

ESHB 2274 - S COMM AMD

By Committee on Transportation

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.12.650 and 2015 3rd sp.s. c 44 s 214 are each  
4 amended to read as follows:

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

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

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

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

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

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

20 (a) Sold;

21 (b) Given as a gift to another person;

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

23 (d) Donated to charity;

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

25 (f) Disposed of.

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

31 (a) The date of sale or transfer;

32 (b) The owner's full name and complete, current address;

1 (c) The full name and complete, current address of the person  
2 acquiring the vehicle, including street name and number, and  
3 apartment number if applicable, or post office box number, city or  
4 town, and postal code;

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

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

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

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

11 (i) Provide or approve reports of sale forms;

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

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

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

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

24 (~~(b) ((A report of sale that is received by the department, county~~  
25 ~~auditor or other agent, or subagent appointed by the director after~~  
26 ~~the twenty-first day becomes effective on the day it is received by~~  
27 ~~the department, county auditor or other agent, or subagent appointed~~  
28 ~~by the director.))~~ A report of sale is not proof of a completed  
29 vehicle transfer for purposes of the collection of expenses related  
30 to towing, storage, and auction of an abandoned vehicle in situations  
31 where there is no evidence indicating the buyer knew of or was a  
32 party to acceptance of the vehicle transfer. A contract signed by the  
33 prior owner and the new owner, a certificate of title, a receipt, a  
34 purchase order or wholesale order, or other legal proof or record of  
35 acceptance of the vehicle by the new owner may be provided to  
36 establish legal responsibility for the abandoned vehicle.

37 (5)(a) **Transferring ownership.** A person who has recently acquired  
38 a vehicle by purchase, exchange, gift, lease, inheritance, or legal  
39 action shall apply to the department, county auditor or other agent,  
40 or subagent appointed by the director for a new certificate of title

1 within fifteen days of delivery of the vehicle. A secured party who  
2 has possession of the certificate of title shall either:

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

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

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

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

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

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

28 (a) The department requests additional supporting documents;

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

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

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

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

36 (f) The department finds other conditions exist that adequately  
37 explain the delay.

38 (9) **Review and issue.** The department shall review applications  
39 for certificates of title and issue certificates of title when it has

1 determined that all applicable provisions of law have been complied  
2 with.

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

5 **Sec. 2.** RCW 46.55.105 and 2010 c 161 s 1119 are each amended to  
6 read as follows:

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

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

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

31 (4) Properly filing a report of sale or transfer regarding the  
32 vehicle involved in accordance with RCW 46.12.650 (1) through (3)  
33 relieves the last registered owner of liability under subsections (1)  
34 and (2) of this section. However, if there is a reason to believe  
35 that a report of sale has been filed in which the reported buyer did  
36 not know of the alleged transfer or did not accept the vehicle  
37 transfer, the liability remains with the last registered owner to  
38 prove the vehicle transfer was made pursuant to a legal transfer or  
39 accepted by the person reported as the new owner on the report of

1 sale. If the date of sale as indicated on the report of sale is ((~~o~~  
2 ~~e~~)) before the date of impoundment, the buyer identified on the  
3 latest properly filed report of sale with the department is assumed  
4 liable for the costs incurred in removing, storing, and disposing of  
5 the abandoned vehicle, less amounts realized at auction. If the date  
6 of sale is after the date of impoundment, the previous registered  
7 owner is assumed to be liable for such costs. A licensed vehicle  
8 dealer is not liable under subsections (1) and (2) of this section if  
9 the dealer, as transferee or assignee of the last registered owner of  
10 the vehicle involved, has complied with the requirements of RCW  
11 46.70.122 upon selling or otherwise disposing of the vehicle, or if  
12 the dealer has timely filed a transitional ownership record or report  
13 of sale under RCW 46.12.660. In that case the person to whom the  
14 licensed vehicle dealer has sold or transferred the vehicle is  
15 assumed liable for the costs incurred in removing, storing, and  
16 disposing of the abandoned vehicle, less amounts realized at auction.

17 (5) For the purposes of reporting notices of traffic infraction  
18 to the department under RCW 46.20.270 and 46.52.101, and for purposes  
19 of reporting notices of failure to appear, respond, or comply  
20 regarding a notice of traffic infraction to the department under RCW  
21 46.63.070(6), a traffic infraction under subsection (2) of this  
22 section is not considered to be a standing, stopping, or parking  
23 violation.

24 (6) A notice of infraction for a violation of this section may be  
25 filed with a court of limited jurisdiction organized under Title 3,  
26 35, or 35A RCW, or with a violations bureau subject to the court's  
27 jurisdiction.

28 (7)(a) A person named as a buyer in a report of sale filed under  
29 RCW 46.12.650(3) in which there was no acceptance of the transfer has  
30 a cause of action against the person who filed the report to recover  
31 costs associated with towing, storage, auction, or any other damages  
32 incurred as a result of being named as the buyer in the report of  
33 sale, including reasonable attorneys' fees and litigation costs. The  
34 cause of action provided in this subsection (7)(a) is in addition to  
35 any other remedy available to the person at law or in equity.

36 (b) A person named as a seller in a report of sale filed under  
37 RCW 46.12.650(3) in which the named buyer falsely alleges that there  
38 was no acceptance of the transfer has a cause of action against the  
39 named buyer to recover damages incurred as a result of the  
40 allegation, including reasonable attorneys' fees and litigation

1 costs. The cause of action in this subsection (7)(b) is in addition  
2 to any other remedy available to the person at law or in equity.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.64  
4 RCW to read as follows:

5 If a court has declared that a fraudulent report of sale has been  
6 filed with the department, county auditor or other agent, or subagent  
7 appointed by the director, the court must notify the department in  
8 writing with a copy of the court order. Once notified, the department  
9 may remove the fraudulent report of sale from the vehicle record.

10 **Sec. 4.** RCW 19.16.250 and 2013 c 148 s 2 are each amended to  
11 read as follows:

12 No licensee or employee of a licensee shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (a) A licensee or employee of a licensee may inform a credit  
35 reporting bureau of the existence of a claim. If the licensee or  
36 employee of a licensee reports a claim to a credit reporting bureau,  
37 the licensee shall, upon receipt of written notice from the debtor  
38 that any part of the claim is disputed, notify the credit reporting  
39 bureau of the dispute by written or electronic means and create a



1 record of the fact of the notification and when the notification was  
2 provided;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the licensee reasonably believes the telephone is located in a  
2 different time zone.

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

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

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

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

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

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

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

38 (18) Call, or send a text message or other electronic  
39 communication to, a cellular telephone or other wireless device more  
40 than twice in any day when the licensee knows or reasonably should

1 know that the number belongs to a cellular telephone or other  
2 wireless device, unless the licensee is responding to a communication  
3 from the debtor or the person to whom the call, text message, or  
4 other electronic communication is made. The licensee is not in  
5 violation of this subsection if the licensee at least monthly updates  
6 its records with information provided by a commercial provider of  
7 cellular telephone lists that the licensee in good faith believes  
8 provides reasonably current and comprehensive data identifying  
9 cellular telephone numbers, calls a number not appearing in the most  
10 recent list provided by the commercial provider, and does not  
11 otherwise know or reasonably should know that the number belongs to a  
12 cellular telephone. Nothing in this subsection may be construed to  
13 increase the number of communications permitted pursuant to  
14 subsection (13)(a) of this section.

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

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

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

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

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

1 (24) Upon notification by a debtor that the debtor disputes all  
2 debts arising from a series of dishonored checks, automated  
3 clearinghouse transactions on a demand deposit account, or other  
4 preprinted written instruments, initiate oral contact with a debtor  
5 more than one time in an attempt to collect from the debtor debts  
6 arising from the identified series of dishonored checks, automated  
7 clearinghouse transactions on a demand deposit account, or other  
8 preprinted written instruments when: (a) Within the previous one  
9 hundred eighty days, in response to the licensee's attempt to collect  
10 the initial debt assigned to the licensee and arising from the  
11 identified series of dishonored checks, automated clearinghouse  
12 transactions on a demand deposit account, or other preprinted written  
13 instruments, the debtor in writing notified the licensee that the  
14 debtor's checkbook or other series of preprinted written instruments  
15 was stolen or fraudulently created; (b) the licensee has received  
16 from the debtor a certified copy of a police report referencing the  
17 theft or fraudulent creation of the checkbook, automated  
18 clearinghouse transactions on a demand deposit account, or series of  
19 preprinted written instruments; (c) in the written notification to  
20 the licensee or in the police report, the debtor identified the  
21 financial institution where the account was maintained, the account  
22 number, the magnetic ink character recognition number, the full bank  
23 routing and transit number, and the check numbers of the stolen  
24 checks, automated clearinghouse transactions on a demand deposit  
25 account, or other preprinted written instruments, which check numbers  
26 included the number of the check that is the subject of the  
27 licensee's collection efforts; (d) the debtor provides, or within the  
28 previous one hundred eighty days provided, to the licensee a legible  
29 copy of a government-issued photo identification, which contains the  
30 debtor's signature and which was issued prior to the date of the  
31 theft or fraud identified in the police report; and (e) the debtor  
32 advised the licensee that the subject debt is disputed because the  
33 identified check, automated clearinghouse transaction on a demand  
34 deposit account, or other preprinted written instrument underlying  
35 the debt is a stolen or fraudulently created check or instrument.

36 The licensee is not in violation of this subsection if the  
37 licensee initiates oral contact with the debtor more than one time in  
38 an attempt to collect debts arising from the identified series of  
39 dishonored checks, automated clearinghouse transactions on a demand  
40 deposit account, or other preprinted written instruments when: (i)

1 The licensee acted in good faith and relied on their established  
2 practices and procedures for batching, recording, or packeting debtor  
3 accounts, and the licensee inadvertently initiates oral contact with  
4 the debtor in an attempt to collect debts in the identified series  
5 subsequent to the initial debt assigned to the licensee; (ii) the  
6 licensee is following up on collection of a debt assigned to the  
7 licensee, and the debtor has previously requested more information  
8 from the licensee regarding the subject debt; (iii) the debtor has  
9 notified the licensee that the debtor disputes only some, but not all  
10 the debts arising from the identified series of dishonored checks,  
11 automated clearinghouse transactions on a demand deposit account, or  
12 other preprinted written instruments, in which case the licensee  
13 shall be allowed to initiate oral contact with the debtor one time  
14 for each debt arising from the series of identified checks, automated  
15 clearinghouse transactions on a demand deposit account, or written  
16 instruments and initiate additional oral contact for those debts that  
17 the debtor acknowledges do not arise from stolen or fraudulently  
18 created checks or written instruments; (iv) the oral contact is in  
19 the context of a judicial, administrative, arbitration, mediation, or  
20 similar proceeding; or (v) the oral contact is made for the purpose  
21 of investigating, confirming, or authenticating the information  
22 received from the debtor, to provide additional information to the  
23 debtor, or to request additional information from the debtor needed  
24 by the licensee to accurately record the debtor's information in the  
25 licensee's records.

26 (25) Bring an action or initiate an arbitration proceeding on a  
27 claim for any amounts related to a transfer of sale of a vehicle  
28 when:

29 (a) The licensee has been informed or reasonably should know that  
30 the department of licensing transfer of sale form was filed in  
31 accordance with RCW 46.12.650 (1) through (3);

32 (b) The licensee has been informed or reasonably should know that  
33 the transfer of the vehicle either (i) was not made pursuant to a  
34 legal transfer or (ii) was not voluntarily accepted by the person  
35 designated as the purchaser/transferee; and

36 (c) Prior to the commencement of the action or arbitration, the  
37 licensee has received from the putative transferee a copy of a police  
38 report referencing that the transfer of sale of the vehicle either  
39 (i) was not made pursuant to a legal transfer or (ii) was not

1 voluntarily accepted by the person designated as the purchaser/  
2 transferee.

3 (26) Submit an affidavit or other request pursuant to chapter  
4 6.32 RCW asking a superior or district court to transfer a bond  
5 posted by a debtor subject to a money judgment to the licensee, when  
6 the debtor has appeared as required.

7 **Sec. 5.** RCW 9.94A.753 and 2003 c 379 s 16 are each amended to  
8 read as follows:

9 This section applies to offenses committed after July 1, 1985.

10 (1) When restitution is ordered, the court shall determine the  
11 amount of restitution due at the sentencing hearing or within one  
12 hundred eighty days except as provided in subsection (7) of this  
13 section. The court may continue the hearing beyond the one hundred  
14 eighty days for good cause. The court shall then set a minimum  
15 monthly payment that the offender is required to make towards the  
16 restitution that is ordered. The court should take into consideration  
17 the total amount of the restitution owed, the offender's present,  
18 past, and future ability to pay, as well as any assets that the  
19 offender may have.

20 (2) During the period of supervision, the community corrections  
21 officer may examine the offender to determine if there has been a  
22 change in circumstances that warrants an amendment of the monthly  
23 payment schedule. The community corrections officer may recommend a  
24 change to the schedule of payment and shall inform the court of the  
25 recommended change and the reasons for the change. The sentencing  
26 court may then reset the monthly minimum payments based on the report  
27 from the community corrections officer of the change in  
28 circumstances.

29 (3) Except as provided in subsection (6) of this section,  
30 restitution ordered by a court pursuant to a criminal conviction  
31 shall be based on easily ascertainable damages for injury to or loss  
32 of property, actual expenses incurred for treatment for injury to  
33 persons, and lost wages resulting from injury. Restitution shall not  
34 include reimbursement for damages for mental anguish, pain and  
35 suffering, or other intangible losses, but may include the costs of  
36 counseling reasonably related to the offense. The amount of  
37 restitution shall not exceed double the amount of the offender's gain  
38 or the victim's loss from the commission of the crime.

1 (4) For the purposes of this section, for an offense committed  
2 prior to July 1, 2000, the offender shall remain under the court's  
3 jurisdiction for a term of ten years following the offender's release  
4 from total confinement or ten years subsequent to the entry of the  
5 judgment and sentence, whichever period ends later. Prior to the  
6 expiration of the initial ten-year period, the superior court may  
7 extend jurisdiction under the criminal judgment an additional ten  
8 years for payment of restitution. For an offense committed on or  
9 after July 1, 2000, the offender shall remain under the court's  
10 jurisdiction until the obligation is completely satisfied, regardless  
11 of the statutory maximum for the crime. The portion of the sentence  
12 concerning restitution may be modified as to amount, terms, and  
13 conditions during any period of time the offender remains under the  
14 court's jurisdiction, regardless of the expiration of the offender's  
15 term of community supervision and regardless of the statutory maximum  
16 sentence for the crime. The court may not reduce the total amount of  
17 restitution ordered because the offender may lack the ability to pay  
18 the total amount. The offender's compliance with the restitution  
19 shall be supervised by the department only during any period which  
20 the department is authorized to supervise the offender in the  
21 community under RCW 9.94A.728, 9.94A.501, or in which the offender is  
22 in confinement in a state correctional institution or a correctional  
23 facility pursuant to a transfer agreement with the department, and  
24 the department shall supervise the offender's compliance during any  
25 such period. The department is responsible for supervision of the  
26 offender only during confinement and authorized supervision and not  
27 during any subsequent period in which the offender remains under the  
28 court's jurisdiction. The county clerk is authorized to collect  
29 unpaid restitution at any time the offender remains under the  
30 jurisdiction of the court for purposes of his or her legal financial  
31 obligations.

32 (5) Restitution shall be ordered whenever the offender is  
33 convicted of an offense which results in injury to any person or  
34 damage to or loss of property or as provided in subsection (6) of  
35 this section unless extraordinary circumstances exist which make  
36 restitution inappropriate in the court's judgment and the court sets  
37 forth such circumstances in the record. In addition, restitution  
38 shall be ordered to pay for an injury, loss, or damage if the  
39 offender pleads guilty to a lesser offense or fewer offenses and  
40 agrees with the prosecutor's recommendation that the offender be



1 required to pay restitution to a victim of an offense or offenses  
2 which are not prosecuted pursuant to a plea agreement.

3 (6) Restitution for the crime of rape of a child in the first,  
4 second, or third degree, in which the victim becomes pregnant, shall  
5 include: (a) All of the victim's medical expenses that are associated  
6 with the rape and resulting pregnancy; and (b) child support for any  
7 child born as a result of the rape if child support is ordered  
8 pursuant to a civil superior court or administrative order for  
9 support for that child. The clerk must forward any restitution  
10 payments made on behalf of the victim's child to the Washington state  
11 child support registry under chapter 26.23 RCW. Identifying  
12 information about the victim and child shall not be included in the  
13 order. The offender shall receive a credit against any obligation  
14 owing under the administrative or superior court order for support of  
15 the victim's child. For the purposes of this subsection, the offender  
16 shall remain under the court's jurisdiction until the offender has  
17 satisfied support obligations under the superior court or  
18 administrative order for the period provided in RCW 4.16.020 or a  
19 maximum term of twenty-five years following the offender's release  
20 from total confinement or twenty-five years subsequent to the entry  
21 of the judgment and sentence, whichever period is longer. The court  
22 may not reduce the total amount of restitution ordered because the  
23 offender may lack the ability to pay the total amount. The department  
24 shall supervise the offender's compliance with the restitution  
25 ordered under this subsection.

26 (7) Regardless of the provisions of subsections (1) through (6)  
27 of this section, the court shall order restitution in all cases where  
28 the victim is entitled to benefits under the crime victims'  
29 compensation act, chapter 7.68 RCW. If the court does not order  
30 restitution and the victim of the crime has been determined to be  
31 entitled to benefits under the crime victims' compensation act, the  
32 department of labor and industries, as administrator of the crime  
33 victims' compensation program, may petition the court within one year  
34 of entry of the judgment and sentence for entry of a restitution  
35 order. Upon receipt of a petition from the department of labor and  
36 industries, the court shall hold a restitution hearing and shall  
37 enter a restitution order.

38 (8) In addition to any sentence that may be imposed, an offender  
39 who has been found guilty of an offense involving fraud or other  
40 deceptive practice or an organization which has been found guilty of

1 any such offense may be ordered by the sentencing court to give  
2 notice of the conviction to the class of persons or to the sector of  
3 the public affected by the conviction or financially interested in  
4 the subject matter of the offense by mail, by advertising in  
5 designated areas or through designated media, or by other appropriate  
6 means.

7 (9) This section does not limit civil remedies or defenses  
8 available to the victim, survivors of the victim, or offender  
9 including support enforcement remedies for support ordered under  
10 subsection (6) of this section for a child born as a result of a rape  
11 of a child victim. The court shall identify in the judgment and  
12 sentence the victim or victims entitled to restitution and what  
13 amount is due each victim. The state or victim may enforce the court-  
14 ordered restitution in the same manner as a judgment in a civil  
15 action. Restitution collected through civil enforcement must be paid  
16 through the registry of the court and must be distributed  
17 proportionately according to each victim's loss when there is more  
18 than one victim.

19 (10) If a person has caused a victim to lose money or property  
20 through the filing of a vehicle report of sale in which the  
21 designated buyer had no knowledge of the vehicle transfer or the  
22 fraudulent filing of the report of sale, upon conviction or when the  
23 offender pleads guilty and agrees with the prosecutor's  
24 recommendation that the offender be required to pay restitution to a  
25 victim, the court may order the defendant to pay an amount, fixed by  
26 the court, not to exceed double the amount of the defendant's gain or  
27 victim's loss from the filing of the vehicle report of sale in which  
28 the designated buyer had no knowledge of the vehicle transfer or the  
29 fraudulent filing of the report of sale. Such an amount may be used  
30 to provide restitution to the victim at the order of the court. It is  
31 the duty of the prosecuting attorney to investigate the alternative  
32 of restitution, and to recommend it to the court, when the  
33 prosecuting attorney believes that restitution is appropriate and  
34 feasible. If the court orders restitution, the court must make a  
35 finding as to the amount of the victim's loss due to the filing of  
36 the report of sale in which the designated buyer had no knowledge of  
37 the vehicle transfer or the fraudulent filing of the report of sale,  
38 and if the record does not contain sufficient evidence to support  
39 such finding, the court may conduct a hearing upon the issue. For

1 purposes of this section, "loss" refers to the amount of money or the  
2 value of property or services lost."

**ESHB 2274** - S COMM AMD

By Committee on Transportation

3 On page 1, line 2 of the title, after "vehicle;" strike the  
4 remainder of the title and insert "amending RCW 46.12.650, 46.55.105,  
5 19.16.250, and 9.94A.753; and adding a new section to chapter 46.64  
6 RCW."

EFFECT: Makes technical corrections and provides clarifications  
on vehicle transfers that align with current industry terminology.

--- END ---