

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5685

Chapter 256, Laws of 1995

54th Legislature
1995 Regular Session

SALVAGED VEHICLES

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 19, 1995
YEAS 47 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 12, 1995
YEAS 93 NAYS 3

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 5, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5685** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 5, 1995 - 10:26 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5685

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Long, Haugen, Wood, Kohl, Prince, Fraser, Owen, Schow, Sellar, Heavey, Rasmussen, Winsley and Sheldon)

Read first time 03/06/95.

1 AN ACT Relating to salvaged vehicles; amending RCW 46.12.310,
2 46.80.005, 46.80.010, 46.80.020, 46.80.040, 46.80.050, 46.80.060,
3 46.80.070, 46.80.080, 46.80.090, 46.80.100, 46.80.110, 46.80.130,
4 46.80.150, 46.80.160, 46.80.170, 46.80.900, 46.12.030, and 46.70.180;
5 reenacting and amending RCW 46.63.020; adding new sections to chapter
6 46.12 RCW; adding new sections to chapter 46.80 RCW; creating a new
7 section; repealing RCW 46.12.360 and 46.80.055; and prescribing
8 penalties.

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

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.12 RCW
11 to read as follows:

12 It is a class C felony for a person to sell or convey a vehicle
13 certificate of ownership except in conjunction with the sale or
14 transfer of the vehicle for which the certificate was originally
15 issued.

16 **Sec. 2.** RCW 46.12.310 and 1975-'76 2nd ex.s. c 91 s 2 are each
17 amended to read as follows:

1 (1) Any vehicle, watercraft, camper, or any component part thereof,
2 from which the manufacturer's serial number or any other distinguishing
3 number or identification mark has been removed, defaced, covered,
4 altered, obliterated, or destroyed, (~~there being reasonable grounds to~~
5 ~~believe that such was done for the purpose of concealing or~~
6 ~~misrepresenting identity, shall~~) may be impounded and held by the
7 seizing law enforcement agency for the purpose of conducting an
8 investigation to determine the identity of the article or articles, and
9 to determine whether it had been reported stolen.

10 (2) Within five days of the impounding of any vehicle, watercraft,
11 camper, or component part thereof, the law enforcement agency seizing
12 the article or articles shall send written notice of such impoundment
13 by certified mail to all persons known to the agency as claiming an
14 interest in the article or articles. The seizing agency shall exercise
15 reasonable diligence in ascertaining the names and addresses of those
16 persons claiming an interest in the article or articles. Such notice
17 shall advise the person of the fact of seizure, the possible
18 disposition of the article or articles, the requirement of filing a
19 written claim requesting notification of potential disposition, and the
20 right of the person to request a hearing to establish a claim of
21 ownership. Within five days of receiving notice of other persons
22 claiming an interest in the article or articles, the seizing agency
23 shall send a like notice to each such person.

24 (3) If reported as stolen, the seizing law enforcement agency shall
25 promptly release such vehicle, watercraft, camper, or parts thereof as
26 have been stolen, to the person who is the lawful owner or the lawful
27 successor in interest, upon receiving proof that such person presently
28 owns or has a lawful right to the possession of the article or
29 articles.

30 **Sec. 3.** RCW 46.80.005 and 1977 ex.s. c 253 s 1 are each amended to
31 read as follows:

32 The legislature finds and declares that the distribution and sale
33 of vehicle parts in the state of Washington vitally affects the general
34 economy of the state and the public interest and the public welfare,
35 and that in order to promote the public interest and the public welfare
36 and in the exercise of its police power, it is necessary to regulate
37 and license (~~motor~~) vehicle wreckers and dismantlers, the buyers-for-
38 resale, and the sellers of second-hand vehicle components doing

1 business in Washington, in order to prevent the sale of stolen vehicle
2 parts, to prevent frauds, impositions, and other abuses, and to
3 preserve the investments and properties of the citizens of this state.

4 **Sec. 4.** RCW 46.80.010 and 1977 ex.s. c 253 s 2 are each amended to
5 read as follows:

6 The definitions set forth in this section apply throughout this
7 chapter.

8 (1) "~~((Motor))~~ Vehicle wrecker~~((τ))"~~ ~~((~~whenever used in this~~~~
9 ~~chapter, shall))~~ means every person, firm, partnership, association, or
10 corporation engaged in the business of buying, selling, or dealing in
11 vehicles of a type required to be licensed under the laws of this
12 state, for the purpose of wrecking, dismantling, disassembling, or
13 substantially changing the form of ~~((any motor))~~ a vehicle, or who buys
14 or sells integral second-hand parts of component material thereof, in
15 whole or in part, or who deals in second-hand ~~((motor))~~ vehicle parts.

16 (2) "Established place of business~~((τ))"~~ ~~((~~whenever used in this~~~~
17 ~~chapter, shall))~~ means a building or enclosure which the ~~((motor))~~
18 vehicle wrecker occupies either continuously or at regular periods and
19 where his books and records are kept and business is transacted and
20 which must conform with zoning regulations.

21 (3) "Major component part"~~((τ, whenever used in this chapter,~~

22 ~~shall))~~ includes at least each of the following vehicle parts: (a)
23 Engines and short blocks; (b) frame; (c) transmission and/or transfer
24 case; (d) cab; (e) door; (f) front or rear differential; (g) front or
25 rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood;
26 ~~((and))~~ (l) bumper; (m) fender; and (n) airbag. The director may
27 supplement this list by rule.

28 (4) "Wrecked vehicle"~~((τ, whenever used in this chapter, shall))~~
29 means a vehicle which is disassembled or dismantled or a vehicle which
30 is acquired with the intent to dismantle or disassemble and never again
31 to operate as a vehicle, or a vehicle which has sustained such damage
32 that its cost to repair exceeds the fair market value of a like vehicle
33 which has not sustained such damage, or a damaged vehicle whose salvage
34 value plus cost to repair equals or exceeds its fair market value, if
35 repaired, or a vehicle which has sustained such damage or deterioration
36 that it may not lawfully operate upon the highways of this state for
37 which the salvage value plus cost to repair exceeds its fair market
38 value, if repaired; further, it is presumed that a vehicle is a wreck

1 if it has sustained such damage or deterioration that it may not
2 lawfully operate upon the highways of this state.

3 **Sec. 5.** RCW 46.80.020 and 1979 c 158 s 192 are each amended to
4 read as follows:

5 It (~~shall be~~) is unlawful for (~~any motor vehicle wrecker, as~~
6 ~~defined herein,~~) a person to engage in the business of wrecking
7 (~~motor~~) vehicles (~~or trailers~~) without having first applied for and
8 received a license (~~from the department of licensing authorizing him~~
9 ~~so to do~~). A person or firm engaged in the unlawful activity is
10 guilty of a gross misdemeanor. A second or subsequent offense is a
11 class C felony.

12 **Sec. 6.** RCW 46.80.040 and 1971 ex.s. c 7 s 3 are each amended to
13 read as follows:

14 (~~Such~~) The application, together with a fee of twenty-five
15 dollars, and a surety bond as (~~hereinafter~~) provided in RCW
16 46.80.070, shall be forwarded to the department. Upon receipt of the
17 application the department shall, if the application (~~be~~) is in
18 order, issue a (~~motor~~) vehicle wrecker's license authorizing (~~him~~)
19 the wrecker to do business as such and forward the fee(~~, together with~~
20 ~~an itemized and detailed report,~~) to the state treasurer, to be
21 deposited in the motor vehicle fund. Upon receiving the certificate
22 the owner shall cause it to be prominently displayed in (~~his~~) the
23 place of business, where it may be inspected by an investigating
24 officer at any time.

25 **Sec. 7.** RCW 46.80.050 and 1985 c 109 s 7 are each amended to read
26 as follows:

27 A license issued on this application (~~shall~~) remains in force
28 until suspended or revoked and may be renewed annually upon
29 reapplication according to RCW 46.80.030 and upon payment of a fee of
30 ten dollars. (~~Any motor~~) A vehicle wrecker who fails or neglects to
31 renew (~~his~~) the license before the assigned expiration date shall
32 (~~be required to~~) pay the fee for an original (~~motor~~) vehicle
33 wrecker license as provided in this chapter.

34 Whenever a (~~motor~~) vehicle wrecker ceases to do business as such
35 or (~~his~~) the license has been suspended or revoked, (~~he~~) the

1 wrecker shall immediately surrender (~~such~~) the license to the
2 department.

3 **Sec. 8.** RCW 46.80.060 and 1961 c 12 s 46.80.060 are each amended
4 to read as follows:

5 The (~~motor~~) vehicle wrecker shall obtain a special set of license
6 plates in addition to the regular licenses and plates required for the
7 operation of such vehicles (~~which shall~~). The special plates must be
8 displayed on vehicles owned and/or operated by (~~him~~) the wrecker and
9 used in the conduct of (~~his~~) the business. The fee for these plates
10 shall be five dollars for the original plates and two dollars for each
11 additional set of plates bearing the same license number. A wrecker
12 with more than one licensed location in the state may use special
13 plates bearing the same license number for vehicles operated out of any
14 of the licensed locations.

15 **Sec. 9.** RCW 46.80.070 and 1977 ex.s. c 253 s 5 are each amended to
16 read as follows:

17 Before issuing a (~~motor~~) vehicle wrecker's license, the
18 department shall require the applicant to file with (~~said~~) the
19 department a surety bond in the amount of one thousand dollars, running
20 to the state of Washington and executed by a surety company authorized
21 to do business in the state of Washington. (~~Such~~) The bond shall be
22 approved as to form by the attorney general and conditioned (~~that~~
23 ~~such~~) upon the wrecker (~~shall conduct his~~) conducting the business
24 in conformity with the provisions of this chapter. Any person who
25 (~~shall have~~) has suffered any loss or damage by reason of fraud,
26 carelessness, neglect, violation of the terms of this chapter, or
27 misrepresentation on the part of the wrecking company, (~~shall have the~~
28 ~~right to~~) may institute an action for recovery against (~~such motor~~)
29 the vehicle wrecker and surety upon (~~such~~) the bond(~~:- PROVIDED,~~
30 That)). However, the aggregate liability of the surety to all persons
31 shall in no event exceed the amount of the bond.

32 **Sec. 10.** RCW 46.80.080 and 1977 ex.s. c 253 s 6 are each amended
33 to read as follows:

34 (1) Every (~~motor~~) vehicle wrecker shall maintain books or files
35 in which (~~he~~) the wrecker shall keep a record and a description of:

1 (a) Every vehicle wrecked, dismantled, disassembled, or
2 substantially altered by ~~((him))~~ the wrecker; and

3 (b) Every major component part acquired by ~~((him))~~ the wrecker;
4 together with a bill of sale signed by a seller whose identity has been
5 verified and the name and address of the person, firm, or corporation
6 from whom ~~((he))~~ the wrecker purchased the vehicle or part(~~(=~~
7 ~~PROVIDED, That))~~. Major component parts shall be further identified by
8 the vehicle identification number of the vehicle from which the part
9 came.

10 (2) ~~((Such))~~ The record shall also contain the following data
11 regarding the wrecked or acquired vehicle or vehicle ~~((which))~~ that is
12 the source of a major component part:

13 (a) The certificate of title number (if previously titled in this
14 or any other state);

15 (b) Name of state where last registered;

16 (c) Number of the last license number plate issued;

17 (d) Name of vehicle;

18 (e) Motor or identification number and serial number of the
19 vehicle;

20 (f) Date purchased;

21 (g) Disposition of the motor and chassis;

22 (h) Yard number assigned by the licensee to the vehicle or major
23 component part, which shall also appear on the identified vehicle or
24 part; and

25 (i) Such other information as the department may require.

26 (3) ~~((Such))~~ The records shall also contain a bill of sale signed
27 by the seller for other minor component parts acquired by the licensee,
28 identifying the seller by name, address, and date of sale.

29 (4) ~~((Such))~~ The records shall be maintained by the licensee at his
30 or her established place of business for a period of three years from
31 the date of acquisition.

32 (5) ~~((Such record shall be))~~ The record is subject to inspection at
33 all times during regular business hours by members of the police
34 department, sheriff's office, members of the Washington state patrol,
35 or officers or employees of the department.

36 (6) A ~~((motor))~~ vehicle wrecker shall also maintain a similar
37 record of all disabled vehicles that have been towed or transported to
38 the motor vehicle wrecker's place of business or to other places
39 designated by the owner of the vehicle or his or her representative.

1 This record shall specify the name and description of the vehicle, name
2 of owner, number of license plate, condition of the vehicle and place
3 to which it was towed or transported.

4 (7) Failure to comply with this section is a gross misdemeanor.

5 **Sec. 11.** RCW 46.80.090 and 1979 c 158 s 194 are each amended to
6 read as follows:

7 Within thirty days after acquiring a vehicle (~~((has been acquired by~~
8 ~~the motor vehicle wrecker it shall be the duty of such motor)), the~~
9 ~~vehicle wrecker ((to)) shall~~ furnish a written report to the department
10 (~~((on forms furnished by the department))~~). This report shall be in such
11 form as the department shall prescribe and shall be accompanied by
12 (~~((the certificate of title, if the vehicle has been last registered in~~
13 ~~a state which issues a certificate, or a record of registration if~~
14 ~~registered in a state which does not issue a certificate of title))~~
15 evidence of ownership as determined by the department. No (~~((motor))~~)
16 ~~vehicle wrecker ((shall)) may~~ acquire a vehicle without first obtaining
17 (~~((such record or title. It shall be the duty of the motor))~~) evidence
18 of ownership as determined by the department. The vehicle wrecker
19 (~~((to)) shall~~ furnish a monthly report of all acquired vehicles
20 (~~((wrecked, dismantled, disassembled, or substantially changed in form~~
21 ~~by him))~~). This report shall be made on forms prescribed by the
22 department and contain such information as the department may require.
23 This statement shall be signed by the (~~((motor))~~) vehicle wrecker or
24 (~~((his))~~) an authorized representative and the facts therein sworn to
25 before a notary public, or before an officer or employee of the
26 department (~~((of licensing))~~) designated by the director to administer
27 oaths or acknowledge signatures, pursuant to RCW 46.01.180.

28 **Sec. 12.** RCW 46.80.100 and 1977 ex.s. c 253 s 8 are each amended
29 to read as follows:

30 If, after issuing a (~~((motor))~~) vehicle wrecker's license, the bond
31 is canceled by the surety in a method provided by law, the department
32 shall immediately notify the principal covered by (~~((such))~~) the bond
33 (~~((by registered mail))~~) and afford (~~((him))~~) the principal the opportunity
34 of obtaining another bond before the termination of the original (~~((and~~
35 ~~should such))~~). If the principal fails, neglects, or refuses to obtain
36 (~~((such))~~) a replacement, the director may cancel or suspend the
37 (~~((motor))~~) vehicle wrecker's license (~~((which has been issued to him~~

1 ~~under the provisions of this chapter~~). Notice of cancellation of the
2 bond may be accomplished by sending a notice by first class mail using
3 the last known address in department records for the principal covered
4 by the bond and recording the transmittal on an affidavit of first
5 class mail.

6 **Sec. 13.** RCW 46.80.110 and 1989 c 337 s 17 are each amended to
7 read as follows:

8 (1) The director or a designee may, pursuant to the provisions of
9 chapter 34.05 RCW, by order deny, suspend, or revoke the license of
10 ~~((any motor))~~ a vehicle wrecker, or assess a civil fine of up to five
11 hundred dollars for each violation, if the director finds that the
12 applicant or licensee has:

13 ~~((+1))~~ (a) Acquired a vehicle or major component part other than
14 by first obtaining title or other documentation as provided by this
15 chapter;

16 ~~((+2))~~ (b) Willfully misrepresented the physical condition of any
17 motor or integral part of a ~~((motor))~~ vehicle;

18 ~~((+3))~~ (c) Sold, had in ~~((his))~~ the wrecker's possession, or
19 disposed of a ~~((motor))~~ vehicle ~~((or trailer))~~ or any part thereof when
20 he or she knows that ~~((such))~~ the vehicle or part has been stolen, or
21 appropriated without the consent of the owner;

22 ~~((+4))~~ (d) Sold, bought, received, concealed, had in ~~((his))~~ the
23 wrecker's possession, or disposed of a ~~((motor))~~ vehicle ~~((or trailer))~~
24 or part thereof having a missing, defaced, altered, or covered
25 manufacturer's identification number, unless approved by a law
26 enforcement officer;

27 ~~((+5))~~ (e) Committed forgery or misstated a material fact on any
28 title, registration, or other document covering a vehicle that has been
29 reassembled from parts obtained from the disassembling of other
30 vehicles;

31 ~~((+6))~~ (f) Committed any dishonest act or omission ~~((which))~~ that
32 the director has reason to believe has caused loss or serious
33 inconvenience as a result of a sale of a ~~((motor))~~ vehicle~~((r~~
34 ~~trailer,))~~ or part thereof;

35 ~~((+7))~~ (g) Failed to comply with any of the provisions of this
36 chapter or with any of the rules adopted under it, or with any of the
37 provisions of Title 46 RCW relating to registration and certificates of
38 title of vehicles;

1 ~~((+8))~~ (h) Procured a license fraudulently or dishonestly ~~((or~~
2 ~~that such license was erroneously issued))~~;

3 ~~((+9))~~ (i) Been convicted of a crime that directly relates to the
4 business of a vehicle wrecker and the time elapsed since conviction is
5 less than ten years, or suffered any judgment within the preceding five
6 years in any civil action involving fraud, misrepresentation, or
7 conversion. For the purposes of this section, conviction means in
8 addition to a final conviction in either a federal, state, or municipal
9 court, an unvacated forfeiture of bail or collateral deposited to
10 secure a defendant's appearance in court, the payment of a fine, a plea
11 of guilty, or a finding of guilt regardless of whether the sentence is
12 deferred or the penalty is suspended.

13 (2) In addition to actions by the department under this section, it
14 is a gross misdemeanor to violate subsection (1) (a), (b), or (h) of
15 this section.

16 NEW SECTION. Sec. 14. A new section is added to chapter 46.80 RCW
17 to read as follows:

18 If a person whose vehicle wrecker license has previously been
19 canceled for cause by the department files an application for a license
20 to conduct business as a vehicle wrecker, or if the department is of
21 the opinion that the application is not filed in good faith or that the
22 application is filed by some person as a subterfuge for the real person
23 in interest whose license has previously been canceled for cause, the
24 department may refuse to issue the person a license to conduct business
25 as a vehicle wrecker.

26 Sec. 15. RCW 46.80.130 and 1971 ex.s. c 7 s 9 are each amended to
27 read as follows:

28 (1) It ~~((shall be))~~ is unlawful for ~~((any motor))~~ a vehicle wrecker
29 to keep ~~((any motor))~~ a vehicle or any integral part thereof in any
30 place other than the established place of business, designated in the
31 certificate issued by the department, without permission of the
32 department.

33 (2) All premises containing ~~((such motor))~~ vehicles or parts
34 thereof shall be enclosed by a wall or fence of such height as to
35 obscure the nature of the business carried on therein. To the extent
36 reasonably necessary or permitted by the topography of the land, the
37 department ~~((shall have the right to))~~ may establish specifications or

1 standards for ~~((said))~~ the fence or wall(~~((:—PROVIDED, HOWEVER, That~~
2 ~~such))~~). The wall or fence shall be painted or stained a neutral shade
3 ~~((which shall))~~ that blends in with the surrounding premises, and
4 ~~((that such))~~ the wall or fence must be kept in good repair. A living
5 hedge of sufficient density to prevent a view of the confined area may
6 be substituted for such a wall or fence. Any dead or dying portion of
7 ~~((such))~~ the hedge shall be replaced.

8 (3) Violation of subsection (1) of this section is a gross
9 misdemeanor.

10 **Sec. 16.** RCW 46.80.150 and 1983 c 142 s 9 are each amended to read
11 as follows:

12 It shall be the duty of the chiefs of police, or the Washington
13 state patrol, in cities having a population of over five thousand
14 persons, and in all other cases the Washington state patrol, to make
15 periodic inspection of the ~~((motor))~~ vehicle wrecker's licensed
16 premises and records provided for in this chapter during normal
17 business hours, and furnish a certificate of inspection to the
18 department in such manner as may be determined by the department(~~((:—~~
19 ~~PROVIDED, That the above inspection))~~). In any instance ((can be made
20 by)), an authorized representative of the department may make the
21 inspection.

22 **Sec. 17.** RCW 46.80.160 and 1961 c 12 s 46.80.160 are each amended
23 to read as follows:

24 Any municipality or political subdivision of this state ~~((which))~~
25 that now has or subsequently makes provision for the regulation of
26 ~~((automobile))~~ vehicle wreckers shall comply strictly with the
27 provisions of this chapter.

28 **Sec. 18.** RCW 46.80.170 and 1977 ex.s. c 253 s 11 are each amended
29 to read as follows:

30 ~~((It shall be))~~ Unless otherwise provided by law, it is a ((gross))
31 misdemeanor for any person to violate any of the provisions of this
32 chapter or the rules ((and regulations promulgated as provided))
33 adopted under this chapter((, and any person so convicted shall be
34 punished by imprisonment for not less than thirty days or more than one
35 year in jail or by a fine of one thousand dollars)).

1 NEW SECTION. **Sec. 19.** A new section is added to chapter 46.80 RCW
2 to read as follows:

3 (1) If it appears to the director that an unlicensed person has
4 engaged in an act or practice constituting a violation of this chapter,
5 or a rule adopted or an order issued under this chapter, the director
6 may issue an order directing the person to cease and desist from
7 continuing the act or practice. The director shall give the person
8 reasonable notice of and opportunity for a hearing. The director may
9 issue a temporary order pending a hearing. The temporary order remains
10 in effect until ten days after the hearing is held and becomes final if
11 the person to whom the notice is addressed does not request a hearing
12 within fifteen days after receipt of the notice.

13 (2) The director may assess a fine of up to one thousand dollars
14 with the final order for each act or practice constituting a violation
15 of this chapter by an unlicensed person.

16 NEW SECTION. **Sec. 20.** A new section is added to chapter 46.80 RCW
17 to read as follows:

18 The department of licensing or its authorized agent may examine or
19 subpoena any persons, books, papers, records, data, vehicles, or
20 vehicle parts bearing upon the investigation or proceeding under this
21 chapter.

22 The persons subpoenaed may be required to testify and produce any
23 books, papers, records, data, vehicles, or vehicle parts that the
24 director deems relevant or material to the inquiry.

25 The director or an authorized agent may administer an oath to the
26 person required to testify, and a person giving false testimony after
27 the administration of the oath is guilty of perjury in the first
28 degree.

29 A court of competent jurisdiction may, upon application by the
30 director, issue to a person who fails to comply, an order to appear
31 before the director or officer designated by the director, to produce
32 documentary or other evidence touching the matter under investigation
33 or in question.

34 **Sec. 21.** RCW 46.80.900 and 1977 ex.s. c 253 s 13 are each amended
35 to read as follows:

36 The provisions of this chapter shall be liberally construed to the
37 end that traffic in stolen vehicle parts may be prevented, and

1 irresponsible, unreliable, or dishonest persons may be prevented from
2 engaging in the business of wrecking (~~motor~~) vehicles or selling used
3 vehicle parts in this state and reliable persons may be encouraged to
4 engage in businesses of wrecking or reselling vehicle parts in this
5 state.

6 NEW SECTION. **Sec. 22.** (1) The legislature recognizes that
7 currently the state patrol inspects rebuilt vehicles for stolen parts.
8 However, they are not authorized to perform complete safety
9 inspections.

10 (2) The state patrol shall assemble a study group and complete a
11 study, to be submitted to the legislative transportation committee no
12 later than January 1, 1996, on the feasibility of implementing safety
13 inspections for vehicles that are rebuilt after surrender of the
14 certificate of ownership to the department of licensing under RCW
15 46.12.070 due to the vehicle's destruction or declaration as a total
16 loss. The study shall include, but is not limited to:

17 (a) An examination of safety inspection systems in other states;

18 (b) A determination of how a safety inspection program might be
19 implemented in Washington state;

20 (c) An analysis of the cost of conducting a safety inspection and
21 who should be responsible for bearing those costs; and

22 (d) An evaluation of whether state agencies or private business
23 might most effectively and efficiently conduct safety inspections.

24 (3) The study group prescribed in subsection (2) of this section
25 must include representatives of the state patrol, the department of
26 licensing, the Washington traffic safety commission, the insurance
27 industry, the autobody industry, and other appropriate groups.

28 (4) Section 24 of this act and RCW 46.12.050 require notification
29 on the certificates of ownership and registration as to whether a
30 vehicle has previously been destroyed or declared a total loss. The
31 department of licensing, in consultation with the study group members
32 prescribed in subsection (3) of this section, shall study the
33 feasibility of expanding the notification requirement to apply to all
34 vehicles, regardless of age. The study group shall also develop a
35 recommendation regarding the feasibility of differentiating on the
36 certificates of ownership and registration whether the vehicle has
37 sustained cosmetic damage or structural damage. The department shall

1 report its findings to the legislative transportation committee no
2 later than January 1, 1996.

3 **Sec. 23.** RCW 46.12.030 and 1990 c 238 s 1 are each amended to read
4 as follows:

5 The application for certificate of ownership shall be upon a blank
6 form to be furnished by the department and shall contain:

7 (1) A full description of the vehicle, which shall contain the
8 proper vehicle identification number, the number of miles indicated on
9 the odometer at the time of delivery of the vehicle, and any
10 distinguishing marks of identification;

11 (2) The name and address of the person who is to be the registered
12 owner of the vehicle and, if the vehicle is subject to a security
13 interest, the name and address of the secured party;

14 (3) Such other information as the department may require. The
15 department may in any instance, in addition to the information required
16 on the application, require additional information and a physical
17 examination of the vehicle or of any class of vehicles, or either. A
18 physical examination of the vehicle is mandatory if it previously was
19 registered in any other state or country or if it has been rebuilt
20 after surrender of the certificate of ownership to the department under
21 RCW 46.12.070 due to the vehicle's destruction or declaration as a
22 total loss. The inspection must verify that the vehicle identification
23 number is genuine and agrees with the number shown on the foreign title
24 and registration certificate. If the vehicle is from a jurisdiction
25 that does not issue titles, the inspection must verify that the vehicle
26 identification number is genuine and agrees with the number shown on
27 the registration certificate. The inspection must also confirm that
28 the license plates on the vehicle are those assigned to the vehicle by
29 the jurisdiction in which the vehicle was previously licensed. The
30 inspection must be made by a member of the Washington state patrol or
31 other person authorized by the department to make such inspections.

32 The application shall be subscribed by the registered owner and be
33 sworn to by that applicant in the manner described by RCW 9A.72.085.
34 The department shall retain the application in either the original,
35 computer, or photostatic form.

36 NEW SECTION. **Sec. 24.** A new section is added to chapter 46.12 RCW
37 to read as follows:

1 (1) Effective January 1, 1997, the department shall issue a unique
2 certificate of ownership and certificate of license registration, as
3 required by chapter 46.16 RCW, for vehicles less than four years old
4 that are rebuilt after surrender of the certificate of ownership to the
5 department under RCW 46.12.070 due to the vehicle's destruction or
6 declaration as a total loss. Each certificate shall conspicuously
7 display across its front, a word indicating that the vehicle was
8 rebuilt.

9 (2) Beginning January 1, 1997, upon inspection of a vehicle that
10 has been rebuilt under RCW 46.12.030, the state patrol shall securely
11 affix or inscribe a marking at the driver's door latch pillar
12 indicating that the vehicle has previously been destroyed or declared
13 a total loss.

14 (3) It is a class C felony for a person to remove the marking
15 prescribed in subsection (2) of this section.

16 (4) The department may adopt rules as necessary to implement this
17 section.

18 **Sec. 25.** RCW 46.63.020 and 1994 c 275 s 33 and 1994 c 141 s 2 are
19 each reenacted and amended to read as follows:

20 Failure to perform any act required or the performance of any act
21 prohibited by this title or an equivalent administrative regulation or
22 local law, ordinance, regulation, or resolution relating to traffic
23 including parking, standing, stopping, and pedestrian offenses, is
24 designated as a traffic infraction and may not be classified as a
25 criminal offense, except for an offense contained in the following
26 provisions of this title or a violation of an equivalent administrative
27 regulation or local law, ordinance, regulation, or resolution:

28 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
29 vehicle while under the influence of intoxicating liquor or a
30 controlled substance;

31 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

32 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
33 while under the influence of intoxicating liquor or narcotics or
34 habit-forming drugs or in a manner endangering the person of another;

35 (4) RCW 46.10.130 relating to the operation of snowmobiles;

36 (5) Chapter 46.12 RCW relating to certificates of ownership and
37 registration and markings indicating that a vehicle has been destroyed
38 or declared a total loss;

1 (6) RCW 46.16.010 relating to initial registration of motor
2 vehicles;

3 (7) RCW 46.16.011 relating to permitting unauthorized persons to
4 drive;

5 (8) RCW 46.16.160 relating to vehicle trip permits;

6 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
7 acquisition of a special placard or license plate for disabled persons'
8 parking;

9 (10) RCW 46.20.021 relating to driving without a valid driver's
10 license;

11 (11) RCW 46.20.336 relating to the unlawful possession and use of
12 a driver's license;

13 (12) RCW 46.20.342 relating to driving with a suspended or revoked
14 license or status;

15 (13) RCW 46.20.410 relating to the violation of restrictions of an
16 occupational driver's license;

17 (14) RCW 46.20.420 relating to the operation of a motor vehicle
18 with a suspended or revoked license;

19 (15) RCW 46.20.750 relating to assisting another person to start a
20 vehicle equipped with an ignition interlock device;

21 (16) RCW 46.25.170 relating to commercial driver's licenses;

22 (17) Chapter 46.29 RCW relating to financial responsibility;

23 (18) RCW 46.30.040 relating to providing false evidence of
24 financial responsibility;

25 (19) RCW 46.37.435 relating to wrongful installation of
26 sunscreening material;

27 (20) RCW 46.44.180 relating to operation of mobile home pilot
28 vehicles;

29 (21) RCW 46.48.175 relating to the transportation of dangerous
30 articles;

31 (22) RCW 46.52.010 relating to duty on striking an unattended car
32 or other property;

33 (23) RCW 46.52.020 relating to duty in case of injury to or death
34 of a person or damage to an attended vehicle;

35 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
36 and appraisers;

37 (25) RCW 46.52.100 relating to driving under the influence of
38 liquor or drugs;

- 1 (26) RCW 46.52.130 relating to confidentiality of the driving
2 record to be furnished to an insurance company, an employer, and an
3 alcohol/drug assessment or treatment agency;
- 4 (27) RCW 46.55.020 relating to engaging in the activities of a
5 registered tow truck operator without a registration certificate;
- 6 (28) RCW 46.55.035 relating to prohibited practices by tow truck
7 operators;
- 8 (29) RCW 46.61.015 relating to obedience to police officers,
9 flagmen, or fire fighters;
- 10 (30) RCW 46.61.020 relating to refusal to give information to or
11 cooperate with an officer;
- 12 (31) RCW 46.61.022 relating to failure to stop and give
13 identification to an officer;
- 14 (32) RCW 46.61.024 relating to attempting to elude pursuing police
15 vehicles;
- 16 (33) RCW 46.61.500 relating to reckless driving;
- 17 (34) RCW 46.61.502, 46.61.504, 46.61.5051, 46.61.5052, and
18 46.61.5053 relating to persons under the influence of intoxicating
19 liquor or drugs;
- 20 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- 21 (36) RCW 46.61.522 relating to vehicular assault;
- 22 (37) RCW 46.61.525 relating to negligent driving;
- 23 (38) RCW 46.61.527(4) relating to reckless endangerment of roadway
24 workers;
- 25 (39) RCW 46.61.530 relating to racing of vehicles on highways;
- 26 (40) RCW 46.61.685 relating to leaving children in an unattended
27 vehicle with the motor running;
- 28 (41) RCW 46.64.010 relating to unlawful cancellation of or attempt
29 to cancel a traffic citation;
- 30 (42) RCW 46.64.048 relating to attempting, aiding, abetting,
31 coercing, and committing crimes;
- 32 (43) Chapter 46.65 RCW relating to habitual traffic offenders;
- 33 (44) Chapter 46.70 RCW relating to unfair motor vehicle business
34 practices, except where that chapter provides for the assessment of
35 monetary penalties of a civil nature;
- 36 (45) Chapter 46.72 RCW relating to the transportation of passengers
37 in for hire vehicles;
- 38 (46) Chapter 46.80 RCW relating to motor vehicle wreckers;
- 39 (47) Chapter 46.82 RCW relating to driver's training schools;

1 (48) RCW 46.87.260 relating to alteration or forgery of a cab card,
2 letter of authority, or other temporary authority issued under chapter
3 46.87 RCW;

4 (49) RCW 46.87.290 relating to operation of an unregistered or
5 unlicensed vehicle under chapter 46.87 RCW.

6 **Sec. 26.** RCW 46.70.180 and 1994 c 284 s 13 are each amended to
7 read as follows:

8 Each of the following acts or practices is unlawful:

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

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

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

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

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

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

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

37 (3) To set up, promote, or aid in the promotion of a plan by which
38 vehicles are to be sold to a person for a consideration and upon

1 further consideration that the purchaser agrees to secure one or more
2 persons to participate in the plan by respectively making a similar
3 purchase and in turn agreeing to secure one or more persons likewise to
4 join in said plan, each purchaser being given the right to secure
5 money, credits, goods, or something of value, depending upon the number
6 of persons joining the plan.

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

11 (a) Is subject to the dealer's, or his or her authorized
12 representative's future acceptance, and the dealer fails or refuses
13 within forty-eight hours, exclusive of Saturday, Sunday, or legal
14 holiday, and prior to any further negotiations with said buyer, to
15 deliver to the buyer either the dealer's signed acceptance or all
16 copies of the order, offer, or contract document together with any
17 initial payment or security made or given by the buyer, including but
18 not limited to money, check, promissory note, vehicle keys, a trade-in,
19 or certificate of title to a trade-in; or

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

23 (i) Failure to disclose that the vehicle's certificate of ownership
24 has been branded for any reason, including, but not limited to, status
25 as a rebuilt vehicle as provided in RCW 46.12.050 and section 24 of
26 this act; and

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

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

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

1 (6) For any vehicle dealer or vehicle salesman to refuse to
2 furnish, upon request of a prospective purchaser, the name and address
3 of the previous registered owner of any used vehicle offered for sale.

4 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
5 46.37.425.

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

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

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

37 (11) For a vehicle dealer to pay to or receive from any person,
38 firm, partnership, association, or corporation acting, either directly
39 or through a subsidiary, as a buyer's agent for consumers, any

1 compensation, fee, gratuity, or reward in connection with the purchase
2 or sale of a new motor vehicle.

3 (12) For a buyer's agent acting directly or through a subsidiary to
4 pay to or to receive from any motor vehicle dealer any compensation,
5 fee, gratuity, or reward in connection with the purchase or sale of a
6 new motor vehicle.

7 (13) For a buyer's agent to arrange for or to negotiate the
8 purchase, or both, of a new motor vehicle through an out-of-state
9 dealer without disclosing in writing to the customer that the new
10 vehicle would not be subject to chapter 19.118 RCW.

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

13 (a) Coerce or attempt to coerce any vehicle dealer to order or
14 accept delivery of any vehicle or vehicles, parts or accessories, or
15 any other commodities which have not been voluntarily ordered by the
16 vehicle dealer: PROVIDED, That recommendation, endorsement,
17 exposition, persuasion, urging, or argument are not deemed to
18 constitute coercion;

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

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

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

4 (e) Refuse to deliver any vehicle publicly advertised for immediate
5 delivery to any duly licensed vehicle dealer having a franchise or
6 contractual agreement for the retail sale of new and unused vehicles
7 sold or distributed by such manufacturer within sixty days after such
8 dealer's order has been received in writing unless caused by inability
9 to deliver because of shortage or curtailment of material, labor,
10 transportation, or utility services, or by any labor or production
11 difficulty, or by any cause beyond the reasonable control of the
12 manufacturer;

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

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

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

31 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 46.12.360 and 1990 c 42 s 325, 1980 c 32 s 7, & 1975-'76
34 2nd ex.s. c 91 s 7; and

35 (2) RCW 46.80.055 and 1985 c 109 s 8.

Passed the Senate April 19, 1995.

Passed the House April 12, 1995.

Approved by the Governor May 5, 1995.

Filed in Office of Secretary of State May 5, 1995.