transitional return to work;
- 28 (c) A new job with the same employer in keeping with any  
29 limitations or restrictions;
- 30 (d) Modification of a new job with the same employer including  
31 transitional return to work;
- 32 (e) Modification of the previous job with a new employer;
- 33 (f) A new job with a new employer or self-employment based upon  
34 transferable skills;
- 35 (g) Modification of a new job with a new employer;
- 36 (h) A new job with a new employer or self-employment involving  
37 on-the-job training;
- 38 (i) Short-term retraining.

39 (3) Notwithstanding subsection (2) of this section, vocational  
40 services may be provided to an injured worker who has suffered the



1 loss or complete use of both legs, or arms, or one leg and one arm,  
2 or total eyesight when, in the sole discretion of the supervisor or  
3 the supervisor's designee, these services will either substantially  
4 improve the worker's quality of life or substantially improve the  
5 worker's ability to function in an employment setting, regardless of  
6 whether or not these services are either necessary or reasonably  
7 likely to make the worker employable at any gainful employment.  
8 Vocational services must be completed prior to the commencement of  
9 the worker's entitlement to benefits under RCW 51.32.060. However,  
10 workers who are eligible for vocational services under this  
11 subsection are not eligible for option 2 benefits, as provided in RCW  
12 51.32.099(4) and 51.32.096.

13 (4) To encourage the employment of individuals who have suffered  
14 an injury or occupational disease resulting in permanent disability  
15 which may be a substantial obstacle to employment, the supervisor or  
16 supervisor's designee, in his or her sole discretion, may provide  
17 assistance including job placement services for eligible injured  
18 workers who are receiving vocational services under the return-to-  
19 work priorities listed in subsection (2)(b) through (i) of this  
20 section, except for self-employment, and to employers that employ  
21 them. The assistance listed in (a) through (f) of this subsection is  
22 only available in cases where the worker is employed:

23 (a) Reduction or elimination of premiums or assessments owed by  
24 employers for such workers;

25 (b) Reduction or elimination of charges against the employers in  
26 the event of further injury to such workers in their employ;

27 (c) Reimbursement of the injured worker's wages for light duty or  
28 transitional work consistent with the limitations in RCW  
29 51.32.090(4)(c);

30 (d) Reimbursement for the costs of clothing that is necessary to  
31 allow the worker to perform the offered work consistent with the  
32 limitations in RCW 51.32.090(4)(e);

33 (e) Reimbursement for the costs of tools or equipment to allow  
34 the worker to perform the work consistent with the limitations in RCW  
35 51.32.090(4)(f);

36 (f) A one-time payment equal to the lesser of ten percent of the  
37 worker's wages including commissions and bonuses paid or ten thousand  
38 dollars for continuous employment without reduction in base wages for  
39 at least twelve months. The twelve months begin the first date of

1 employment and the one-time payment is available at the sole  
2 discretion of the supervisor of industrial insurance;

3 (g) The benefits described in this section are available to a  
4 state fund employer without regard to whether the worker was employed  
5 by the state fund employer at the time of injury. The benefits are  
6 available to a self-insured employer only in cases where the worker  
7 was employed by a state fund employer at the time of injury or  
8 occupational disease manifestation;

9 (h) The benefits described in (a) through (f) of this subsection  
10 (4) are only available in instances where a vocational rehabilitation  
11 professional and the injured worker's health care provider have  
12 confirmed that the worker has returned to work that is consistent  
13 with the worker's limitations and physical restrictions.

14 (5)(a) Except as provided in (b) of this subsection, costs for  
15 vocational rehabilitation benefits allowed by the supervisor or  
16 supervisor's designee under subsection (1) of this section may  
17 include the cost of books, tuition, fees, supplies, equipment,  
18 transportation, child or dependent care, and other necessary expenses  
19 for any such worker in an amount not to exceed three thousand dollars  
20 in any fifty-two week period, and the cost of continuing the  
21 temporary total disability compensation under RCW 51.32.090 while the  
22 worker is actively and successfully undergoing a formal program of  
23 vocational rehabilitation.

24 (b) Beginning with vocational rehabilitation plans approved on or  
25 after July 1, 1999, through December 31, 2007, costs for vocational  
26 rehabilitation benefits allowed by the supervisor or supervisor's  
27 designee under subsection (1) of this section may include the cost of  
28 books, tuition, fees, supplies, equipment, child or dependent care,  
29 and other necessary expenses for any such worker in an amount not to  
30 exceed four thousand dollars in any fifty-two week period, and the  
31 cost of transportation and continuing the temporary total disability  
32 compensation under RCW 51.32.090 while the worker is actively and  
33 successfully undergoing a formal program of vocational  
34 rehabilitation.

35 (c) The expenses allowed under (a) or (b) of this subsection may  
36 include training fees for on-the-job training and the cost of  
37 furnishing tools and other equipment necessary for self-employment or  
38 reemployment. However, compensation or payment of retraining with job  
39 placement expenses under (a) or (b) of this subsection may not be  
40 authorized for a period of more than fifty-two weeks, except that

1 such period may, in the sole discretion of the supervisor after his  
2 or her review, be extended for an additional fifty-two weeks or  
3 portion thereof by written order of the supervisor.

4 (d) In cases where the worker is required to reside away from his  
5 or her customary residence, the reasonable cost of board and lodging  
6 must also be paid.

7 (e) Costs paid under this subsection must be chargeable to the  
8 employer's cost experience or must be paid by the self-insurer as the  
9 case may be.

10 (6) In addition to the vocational rehabilitation expenditures  
11 provided for under subsection (5) of this section and RCW 51.32.099,  
12 an additional five thousand dollars may, upon authorization of the  
13 supervisor or the supervisor's designee, be expended for: (a)  
14 Accommodations for an injured worker that are medically necessary for  
15 the worker to participate in an approved retraining plan; and (b)  
16 accommodations necessary to perform the essential functions of an  
17 occupation in which an injured worker is seeking employment,  
18 consistent with the retraining plan or the recommendations of a  
19 vocational evaluation. The injured worker's attending physician or  
20 licensed advanced registered nurse practitioner must verify the  
21 necessity of the modifications or accommodations. The total  
22 expenditures authorized in this subsection and the expenditures  
23 authorized under RCW 51.32.250 may not exceed five thousand dollars.

24 (7)(a) When the department has approved a vocational plan for a  
25 worker prior to January 1, 2008, regardless of whether the worker has  
26 begun participating in the approved plan, costs for vocational  
27 rehabilitation benefits allowed by the supervisor or supervisor's  
28 designee under subsection (1) of this section are limited to those  
29 provided under subsections (5) and (6) of this section.

30 (b) For vocational plans approved for a worker between January 1,  
31 2008, through July 31, 2015, total vocational costs allowed by the  
32 supervisor or supervisor's designee under subsection (1) of this  
33 section is limited to those provided under the pilot program  
34 established in RCW 51.32.099, and vocational rehabilitation services  
35 must conform to the requirements in RCW 51.32.099.

36 (8) The department must establish criteria to monitor the quality  
37 and effectiveness of rehabilitation services provided by the  
38 individuals and organizations. The state fund must make referrals for  
39 vocational rehabilitation services based on these performance  
40 criteria.

1 (9) The department must engage in, where feasible and cost-  
2 effective, a cooperative program with the state employment security  
3 department to provide job placement services under this section  
4 including participation by the department as a partner with  
5 WorkSource and with the private vocational rehabilitation community  
6 to refer workers to these vocational professionals for job search and  
7 job placement assistance. As a partner, the department must place  
8 vocational professional full-time employees at selected WorkSource  
9 locations who will work with employers to market the benefits of on-  
10 the-job training programs and preferred worker financial incentives  
11 as described in RCW 51.32.095(4). For the purposes of this  
12 subsection, "WorkSource" means the established state system that  
13 administers the federal workforce investment act of 1998.

14 (10) The benefits in this section, RCW 51.32.099, and 51.32.096  
15 must be provided for the injured workers of self-insured employers.  
16 Self-insurers must report both benefits provided and benefits denied  
17 in the manner prescribed by the department by rule adopted under  
18 chapter 34.05 RCW. The director may, in his or her sole discretion  
19 and upon his or her own initiative or at any time that a dispute  
20 arises under this section, RCW 51.32.099, or 51.32.096, promptly make  
21 such inquiries as circumstances require and take such other action as  
22 he or she considers will properly determine the matter and protect  
23 the rights of the parties.

24 (11) Except as otherwise provided, the benefits provided for in  
25 this section, RCW 51.32.099, and 51.32.096 are available to any  
26 otherwise eligible worker regardless of the date of industrial  
27 injury. However, claims may not be reopened solely for vocational  
28 rehabilitation purposes.

29 NEW SECTION. **Sec. 14.** RCW 82.04.4483 (Credit—Programming or  
30 manufacturing software in rural counties) and 2017 c 135 s 19, 2010 c  
31 114 s 119, & 2004 c 25 s 1 are each repealed.

32 **Sec. 15.** RCW 90.56.335 and 2016 sp.s. c 36 s 950 are each  
33 amended to read as follows:

34 (1) The vessel response account is created in the state treasury.  
35 Grants, gifts, and federal funds may be deposited into the account.  
36 Oil spill penalties assessed against ships under RCW 90.56.330 and  
37 90.48.144 shall also be deposited into the account as well as the  
38 money distributed under RCW 46.68.020(2). Moneys in the account may

1 be spent only after appropriation. The department of ecology is  
2 authorized to utilize the vessel response account to preposition a  
3 dedicated rescue tug at the entrance to the Strait of Juan de Fuca to  
4 reduce the risk of major maritime accidents and oil spills on the  
5 outer coast and western strait. Prior to authorizing the rescue tug  
6 to respond to a distressed vessel, the department shall work with the  
7 United States coast guard and industry to determine if another  
8 capable, unencumbered commercial tug is available in the area that  
9 can respond. If such a tug can respond without increasing the risk of  
10 a casualty, it should be deployed as the tug of choice and the state-  
11 contracted rescue tug should not be taken off standby duty. The  
12 department is also authorized to spot charter tugs as needed during  
13 major storms and other high risk periods to protect maritime commerce  
14 and the environment anywhere in state waters.

15 (2) The department shall not proceed with rule making related to  
16 emergency towing pursuant to chapter 88.46 RCW, so long as the  
17 deposit of the fee into the vessel response account under RCW  
18 46.68.020(2) is continued and is appropriated for the purpose of the  
19 dedicated rescue tug.

20 (3) During the 2015-2017 fiscal biennium, the legislature may  
21 transfer from the vessel response account to the environmental legacy  
22 stewardship account such amounts as reflect the excess fund balance  
23 of the account.

24 (4) This section expires July 1, 2020.

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