

2 **ESHB 2439 - CONF REPT**

3 By Conference Committee

4 ADOPTED 3/11/98

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 during the 1997-1999 fiscal
4 biennium. Appropriations from the regulatory account may only be made
5 for the initial costs of establishing the bicycle and pedestrian safety
6 programs established under section 3 of this act. To the extent that
7 private contributions are received by the traffic safety commission for
8 the purposes of bicycle and pedestrian safety programs established
9 under section 3 of this act, the appropriations from the insurance
10 commissioner's regulatory account for this purpose shall lapse.

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

15 NEW SECTION. Sec. 5. A new section is added to chapter 46.20 RCW
16 to read as follows:

17 The department of licensing shall incorporate a section on bicycle
18 safety and sharing the road into its instructional publications for
19 drivers and shall include questions in the written portion of the
20 driver's license examination on bicycle safety and sharing the road
21 with bicycles.

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

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

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

30 Instructional material used in driver training schools shall
31 include information on the proper use of the left-hand lane by motor
32 vehicles on multilane highways and on bicyclists' and pedestrians'
33 rights and responsibilities and suggested riding procedures in common
34 traffic situations.

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

3 It shall be the purpose of every traffic school which may be
4 established hereunder to instruct, educate, and inform all persons
5 appearing for training in the proper, lawful, and safe operation of
6 motor vehicles, including but not limited to rules of the road and the
7 limitations of persons, vehicles, and bicycles and roads, streets, and
8 highways under varying conditions and circumstances.

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

11 (1) Any police officer of the state of Washington or of any county,
12 city, town or other political subdivision, present at the scene of any
13 accident or in possession of any facts concerning any accident whether
14 by way of official investigation or otherwise shall make report thereof
15 in the same manner as required of the parties to such accident and as
16 fully as the facts in his possession concerning such accident will
17 permit.

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

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

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

1 district court, municipal court, superior court, or traffic violations
2 bureau.

3 The Monday following the conviction, forfeiture of bail, or finding
4 that a traffic infraction was committed for violation of any provisions
5 of this chapter or other law regulating the operating of vehicles on
6 highways, every magistrate of the court or clerk of the court of record
7 in which such conviction was had, bail was forfeited, or the finding
8 made shall prepare and immediately forward to the director of licensing
9 at Olympia an abstract of the record of the court covering the case,
10 which abstract must be certified by the person so required to prepare
11 the same to be true and correct. Report need not be made of any
12 finding involving the illegal parking or standing of a vehicle.

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

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

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

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

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

37 It shall be the duty of the officer, prosecuting attorney, or city
38 attorney signing the charge or information in any case involving a
39 charge of driving under the influence of intoxicating liquor or any

1 drug immediately to make request to the director for an abstract of
2 convictions and forfeitures which the director shall furnish.

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

5 (1) The director shall keep a case record on every motor vehicle
6 driver licensed under the laws of this state, together with information
7 on each driver, showing all the convictions and findings of traffic
8 infractions certified by the courts, together with an index cross-
9 reference record of each accident reported relating to such individual
10 with a brief statement of the cause of the accident and whether or not
11 the accident resulted in any fatality. The chief of the Washington
12 state patrol shall furnish the index cross-reference record to the
13 director, with reference to each driver involved in the reported
14 accidents.

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

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

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

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

1 agencies shall also indicate whether a recorded violation is an
2 alcohol-related offense as defined in RCW 46.01.260(2) that was
3 originally charged as one of the alcohol-related offenses designated in
4 RCW 46.01.260(2)(b)(i).

5 The abstract provided to the insurance company shall exclude any
6 information, except that related to the commission of misdemeanors or
7 felonies by the individual, pertaining to law enforcement officers or
8 fire fighters as defined in RCW 41.26.030, or any officer of the
9 Washington state patrol, while driving official vehicles in the
10 performance of occupational duty. The abstract provided to the
11 insurance company shall include convictions for RCW 46.61.5249 and
12 46.61.525 except that the abstract shall report them only as negligent
13 driving without reference to whether they are for first or second
14 degree negligent driving. The abstract provided to the insurance
15 company shall exclude any deferred prosecution under RCW 10.05.060,
16 except that if a person is removed from a deferred prosecution under
17 RCW 10.05.090, the abstract shall show the deferred prosecution as well
18 as the removal.

19 The director shall collect for each abstract the sum of four
20 dollars and fifty cents which shall be deposited in the highway safety
21 fund.

22 Any insurance company or its agent receiving the certified abstract
23 shall use it exclusively for its own underwriting purposes and shall
24 not divulge any of the information contained in it to a third party.
25 No policy of insurance may be canceled, nonrenewed, denied, or have the
26 rate increased on the basis of such information unless the policyholder
27 was determined to be at fault. No insurance company or its agent for
28 underwriting purposes relating to the operation of commercial motor
29 vehicles may use any information contained in the abstract relative to
30 any person's operation of motor vehicles while not engaged in such
31 employment, nor may any insurance company or its agent for underwriting
32 purposes relating to the operation of noncommercial motor vehicles use
33 any information contained in the abstract relative to any person's
34 operation of commercial motor vehicles.

35 Any employer or prospective employer or an agent acting on behalf
36 of an employer or prospective employer receiving the certified abstract
37 shall use it exclusively for his or her own purpose to determine
38 whether the licensee should be permitted to operate a commercial

1 vehicle or school bus upon the public highways of this state and shall
2 not divulge any information contained in it to a third party.

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

9 Release of a certified abstract of the driving record of an
10 employee or prospective employee requires a statement signed by: (1)
11 The employee or prospective employee that authorizes the release of the
12 record, and (2) the employer attesting that the information is
13 necessary to determine whether the licensee should be employed to
14 operate a commercial vehicle or school bus upon the public highways of
15 this state. If the employer or prospective employer authorizes an
16 agent to obtain this information on their behalf, this must be noted in
17 the statement.

18 Any violation of this section is a gross misdemeanor.

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

21 The department is authorized to suspend the license of a driver
22 upon a showing by its records or other sufficient evidence that the
23 licensee:

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

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

29 (3) Has been convicted of offenses against traffic regulations
30 governing the movement of vehicles, or found to have committed traffic
31 infractions, with such frequency as to indicate a disrespect for
32 traffic laws or a disregard for the safety of other persons on the
33 highways;

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

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

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

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

4 (~~(7)~~) (8) Has been certified by the department of social and
5 health services as a person who is not in compliance with a child
6 support order or a residential or visitation order as provided in RCW
7 74.20A.320.

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

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

13 (2) The department shall require a driver reported under RCW
14 46.52.070(2), when a fatality occurred, to submit to an examination.
15 The examination must be completed no later than one hundred twenty days
16 after the accident report required under RCW 46.52.070(2) is received
17 by the department unless the department, at the request of the
18 operator, extends the time for examination.

19 (3) The department may require a driver reported under RCW
20 46.52.070(2) to submit to an examination, or suspend the person's
21 license subject to RCW 46.20.322, when a serious injury occurred. The
22 examination must be completed no later than one hundred twenty days
23 after the accident report required under RCW 46.52.070(2) is received
24 by the department.

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

29 (5) Upon the conclusion of (~~such~~) an examination under this
30 section the department shall take driver improvement action as may be
31 appropriate and may suspend or revoke the license of such person or
32 permit him or her to retain such license, or may issue a license
33 subject to restrictions as permitted under RCW 46.20.041. The
34 department may suspend or revoke the license of such person who refuses
35 or neglects to submit to such examination.

36 (6) The department may require payment of a fee by a person subject
37 to examination under this section. The department shall set the fee in

1 an amount that is sufficient to cover the additional cost of
2 administering examinations required by this section.

3 NEW SECTION. **Sec. 15.** The department of licensing may adopt rules
4 as necessary to implement this act.

5 NEW SECTION. **Sec. 16.** Sections 9 through 15 of this act take
6 effect January 1, 1999.

7 **Sec. 17.** RCW 46.37.280 and 1987 c 330 s 713 are each amended to
8 read as follows:

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

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

22 (3) Flashing lights are prohibited except as required in RCW
23 46.37.190, 46.37.200, 46.37.210, 46.37.215, and 46.37.300, ~~((and))~~
24 warning lamps authorized by the state patrol, and light-emitting diode
25 flashing taillights on bicycles.

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

28 (1) Every bicycle when in use during the hours of darkness as
29 defined in RCW 46.37.020 shall be equipped with a lamp on the front
30 which shall emit a white light visible from a distance of at least five
31 hundred feet to the front and with a red reflector on the rear of a
32 type approved by the state patrol which shall be visible from all
33 distances ~~((from one hundred feet))~~ up to six hundred feet to the rear
34 when directly in front of lawful lower beams of head lamps on a motor
35 vehicle. A lamp emitting a red light visible from a distance of five

1 hundred feet to the rear may be used in addition to the red reflector.
2 A light-emitting diode flashing taillight visible from a distance of
3 five hundred feet to the rear may also be used in addition to the red
4 reflector.

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

8 **ESHB 2439** - CONF REPT
9 By Conference Committee

ADOPTED 3/11/98

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11 In line 1 of the title, after "education;" strike the remainder of
12 the title and insert "amending RCW 43.59.010, 48.02.190, 46.20.095,
13 46.82.430, 46.83.040, 46.52.070, 46.52.100, 46.52.120, 46.52.130,
14 46.20.291, 46.20.305, 46.37.280, and 46.61.780; adding new sections to
15 chapter 43.59 RCW; adding a new section to chapter 46.20 RCW; creating
16 a new section; prescribing penalties; and providing an effective date."

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