

2 **ESSB 5685** - H COMM AMD **ADOPTED 4/12/95**

3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.12 RCW
8 to read as follows:

9 It is a class C felony for a person to sell or convey a vehicle
10 certificate of ownership except in conjunction with the sale or
11 transfer of the vehicle for which the certificate was originally
12 issued.

13 **Sec. 2.** RCW 46.12.310 and 1975-'76 2nd ex.s. c 91 s 2 are each
14 amended to read as follows:

15 (1) Any vehicle, watercraft, camper, or any component part thereof,
16 from which the manufacturer's serial number or any other distinguishing
17 number or identification mark has been removed, defaced, covered,
18 altered, obliterated, or destroyed, (~~there being reasonable grounds to~~
19 ~~believe that such was done for the purpose of concealing or~~
20 ~~misrepresenting identity, shall~~)) may be impounded and held by the
21 seizing law enforcement agency for the purpose of conducting an
22 investigation to determine the identity of the article or articles, and
23 to determine whether it had been reported stolen.

24 (2) Within five days of the impounding of any vehicle, watercraft,
25 camper, or component part thereof, the law enforcement agency seizing
26 the article or articles shall send written notice of such impoundment
27 by certified mail to all persons known to the agency as claiming an
28 interest in the article or articles. The seizing agency shall exercise
29 reasonable diligence in ascertaining the names and addresses of those
30 persons claiming an interest in the article or articles. Such notice
31 shall advise the person of the fact of seizure, the possible
32 disposition of the article or articles, the requirement of filing a
33 written claim requesting notification of potential disposition, and the
34 right of the person to request a hearing to establish a claim of
35 ownership. Within five days of receiving notice of other persons

1 claiming an interest in the article or articles, the seizing agency
2 shall send a like notice to each such person.

3 (3) If reported as stolen, the seizing law enforcement agency shall
4 promptly release such vehicle, watercraft, camper, or parts thereof as
5 have been stolen, to the person who is the lawful owner or the lawful
6 successor in interest, upon receiving proof that such person presently
7 owns or has a lawful right to the possession of the article or
8 articles.

9 **Sec. 3.** RCW 46.80.005 and 1977 ex.s. c 253 s 1 are each amended to
10 read as follows:

11 The legislature finds and declares that the distribution and sale
12 of vehicle parts in the state of Washington vitally affects the general
13 economy of the state and the public interest and the public welfare,
14 and that in order to promote the public interest and the public welfare
15 and in the exercise of its police power, it is necessary to regulate
16 and license (~~motor~~) vehicle wreckers and dismantlers, the buyers-for-
17 resale, and the sellers of second-hand vehicle components doing
18 business in Washington, in order to prevent the sale of stolen vehicle
19 parts, to prevent frauds, impositions, and other abuses, and to
20 preserve the investments and properties of the citizens of this state.

21 **Sec. 4.** RCW 46.80.010 and 1977 ex.s. c 253 s 2 are each amended to
22 read as follows:

23 The definitions set forth in this section apply throughout this
24 chapter.

25 (1) "~~(Motor)~~ Vehicle wrecker(~~()~~)" (~~whenever used in this~~
26 ~~chapter, shall~~) means every person, firm, partnership, association, or
27 corporation engaged in the business of buying, selling, or dealing in
28 vehicles of a type required to be licensed under the laws of this
29 state, for the purpose of wrecking, dismantling, disassembling, or
30 substantially changing the form of (~~any motor~~) a vehicle, or who buys
31 or sells integral second-hand parts of component material thereof, in
32 whole or in part, or who deals in second-hand (~~motor~~) vehicle parts.

33 (2) "Established place of business(~~()~~)" (~~whenever used in this~~
34 ~~chapter, shall~~) means a building or enclosure which the (~~motor~~)
35 vehicle wrecker occupies either continuously or at regular periods and
36 where his books and records are kept and business is transacted and
37 which must conform with zoning regulations.

1 (3) "Major component part"(~~(, whenever used in this chapter,~~
2 ~~shall)~~) includes at least each of the following vehicle parts: (a)
3 Engines and short blocks; (b) frame; (c) transmission and/or transfer
4 case; (d) cab; (e) door; (f) front or rear differential; (g) front or
5 rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood;
6 (~~and~~) (l) bumper; (m) fender; and (n) airbag. The director may
7 supplement this list by rule.

8 (4) "Wrecked vehicle"(~~(, whenever used in this chapter, shall)~~)
9 means a vehicle which is disassembled or dismantled or a vehicle which
10 is acquired with the intent to dismantle or disassemble and never again
11 to operate as a vehicle, or a vehicle which has sustained such damage
12 that its cost to repair exceeds the fair market value of a like vehicle
13 which has not sustained such damage, or a damaged vehicle whose salvage
14 value plus cost to repair equals or exceeds its fair market value, if
15 repaired, or a vehicle which has sustained such damage or deterioration
16 that it may not lawfully operate upon the highways of this state for
17 which the salvage value plus cost to repair exceeds its fair market
18 value, if repaired; further, it is presumed that a vehicle is a wreck
19 if it has sustained such damage or deterioration that it may not
20 lawfully operate upon the highways of this state.

21 **Sec. 5.** RCW 46.80.020 and 1979 c 158 s 192 are each amended to
22 read as follows:

23 It (~~shall be~~) is unlawful for (~~any motor vehicle wrecker, as~~
24 ~~defined herein,~~) a person to engage in the business of wrecking
25 (~~motor~~) vehicles (~~or trailers~~) without having first applied for and
26 received a license (~~from the department of licensing authorizing him~~
27 ~~so to do~~). A person or firm engaged in the unlawful activity is
28 guilty of a gross misdemeanor. A second or subsequent offense is a
29 class C felony.

30 **Sec. 6.** RCW 46.80.040 and 1971 ex.s. c 7 s 3 are each amended to
31 read as follows:

32 (~~Such~~) The application, together with a fee of twenty-five
33 dollars, and a surety bond as (~~hereinafter~~) provided in RCW
34 46.80.070, shall be forwarded to the department. Upon receipt of the
35 application the department shall, if the application (~~be~~) is in
36 order, issue a (~~motor~~) vehicle wrecker's license authorizing (~~him~~)
37 the wrecker to do business as such and forward the fee(~~, together with~~

1 ~~an itemized and detailed report,~~) to the state treasurer, to be
2 deposited in the motor vehicle fund. Upon receiving the certificate
3 the owner shall cause it to be prominently displayed in ~~((his))~~ the
4 place of business, where it may be inspected by an investigating
5 officer at any time.

6 **Sec. 7.** RCW 46.80.050 and 1985 c 109 s 7 are each amended to read
7 as follows:

8 A license issued on this application ~~((shall))~~ remains in force
9 until suspended or revoked and may be renewed annually upon
10 reapplication according to RCW 46.80.030 and upon payment of a fee of
11 ten dollars. ~~((Any motor))~~ A vehicle wrecker who fails or neglects to
12 renew ~~((his))~~ the license before the assigned expiration date shall
13 ~~((be required to))~~ pay the fee for an original ~~((motor))~~ vehicle
14 wrecker license as provided in this chapter.

15 Whenever a ~~((motor))~~ vehicle wrecker ceases to do business as such
16 or ~~((his))~~ the license has been suspended or revoked, ~~((he))~~ the
17 wrecker shall immediately surrender ~~((such))~~ the license to the
18 department.

19 **Sec. 8.** RCW 46.80.060 and 1961 c 12 s 46.80.060 are each amended
20 to read as follows:

21 The ~~((motor))~~ vehicle wrecker shall obtain a special set of license
22 plates in addition to the regular licenses and plates required for the
23 operation of such vehicles ~~((which shall))~~. The special plates must be
24 displayed on vehicles owned and/or operated by ((him)) the wrecker and
25 used in the conduct of ((his)) the business. The fee for these plates
26 shall be five dollars for the original plates and two dollars for each
27 additional set of plates bearing the same license number. A wrecker
28 with more than one licensed location in the state may use special
29 plates bearing the same license number for vehicles operated out of any
30 of the licensed locations.

31 **Sec. 9.** RCW 46.80.070 and 1977 ex.s. c 253 s 5 are each amended to
32 read as follows:

33 Before issuing a ~~((motor))~~ vehicle wrecker's license, the
34 department shall require the applicant to file with ~~((said))~~ the
35 department a surety bond in the amount of one thousand dollars, running
36 to the state of Washington and executed by a surety company authorized

1 to do business in the state of Washington. ((Such)) The bond shall be
2 approved as to form by the attorney general and conditioned ((that
3 such)) upon the wrecker ((shall conduct his)) conducting the business
4 in conformity with the provisions of this chapter. Any person who
5 ((shall have)) has suffered any loss or damage by reason of fraud,
6 carelessness, neglect, violation of the terms of this chapter, or
7 misrepresentation on the part of the wrecking company, ((shall have the
8 right to)) may institute an action for recovery against ((such motor))
9 the vehicle wrecker and surety upon ((such)) the bond((:—PROVIDED,
10 That)). However, the aggregate liability of the surety to all persons
11 shall in no event exceed the amount of the bond.

12 **Sec. 10.** RCW 46.80.080 and 1977 ex.s. c 253 s 6 are each amended
13 to read as follows:

14 (1) Every ((motor)) vehicle wrecker shall maintain books or files
15 in which ((he)) the wrecker shall keep a record and a description of:

16 (a) Every vehicle wrecked, dismantled, disassembled, or
17 substantially altered by ((him)) the wrecker; and

18 (b) Every major component part acquired by ((him)) the wrecker;
19 together with a bill of sale signed by a seller whose identity has been
20 verified and the name and address of the person, firm, or corporation
21 from whom ((he)) the wrecker purchased the vehicle or part((:—
22 PROVIDED, That)). Major component parts shall be further identified by
23 the vehicle identification number of the vehicle from which the part
24 came.

25 (2) ((Such)) The record shall also contain the following data
26 regarding the wrecked or acquired vehicle or vehicle ((which)) that is
27 the source of a major component part:

28 (a) The certificate of title number (if previously titled in this
29 or any other state);

30 (b) Name of state where last registered;

31 (c) Number of the last license number plate issued;

32 (d) Name of vehicle;

33 (e) Motor or identification number and serial number of the
34 vehicle;

35 (f) Date purchased;

36 (g) Disposition of the motor and chassis;

1 (h) Yard number assigned by the licensee to the vehicle or major
2 component part, which shall also appear on the identified vehicle or
3 part; and

4 (i) Such other information as the department may require.

5 (3) ~~((Such))~~ The records shall also contain a bill of sale signed
6 by the seller for other minor component parts acquired by the licensee,
7 identifying the seller by name, address, and date of sale.

8 (4) ~~((Such))~~ The records shall be maintained by the licensee at his
9 or her established place of business for a period of three years from
10 the date of acquisition.

11 (5) ~~((Such record shall be))~~ The record is subject to inspection at
12 all times during regular business hours by members of the police
13 department, sheriff's office, members of the Washington state patrol,
14 or officers or employees of the department.

15 (6) A ~~((motor))~~ vehicle wrecker shall also maintain a similar
16 record of all disabled vehicles that have been towed or transported to
17 the motor vehicle wrecker's place of business or to other places
18 designated by the owner of the vehicle or his or her representative.
19 This record shall specify the name and description of the vehicle, name
20 of owner, number of license plate, condition of the vehicle and place
21 to which it was towed or transported.

22 (7) Failure to comply with this section is a gross misdemeanor.

23 **Sec. 11.** RCW 46.80.090 and 1979 c 158 s 194 are each amended to
24 read as follows:

25 Within thirty days after acquiring a vehicle ~~((has been acquired by~~
26 ~~the motor vehicle wrecker it shall be the duty of such motor)), the~~
27 vehicle wrecker ((to)) shall furnish a written report to the department
28 ~~((on forms furnished by the department)). This report shall be in such~~
29 form as the department shall prescribe and shall be accompanied by
30 ~~((the certificate of title, if the vehicle has been last registered in~~
31 ~~a state which issues a certificate, or a record of registration if~~
32 ~~registered in a state which does not issue a certificate of title))~~
33 evidence of ownership as determined by the department. No ((motor))
34 vehicle wrecker ((shall)) may acquire a vehicle without first obtaining
35 ~~((such record or title. It shall be the duty of the motor)) evidence~~
36 of ownership as determined by the department. The vehicle wrecker
37 ~~((to)) shall furnish a monthly report of all acquired vehicles~~
38 ~~((wrecked, dismantled, disassembled, or substantially changed in form~~

1 ~~by him~~). This report shall be made on forms prescribed by the
2 department and contain such information as the department may require.
3 This statement shall be signed by the ~~((motor))~~ vehicle wrecker or
4 ~~((his))~~ an authorized representative and the facts therein sworn to
5 before a notary public, or before an officer or employee of the
6 department ~~((of licensing))~~ designated by the director to administer
7 oaths or acknowledge signatures, pursuant to RCW 46.01.180.

8 **Sec. 12.** RCW 46.80.100 and 1977 ex.s. c 253 s 8 are each amended
9 to read as follows:

10 If, after issuing a ~~((motor))~~ vehicle wrecker's license, the bond
11 is canceled by the surety in a method provided by law, the department
12 shall immediately notify the principal covered by ~~((such))~~ the bond
13 ~~((by registered mail))~~ and afford ~~((him))~~ the principal the opportunity
14 of obtaining another bond before the termination of the original ~~((and~~
15 ~~should such))~~. If the principal fails, neglects, or refuses to obtain
16 ~~((such))~~ a replacement, the director may cancel or suspend the
17 ~~((motor))~~ vehicle wrecker's license ~~((which has been issued to him~~
18 ~~under the provisions of this chapter))~~. Notice of cancellation of the
19 bond may be accomplished by sending a notice by first class mail using
20 the last known address in department records for the principal covered
21 by the bond and recording the transmittal on an affidavit of first
22 class mail.

23 **Sec. 13.** RCW 46.80.110 and 1989 c 337 s 17 are each amended to
24 read as follows:

25 (1) The director or a designee may, pursuant to the provisions of
26 chapter 34.05 RCW, by order deny, suspend, or revoke the license of
27 ~~((any motor))~~ a vehicle wrecker, or assess a civil fine of up to five
28 hundred dollars for each violation, if the director finds that the
29 applicant or licensee has:

30 ~~((+1))~~ (a) Acquired a vehicle or major component part other than
31 by first obtaining title or other documentation as provided by this
32 chapter;

33 ~~((+2))~~ (b) Willfully misrepresented the physical condition of any
34 motor or integral part of a ~~((motor))~~ vehicle;

35 ~~((+3))~~ (c) Sold, had in ~~((his))~~ the wrecker's possession, or
36 disposed of a ~~((motor))~~ vehicle ~~((or trailer))~~ or any part thereof when

1 he or she knows that (~~(such)~~) the vehicle or part has been stolen, or
2 appropriated without the consent of the owner;

3 (~~((4))~~) (d) Sold, bought, received, concealed, had in (~~(his)~~) the
4 wrecker's possession, or disposed of a (~~(motor)~~) vehicle (~~(or trailer)~~)
5 or part thereof having a missing, defaced, altered, or covered
6 manufacturer's identification number, unless approved by a law
7 enforcement officer;

8 (~~((5))~~) (e) Committed forgery or misstated a material fact on any
9 title, registration, or other document covering a vehicle that has been
10 reassembled from parts obtained from the disassembling of other
11 vehicles;

12 (~~((6))~~) (f) Committed any dishonest act or omission (~~(which)~~) that
13 the director has reason to believe has caused loss or serious
14 inconvenience as a result of a sale of a (~~(motor)~~) vehicle(~~(or~~
15 ~~trailer,~~) or part thereof;

16 (~~((7))~~) (g) Failed to comply with any of the provisions of this
17 chapter or with any of the rules adopted under it, or with any of the
18 provisions of Title 46 RCW relating to registration and certificates of
19 title of vehicles;

20 (~~((8))~~) (h) Procured a license fraudulently or dishonestly (~~(or~~
21 ~~that such license was erroneously issued)~~);

22 (~~((9))~~) (i) Been convicted of a crime that directly relates to the
23 business of a vehicle wrecker and the time elapsed since conviction is
24 less than ten years, or suffered any judgment within the preceding five
25 years in any civil action involving fraud, misrepresentation, or
26 conversion. For the purposes of this section, conviction means in
27 addition to a final conviction in either a federal, state, or municipal
28 court, an unvacated forfeiture of bail or collateral deposited to
29 secure a defendant's appearance in court, the payment of a fine, a plea
30 of guilty, or a finding of guilt regardless of whether the sentence is
31 deferred or the penalty is suspended.

32 (2) In addition to actions by the department under this section, it
33 is a gross misdemeanor to violate subsection (1) (a), (b), or (h) of
34 this section.

35 NEW SECTION. Sec. 14. A new section is added to chapter 46.80 RCW
36 to read as follows:

37 If a person whose vehicle wrecker license has previously been
38 canceled for cause by the department files an application for a license

1 to conduct business as a vehicle wrecker, or if the department is of
2 the opinion that the application is not filed in good faith or that the
3 application is filed by some person as a subterfuge for the real person
4 in interest whose license has previously been canceled for cause, the
5 department may refuse to issue the person a license to conduct business
6 as a vehicle wrecker.

7 **Sec. 15.** RCW 46.80.130 and 1971 ex.s. c 7 s 9 are each amended to
8 read as follows:

9 (1) It (~~shall be~~) is unlawful for (~~any motor~~) a vehicle wrecker
10 to keep (~~any motor~~) a vehicle or any integral part thereof in any
11 place other than the established place of business, designated in the
12 certificate issued by the department, without permission of the
13 department.

14 (2) All premises containing (~~such motor~~) vehicles or parts
15 thereof shall be enclosed by a wall or fence of such height as to
16 obscure the nature of the business carried on therein. To the extent
17 reasonably necessary or permitted by the topography of the land, the
18 department (~~shall have the right to~~) may establish specifications or
19 standards for (~~said~~) the fence or wall(~~(: PROVIDED, HOWEVER, That~~
20 ~~such)~~). The wall or fence shall be painted or stained a neutral shade
21 (~~which shall~~) that blends in with the surrounding premises, and
22 (~~that such~~) the wall or fence must be kept in good repair. A living
23 hedge of sufficient density to prevent a view of the confined area may
24 be substituted for such a wall or fence. Any dead or dying portion of
25 (~~such~~) the hedge shall be replaced.

26 (3) Violation of subsection (1) of this section is a gross
27 misdemeanor.

28 **Sec. 16.** RCW 46.80.150 and 1983 c 142 s 9 are each amended to read
29 as follows:

30 It shall be the duty of the chiefs of police, or the Washington
31 state patrol, in cities having a population of over five thousand
32 persons, and in all other cases the Washington state patrol, to make
33 periodic inspection of the (~~motor~~) vehicle wrecker's licensed
34 premises and records provided for in this chapter during normal
35 business hours, and furnish a certificate of inspection to the
36 department in such manner as may be determined by the department(~~(:~~
37 ~~PROVIDED, That the above inspection)~~). In any instance (~~can be made~~

1 by)), an authorized representative of the department may make the
2 inspection.

3 **Sec. 17.** RCW 46.80.160 and 1961 c 12 s 46.80.160 are each amended
4 to read as follows:

5 Any municipality or political subdivision of this state ((which))
6 that now has or subsequently makes provision for the regulation of
7 ((automobile)) vehicle wreckers shall comply strictly with the
8 provisions of this chapter.

9 **Sec. 18.** RCW 46.80.170 and 1977 ex.s. c 253 s 11 are each amended
10 to read as follows:

11 ((It shall be)) Unless otherwise provided by law, it is a ((gross))
12 misdemeanor for any person to violate any of the provisions of this
13 chapter or the rules ((and regulations promulgated as provided))
14 adopted under this chapter((, and any person so convicted shall be
15 punished by imprisonment for not less than thirty days or more than one
16 year in jail or by a fine of one thousand dollars)).

17 NEW SECTION. **Sec. 19.** A new section is added to chapter 46.80 RCW
18 to read as follows:

19 (1) If it appears to the director that an unlicensed person has
20 engaged in an act or practice constituting a violation of this chapter,
21 or a rule adopted or an order issued under this chapter, the director
22 may issue an order directing the person to cease and desist from
23 continuing the act or practice. The director shall give the person
24 reasonable notice of and opportunity for a hearing. The director may
25 issue a temporary order pending a hearing. The temporary order remains
26 in effect until ten days after the hearing is held and becomes final if
27 the person to whom the notice is addressed does not request a hearing
28 within fifteen days after receipt of the notice.

29 (2) The director may assess a fine of up to one thousand dollars
30 with the final order for each act or practice constituting a violation
31 of this chapter by an unlicensed person.

32 NEW SECTION. **Sec. 20.** A new section is added to chapter 46.80 RCW
33 to read as follows:

34 The department of licensing or its authorized agent may examine or
35 subpoena any persons, books, papers, records, data, vehicles, or

1 vehicle parts bearing upon the investigation or proceeding under this
2 chapter.

3 The persons subpoenaed may be required to testify and produce any
4 books, papers, records, data, vehicles, or vehicle parts that the
5 director deems relevant or material to the inquiry.

6 The director or an authorized agent may administer an oath to the
7 person required to testify, and a person giving false testimony after
8 the administration of the oath is guilty of perjury in the first
9 degree.

10 A court of competent jurisdiction may, upon application by the
11 director, issue to a person who fails to comply, an order to appear
12 before the director or officer designated by the director, to produce
13 documentary or other evidence touching the matter under investigation
14 or in question.

15 **Sec. 21.** RCW 46.80.900 and 1977 ex.s. c 253 s 13 are each amended
16 to read as follows:

17 The provisions of this chapter shall be liberally construed to the
18 end that traffic in stolen vehicle parts may be prevented, and
19 irresponsible, unreliable, or dishonest persons may be prevented from
20 engaging in the business of wrecking (~~motor~~) vehicles or selling used
21 vehicle parts in this state and reliable persons may be encouraged to
22 engage in businesses of wrecking or reselling vehicle parts in this
23 state.

24 NEW SECTION. **Sec. 22.** (1) The legislature recognizes that
25 currently the state patrol inspects rebuilt vehicles for stolen parts.
26 However, they are not authorized to perform complete safety
27 inspections.

28 (2) The state patrol shall assemble a study group and complete a
29 study, to be submitted to the legislative transportation committee no
30 later than January 1, 1996, on the feasibility of implementing safety
31 inspections for vehicles that are rebuilt after surrender of the
32 certificate of ownership to the department of licensing under RCW
33 46.12.070 due to the vehicle's destruction or declaration as a total
34 loss. The study shall include, but is not limited to:

- 35 (a) An examination of safety inspection systems in other states;
36 (b) A determination of how a safety inspection program might be
37 implemented in Washington state;

1 (c) An analysis of the cost of conducting a safety inspection and
2 who should be responsible for bearing those costs; and

3 (d) An evaluation of whether state agencies or private business
4 might most effectively and efficiently conduct safety inspections.

5 (3) The study group prescribed in subsection (2) of this section
6 must include representatives of the state patrol, the department of
7 licensing, the Washington traffic safety commission, the insurance
8 industry, the autobody industry, and other appropriate groups.

9 (4) Section 24 of this act and RCW 46.12.050 require notification
10 on the certificates of ownership and registration as to whether a
11 vehicle has previously been destroyed or declared a total loss. The
12 department of licensing, in consultation with the study group members
13 prescribed in subsection (3) of this section, shall study the
14 feasibility of expanding the notification requirement to apply to all
15 vehicles, regardless of age. The study group shall also develop a
16 recommendation regarding the feasibility of differentiating on the
17 certificates of ownership and registration whether the vehicle has
18 sustained cosmetic damage or structural damage. The department shall
19 report its findings to the legislative transportation committee no
20 later than January 1, 1996.

21 **Sec. 23.** RCW 46.12.030 and 1990 c 238 s 1 are each amended to read
22 as follows:

23 The application for certificate of ownership shall be upon a blank
24 form to be furnished by the department and shall contain:

25 (1) A full description of the vehicle, which shall contain the
26 proper vehicle identification number, the number of miles indicated on
27 the odometer at the time of delivery of the vehicle, and any
28 distinguishing marks of identification;

29 (2) The name and address of the person who is to be the registered
30 owner of the vehicle and, if the vehicle is subject to a security
31 interest, the name and address of the secured party;

32 (3) Such other information as the department may require. The
33 department may in any instance, in addition to the information required
34 on the application, require additional information and a physical
35 examination of the vehicle or of any class of vehicles, or either. A
36 physical examination of the vehicle is mandatory if it previously was
37 registered in any other state or country or if it has been rebuilt
38 after surrender of the certificate of ownership to the department under

1 RCW 46.12.070 due to the vehicle's destruction or declaration as a
2 total loss. The inspection must verify that the vehicle identification
3 number is genuine and agrees with the number shown on the foreign title
4 and registration certificate. If the vehicle is from a jurisdiction
5 that does not issue titles, the inspection must verify that the vehicle
6 identification number is genuine and agrees with the number shown on
7 the registration certificate. The inspection must also confirm that
8 the license plates on the vehicle are those assigned to the vehicle by
9 the jurisdiction in which the vehicle was previously licensed. The
10 inspection must be made by a member of the Washington state patrol or
11 other person authorized by the department to make such inspections.

12 The application shall be subscribed by the registered owner and be
13 sworn to by that applicant in the manner described by RCW 9A.72.085.
14 The department shall retain the application in either the original,
15 computer, or photostatic form.

16 NEW SECTION. Sec. 24. A new section is added to chapter 46.12 RCW
17 to read as follows:

18 (1) Effective January 1, 1997, the department shall issue a unique
19 certificate of ownership and certificate of license registration, as
20 required by chapter 46.16 RCW, for vehicles less than four years old
21 that are rebuilt after surrender of the certificate of ownership to the
22 department under RCW 46.12.070 due to the vehicle's destruction or
23 declaration as a total loss. Each certificate shall conspicuously
24 display across its front, a word indicating that the vehicle was
25 rebuilt.

26 (2) Beginning January 1, 1997, upon inspection of a vehicle that
27 has been rebuilt under RCW 46.12.030, the state patrol shall securely
28 affix or inscribe a marking at the driver's door latch indicating that
29 the vehicle has previously been destroyed or declared a total loss.

30 (3) It is a class C felony for a person to remove the marking
31 prescribed in subsection (2) of this section, provided however, it is
32 not unlawful if the removal occurs pursuant to the repair of a vehicle
33 and a new marking is applied to the repaired vehicle prior to its
34 operation, except such operation as is necessary to effect application
35 of the new marking.

36 (4) The department may adopt rules as necessary to implement this
37 section.

1 **Sec. 25.** RCW 46.63.020 and 1994 c 275 s 33 and 1994 c 141 s 2 are
2 each reenacted and amended to read as follows:

3 Failure to perform any act required or the performance of any act
4 prohibited by this title or an equivalent administrative regulation or
5 local law, ordinance, regulation, or resolution relating to traffic
6 including parking, standing, stopping, and pedestrian offenses, is
7 designated as a traffic infraction and may not be classified as a
8 criminal offense, except for an offense contained in the following
9 provisions of this title or a violation of an equivalent administrative
10 regulation or local law, ordinance, regulation, or resolution:

11 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
12 vehicle while under the influence of intoxicating liquor or a
13 controlled substance;

14 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

15 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
16 while under the influence of intoxicating liquor or narcotics or
17 habit-forming drugs or in a manner endangering the person of another;

18 (4) RCW 46.10.130 relating to the operation of snowmobiles;

19 (5) Chapter 46.12 RCW relating to certificates of ownership and
20 registration and markings indicating that a vehicle has been destroyed
21 or declared a total loss;

22 (6) RCW 46.16.010 relating to initial registration of motor
23 vehicles;

24 (7) RCW 46.16.011 relating to permitting unauthorized persons to
25 drive;

26 (8) RCW 46.16.160 relating to vehicle trip permits;

27 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
28 acquisition of a special placard or license plate for disabled persons'
29 parking;

30 (10) RCW 46.20.021 relating to driving without a valid driver's
31 license;

32 (11) RCW 46.20.336 relating to the unlawful possession and use of
33 a driver's license;

34 (12) RCW 46.20.342 relating to driving with a suspended or revoked
35 license or status;

36 (13) RCW 46.20.410 relating to the violation of restrictions of an
37 occupational driver's license;

38 (14) RCW 46.20.420 relating to the operation of a motor vehicle
39 with a suspended or revoked license;

1 (15) RCW 46.20.750 relating to assisting another person to start a
2 vehicle equipped with an ignition interlock device;
3 (16) RCW 46.25.170 relating to commercial driver's licenses;
4 (17) Chapter 46.29 RCW relating to financial responsibility;
5 (18) RCW 46.30.040 relating to providing false evidence of
6 financial responsibility;
7 (19) RCW 46.37.435 relating to wrongful installation of
8 sunscreening material;
9 (20) RCW 46.44.180 relating to operation of mobile home pilot
10 vehicles;
11 (21) RCW 46.48.175 relating to the transportation of dangerous
12 articles;
13 (22) RCW 46.52.010 relating to duty on striking an unattended car
14 or other property;
15 (23) RCW 46.52.020 relating to duty in case of injury to or death
16 of a person or damage to an attended vehicle;
17 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,
18 and appraisers;
19 (25) RCW 46.52.100 relating to driving under the influence of
20 liquor or drugs;
21 (26) RCW 46.52.130 relating to confidentiality of the driving
22 record to be furnished to an insurance company, an employer, and an
23 alcohol/drug assessment or treatment agency;
24 (27) RCW 46.55.020 relating to engaging in the activities of a
25 registered tow truck operator without a registration certificate;
26 (28) RCW 46.55.035 relating to prohibited practices by tow truck
27 operators;
28 (29) RCW 46.61.015 relating to obedience to police officers,
29 flagmen, or fire fighters;
30 (30) RCW 46.61.020 relating to refusal to give information to or
31 cooperate with an officer;
32 (31) RCW 46.61.022 relating to failure to stop and give
33 identification to an officer;
34 (32) RCW 46.61.024 relating to attempting to elude pursuing police
35 vehicles;
36 (33) RCW 46.61.500 relating to reckless driving;
37 (34) RCW 46.61.502, 46.61.504, 46.61.5051, 46.61.5052, and
38 46.61.5053 relating to persons under the influence of intoxicating
39 liquor or drugs;

- 1 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
2 (36) RCW 46.61.522 relating to vehicular assault;
3 (37) RCW 46.61.525 relating to negligent driving;
4 (38) RCW 46.61.527(4) relating to reckless endangerment of roadway
5 workers;
6 (39) RCW 46.61.530 relating to racing of vehicles on highways;
7 (40) RCW 46.61.685 relating to leaving children in an unattended
8 vehicle with the motor running;
9 (41) RCW 46.64.010 relating to unlawful cancellation of or attempt
10 to cancel a traffic citation;
11 (42) RCW 46.64.048 relating to attempting, aiding, abetting,
12 coercing, and committing crimes;
13 (43) Chapter 46.65 RCW relating to habitual traffic offenders;
14 (44) Chapter 46.70 RCW relating to unfair motor vehicle business
15 practices, except where that chapter provides for the assessment of
16 monetary penalties of a civil nature;
17 (45) Chapter 46.72 RCW relating to the transportation of passengers
18 in for hire vehicles;
19 (46) Chapter 46.80 RCW relating to motor vehicle wreckers;
20 (47) Chapter 46.82 RCW relating to driver's training schools;
21 (48) RCW 46.87.260 relating to alteration or forgery of a cab card,
22 letter of authority, or other temporary authority issued under chapter
23 46.87 RCW;
24 (49) RCW 46.87.290 relating to operation of an unregistered or
25 unlicensed vehicle under chapter 46.87 RCW.

26 **Sec. 26.** RCW 46.70.180 and 1994 c 284 s 13 are each amended to
27 read as follows:

28 Each of the following acts or practices is unlawful:

29 (1) To cause or permit to be advertised, printed, displayed,
30 published, distributed, broadcasted, televised, or disseminated in any
31 manner whatsoever, any statement or representation with regard to the
32 sale or financing of a vehicle which is false, deceptive, or
33 misleading, including but not limited to the following:

34 (a) That no down payment is required in connection with the sale of
35 a vehicle when a down payment is in fact required, or that a vehicle
36 may be purchased for a smaller down payment than is actually required;

1 (b) That a certain percentage of the sale price of a vehicle may be
2 financed when such financing is not offered in a single document
3 evidencing the entire security transaction;

4 (c) That a certain percentage is the amount of the service charge
5 to be charged for financing, without stating whether this percentage
6 charge is a monthly amount or an amount to be charged per year;

7 (d) That a new vehicle will be sold for a certain amount above or
8 below cost without computing cost as the exact amount of the factory
9 invoice on the specific vehicle to be sold;

10 (e) That a vehicle will be sold upon a monthly payment of a certain
11 amount, without including in the statement the number of payments of
12 that same amount which are required to liquidate the unpaid purchase
13 price.

14 (2) To incorporate within the terms of any purchase and sale
15 agreement any statement or representation with regard to the sale or
16 financing of a vehicle which is false, deceptive, or misleading,
17 including but not limited to terms that include as an added cost to the
18 selling price of a vehicle an amount for licensing or transfer of title
19 of that vehicle which is not actually due to the state, unless such
20 amount has in fact been paid by the dealer prior to such sale.

21 (3) To set up, promote, or aid in the promotion of a plan by which
22 vehicles are to be sold to a person for a consideration and upon
23 further consideration that the purchaser agrees to secure one or more
24 persons to participate in the plan by respectively making a similar
25 purchase and in turn agreeing to secure one or more persons likewise to
26 join in said plan, each purchaser being given the right to secure
27 money, credits, goods, or something of value, depending upon the number
28 of persons joining the plan.

29 (4) To commit, allow, or ratify any act of "bushing" which is
30 defined as follows: Taking from a prospective buyer of a vehicle a
31 written order or offer to purchase, or a contract document signed by
32 the buyer, which:

33 (a) Is subject to the dealer's, or his or her authorized
34 representative's future acceptance, and the dealer fails or refuses
35 within forty-eight hours, exclusive of Saturday, Sunday, or legal
36 holiday, and prior to any further negotiations with said buyer, to
37 deliver to the buyer either the dealer's signed acceptance or all
38 copies of the order, offer, or contract document together with any
39 initial payment or security made or given by the buyer, including but

1 not limited to money, check, promissory note, vehicle keys, a trade-in,
2 or certificate of title to a trade-in; or

3 (b) Permits the dealer to renegotiate a dollar amount specified as
4 trade-in allowance on a vehicle delivered or to be delivered by the
5 buyer as part of the purchase price, for any reason except:

6 (i) Failure to disclose that the vehicle's certificate of ownership
7 has been branded for any reason, including, but not limited to, status
8 as a rebuilt vehicle as provided in RCW 46.12.050 and section 24 of
9 this act; and

10 (ii) Substantial physical damage or latent mechanical defect
11 occurring before the dealer took possession of the vehicle and which
12 could not have been reasonably discoverable at the time of the taking
13 of the order, offer, or contract; or

14 (c) Fails to comply with the obligation of any written warranty or
15 guarantee given by the dealer requiring the furnishing of services or
16 repairs within a reasonable time.

17 (5) To commit any offense relating to odometers, as such offenses
18 are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A
19 violation of this subsection is a class C felony punishable under
20 chapter 9A.20 RCW.

21 (6) For any vehicle dealer or vehicle salesman to refuse to
22 furnish, upon request of a prospective purchaser, the name and address
23 of the previous registered owner of any used vehicle offered for sale.

24 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or
25 46.37.425.

26 (8) To commit any offense relating to a dealer's temporary license
27 permit, including but not limited to failure to properly complete each
28 such permit, or the issuance of more than one such permit on any one
29 vehicle.

30 (9) For a dealer, salesman, or mobile home manufacturer, having
31 taken an instrument or cash "on deposit" from a purchaser prior to the
32 delivery of the bargained-for vehicle, to commingle the "on deposit"
33 funds with assets of the dealer, salesman, or mobile home manufacturer
34 instead of holding the "on deposit" funds as trustee in a separate
35 trust account until the purchaser has taken delivery of the bargained-
36 for vehicle. Delivery of a manufactured home shall be deemed to occur
37 in accordance with RCW 46.70.135(5). Failure, immediately upon
38 receipt, to endorse "on deposit" instruments to such a trust account,
39 or to set aside "on deposit" cash for deposit in such trust account,

1 and failure to deposit such instruments or cash in such trust account
2 by the close of banking hours on the day following receipt thereof,
3 shall be evidence of intent to commit this unlawful practice:
4 PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate
5 trust account which equals his or her customary total customer deposits
6 for vehicles for future delivery. For purposes of this section, "on
7 deposit" funds received from a purchaser of a manufactured home means
8 those funds that a seller requires a purchaser to advance before
9 ordering the manufactured home, but does not include any loan proceeds
10 or moneys that might have been paid on an installment contract.

11 (10) For a dealer or manufacturer to fail to comply with the
12 obligations of any written warranty or guarantee given by the dealer or
13 manufacturer requiring the furnishing of goods and services or repairs
14 within a reasonable period of time, or to fail to furnish to a
15 purchaser, all parts which attach to the manufactured unit including
16 but not limited to the undercarriage, and all items specified in the
17 terms of a sales agreement signed by the seller and buyer.

18 (11) For a vehicle dealer to pay to or receive from any person,
19 firm, partnership, association, or corporation acting, either directly
20 or through a subsidiary, as a buyer's agent for consumers, any
21 compensation, fee, gratuity, or reward in connection with the purchase
22 or sale of a new motor vehicle.

23 (12) For a buyer's agent acting directly or through a subsidiary to
24 pay to or to receive from any motor vehicle dealer any compensation,
25 fee, gratuity, or reward in connection with the purchase or sale of a
26 new motor vehicle.

27 (13) For a buyer's agent to arrange for or to negotiate the
28 purchase, or both, of a new motor vehicle through an out-of-state
29 dealer without disclosing in writing to the customer that the new
30 vehicle would not be subject to chapter 19.118 RCW.

31 (14) Being a manufacturer, other than a motorcycle manufacturer
32 governed by chapter 46.94 RCW, to:

33 (a) Coerce or attempt to coerce any vehicle dealer to order or
34 accept delivery of any vehicle or vehicles, parts or accessories, or
35 any other commodities which have not been voluntarily ordered by the
36 vehicle dealer: PROVIDED, That recommendation, endorsement,
37 exposition, persuasion, urging, or argument are not deemed to
38 constitute coercion;

1 (b) Cancel or fail to renew the franchise or selling agreement of
2 any vehicle dealer doing business in this state without fairly
3 compensating the dealer at a fair going business value for his or her
4 capital investment which shall include but not be limited to tools,
5 equipment, and parts inventory possessed by the dealer on the day he or
6 she is notified of such cancellation or termination and which are still
7 within the dealer's possession on the day the cancellation or
8 termination is effective, if: (i) The capital investment has been
9 entered into with reasonable and prudent business judgment for the
10 purpose of fulfilling the franchise; and (ii) the cancellation or
11 nonrenewal was not done in good faith. Good faith is defined as the
12 duty of each party to any franchise to act in a fair and equitable
13 manner towards each other, so as to guarantee one party freedom from
14 coercion, intimidation, or threats of coercion or intimidation from the
15 other party: PROVIDED, That recommendation, endorsement, exposition,
16 persuasion, urging, or argument are not deemed to constitute a lack of
17 good faith.

18 (c) Encourage, aid, abet, or teach a vehicle dealer to sell
19 vehicles through any false, deceptive, or misleading sales or financing
20 practices including but not limited to those practices declared
21 unlawful in this section;

22 (d) Coerce or attempt to coerce a vehicle dealer to engage in any
23 practice forbidden in this section by either threats of actual
24 cancellation or failure to renew the dealer's franchise agreement;

25 (e) Refuse to deliver any vehicle publicly advertised for immediate
26 delivery to any duly licensed vehicle dealer having a franchise or
27 contractual agreement for the retail sale of new and unused vehicles
28 sold or distributed by such manufacturer within sixty days after such
29 dealer's order has been received in writing unless caused by inability
30 to deliver because of shortage or curtailment of material, labor,
31 transportation, or utility services, or by any labor or production
32 difficulty, or by any cause beyond the reasonable control of the
33 manufacturer;

34 (f) To provide under the terms of any warranty that a purchaser of
35 any new or unused vehicle that has been sold, distributed for sale, or
36 transferred into this state for resale by the vehicle manufacturer may
37 only make any warranty claim on any item included as an integral part
38 of the vehicle against the manufacturer of that item.

1 Nothing in this section may be construed to impair the obligations
2 of a contract or to prevent a manufacturer, distributor,
3 representative, or any other person, whether or not licensed under this
4 chapter, from requiring performance of a written contract entered into
5 with any licensee hereunder, nor does the requirement of such
6 performance constitute a violation of any of the provisions of this
7 section if any such contract or the terms thereof requiring
8 performance, have been freely entered into and executed between the
9 contracting parties. This paragraph and subsection (14)(b) of this
10 section do not apply to new motor vehicle manufacturers governed by
11 chapter 46.96 RCW.

12 (15) Unlawful transfer of an ownership interest in a motor vehicle
13 as defined in RCW 19.116.050.

14 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 46.12.360 and 1990 c 42 s 325, 1980 c 32 s 7, & 1975-'76
17 2nd ex.s. c 91 s 7; and

18 (2) RCW 46.80.055 and 1985 c 109 s 8."

19 Correct the title accordingly.

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