

1 1967-S.E AMH ROME H4202.1

2 **ESHB 1967** - H AMD 011 ADOPTED 1-26-96

3 By Representatives Romero and Robertson

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5 1. On page 2, line 10, strike all of subsection (c) and insert the  
6 following:

7 "(c) For fines levied under (b) of this subsection, an amount equal  
8 to the avoided taxes and fees owed shall be deposited in the vehicle  
9 licensing fraud account created in the state treasury;

10 (d) The avoided taxes and fees shall be deposited and distributed  
11 in the same manner as if the taxes and fees were properly paid in a  
12 timely fashion."

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16 2. On page 5, beginning on line 27, after "RCW 46.01.140." strike  
17 everything through line 29

18 3. On page 5, line 36, after "amount of" strike "delinquent" and  
19 insert "avoided"

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23 4. On page 6, line 2, after "under" strike "RCW 46.16.160(9)" and  
24 insert "RCW 46.16.010(2)"

25 5. On page 6, line 12, after "amount of" strike "delinquent" and  
26 insert "avoided"

27 6. On page 6, line 15, strike "46.16.160(9)" and insert  
28 "46.16.010(2)"

29 7. On page 6, line 16, strike all of section 5, and insert the  
30 following:

1       **"Sec. 5.** RCW 82.32.330 and 1995 c 197 s 1 are each amended to read  
2 as follows:

3       (1) For purposes of this section:

4       (a) "Disclose" means to make known to any person in any manner  
5 whatever a return or tax information;

6       (b) "Return" means a tax or information return or claim for refund  
7 required by, or provided for or permitted under, the laws of this state  
8 which is filed with the department of revenue by, on behalf of, or with  
9 respect to a person, and any amendment or supplement thereto, including  
10 supporting schedules, attachments, or lists that are supplemental to,  
11 or part of, the return so filed;

12       (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
13 nature, source, or amount of the taxpayer's income, payments, receipts,  
14 deductions, exemptions, credits, assets, liabilities, net worth, tax  
15 liability deficiencies, overassessments, or tax payments, whether taken  
16 from the taxpayer's books and records or any other source, (iii)  
17 whether the taxpayer's return was, is being, or will be examined or  
18 subject to other investigation or processing, (iv) a part of a written  
19 determination that is not designated as a precedent and disclosed  
20 pursuant to RCW 82.32.410, or a background file document relating to a  
21 written determination, and (v) other data received by, recorded by,  
22 prepared by, furnished to, or collected by the department of revenue  
23 with respect to the determination of the existence, or possible  
24 existence, of liability, or the amount thereof, of a person under the  
25 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
26 other imposition, or offense: PROVIDED, That data, material, or  
27 documents that do not disclose information related to a specific or  
28 identifiable taxpayer do not constitute tax information under this  
29 section. Except as provided by RCW 82.32.410, nothing in this chapter  
30 shall require any person possessing data, material, or documents made  
31 confidential and privileged by this section to delete information from  
32 such data, material, or documents so as to permit its disclosure;

33       (d) "State agency" means every Washington state office, department,  
34 division, bureau, board, commission, or other state agency;

35       (e) "Taxpayer identity" means the taxpayer's name, address,  
36 telephone number, registration number, or any combination thereof, or  
37 any other information disclosing the identity of the taxpayer; and

38       (f) "Department" means the department of revenue or its officer,  
39 agent, employee, or representative.

1 (2) Returns and tax information shall be confidential and  
2 privileged, and except as authorized by this section, neither the  
3 department of revenue nor any other person may disclose any return or  
4 tax information.

5 (3) The foregoing, however, shall not prohibit the department of  
6 revenue from:

7 (a) Disclosing such return or tax information in a civil or  
8 criminal judicial proceeding or an administrative proceeding:

9 (i) In respect of any tax imposed under the laws of this state if  
10 the taxpayer or its officer or other person liable under Title 82 RCW  
11 is a party in the proceeding; or

12 (ii) In which the taxpayer about whom such return or tax  
13 information is sought and another state agency are adverse parties in  
14 the proceeding;

15 (b) Disclosing, subject to such requirements and conditions as the  
16 director shall prescribe by rules adopted pursuant to chapter 34.05  
17 RCW, such return or tax information regarding a taxpayer to such  
18 taxpayer or to such person or persons as that taxpayer may designate in  
19 a request for, or consent to, such disclosure, or to any other person,  
20 at the taxpayer's request, to the extent necessary to comply with a  
21 request for information or assistance made by the taxpayer to such  
22 other person: PROVIDED, That tax information not received from the  
23 taxpayer shall not be so disclosed if the director determines that such  
24 disclosure would compromise any investigation or litigation by any  
25 federal, state, or local government agency in connection with the civil  
26 or criminal liability of the taxpayer or another person, or that such  
27 disclosure would identify a confidential informant, or that such  
28 disclosure is contrary to any agreement entered into by the department  
29 that provides for the reciprocal exchange of information with other  
30 government agencies which agreement requires confidentiality with  
31 respect to such information unless such information is required to be  
32 disclosed to the taxpayer by the order of any court;

33 (c) Disclosing the name of a taxpayer with a deficiency greater  
34 than five thousand dollars and against whom a warrant under RCW  
35 82.32.210 has been either issued or filed and remains outstanding for  
36 a period of at least ten working days. The department shall not be  
37 required to disclose any information under this subsection if a  
38 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
39 a warrant that has not been filed; and (iii) has entered a deferred

1 payment arrangement with the department of revenue and is making  
2 payments upon such deficiency that will fully satisfy the indebtedness  
3 within twelve months;

4 (d) Disclosing the name of a taxpayer with a deficiency greater  
5 than five thousand dollars and against whom a warrant under RCW  
6 82.32.210 has been filed with a court of record and remains  
7 outstanding;

8 (e) Publishing statistics so classified as to prevent the  
9 identification of particular returns or reports or items thereof;

10 (f) Disclosing such return or tax information, for official  
11 purposes only, to the governor or attorney general, or to any state  
12 agency, or to any committee or subcommittee of the legislature dealing  
13 with matters of taxation, revenue, trade, commerce, the control of  
14 industry or the professions;

15 (g) Permitting the department of revenue's records to be audited  
16 and examined by the proper state officer, his or her agents and  
17 employees;

18 (h) Disclosing any such return or tax information to a peace  
19 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
20 official purposes. The disclosure may be made only in response to a  
21 search warrant, subpoena, or other court order, unless the disclosure  
22 is for the purpose of criminal tax enforcement. A peace officer or  
23 county prosecuting attorney who receives the return or tax information  
24 may disclose that return or tax information only for use in the  
25 investigation and a related court proceeding, or in the court  
26 proceeding for which the return or tax information originally was  
27 sought;

28 (i) Disclosing any such return or tax information to the proper  
29 officer of the internal revenue service of the United States, the  
30 Canadian government or provincial governments of Canada, or to the  
31 proper officer of the tax department of any state or city or town or  
32 county, for official purposes, but only if the statutes of the United  
33 States, Canada or its provincial governments, or of such other state or  
34 city or town or county, as the case may be, grants substantially  
35 similar privileges to the proper officers of this state;

36 ((+i)) (j) Disclosing any such return or tax information to the  
37 Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of  
38 the Department of the Treasury, the Department of Defense, the United  
39 States Customs Service, the Coast Guard of the United States, and the

1 United States Department of Transportation, or any authorized  
2 representative thereof, for official purposes;

3 ~~((j))~~ (k) Publishing or otherwise disclosing the text of a  
4 written determination designated by the director as a precedent  
5 pursuant to RCW 82.32.410;

6 ~~((k))~~ (l) Disclosing, in a manner that is not associated with  
7 other tax information, the taxpayer name, entity type, business  
8 address, mailing address, revenue tax registration numbers, standard  
9 industrial classification code of a taxpayer, and the dates of opening  
10 and closing of business. This subsection shall not be construed as  
11 giving authority to the department to give, sell, or provide access to  
12 any list of taxpayers for any commercial purpose; or

13 ~~((l))~~ (m) Disclosing such return or tax information that is also  
14 maintained by another Washington state or local governmental agency as  
15 a public record available for inspection and copying under the  
16 provisions of chapter 42.17 RCW or is a document maintained by a court  
17 of record not otherwise prohibited from disclosure.

18 (4)(a) The department may disclose return or taxpayer information  
19 to a person under investigation or during any court or administrative  
20 proceeding against a person under investigation as provided in this  
21 subsection (4). The disclosure must be in connection with the  
22 department's official duties relating to an audit, collection activity,  
23 or a civil or criminal investigation. The disclosure may occur only  
24 when the person under investigation and the person in possession of  
25 data, materials, or documents are parties to the return or tax  
26 information to be disclosed. The department may disclose return or tax  
27 information such as invoices, contracts, bills, statements, resale or  
28 exemption certificates, or checks. However, the department may not  
29 disclose general ledgers, sales or cash receipt journals, check  
30 registers, accounts receivable/payable ledgers, general journals,  
31 financial statements, expert's workpapers, income tax returns, state  
32 tax returns, tax return workpapers, or other similar data, materials,  
33 or documents.

34 (b) Before disclosure of any tax return or tax information under  
35 this subsection (4), the department shall, through written  
36 correspondence, inform the person in possession of the data, materials,  
37 or documents to be disclosed. The correspondence shall clearly  
38 identify the data, materials, or documents to be disclosed. The  
39 department may not disclose any tax return or tax information under

1 this subsection (4) until the time period allowed in (c) of this  
2 subsection has expired or until the court has ruled on any challenge  
3 brought under (c) of this subsection.

4 (c) The person in possession of the data, materials, or documents  
5 to be disclosed by the department has twenty days from the receipt of  
6 the written request required under (b) of this subsection to petition  
7 the superior court of the county in which the petitioner resides for  
8 injunctive relief. The court shall limit or deny the request of the  
9 department if the court determines that:

10 (i) The data, materials, or documents sought for disclosure are  
11 cumulative or duplicative, or are obtainable from some other source  
12 that is more convenient, less burdensome, or less expensive;

13 (ii) The production of the data, materials, or documents sought  
14 would be unduly burdensome or expensive, taking into account the needs  
15 of the department, the amount in controversy, limitations on the  
16 petitioner's resources, and the importance of the issues at stake; or

17 (iii) The data, materials, or documents sought for disclosure  
18 contain trade secret information that, if disclosed, could harm the  
19 petitioner.

20 (d) The department shall reimburse reasonable expenses for the  
21 production of data, materials, or documents incurred by the person in  
22 possession of the data, materials, or documents to be disclosed.

23 (e) Requesting information under (b) of this subsection that may  
24 indicate that a taxpayer is under investigation does not constitute a  
25 disclosure of tax return or tax information under this section.

26 (5) Any person acquiring knowledge of any return or tax information  
27 in the course of his or her employment with the department of revenue  
28 and any person acquiring knowledge of any return or tax information as  
29 provided under subsection (3)(f), (g), (h), ~~((or))~~ (i), or (j) of this  
30 section, who discloses any such return or tax information to another  
31 person not entitled to knowledge of such return or tax information  
32 under the provisions of this section, ~~((shall upon conviction be  
33 punished by a fine not exceeding one thousand dollars and,))~~ is guilty  
34 of a misdemeanor. If the person guilty of such violation is an officer  
35 or employee of the state, such person shall forfeit such office or  
36 employment and shall be incapable of holding any public office or  
37 employment in this state for a period of two years thereafter."

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4 8. On page 10, line 4, after "treasury." strike everything through  
5 "account." on line 6, and insert "From penalties and fines imposed  
6 under RCW 46.16.010, 47.68.255, and 88.02.118, an amount equal to the  
7 taxes and fees owed shall be deposited into the account."

8 9. On page 10, line 13, after "December 15," strike "1995" and  
9 insert "1996"

10 10. On page 10, line 15, after "January 1," strike "1996" and  
11 insert "1997"

12 EFFECT: References to "delinquent" taxes and fees are changed to  
13 "avoided" taxes and fees, drawing a distinction between persons who are  
14 simply late in paying their taxes from people who fraudulently avoid  
15 paying their taxes.

16 The language is clarified to ensure that only fines and penalties  
17 levied for licensing fraud are deposited in the new vehicle licensing  
18 fraud account. Fines and penalties levied for failing to renew vehicle  
19 licenses in a timely fashion will continue to be deposited in the  
20 public safety and education account (PSEA) to fund local law  
21 enforcement, courts, and prosecutors.

22 RCW 82.32.330 (section 5) was amended by chapter 197, Laws of 1995,  
23 and amendment number 7 updates that section for purposes of this 1996  
24 bill.

25 The effective dates are changed to 1996.

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