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**SUBSTITUTE HOUSE BILL 2274**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Transportation (originally sponsored by Representatives Harmsworth, Bergquist, Hayes, Morris, Moscoso, Pollet, Vick, Wilson, Van Werven, and Haler)

1 AN ACT Relating to protecting individuals from reports of sale  
2 filed with an incorrect buyer of a subsequently abandoned vehicle;  
3 amending RCW 46.12.650, 46.55.105, 19.16.250, and 9.94A.753; and  
4 adding a new section to chapter 46.64 RCW.

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

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

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

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

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

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

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

19 (2) **Report of sale.** An owner shall notify the department, county  
20 auditor or other agent, or subagent appointed by the director in

1 writing within (~~twenty-one~~) five business days after a vehicle is  
2 or has been:

- 3 (a) Sold;
- 4 (b) Given as a gift to another person;
- 5 (c) Traded, either privately or to a dealership;
- 6 (d) Donated to charity;
- 7 (e) Turned over to an insurance company or wrecking yard; or
- 8 (f) Disposed of.

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

- 14 (a) The date of sale or transfer;
- 15 (b) The owner's full name and complete, current address;
- 16 (c) The full name and complete, current address of the person  
17 acquiring the vehicle, including street name and number, and  
18 apartment number if applicable, or post office box number, city or  
19 town, and postal code;
- 20 (d) The vehicle identification number and license plate number;
- 21 (e) A date or stamp by the department showing it was received on  
22 or before the (~~twenty-first~~) fifth business day after the date of  
23 sale or transfer; and
- 24 (f) Payment of the fees required under RCW 46.17.050.

25 (4) **Report of sale - administration.** (a) The department shall:  
26 (i) Provide or approve reports of sale forms;  
27 (ii) Provide a system enabling an owner to submit reports of sale  
28 electronically;

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

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

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

39 (~~(A report of sale that is received by the department, county~~  
40 ~~auditor or other agent, or subagent appointed by the director after~~

1 ~~the twenty-first day becomes effective on the day it is received by~~  
2 ~~the department, county auditor or other agent, or subagent appointed~~  
3 ~~by the director.)) A report of sale is not proof of a completed~~  
4 ~~vehicle transfer for purposes of the collection of expenses related~~  
5 ~~to towing, storage, and auction of an abandoned vehicle in situations~~  
6 ~~where there is no evidence indicating the buyer knew of or was a~~  
7 ~~party to acceptance of the vehicle transfer. A contract signed by the~~  
8 ~~prior owner and the new owner, a certificate of title, or other legal~~  
9 ~~proof of acceptance of the vehicle by the new owner may be provided~~  
10 ~~to establish legal responsibility for the abandoned vehicle.~~

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

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

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

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

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

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

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

4 (a) The department requests additional supporting documents;

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

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

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

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

12 (f) The department finds other conditions exist that adequately  
13 explain the delay.

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

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

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

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

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

37 (3) A vehicle theft report filed with a law enforcement agency  
38 relieves the last registered owner of liability under subsection (2)  
39 of this section for failure to redeem the vehicle. However, the last

1 registered owner remains liable for the costs incurred in removing,  
2 storing, and disposing of the abandoned vehicle under subsection (1)  
3 of this section. Nothing in this section limits in any way the  
4 registered owner's rights in a civil action or as restitution in a  
5 criminal action against a person responsible for the theft of the  
6 vehicle.

7 (4) Properly filing a report of sale or transfer regarding the  
8 vehicle involved in accordance with RCW 46.12.650 (1) through (3)  
9 relieves the last registered owner of liability under subsections (1)  
10 and (2) of this section. However, if there is a reason to believe  
11 that a report of sale has been filed in which the reported buyer did  
12 not know of the alleged transfer or did not accept the vehicle  
13 transfer, the liability remains with the last registered owner to  
14 prove the vehicle transfer was made pursuant to a legal transfer or  
15 accepted by the person reported as the new owner on the report of  
16 sale. If the date of sale as indicated on the report of sale is ((~~on~~  
17 ~~or~~)) before the date of impoundment, the buyer identified on the  
18 latest properly filed report of sale with the department is assumed  
19 liable for the costs incurred in removing, storing, and disposing of  
20 the abandoned vehicle, less amounts realized at auction. If the date  
21 of sale is after the date of impoundment, the previous registered  
22 owner is assumed to be liable for such costs. A licensed vehicle  
23 dealer is not liable under subsections (1) and (2) of this section if  
24 the dealer, as transferee or assignee of the last registered owner of  
25 the vehicle involved, has complied with the requirements of RCW  
26 46.70.122 upon selling or otherwise disposing of the vehicle, or if  
27 the dealer has timely filed a transitional ownership record or report  
28 of sale under RCW 46.12.660. In that case the person to whom the  
29 licensed vehicle dealer has sold or transferred the vehicle is  
30 assumed liable for the costs incurred in removing, storing, and  
31 disposing of the abandoned vehicle, less amounts realized at auction.

32 (5) For the purposes of reporting notices of traffic infraction  
33 to the department under RCW 46.20.270 and 46.52.101, and for purposes  
34 of reporting notices of failure to appear, respond, or comply  
35 regarding a notice of traffic infraction to the department under RCW  
36 46.63.070(6), a traffic infraction under subsection (2) of this  
37 section is not considered to be a standing, stopping, or parking  
38 violation.

39 (6) A notice of infraction for a violation of this section may be  
40 filed with a court of limited jurisdiction organized under Title 3,

1 35, or 35A RCW, or with a violations bureau subject to the court's  
2 jurisdiction.

3 (7)(a) A person named as a buyer in a report of sale filed under  
4 RCW 46.12.650(4) in which there was no acceptance of the transfer has  
5 a cause of action against the person who filed the report to recover  
6 costs associated with towing, storage, auction, or any other damages  
7 incurred as a result of being named as the buyer in the report of  
8 sale, including reasonable attorneys' fees and litigation costs. The  
9 cause of action provided in this subsection (7)(a) is in addition to  
10 any other remedy available to the person at law or in equity.

11 (b) A person named as a seller in a report of sale filed under  
12 RCW 46.12.650(4) in which the named buyer alleges that there was no  
13 acceptance of the transfer has a cause of action against the named  
14 buyer to recover damages incurred as a result of the allegation,  
15 including reasonable attorneys' fees and litigation costs. The cause  
16 of action in this subsection (7)(b) is in addition to any other  
17 remedy available to the person at law or in equity.

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

20 If a court has declared that a fraudulent report of sale has been  
21 filed with the department, county auditor or other agent, or subagent  
22 appointed by the director, the court must notify the department in  
23 writing with a copy of the court order. Once notified, the department  
24 may remove the fraudulent report of sale from the vehicle record.

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

27 No licensee or employee of a licensee shall:

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

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

37 (3) Publish or post or cause to be published or posted, any list  
38 of debtors commonly known as "bad debt lists" or threaten to do so.

1 For purposes of this chapter, a "bad debt list" means any list of  
2 natural persons alleged to fail to honor their lawful debts. However,  
3 nothing herein shall be construed to prohibit a licensee from  
4 communicating to its customers or clients by means of a coded list,  
5 the existence of a check dishonored because of insufficient funds,  
6 not sufficient funds or closed account by the financial institution  
7 servicing the debtor's checking account: PROVIDED, That the debtor's  
8 identity is not readily apparent: PROVIDED FURTHER, That the licensee  
9 complies with the requirements of subsection (10)(e) of this section.

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

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

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

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

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

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

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

38 (c) If the notice, letter, message, or form is the first notice  
39 to the debtor or if the licensee is attempting to collect a different

1 amount than indicated in his or her or its first notice to the  
2 debtor, an itemization of the claim asserted must be made including:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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 place of  
27 employment concerning the claim and the debtor after a reasonable  
28 time has failed to pay the claim or has failed to agree to make  
29 payments on the claim in a manner acceptable to the licensee, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (a) This subsection does not prohibit a licensee from attempting  
35 to communicate by way of a cellular telephone or other wireless  
36 device: PROVIDED, That a licensee cannot cause charges to be incurred  
37 to the recipient of the attempted communication more than three times  
38 in any calendar week when the licensee knows or reasonably should  
39 know that the number belongs to a cellular telephone or other

1 wireless device, unless the licensee is responding to a communication  
2 from the debtor or the person to whom the call is made.

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

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

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

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

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

36 (21) Collect or attempt to collect in addition to the principal  
37 amount of a claim any sum other than allowable interest, collection  
38 costs or handling fees expressly authorized by statute, and, in the  
39 case of suit, attorney's fees and taxable court costs. A licensee may  
40 collect or attempt to collect collection costs and fees, including

1 contingent collection fees, as authorized by a written agreement or  
2 contract, between the licensee's client and the debtor, in the  
3 collection of a commercial claim. The amount charged to the debtor  
4 for collection services shall not exceed thirty-five percent of the  
5 commercial claim.

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

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

16 (24) Upon notification by a debtor that the debtor disputes all  
17 debts arising from a series of dishonored checks, automated  
18 clearinghouse transactions on a demand deposit account, or other  
19 preprinted written instruments, initiate oral contact with a debtor  
20 more than one time in an attempt to collect from the debtor debts  
21 arising from the identified series of dishonored checks, automated  
22 clearinghouse transactions on a demand deposit account, or other  
23 preprinted written instruments when: (a) Within the previous one  
24 hundred eighty days, in response to the licensee's attempt to collect  
25 the initial debt assigned to the licensee and arising from the  
26 identified series of dishonored checks, automated clearinghouse  
27 transactions on a demand deposit account, or other preprinted written  
28 instruments, the debtor in writing notified the licensee that the  
29 debtor's checkbook or other series of preprinted written instruments  
30 was stolen or fraudulently created; (b) the licensee has received  
31 from the debtor a certified copy of a police report referencing the  
32 theft or fraudulent creation of the checkbook, automated  
33 clearinghouse transactions on a demand deposit account, or series of  
34 preprinted written instruments; (c) in the written notification to  
35 the licensee or in the police report, the debtor identified the  
36 financial institution where the account was maintained, the account  
37 number, the magnetic ink character recognition number, the full bank  
38 routing and transit number, and the check numbers of the stolen  
39 checks, automated clearinghouse transactions on a demand deposit  
40 account, or other preprinted written instruments, which check numbers

1 included the number of the check that is the subject of the  
2 licensee's collection efforts; (d) the debtor provides, or within the  
3 previous one hundred eighty days provided, to the licensee a legible  
4 copy of a government-issued photo identification, which contains the  
5 debtor's signature and which was issued prior to the date of the  
6 theft or fraud identified in the police report; and (e) the debtor  
7 advised the licensee that the subject debt is disputed because the  
8 identified check, automated clearinghouse transaction on a demand  
9 deposit account, or other preprinted written instrument underlying  
10 the debt is a stolen or fraudulently created check or instrument.

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

1       (25) Bring an action or initiate an arbitration proceeding on a  
2 claim for any amounts related to a transfer of sale of a vehicle when  
3 the licensee has been informed or reasonably should know that the  
4 department of licensing transfer of sale form was filed and the  
5 transfer of the vehicle was not made pursuant to a legal transfer or  
6 voluntarily accepted by the person designated as the purchaser/  
7 transferee.

8       (26) Submit an affidavit or other request pursuant to chapter  
9 6.32 RCW asking a superior or district court to transfer a bond  
10 posted by a debtor subject to a money judgment to the licensee, when  
11 the debtor has appeared as required.

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

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

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

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

34       (3) Except as provided in subsection (6) of this section,  
35 restitution ordered by a court pursuant to a criminal conviction  
36 shall be based on easily ascertainable damages for injury to or loss  
37 of property, actual expenses incurred for treatment for injury to  
38 persons, and lost wages resulting from injury. Restitution shall not  
39 include reimbursement for damages for mental anguish, pain and

1 suffering, or other intangible losses, but may include the costs of  
2 counseling reasonably related to the offense. The amount of  
3 restitution shall not exceed double the amount of the offender's gain  
4 or the victim's loss from the commission of the crime.

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

36 (5) Restitution shall be ordered whenever the offender is  
37 convicted of an offense which results in injury to any person or  
38 damage to or loss of property or as provided in subsection (6) of  
39 this section unless extraordinary circumstances exist which make  
40 restitution inappropriate in the court's judgment and the court sets



1 forth such circumstances in the record. In addition, restitution  
2 shall be ordered to pay for an injury, loss, or damage if the  
3 offender pleads guilty to a lesser offense or fewer offenses and  
4 agrees with the prosecutor's recommendation that the offender be  
5 required to pay restitution to a victim of an offense or offenses  
6 which are not prosecuted pursuant to a plea agreement.

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

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

1 industries, the court shall hold a restitution hearing and shall  
2 enter a restitution order.

3 (8) In addition to any sentence that may be imposed, an offender  
4 who has been found guilty of an offense involving fraud or other  
5 deceptive practice or an organization which has been found guilty of  
6 any such offense may be ordered by the sentencing court to give  
7 notice of the conviction to the class of persons or to the sector of  
8 the public affected by the conviction or financially interested in  
9 the subject matter of the offense by mail, by advertising in  
10 designated areas or through designated media, or by other appropriate  
11 means.

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

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

1 the report of sale in which the designated buyer had no knowledge of  
2 the vehicle transfer or the fraudulent filing of the report of sale,  
3 and if the record does not contain sufficient evidence to support  
4 such finding, the court may conduct a hearing upon the issue. For  
5 purposes of this section, "loss" refers to the amount of money or the  
6 value of property or services lost.

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