

2 **ESHB 2439** - S COMM AMD **S5375.1**  
3 By Committee on Transportation

4 ADOPTED AS AMENDED 3/5/98

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

7 "NEW SECTION. **Sec. 1.** This act may be known and cited as the  
8 Cooper Jones Act.

9 **Sec. 2.** RCW 43.59.010 and 1967 ex.s. c 147 s 1 are each amended to  
10 read as follows:

11 (1) The purpose of this chapter is to establish a new agency of  
12 state government to be known as the Washington traffic safety  
13 commission. The functions and purpose of this commission shall be to  
14 find solutions to the problems that have been created as a result of  
15 the tremendous increase of motor vehicles on our highways and the  
16 attendant traffic death and accident tolls; to plan and supervise  
17 programs for the prevention of accidents on streets and highways  
18 including but not limited to educational campaigns designed to reduce  
19 traffic accidents in cooperation with all official and unofficial  
20 organizations interested in traffic safety; to coordinate the  
21 activities at the state and local level in the development of state-  
22 wide and local traffic safety programs; to promote a uniform  
23 enforcement of traffic safety laws and establish standards for  
24 investigation and reporting of traffic accidents; to promote and  
25 improve driver education; and to authorize the governor to perform all  
26 functions required to be performed by him under the federal Highway  
27 Safety Act of 1966 (Public Law 89-564; 80 Stat. 731).

28 (2) The legislature finds and declares that bicycling and walking  
29 are becoming increasingly popular in Washington as clean and efficient  
30 modes of transportation, as recreational activities, and as organized  
31 sports. Future plans for the state's transportation system will  
32 require increased access and safety for bicycles and pedestrians on our  
33 common roadways, and federal transportation legislation and funding  
34 programs have created strong incentives to implement these changes  
35 quickly. As a result, many more people are likely to take up bicycling

1 in Washington both as a leisure activity and as a convenient,  
2 inexpensive form of transportation. Bicyclists are more vulnerable to  
3 injury and accident than motorists, and should be as knowledgeable as  
4 possible about traffic laws, be highly visible and predictable when  
5 riding in traffic, and be encouraged to wear bicycle safety helmets.  
6 Hundreds of bicyclists and pedestrians are seriously injured every year  
7 in accidents, and millions of dollars are spent on health care costs  
8 associated with these accidents. There is clear evidence that  
9 organized training in the rules and techniques of safe and effective  
10 cycling can significantly reduce the incidence of serious injury and  
11 accidents, increase cooperation among road users, and significantly  
12 increase the incidence of bicycle helmet use, particularly among  
13 minors.

14 NEW SECTION. Sec. 3. A new section is added to chapter 43.59 RCW  
15 to read as follows:

16 The Washington state traffic safety commission shall establish a  
17 program for improving bicycle and pedestrian safety, and shall  
18 cooperate with the stakeholders and independent representatives to form  
19 an advisory committee to develop programs and create public private  
20 partnerships which promote bicycle and pedestrian safety. The traffic  
21 safety commission shall report and make recommendations to the  
22 legislative transportation committee and the fiscal committees of the  
23 house of representatives and the senate by December 1, 1998, regarding  
24 the conclusions of the advisory committee.

25 **Sec. 4.** RCW 48.02.190 and 1987 c 505 s 54 are each amended to read  
26 as follows:

27 (1) As used in this section:

28 (a) "Organization" means every insurer, as defined in RCW  
29 48.01.050, having a certificate of authority to do business in this  
30 state and every health care service contractor registered to do  
31 business in this state. "Class one" organizations shall consist of all  
32 insurers as defined in RCW 48.01.050. "Class two" organizations shall  
33 consist of all organizations registered under provisions of chapter  
34 48.44 RCW.

35 (b) "Receipts" means (i) net direct premiums consisting of direct  
36 gross premiums, as defined in RCW 48.18.170, paid for insurance written  
37 or renewed upon risks or property resident, situated, or to be

1 performed in this state, less return premiums and premiums on policies  
2 not taken, dividends paid or credited to policyholders on direct  
3 business, and premiums received from policies or contracts issued in  
4 connection with qualified plans as defined in RCW 48.14.021, and (ii)  
5 prepayments to health care service contractors as set forth in RCW  
6 48.44.010(3) less experience rating credits, dividends, prepayments  
7 returned to subscribers, and payments for contracts not taken.

8 (2) The annual cost of operating the office of insurance  
9 commissioner shall be determined by legislative appropriation. A pro  
10 rata share of the cost shall be charged to all organizations. Each  
11 class of organization shall contribute sufficient in fees to the  
12 insurance commissioner's regulatory account to pay the reasonable  
13 costs, including overhead, of regulating that class of organization.

14 (3) Fees charged shall be calculated separately for each class of  
15 organization. The fee charged each organization shall be that portion  
16 of the cost of operating the insurance commissioner's office, for that  
17 class of organization, for the ensuing fiscal year that is represented  
18 by the organization's portion of the receipts collected or received by  
19 all organizations within that class on business in this state during  
20 the previous calendar year: PROVIDED, That the fee shall not exceed  
21 one-eighth of one percent of receipts: PROVIDED FURTHER, That the  
22 minimum fee shall be one thousand dollars.

23 (4) The commissioner shall annually, on or before June 1, calculate  
24 and bill each organization for the amount of its fee. Fees shall be  
25 due and payable no later than June 15 of each year: PROVIDED, That if  
26 the necessary financial records are not available or if the amount of  
27 the legislative appropriation is not determined in time to carry out  
28 such calculations and bill such fees within the time specified, the  
29 commissioner may use the fee factors for the prior year as the basis  
30 for the fees and, if necessary, the commissioner may impose  
31 supplemental fees to fully and properly charge the organizations. The  
32 penalties for failure to pay fees when due shall be the same as the  
33 penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees  
34 required by this section are in addition to all other taxes and fees  
35 now imposed or that may be subsequently imposed.

36 (5) All moneys collected shall be deposited in the insurance  
37 commissioner's regulatory account in the state treasury which is hereby  
38 created.

1       (6) Appropriations may be made from the insurance commissioner's  
2 regulatory account for the purposes of bicycle and pedestrian safety  
3 programs under section 3 of this act.

4       (7) Unexpended funds in the insurance commissioner's regulatory  
5 account at the close of a fiscal year shall be carried forward in the  
6 insurance commissioner's regulatory account to the succeeding fiscal  
7 year and shall be used to reduce future fees.

8       NEW SECTION. **Sec. 5.** A new section is added to chapter 46.20 RCW  
9 to read as follows:

10       The department of licensing shall incorporate a section on bicycle  
11 safety and sharing the road into its instructional publications for  
12 drivers and shall include questions in the written portion of the  
13 driver's license examination on bicycle safety and sharing the road  
14 with bicycles.

15       **Sec. 6.** RCW 46.20.095 and 1986 c 93 s 3 are each amended to read  
16 as follows:

17       The department shall include information on the proper use of the  
18 left-hand lane by motor vehicles on multilane highways and on  
19 bicyclists' and pedestrians' rights and responsibilities in its  
20 instructional publications for drivers.

21       **Sec. 7.** RCW 46.82.430 and 1986 c 93 s 5 are each amended to read  
22 as follows:

23       Instructional material used in driver training schools shall  
24 include information on the proper use of the left-hand lane by motor  
25 vehicles on multilane highways and on bicyclists' and pedestrians'  
26 rights and responsibilities and suggested riding procedures in common  
27 traffic situations.

28       **Sec. 8.** RCW 46.83.040 and 1961 c 12 s 46.83.040 are each amended  
29 to read as follows:

30       It shall be the purpose of every traffic school which may be  
31 established hereunder to instruct, educate, and inform all persons  
32 appearing for training in the proper, lawful, and safe operation of  
33 motor vehicles, including but not limited to rules of the road and the  
34 limitations of persons, vehicles, and bicycles and roads, streets, and  
35 highways under varying conditions and circumstances.

1       **Sec. 9.** RCW 46.52.070 and 1967 c 32 s 57 are each amended to read  
2 as follows:

3       (1) Any police officer of the state of Washington or of any county,  
4 city, town or other political subdivision, present at the scene of any  
5 accident or in possession of any facts concerning any accident whether  
6 by way of official investigation or otherwise shall make report thereof  
7 in the same manner as required of the parties to such accident and as  
8 fully as the facts in his possession concerning such accident will  
9 permit.

10       (2) The police officer shall report to the department, on a form  
11 prescribed by the director: (a) When an accident has occurred that  
12 results in a fatality or serious injury; (b) the identity of the  
13 operator of a vehicle involved in the accident when the officer has  
14 reasonable grounds to believe the operator who caused the fatality or  
15 serious injury may not be competent to operate a motor vehicle; and (c)  
16 the reason or reasons for such belief.

17       **Sec. 10.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read  
18 as follows:

19       Every district court, municipal court, and clerk of superior court  
20 shall keep or cause to be kept a record of every traffic complaint,  
21 traffic citation, notice of infraction, or other legal form of traffic  
22 charge deposited with or presented to the court or a traffic violations  
23 bureau, and shall keep a record of every official action by the court  
24 or its traffic violations bureau in reference thereto, including but  
25 not limited to a record of every conviction, forfeiture of bail,  
26 judgment of acquittal, finding that a traffic infraction has been  
27 committed, dismissal of a notice of infraction, and the amount of fine,  
28 forfeiture, or penalty resulting from every traffic complaint,  
29 citation, or notice of infraction deposited with or presented to the  
30 district court, municipal court, superior court, or traffic violations  
31 bureau.

32       The Monday following the conviction, forfeiture of bail, or finding  
33 that a traffic infraction was committed for violation of any provisions  
34 of this chapter or other law regulating the operating of vehicles on  
35 highways, every magistrate of the court or clerk of the court of record  
36 in which such conviction was had, bail was forfeited, or the finding  
37 made shall prepare and immediately forward to the director of licensing  
38 at Olympia an abstract of the record of the court covering the case,

1 which abstract must be certified by the person so required to prepare  
2 the same to be true and correct. Report need not be made of any  
3 finding involving the illegal parking or standing of a vehicle.

4 The abstract must be made upon a form or forms furnished by the  
5 director and shall include the name and address of the party charged,  
6 the number, if any, of the party's driver's or chauffeur's license, the  
7 registration number of the vehicle involved if required by the  
8 director, the nature of the offense, the date of hearing, the plea, the  
9 judgment, whether the offense was an alcohol-related offense as defined  
10 in RCW 46.01.260(2), whether the incident that gave rise to the offense  
11 charged resulted in any fatality, whether bail forfeited, whether the  
12 determination that a traffic infraction was committed was contested,  
13 and the amount of the fine, forfeiture, or penalty as the case may be.

14 Every court of record shall also forward a like report to the  
15 director upon the conviction of any person of a felony in the  
16 commission of which a vehicle was used.

17 The failure of any such judicial officer to comply with any of the  
18 requirements of this section shall constitute misconduct in office and  
19 shall be grounds for removal therefrom.

20 The director shall keep all abstracts received hereunder at the  
21 director's office in Olympia and the same shall be open to public  
22 inspection during reasonable business hours.

23 Venue in all district courts shall be before one of the two nearest  
24 district judges in incorporated cities and towns nearest to the point  
25 the violation allegedly occurred: PROVIDED, That in counties with  
26 populations of one hundred twenty-five thousand or more such cases may  
27 be tried in the county seat at the request of the defendant.

28 It shall be the duty of the officer, prosecuting attorney, or city  
29 attorney signing the charge or information in any case involving a  
30 charge of driving under the influence of intoxicating liquor or any  
31 drug immediately to make request to the director for an abstract of  
32 convictions and forfeitures which the director shall furnish.

33 **Sec. 11.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to  
34 read as follows:

35 (1) The director shall keep a case record on every motor vehicle  
36 driver licensed under the laws of this state, together with information  
37 on each driver, showing all the convictions and findings of traffic  
38 infractions certified by the courts, together with an index cross-

1 reference record of each accident reported relating to such individual  
2 with a brief statement of the cause of the accident and whether or not  
3 the accident resulted in any fatality. The chief of the Washington  
4 state patrol shall furnish the index cross-reference record to the  
5 director, with reference to each driver involved in the reported  
6 accidents.

7 (2) The records shall be for the confidential use of the director,  
8 the chief of the Washington state patrol, the director of the  
9 Washington traffic safety commission, and for such police officers or  
10 other cognizant public officials as may be designated by law. Such  
11 case records shall not be offered as evidence in any court except in  
12 case appeal is taken from the order of the director, suspending,  
13 revoking, canceling, or refusing a vehicle driver's license.

14 (3) The director shall tabulate and analyze vehicle driver's case  
15 records and suspend, revoke, cancel, or refuse a vehicle driver's  
16 license to a person when it is deemed from facts contained in the case  
17 record of such person that it is for the best interest of public safety  
18 that such person be denied the privilege of operating a motor vehicle.  
19 The director shall also suspend a person's driver's license if the  
20 person fails to attend or complete a driver improvement interview or  
21 fails to abide by conditions of probation under RCW 46.20.335.  
22 Whenever the director orders the vehicle driver's license of any such  
23 person suspended, revoked, or canceled, or refuses the issuance of a  
24 vehicle driver's license, such suspension, revocation, cancellation, or  
25 refusal is final and effective unless appeal from the decision of the  
26 director is taken as provided by law.

27 **Sec. 12.** RCW 46.52.130 and 1997 c 66 s 12 are each amended to read  
28 as follows:

29 A certified abstract of the driving record shall be furnished only  
30 to the individual named in the abstract, an employer or prospective  
31 employer or an agent acting on behalf of an employer or prospective  
32 employer, the insurance carrier that has insurance in effect covering  
33 the employer or a prospective employer, the insurance carrier that has  
34 insurance in effect covering the named individual, the insurance  
35 carrier to which the named individual has applied, an alcohol/drug  
36 assessment or treatment agency approved by the department of social and  
37 health services, to which the named individual has applied or been  
38 assigned for evaluation or treatment, or city and county prosecuting

1 attorneys. City attorneys and county prosecuting attorneys may provide  
2 the driving record to alcohol/drug assessment or treatment agencies  
3 approved by the department of social and health services to which the  
4 named individual has applied or been assigned for evaluation or  
5 treatment. The director, upon proper request, shall furnish a  
6 certified abstract covering the period of not more than the last three  
7 years to insurance companies. Upon proper request, the director shall  
8 furnish a certified abstract covering a period of not more than the  
9 last five years to state approved alcohol/drug assessment or treatment  
10 agencies, except that the certified abstract shall also include records  
11 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a  
12 period of not more than the last ten years. Upon proper request, a  
13 certified abstract of the full driving record maintained by the  
14 department shall be furnished to a city or county prosecuting attorney,  
15 to the individual named in the abstract or to an employer or  
16 prospective employer or an agent acting on behalf of an employer or  
17 prospective employer of the named individual. The abstract, whenever  
18 possible, shall include an enumeration of motor vehicle accidents in  
19 which the person was driving; the total number of vehicles involved;  
20 whether the vehicles were legally parked or moving; whether the  
21 vehicles were occupied at the time of the accident; whether the  
22 accident resulted in any fatality; any reported convictions,  
23 forfeitures of bail, or findings that an infraction was committed based  
24 upon a violation of any motor vehicle law; and the status of the  
25 person's driving privilege in this state. The enumeration shall  
26 include any reports of failure to appear in response to a traffic  
27 citation or failure to respond to a notice of infraction served upon  
28 the named individual by an arresting officer. Certified abstracts  
29 furnished to prosecutors and alcohol/drug assessment or treatment  
30 agencies shall also indicate whether a recorded violation is an  
31 alcohol-related offense as defined in RCW 46.01.260(2) that was  
32 originally charged as one of the alcohol-related offenses designated in  
33 RCW 46.01.260(2)(b)(i).

34 The abstract provided to the insurance company shall exclude any  
35 information, except that related to the commission of misdemeanors or  
36 felonies by the individual, pertaining to law enforcement officers or  
37 fire fighters as defined in RCW 41.26.030, or any officer of the  
38 Washington state patrol, while driving official vehicles in the  
39 performance of occupational duty. The abstract provided to the



1 insurance company shall include convictions for RCW 46.61.5249 and  
2 46.61.525 except that the abstract shall report them only as negligent  
3 driving without reference to whether they are for first or second  
4 degree negligent driving. The abstract provided to the insurance  
5 company shall exclude any deferred prosecution under RCW 10.05.060,  
6 except that if a person is removed from a deferred prosecution under  
7 RCW 10.05.090, the abstract shall show the deferred prosecution as well  
8 as the removal.

9 The director shall collect for each abstract the sum of four  
10 dollars and fifty cents which shall be deposited in the highway safety  
11 fund.

12 Any insurance company or its agent receiving the certified abstract  
13 shall use it exclusively for its own underwriting purposes and shall  
14 not divulge any of the information contained in it to a third party.  
15 No policy of insurance may be canceled, nonrenewed, denied, or have the  
16 rate increased on the basis of such information unless the policyholder  
17 was determined to be at fault. No insurance company or its agent for  
18 underwriting purposes relating to the operation of commercial motor  
19 vehicles may use any information contained in the abstract relative to  
20 any person's operation of motor vehicles while not engaged in such  
21 employment, nor may any insurance company or its agent for underwriting  
22 purposes relating to the operation of noncommercial motor vehicles use  
23 any information contained in the abstract relative to any person's  
24 operation of commercial motor vehicles.

25 Any employer or prospective employer or an agent acting on behalf  
26 of an employer or prospective employer receiving the certified abstract  
27 shall use it exclusively for his or her own purpose to determine  
28 whether the licensee should be permitted to operate a commercial  
29 vehicle or school bus upon the public highways of this state and shall  
30 not divulge any information contained in it to a third party.

31 Any alcohol/drug assessment or treatment agency approved by the  
32 department of social and health services receiving the certified  
33 abstract shall use it exclusively for the purpose of assisting its  
34 employees in making a determination as to what level of treatment, if  
35 any, is appropriate. The agency, or any of its employees, shall not  
36 divulge any information contained in the abstract to a third party.

37 Release of a certified abstract of the driving record of an  
38 employee or prospective employee requires a statement signed by: (1)  
39 The employee or prospective employee that authorizes the release of the

1 record, and (2) the employer attesting that the information is  
2 necessary to determine whether the licensee should be employed to  
3 operate a commercial vehicle or school bus upon the public highways of  
4 this state. If the employer or prospective employer authorizes an  
5 agent to obtain this information on their behalf, this must be noted in  
6 the statement.

7 Any violation of this section is a gross misdemeanor.

8 **Sec. 13.** RCW 46.20.291 and 1997 c 58 s 806 are each amended to  
9 read as follows:

10 The department is authorized to suspend the license of a driver  
11 upon a showing by its records or other sufficient evidence that the  
12 licensee:

13 (1) Has committed an offense for which mandatory revocation or  
14 suspension of license is provided by law;

15 (2) Has, by reckless or unlawful operation of a motor vehicle,  
16 caused or contributed to an accident resulting in death or injury to  
17 any person or serious property damage;

18 (3) Has been convicted of offenses against traffic regulations  
19 governing the movement of vehicles, or found to have committed traffic  
20 infractions, with such frequency as to indicate a disrespect for  
21 traffic laws or a disregard for the safety of other persons on the  
22 highways;

23 (4) Is incompetent to drive a motor vehicle under RCW 46.20.031(3);

24 (5) Has failed to respond to a notice of traffic infraction, failed  
25 to appear at a requested hearing, violated a written promise to appear  
26 in court, or has failed to comply with the terms of a notice of traffic  
27 infraction or citation, as provided in RCW 46.20.289;

28 (6) Is subject to suspension under RCW 46.20.305;

29 (7) Has committed one of the prohibited practices relating to  
30 drivers' licenses defined in RCW 46.20.336; or

31 ~~((+7))~~ (8) Has been certified by the department of social and  
32 health services as a person who is not in compliance with a child  
33 support order or a residential or visitation order as provided in RCW  
34 74.20A.320.

35 **Sec. 14.** RCW 46.20.305 and 1965 ex.s. c 121 s 26 are each amended  
36 to read as follows:

1       (1) The department, having good cause to believe that a licensed  
2 driver is incompetent or otherwise not qualified to be licensed may  
3 upon notice require him or her to submit to an examination.

4       (2) The department shall require a driver reported under RCW  
5 46.52.070(2), when a fatality occurred, to submit to an examination.  
6 The examination must be completed no later than one hundred twenty days  
7 after the accident report required under RCW 46.52.070(2) is received  
8 by the department unless the department, at the request of the  
9 operator, extends the time for examination.

10       (3) The department may require a driver reported under RCW  
11 46.52.070(2) to submit to an examination, or suspend the person's  
12 license subject to RCW 46.20.322, when a serious injury occurred. The  
13 examination must be completed no later than one hundred twenty days  
14 after the accident report required under RCW 46.52.070(2) is received  
15 by the department.

16       (4) The department may in addition to an examination under this  
17 section require such person to obtain a certificate showing his or her  
18 condition signed by a licensed physician or other proper authority  
19 designated by the department.

20       (5) Upon the conclusion of (~~such~~) an examination under this  
21 section the department shall take driver improvement action as may be  
22 appropriate and may suspend or revoke the license of such person or  
23 permit him or her to retain such license, or may issue a license  
24 subject to restrictions as permitted under RCW 46.20.041. The  
25 department may suspend or revoke the license of such person who refuses  
26 or neglects to submit to such examination.

27       (6) The department may require payment of a fee by a person subject  
28 to examination under this section. The department shall set the fee in  
29 an amount that is sufficient to cover the additional cost of  
30 administering examinations required by this section.

31       NEW SECTION. Sec. 15. The department of licensing may adopt rules  
32 as necessary to implement this act.

33       NEW SECTION. Sec. 16. Sections 9 through 15 of this act take  
34 effect January 1, 1999.

35       Sec. 17. RCW 46.37.280 and 1987 c 330 s 713 are each amended to  
36 read as follows:

1 (1) During the times specified in RCW 46.37.020, any lighted lamp  
2 or illuminating device upon a motor vehicle, other than head lamps,  
3 spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle  
4 warning lamps, warning lamps authorized by the state patrol and school  
5 bus warning lamps, which projects a beam of light of an intensity  
6 greater than three hundred candlepower shall be so directed that no  
7 part of the high intensity portion of the beam will strike the level of  
8 the roadway on which the vehicle stands at a distance of more than  
9 seventy-five feet from the vehicle.

10 (2) Except as required in RCW 46.37.190 no person shall drive or  
11 move any vehicle or equipment upon any highway with any lamp or device  
12 thereon displaying a red light visible from directly in front of the  
13 center thereof.

14 (3) Flashing lights are prohibited except as required in RCW  
15 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ((and))  
16 warning lamps authorized by the state patrol, and light-emitting diode  
17 flashing taillights on bicycles.

18 **Sec. 18.** RCW 46.61.780 and 1987 c 330 s 746 are each amended to  
19 read as follows:

20 (1) Every bicycle when in use during the hours of darkness as  
21 defined in RCW 46.37.020 shall be equipped with a lamp on the front  
22 which shall emit a white light visible from a distance of at least five  
23 hundred feet to the front and with a red reflector on the rear of a  
24 type approved by the state patrol which shall be visible from all  
25 distances ((~~from one hundred feet~~)) up to six hundred feet to the rear  
26 when directly in front of lawful lower beams of head lamps on a motor  
27 vehicle. A lamp emitting a red light visible from a distance of five  
28 hundred feet to the rear may be used in addition to the red reflector.  
29 A light-emitting diode flashing taillight visible from a distance of  
30 five hundred feet to the rear may also be used in addition to the red  
31 reflector.

32 (2) Every bicycle shall be equipped with a brake which will enable  
33 the operator to make the braked wheels skid on dry, level, clean  
34 pavement."

1 **ESHB 2439** - S COMM AMD  
2 By Committee on Transportation

3 ADOPTED AS AMENDED 3/5/98

4 In line 1 of the title, after "education;" strike the remainder of  
5 the title and insert "amending RCW 43.59.010, 48.02.190, 46.20.095,  
6 46.82.430, 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130,  
7 46.20.291, 46.20.305, 46.37.280, and 46.61.780; adding new sections to  
8 chapter 43.59 RCW; adding a new section to chapter 46.20 RCW; creating  
9 a new section; prescribing penalties; and providing an effective date."

--- END ---