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**HOUSE BILL 2474**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Harmsworth and Condotta

AN ACT Relating to vehicle transfer administration and enforcement; amending RCW 19.16.250, 46.12.630, 46.12.650, 46.12.655, 46.55.105, and 46.55.110; adding a new section to chapter 46.64 RCW; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  This act may be known and cited as the vehicle transfer protection act.

**Sec.**  RCW 19.16.250 and 2013 c 148 s 2 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwardee, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (10)(e) of this section.

(4) Have in his or her possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the unauthorized practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or her or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form, other than through proper legal action, process, or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he or she is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or her or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or her or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or her or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form concerns a judgment obtained against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest, if claimed, and the current account balance;

(e) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate in writing with a debtor concerning a claim through a proper legal action, process, or proceeding, where such communication is the first written communication with the debtor, without providing the information set forth in subsection (8)(c) of this section in the written communication.

(10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim. If the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall, upon receipt of written notice from the debtor that any part of the claim is disputed, notify the credit reporting bureau of the dispute by written or electronic means and create a record of the fact of the notification and when the notification was provided;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(11) Threaten the debtor with impairment of his or her credit rating if a claim is not paid: PROVIDED, That advising a debtor that the licensee has reported or intends to report a claim to a credit reporting agency is not considered a threat if the licensee actually has reported or intends to report the claim to a credit reporting agency.

(12) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or she or it again receives notification in writing that an attorney is representing the debtor.

(13) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week, unless the licensee is responding to a communication from the debtor or spouse;

(b) It is made with a debtor at his or her place of employment more than one time in a single week, unless the licensee is responding to a communication from the debtor;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a telephone is presumed to be received in the local time zone to which the area code of the number called is assigned for landline numbers, unless the licensee reasonably believes the telephone is located in a different time zone. If the area code is not assigned to landlines in any specific geographic area, such as with toll‑free telephone numbers, a call to a telephone is presumed to be received in the local time zone of the debtor's last known place of residence, unless the licensee reasonably believes the telephone is located in a different time zone.

(14) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(15) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(16) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(17) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made: PROVIDED, That:

(a) This subsection does not prohibit a licensee from attempting to communicate by way of a cellular telephone or other wireless device: PROVIDED, That a licensee cannot cause charges to be incurred to the recipient of the attempted communication more than three times in any calendar week when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call is made.

(b) The licensee is not in violation of (a) of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

(c) This subsection may not be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(18) Call, or send a text message or other electronic communication to, a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call, text message, or other electronic communication is made. The licensee is not in violation of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone. Nothing in this subsection may be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(19) Intentionally block its telephone number from displaying on a debtor's telephone.

(20) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(21) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(22) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (21) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(23) Bring an action or initiate an arbitration proceeding on a claim when the licensee knows, or reasonably should know, that such suit or arbitration is barred by the applicable statute of limitations.

(24) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(25) Bring an action or initiate an arbitration proceeding on a claim for any amounts related to a transfer of sale of a vehicle when the licensee has been informed or reasonably should know that the department of licensing report of sale was filed in accordance with RCW 46.12.650 and the transfer of the vehicle was not made pursuant to a legal transfer or voluntarily accepted by the person.

(26) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

**Sec.**  RCW 46.12.630 and 2014 c 79 s 1 are each amended to read as follows:

(1) The department of licensing must furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this subsection to the manufacturers of motor vehicles or motor vehicle components, or their authorized agents, to enable those manufacturers to carry out the provisions of Titles I and IV of the anti car theft act of 1992, the automobile information disclosure act (15 U.S.C. Sec. 1231 et seq.), the clean air act (42 U.S.C. Sec. 7401 et seq.), and 49 U.S.C.S. Secs. 30101-30183, 30501-30505, and 32101-33118, as these acts existed on January 1, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. However, the department may only provide a vehicle or vehicle component manufacturer, or its authorized agent, lists of registered or legal owners who purchased or leased a vehicle manufactured by that manufacturer or a vehicle containing a component manufactured by that component manufacturer. Manufacturers or authorized agents receiving information on behalf of one manufacturer must not disclose this information to any other third party that is not necessary to carry out the purposes of this section.

(2)(a) The department of licensing may furnish lists of registered and legal owners of motor vehicles, only to the entities and only for the purposes specified in this section, to:

((~~(a)~~)) (i) The manufacturers of motor vehicles, legitimate businesses as defined by the department in rule, or their authorized agents, for purposes of using lists of registered and legal owner information to conduct research activities and produce statistical reports, as long as the entity does not allow personal information received under this section to be published, redisclosed, or used to contact individuals. For purposes of this subsection (2)(a)(i), the department of licensing may only provide the manufacturer of a motor vehicle, or the manufacturer of components contained in a motor vehicle, the lists of registered or legal owners who purchased or leased a vehicle manufactured by that manufacturer or a vehicle containing components manufactured by that component manufacturer;

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

((~~(c)~~)) (iii) Any insurer or insurance support organization, a self-insured entity, or its agents, employees, or contractors for use in connection with claims investigation activities, antifraud activities, rating, or underwriting;

((~~(d)~~)) (iv) Any local governmental entity or its agents for use in providing notice to owners of towed and impounded vehicles;

((~~(e)~~)) (v) A government agency, commercial parking company, or its agents requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.635 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

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

((~~(g)~~)) (vii) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

((~~(h)~~)) (viii) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

(b) When furnishing lists under this subsection and when a report of sale has been filed before a new certificate of title is issued, the department must also disclose that a report of sale has been filed on the vehicle and provide the name of the person acquiring the vehicle on the report of sale.

(3) Personal information received by an entity listed in subsection (1) or (2) of this section may not be released for direct marketing purposes.

(4) Prior to the release of any lists of vehicle owners under subsection (1) or (2) of this section, the department must enter into a contract with the entity authorized to receive the data. The contract must include:

(a) A requirement that the department or its agent conduct both regular permissible use and data security audits subject to the following conditions and limitations:

(i) The data security audits must demonstrate compliance with the data security standards adopted by the office of the chief information officer.

(ii) When determining whether to conduct an audit under this subsection, the department must first take into consideration any independent third-party audit a data recipient has had before requiring that any additional audits be performed. If the independent third-party audit is a data security audit and it meets both recognized national or international standards and the standards adopted by the office of the chief information officer pursuant to (a)(i) of this subsection, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a). If the independent third-party audit is a permissible use audit and it meets recognized national or international standards, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a); and

(b) A provision that the cost of the audits performed pursuant to this subsection must be borne by the data recipient. A new data recipient must bear the initial cost to set up a system to disburse the data to the data recipient.

(5)(a) Beginning January 1, 2015, the department must collect a fee of ten dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section. Beginning January 1, 2016, the department must collect a fee of twenty dollars per one thousand individual registered or legal vehicle owners included on a list requested by a private entity under subsection (1) or (2) of this section. Beginning January 1, 2021, the department must collect a fee of twenty-five dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section. The department must prorate the fee when the request is for less than a full one thousand records.

(b) In lieu of the fee specified in (a) of this subsection, if the request requires a daily, weekly, monthly, or other regular update of those vehicle records that have changed:

(i) Beginning January 1, 2015, the department must collect a fee of one cent per individual registered or legal vehicle owner record provided to the private entity;

(ii) Beginning January 1, 2016, the department must collect a fee of two cents per individual registered or legal vehicle owner record provided to the private entity;

(iii) Beginning January 1, 2021, the department must collect a fee of two and one-half cents per individual registered or legal vehicle owner record provided to the private entity.

(c) The department must deposit any moneys collected under this subsection to the department of licensing technology improvement and data management account created in RCW 46.68.063.

(6) Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

(7) If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, contractor, financial institution, insurer, insurance support organization, self-insured entity, legitimate business entity, toll facility operator, or any authorized agent or contractor responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

(8) For purposes of this section, "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, or medical or disability information. However, an individual's photograph, social security number, and any medical or disability-related information is considered highly restricted personal information and may not be released under this section.

**Sec.**  RCW 46.12.650 and 2015 3rd sp.s. c 44 s 214 are each amended to read as follows:

(1) **Releasing interest.** An owner releasing interest in a vehicle shall:

(a) Sign the release of interest section provided on the certificate of title or on a release of interest document or form approved by the department;

(b) Give the certificate of title or most recent evidence of ownership to the person gaining the interest in the vehicle;

(c) Give the person gaining interest in the vehicle an odometer disclosure statement if one is required; and

(d) Report the vehicle sold as provided in subsection (2) of this section.

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within twenty-one business days after a vehicle is or has been:

(a) Sold;

(b) Given as a gift to another person;

(c) Traded, either privately or to a dealership;

(d) Donated to charity;

(e) Turned over to an insurance company or wrecking yard; or

(f) Disposed of.

(3) **Report of sale properly filed.** A report of sale is properly filed if it is received by the department, county auditor or other agent, or subagent appointed by the director within twenty-one business days after the date of sale or transfer and it includes:

(a) The date of sale or transfer;

(b) The owner's name and address;

(c) The name and address of the person acquiring the vehicle;

(d) The vehicle identification number and license plate number;

(e) A date or stamp by the department showing it was received on or before the twenty-first business day after the date of sale or transfer; and

(f) Payment of the fees required under RCW 46.17.050.

(4) **Report of sale - administration.** (a) The department shall:

(i) Provide or approve reports of sale forms;

(ii) Provide a system enabling an owner to submit reports of sale electronically;

(iii) Immediately update the department's vehicle record when a report of sale has been filed;

(iv) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30A.22.040, releases its lien on the vehicle; and

(v) Send a report to the department of revenue that lists vehicles for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

(b) A report of sale that is received by the department, county auditor or other agent, or subagent appointed by the director after the twenty-first day becomes effective on the day it is received by the department, county auditor or other agent, or subagent appointed by the director.

(c) A report of sale is not proof of a completed vehicle transfer for purposes of the collection of expenses related to towing, storage, and auction of an abandoned vehicle when there is no evidence indicating the person who acquired the vehicle knew of or was a party to acceptance of the vehicle transfer. A contract for the transfer of the vehicle signed by the appropriate persons, a certificate of title, or other legal proof of acceptance of the vehicle may be provided to establish legal responsibility for the abandoned vehicle.

(5)(a) **Transferring ownership.** A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action shall apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title within fifteen days of delivery of the vehicle. A secured party who has possession of the certificate of title shall either:

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under RCW 46.17.100; or

(ii) Provide all required documents to the owner, as long as the transfer was not a breach of its security agreement, to allow the owner to apply for a new certificate of title.

(b) Compliance with this subsection does not affect the rights of the secured party.

(6) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.675.

(7) **Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate of title within fifteen calendar days of delivery of the vehicle is charged a penalty, as described in RCW 46.17.140, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within forty-five days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the forty-five day time period.

(8) **Penalty for late transfer - exceptions.** (a) The penalty is not charged if the delay in application is due to at least one of the following:

((~~(a)~~)) (i) The department requests additional supporting documents;

((~~(b)~~)) (ii) The department, county auditor or other agent, or subagent fails to perform or is neglectful;

((~~(c)~~)) (iii) The owner is prevented from applying due to an illness or extended hospitalization;

((~~(d)~~)) (iv) The legal owner fails or neglects to release interest;

((~~(e)~~)) (v) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or

((~~(f)~~)) (vi) The department finds other conditions exist that adequately explain the delay.

(b) If a new certificate of title has not been applied for by the person who acquired the vehicle as identified in the report of sale after fifteen days from the filing of the report of sale, the department shall attempt to notify the person, if he or she resides in Washington state, of the requirement to apply for a new certificate of title and describe the fees, taxes, and penalties that may apply if the transaction is not completed. The department is not required to contact known dealerships, wrecking yards, or other entities that are not required to apply for a new certificate of title for the vehicle. If the person applies for the new certificate of title and pays the fees and taxes within thirty days of receiving the notice, the department may waive all penalties.

(c) If a new certificate of title has not been applied for by the person who acquired the vehicle as identified in the report of sale after one hundred eighty days from the filing of a report of sale, the department may refuse to issue a driver's license to the person if that person is required by law to apply for a new certificate of title for the vehicle transferred in the report of sale. The department may issue a temporary driver's instruction permit to a person that does not apply for the new certificate of title on the vehicle listed in the report of sale. A driver's license may be issued once an application for a new certificate of title for the vehicle is completed in accordance with the requirements under subsection (5) of this section are met.

(9) **Review and issue.** The department shall review applications for certificates of title and issue certificates of title when it has determined that all applicable provisions of law have been complied with.

(10) **Rules.** The department may adopt rules as necessary to implement this section.

**Sec.**  RCW 46.12.655 and 2010 c 161 s 310 are each amended to read as follows:

(1) An owner is relieved of civil or criminal liability for the operation of a vehicle by another person when the owner has:

(a) Made a bona fide sale or transfer of a vehicle;

(b) Delivered possession of the vehicle to the person acquiring ownership;

(c) Released interest in the vehicle and provided the certificate of title and registration certificate to the person acquiring ownership; and

(d) Filed a report of sale that meets all the requirements in RCW 46.12.650(2).

(2) A person acquiring a vehicle assumes civil or criminal liability for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of sale or transfer of ownership based on the vehicle's identification including, but not limited to:

(a) Parking infractions;

(b) High occupancy toll lane violations; and

(c) Violations recorded by automated traffic safety cameras.

(3) A person shown as the buyer of a vehicle on an abandoned vehicle report submitted to the department by a registered tow truck operator assumes liability for the vehicle. Any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale.

(4) A person who had no knowledge of the filing of the report of sale is relieved of civil or criminal liability for the operation of the vehicle. Liability is then transferred to the seller shown on the report of sale.

(5) When a report of sale has been properly filed in accordance with RCW 46.12.650(3), the most recent buyer of the vehicle is responsible for any costs associated with an abandoned vehicle after the date of the sale. The department must provide the information for the buyer from the report of sale to the tow truck operator.

**Sec.**  RCW 46.55.105 and 2010 c 161 s 1119 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, the abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering—abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.650 (1) through (3) relieves the last registered owner of liability under subsections (1) and (2) of this section. However, if there is a reason to believe that a report of sale has been filed in which the reported buyer did not know of the alleged transfer or did not accept the vehicle transfer, the liability remains with the last registered owner to prove the vehicle transfer was pursuant to a legal transfer or accepted by the person reported as the buyer on the report of sale. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.660. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

(7) A person named as a buyer in a report of sale filed under RCW 46.12.650(3) in which there was no acceptance of the transfer has a cause of action against the person who filed the report to recover costs associated with towing, storage, auction, or any other damages incurred as a result of being named as the buyer in the report of sale, including reasonable attorneys' fees and litigation costs. The cause of action provided in this subsection is in addition to any other remedy available to the person at law or in equity. A person that files a fraudulent report of sale is guilty of a gross misdemeanor with a nonnegotiable penalty of one thousand dollars.

**Sec.**  RCW 46.55.110 and 2002 c 279 s 11 are each amended to read as follows:

(1) When an unauthorized vehicle is impounded, the impounding towing operator shall notify (a) the legal and registered owners of the impoundment of the unauthorized vehicle and the owners of any other items of personal property registered or titled with the department or (b) the buyer listed on the most recently filed vehicle report of sale if the report of sale was properly filed before a new certificate of title was issued. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle or the buyer listed on the most recently filed report of sale, and the owners of any other items of personal property registered or titled with the department, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

(2) In addition, if a suspended license impound has been ordered, the notice must state the length of the impound, the requirement of the posting of a security deposit to ensure payment of the costs of removal, towing, and storage, notification that if the security deposit is not posted the vehicle will immediately be processed and sold at auction as an abandoned vehicle, and the requirements set out in RCW 46.55.120(1)((~~(b)~~)) (c) regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner or buyer listed on the report of sale is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(3) In the case of an abandoned vehicle, or other item of personal property registered or titled with the department, within twenty-four hours after receiving information on the owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners or buyer listed on the report of sale and of the penalties for the traffic infraction littering—abandoned vehicle.

(4) If the date on which a notice required by subsection (3) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(5) No notices need be sent to the legal or registered owners or buyer listed on the report of sale of an impounded vehicle or other item of personal property registered or titled with the department, if the vehicle or personal property has been redeemed.

NEW SECTION. **Sec.**  A new section is added to chapter 46.64 RCW to read as follows:

If a person has caused a victim to lose money or property through the filing of a vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, upon conviction or when the offender pleads guilty and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim, the court may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the filing of the vehicle report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale. Such an amount may be used to provide restitution to the victim at the order of the court. It is the duty of the prosecuting attorney to investigate the alternative of restitution, and to recommend it to the court, when the prosecuting attorney believes that restitution is appropriate and feasible. If the court orders restitution, the court must make a finding as to the amount of the victim's loss due to the filing of the report of sale in which the designated buyer had no knowledge of the vehicle transfer or the fraudulent filing of the report of sale, and if the record does not contain sufficient evidence to support such finding, the court may conduct a hearing upon the issue. For purposes of this section, "loss" refers to the amount of money or the value of property or services lost.

NEW SECTION. **Sec.**  This act takes effect January 1, 2017.

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