

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1458

Chapter 432, Laws of 1997

(partial veto)

55th Legislature
1997 Regular Session

LICENSING REGULATIONS

EFFECTIVE DATE: 7/27/97

Passed by the House April 19, 1997
Yeas 90 Nays 1

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate April 15, 1997
Yeas 46 Nays 2

BRAD OWEN
President of the Senate

Approved May 20, 1997, with the
exception of section 7, which is
vetoed.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1458** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 20, 1997 - 11:42 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 1458

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington

55th Legislature

1997 Regular Session

By Representatives Zellinsky, Fisher and Robertson; by request of Department of Licensing

Read first time 01/28/97. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to licensing; amending RCW 46.70.023, 46.70.051,
2 46.12.170, 46.12.370, and 82.44.060; adding a new section to chapter
3 46.70 RCW; adding a new section to chapter 88.02 RCW; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 46.70.023 and 1996 c 282 s 1 are each amended to read
7 as follows:

8 (1) An "established place of business" requires a permanent,
9 enclosed commercial building located within the state of Washington
10 easily accessible at all reasonable times. The business of a vehicle
11 dealer must be lawfully carried on at an established place of business
12 in accordance with the terms of all applicable building code, zoning,
13 and other land-use regulatory ordinances. A vehicle dealer may display
14 a vehicle for sale only at its established place of business, licensed
15 subagency, or temporary subagency site, except at auction. The dealer
16 shall keep the building open to the public so that the public may
17 contact the vehicle dealer or the dealer's salespersons at all
18 reasonable times. The books, records, and files necessary to conduct
19 the business shall be kept and maintained at that place. The

1 established place of business shall display an exterior sign with the
2 business name and nature of the business, such as auto sales,
3 permanently affixed to the land or building, with letters clearly
4 visible to the major avenue of traffic. A room or rooms in a hotel,
5 rooming house, or apartment house building or part of a single or
6 multiple-unit dwelling house may not be considered an "established
7 place of business" unless the ground floor of such a dwelling is
8 devoted principally to and occupied for commercial purposes and the
9 dealer offices are located on the ground floor. A mobile office or
10 mobile home may be used as an office if it is connected to utilities
11 and is set up in accordance with state law. A state-wide trade
12 association representing manufactured housing dealers shall be
13 permitted to use a manufactured home as an office if the office
14 complies with all other applicable building code, zoning, and other
15 land-use regulatory ordinances. This subsection does not apply to
16 auction companies that do not own vehicle inventory or sell vehicles
17 from an auction yard.

18 (2) An auction company shall have office facilities within the
19 state. The books, records, and files necessary to conduct the business
20 shall be maintained at the office facilities. All storage facilities
21 for inventory shall be listed with the department, and shall meet local
22 zoning and land use ordinances. An auction company shall maintain a
23 telecommunications system.

24 (3) Auction companies shall post their vehicle dealer license at
25 each auction where vehicles are offered, and shall provide the
26 department with the address of the auction at least three days before
27 the auction.

28 (4) If a dealer maintains a place of business at more than one
29 location or under more than one name in this state, he or she shall
30 designate one location as the principal place of business of the firm,
31 one name as the principal name of the firm, and all other locations or
32 names as subagencies. A subagency license is required for each and
33 every subagency: PROVIDED, That the department may grant an exception
34 to the subagency requirement in the specific instance where a licensed
35 dealer is unable to locate their used vehicle sales facilities adjacent
36 to or at the established place of business. This exception shall be
37 granted and defined under the promulgation of rules consistent with the
38 Administrative Procedure Act.

1 (5) All vehicle dealers shall maintain ownership or leasehold
2 throughout the license year of the real property from which they do
3 business. The dealer shall provide the department with evidence of
4 ownership or leasehold whenever the ownership changes or the lease is
5 terminated.

6 (6) A subagency shall comply with all requirements of an
7 established place of business, except that subagency records may be
8 kept at the principal place of business designated by the dealer.
9 Auction companies shall comply with the requirements in subsection (2)
10 of this section.

11 (7) A temporary subagency shall meet all local zoning and building
12 codes for the type of merchandising being conducted. The dealer
13 license certificate shall be posted at the location. No other
14 requirements of an established place of business apply to a temporary
15 subagency. Auction companies are not required to obtain a temporary
16 subagency license.

17 (8) A wholesale vehicle dealer shall have office facilities in a
18 commercial building within this state, and all storage facilities for
19 inventory shall be listed with the department, and shall meet local
20 zoning and land use ordinances. A wholesale vehicle dealer shall
21 maintain a telecommunications system. An exterior sign visible from
22 the nearest street shall identify the business name and the nature of
23 business. (~~(A wholesale dealer need not maintain a display area as~~
24 ~~required in this section.)) When two or more vehicle dealer businesses
25 share a location, all records, office facilities, and inventory, if
26 any, must be physically segregated and clearly identified.~~

27 (9) A retail vehicle dealer shall be open during normal business
28 hours, maintain office and display facilities in a commercially zoned
29 location or in a location complying with all applicable building and
30 land use ordinances, and maintain a business telephone listing in the
31 local directory. When two or more vehicle dealer businesses share a
32 location, all records, office facilities, and inventory shall be
33 physically segregated and clearly identified.

34 (10) (~~(A listing dealer need not have a display area if the dealer~~
35 ~~does not physically maintain any vehicles for display.~~

36 ~~(11))~~) A subagency license is not required for a mobile home dealer
37 to display an on-site display model, a consigned mobile home not
38 relocated from its site, or a repossessed mobile home if sales are
39 handled from a principal place of business or subagency. A mobile home

1 dealer shall identify on-site display models, repossessed mobile homes,
2 and those consigned at their sites with a sign that includes the
3 dealer's name and telephone number.

4 (~~(12)~~) (11) Every vehicle dealer shall advise the department of
5 the location of each and every place of business of the firm and the
6 name or names under which the firm is doing business at such location
7 or locations. If any name or location is changed, the dealer shall
8 notify the department of such change within ten days. The license
9 issued by the department shall reflect the name and location of the
10 firm and shall be posted in a conspicuous place at that location by the
11 dealer.

12 (~~(13)~~) (12) A vehicle dealer's license shall upon the death or
13 incapacity of an individual vehicle dealer authorize the personal
14 representative of such dealer, subject to payment of license fees, to
15 continue the business for a period of six months from the date of the
16 death or incapacity.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.70 RCW
18 to read as follows:

19 The director may deny a license under this chapter when the
20 application is a subterfuge that conceals the real person in interest
21 whose license has been denied, suspended, or revoked for cause under
22 this chapter and the terms have not been fulfilled or a civil penalty
23 has not been paid, or the director finds that the application was not
24 filed in good faith. This section does not preclude the department
25 from taking an action against a current licensee.

26 NEW SECTION. **Sec. 3.** A new section is added to chapter 88.02 RCW
27 to read as follows:

28 The director may deny a license under this chapter when the
29 application is a subterfuge that conceals the real person in interest
30 whose license has been denied, suspended, or revoked for cause under
31 this chapter and the terms have not been fulfilled or a civil penalty
32 has not been paid, or the director finds that the application was not
33 filed in good faith. This section does not preclude the department
34 from taking an action against a current licensee.

35 **Sec. 4.** RCW 46.70.051 and 1996 c 282 s 2 are each amended to read
36 as follows:

1 (1) After the application has been filed, the fee paid, and bond
2 posted, if required, the department shall, if no denial order is in
3 effect and no proceeding is pending under RCW 46.70.101, issue the
4 appropriate license, which license, in the case of a vehicle dealer,
5 shall designate the classification of the dealer. Nothing prohibits a
6 vehicle dealer from obtaining licenses for more than one
7 classification, and nothing prevents any vehicle dealer from dealing in
8 other classes of vehicles on an isolated basis.

9 (2) An auction company licensed under chapter 18.11 RCW may sell at
10 auction all classifications of vehicles under a motor vehicle dealer's
11 license issued under this chapter including motor vehicles,
12 miscellaneous type vehicles, and mobile homes and travel trailers.

13 (3) At the time the department issues a vehicle dealer license, the
14 department shall provide to the dealer a current, up-to-date vehicle
15 dealer manual setting forth the various statutes and rules applicable
16 to vehicle dealers. In addition, at the time any such license is
17 renewed under RCW 46.70.083, the department shall provide the dealer
18 with any updates or current revisions to the vehicle dealer manual.

19 (4) The department may contract with responsible private parties to
20 provide them elements of the vehicle data base on a regular basis. The
21 private parties may only disseminate this information to licensed
22 vehicle dealers.

23 (a) Subject to the disclosure agreement provisions of RCW 46.12.380
24 and the requirements of Executive Order 97-01, the department may
25 provide to the contracted private parties the following information:

26 (i) All vehicle and title data necessary to accurately disclose
27 known title defects, brands, or flags and odometer discrepancies;

28 (ii) All registered and legal owner information necessary to
29 determine true ownership of the vehicle and the existence of any
30 recorded liens, including but not limited to liens of the department of
31 social and health services or its successor; and

32 (iii) Any data in the department's possession necessary to
33 calculate the motor vehicle excise tax, license, and registration fees
34 including information necessary to determine the applicability of
35 regional transit authority excise and use tax surcharges.

36 (b) The department may provide this information in any form the
37 contracted private party and the department agree upon, but if the data
38 is to be transmitted over the Internet or similar public network from
39 the department to the contracted private party, it must be encrypted.

1 (c) The department shall give these contracted private parties
2 advance written notice of any change in the information referred to in
3 (a)(i), (ii), or (iii) of this subsection, including information
4 pertaining to the calculation of motor vehicle excise taxes.

5 (d) The department shall revoke a contract made under this
6 subsection (4) with a private party who disseminates information from
7 the vehicle data base to anyone other than a licensed vehicle dealer.
8 A private party who obtains information from the vehicle data base
9 under a contract with the department and disseminates any of that
10 information to anyone other than a licensed vehicle dealer is guilty of
11 a gross misdemeanor punishable under chapter 9A.20 RCW.

12 (e) Nothing in this subsection (4) authorizes a vehicle dealer or
13 any other organization or entity not otherwise appointed as a vehicle
14 licensing subagent under RCW 46.01.140 to perform any of the functions
15 of a vehicle licensing subagent so appointed.

16 **Sec. 5.** RCW 46.12.170 and 1994 c 262 s 6 are each amended to read
17 as follows:

18 If, after a certificate of ownership is issued, a security interest
19 is granted on the vehicle described therein, the registered owner or
20 secured party shall, within ten days thereafter, present an application
21 to the department, to which shall be attached the certificate of
22 ownership last issued covering the vehicle, or such other documentation
23 as may be required by the department, which application shall be upon
24 a form provided by the department and shall be accompanied by a fee of
25 one dollar and twenty-five cents in addition to all other fees. The
26 department, if satisfied that there should be a reissue of the
27 certificate, shall note such change upon the vehicle records and issue
28 to the secured party a new certificate of ownership.

29 Whenever there is no outstanding secured obligation and no
30 commitment to make advances and incur obligations or otherwise give
31 value, the secured party must assign the certificate of ownership to
32 the debtor or the debtor's assignee or transferee, and transmit the
33 certificate to the department with an accompanying fee of one dollar
34 and twenty-five cents in addition to all other fees. The department
35 shall then issue a new certificate of ownership and transmit it to the
36 owner. If the affected secured party fails to either assign the
37 certificate of ownership to the debtor or the debtor's assignee or
38 transferee or transmit the certificate of ownership to the department

1 within ten days after proper demand, that secured party shall be liable
2 to the debtor or the debtor's assignee or transferee for one hundred
3 dollars, and in addition for any loss caused to the debtor or the
4 debtor's assignee or transferee by such failure.

5 **Sec. 6.** RCW 46.12.370 and 1982 c 215 s 1 are each amended to read
6 as follows:

7 In addition to any other authority which it may have, the
8 department of licensing may furnish lists of registered and legal
9 owners of motor vehicles only for the purposes specified in this
10 section to:

11 (1) The manufacturers of motor vehicles, or their authorized
12 agents, to be used to enable those manufacturers to carry out the
13 provisions of the National Traffic and Motor Vehicle Safety Act of 1966
14 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto,
15 respecting safety-related defects in motor vehicles;

16 (2) Any governmental agency of the United States or Canada, or
17 political subdivisions thereof, to be used by it or by its authorized
18 commercial agents or contractors only in connection with the
19 enforcement of motor vehicle or traffic laws by, or programs related to
20 traffic safety of, that government agency. Only such parts of the list
21 as are required for completion of the work required of the agent or
22 contractor shall be provided to such agent or contractor; ((or))

23 (3) An authorized agent or contractor of the department, to be used
24 only in connection with providing motor vehicle excise tax, licensing,
25 title, and registration information to motor vehicle dealers; or

26 (4) Any business regularly making loans to other persons to finance
27 the purchase of motor vehicles, to be used to assist the person
28 requesting the list to determine ownership of specific vehicles for the
29 purpose of determining whether or not to provide such financing. In
30 the event a list of registered and legal owners of motor vehicles is
31 used for any purpose other than that authorized in ((subsections (1),
32 (2) and (3) of)) this section, the manufacturer, governmental agency,
33 authorized agent, contractor, financial institution, or their
34 authorized agents or contractors responsible for the unauthorized
35 disclosure or use will be denied further access to such information by
36 the department of licensing.

1 *Sec. 7. RCW 82.44.060 and 1990 c 42 s 304 are each amended to
2 read as follows:

3 (1) The excise tax hereby imposed shall be due and payable to the
4 department or its agents at the time of registration of a motor
5 vehicle. Whenever an application is made to the department or its
6 agents for a license for a motor vehicle there shall be collected, in
7 addition to the amount of the license fee or renewal license fee, the
8 amount of the excise tax imposed by this chapter, and no dealer's
9 license or license plates, and no license or license plates for a motor
10 vehicle shall be issued unless such tax is paid in full. The excise
11 tax hereby imposed shall be collected for each registration year. The
12 excise tax upon a motor vehicle licensed for the first time in this
13 state shall be levied for one full registration year commencing on the
14 date of the calendar year designated by the department and ending on
15 the same date of the next succeeding calendar year. For vehicles
16 registered under chapter 46.87 RCW, proportional registration, and for
17 vehicle dealer plates issued under chapter 46.70 RCW, the registration
18 year is the period provided in those chapters: PROVIDED, That the tax
19 shall in no case be less than two dollars except for proportionally
20 registered vehicles.

21 (2) A motor vehicle shall be deemed licensed for the first time in
22 this state when such vehicle was not previously licensed by this state
23 for the registration year immediately preceding the registration year
24 in which the application for license is made or when the vehicle has
25 been registered in another jurisdiction subsequent to any prior
26 registration in this state.

27 (3) No additional tax shall be imposed under this chapter upon any
28 vehicle upon the transfer of ownership thereof if the tax imposed with
29 respect to such vehicle has already been paid for the registration year
30 or fraction of a registration year in which transfer of ownership
31 occurs.

32 (4) The regional transit authority (RTA) must provide at no cost to
33 the private parties referred to in RCW 46.70.051(4) accurate, up-to-
34 date, and easily decipherable excise tax information in a machine
35 readable ASCII text file. This file will allow the contracted private
36 parties to accurately determine which individuals are subject to any
37 such special excise or use taxes and the amount of any such special
38 excise or use taxes. The file must contain the following items: (a)
39 A list of five digit zip codes completely contained within the RTA

1 taxation area; (b) a list of five digit zip codes for those areas on
2 the border of the RTA taxation, with the border area defined as those
3 zip codes where some residences may be subject to the RTA use or motor
4 vehicle excise tax surcharge and some residences are not; and (c) for
5 those residences described in (b) of this subsection, a complete list
6 of only those street addresses subject to RTA taxation.

7 (5) No person may be denied issuance of a registration or license
8 plates due to the nonpayment of any such special excise tax if the
9 information referred to in subsection (4) of this section is not
10 provided by the RTA to the contracted private parties.

11 (6) No motor vehicle dealer may be held liable for the remittance
12 of any such special excise tax if the information referred to in
13 subsection (4) of this section is not provided by the RTA to the
14 contracted private parties.

15 *Sec. 7 was vetoed. See message at end of chapter.

Passed the House April 19, 1997.

Passed the Senate April 15, 1997.

Approved by the Governor May 20, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 7,
3 House Bill No. 1458 entitled:

4 "AN ACT Relating to licensing;"

5 House Bill No. 1458 makes numerous changes in the laws relating
6 vehicle and vessel licensing taxes. However, section 7 of the bill
7 requires the Regional Transit Authority (RTA) to provide excise tax
8 information in a machine readable ASCII text file to a private
9 contractor at no cost. This information would allow the contractor to
10 determine who is subject to the RTA's special excise and use taxes and
11 how much taxes should be paid.

12 I understand that the intent of section 7 is to ensure that vehicle
13 dealers receive accurate information regarding these taxes at any time,
14 and that they should not be obligated to collect the taxes unless they
15 have accurate and up-to-date information. While I agree with the
16 intent, this section is flawed, overly prescriptive, and unnecessary.
17 By using the word "remittance" the language implies that if accurate
18 information were not supplied by the RTA, taxes already collected by
19 dealers would not have to be forwarded to the state. Further, the RTA
20 does not need the very prescriptive and limiting contracting language
21 contained in section 7 to provide accurate tax information for these
22 purposes.

23 For these reasons, I have vetoed section 7 of House Bill No. 1458.

24 With the exception of section 7, House Bill No. 1458 is approved."