

2 **ESB 5649** - H COMM AMD **ADOPTED 04/13/99**  
3 By Committee on Transportation

4

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

7 "Sec. 1. RCW 18.11.070 and 1989 c 307 s 43 are each amended to  
8 read as follows:

9 (1) It is unlawful for any person to act as an auctioneer or for an  
10 auction company to engage in any business in this state without a  
11 license.

12 (2) This chapter does not apply to:

13 (a) An auction of goods conducted by an individual who personally  
14 owns those goods and who did not acquire those goods for resale;

15 (b) An auction conducted by or under the direction of a public  
16 authority;

17 (c) An auction held under judicial order in the settlement of a  
18 decedent's estate;

19 (d) An auction which is required by law to be at auction;

20 (e) An auction conducted by or on behalf of a political  
21 organization or a charitable corporation or association if the person  
22 conducting the sale receives no compensation;

23 (f) An auction of livestock or agricultural products which is  
24 conducted under chapter 16.65 or 20.01 RCW. Auctions not regulated  
25 under chapter 16.65 or 20.01 RCW shall be fully subject to the  
26 provisions of this chapter;

27 (g) An auction held under chapter 19.150 RCW; ~~((or))~~

28 (h) An auction of an abandoned vehicle under chapter 46.55 RCW; or

29 (i) An auction of fur pelts conducted by any cooperative  
30 association organized under chapter 23.86 RCW or its wholly owned  
31 subsidiary. In order to qualify for this exemption, the fur pelts must  
32 be from members of the association. However, the association, without  
33 loss of the exemption, may auction pelts that it purchased from  
34 nonmembers for the purpose of completing lots or orders, so long as the  
35 purchased pelts do not exceed fifteen percent of the total pelts  
36 auctioned.

1       **Sec. 2.** RCW 46.55.010 and 1998 c 203 s 8 are each amended to read  
2 as follows:

3       The definitions set forth in this section apply throughout this  
4 chapter:

5       (1) "Abandoned vehicle" means a vehicle that a registered tow truck  
6 operator has impounded and held in the operator's possession for one  
7 hundred twenty consecutive hours.

8       (2) "Abandoned vehicle report" means the document prescribed by the  
9 state that the towing operator forwards to the department after a  
10 vehicle has become abandoned.

11       (3) "Impound" means to take and hold a vehicle in legal custody.  
12 There are two types of impounds--public and private.

13       (a) "Public impound" means that the vehicle has been impounded at  
14 the direction of a law enforcement officer or by a public official  
15 having jurisdiction over the public property upon which the vehicle was  
16 located.

17       (b) "Private impound" means that the vehicle has been impounded at  
18 the direction of a person having control or possession of the private  
19 property upon which the vehicle was located.

20       (4) "Junk vehicle" means a vehicle certified under RCW 46.55.230 as  
21 meeting at least three of the following requirements:

22       (a) Is three years old or older;

23       (b) Is extensively damaged, such damage including but not limited  
24 to any of the following: A broken window or windshield, or missing  
25 wheels, tires, motor, or transmission;

26       (c) Is apparently inoperable;

27       (d) Has an approximate fair market value equal only to the  
28 approximate value of the scrap in it.

29       (5) "Master log" means the document or an electronic facsimile  
30 prescribed by the department and the Washington state patrol in which  
31 an operator records transactions involving impounded vehicles.

32       (6) "Registered tow truck operator" or "operator" means any person  
33 who engages in the impounding, transporting, or storage of unauthorized  
34 vehicles or the disposal of abandoned vehicles.

35       (7) "Residential property" means property that has no more than  
36 four living units located on it.

37       (8) "Suspended license impound" means an impound ordered under RCW  
38 46.55.113 because the operator was arrested for a violation of RCW  
39 46.20.342 or 46.20.420.

1 (9) "Tow truck" means a motor vehicle that is equipped for and used  
2 in the business of towing vehicles with equipment as approved by the  
3 state patrol.

4 ~~((+9))~~ (10) "Tow truck number" means the number issued by the  
5 department to tow trucks used by a registered tow truck operator in the  
6 state of Washington.

7 ~~((+10))~~ (11) "Tow truck permit" means the permit issued annually  
8 by the department that has the classification of service the tow truck  
9 may provide stamped upon it.

10 ~~((+11))~~ (12) "Tow truck service" means the transporting upon the  
11 public streets and highways of this state of vehicles, together with  
12 personal effects and cargo, by a tow truck of a registered operator.

13 ~~((+12))~~ (13) "Unauthorized vehicle" means a vehicle that is  
14 subject to impoundment after being left unattended in one of the  
15 following public or private locations for the indicated period of time:

16 Subject to removal after:

- 17 (a) Public locations:
  - 18 (i) Constituting an accident or a traffic hazard as
  - 19 defined in RCW 46.55.113 . . . . . Immediately
  - 20 (ii) On a highway and tagged as described in RCW
  - 21 46.55.085 . . . . . 24 hours
  - 22 (iii) In a publicly owned or controlled parking facility,
  - 23 properly posted under RCW
  - 24 46.55.070 . . . . . Immediately
- 25 (b) Private locations:
  - 26 (i) On residential property . . . . . Immediately
  - 27 (ii) On private, nonresidential property, properly
  - 28 posted under RCW 46.55.070 . . . . . Immediately
  - 29 (iii) On private, nonresidential property,
  - 30 not posted . . . . . 24 hours

31 NEW SECTION. Sec. 3. A new section is added to chapter 46.55 RCW  
32 to read as follows:

33 The Washington state patrol shall provide by rule for a uniform  
34 impound authorization and inventory form. All law enforcement agencies  
35 must use this form for all vehicle impounds after June 30, 2001.

1       **Sec. 4.** RCW 46.55.080 and 1989 c 111 s 8 are each amended to read  
2 as follows:

3       (1) If a vehicle is in violation of the time restrictions of RCW  
4 46.55.010(~~((12))~~) (13), it may be impounded by a registered tow truck  
5 operator at the direction of a law enforcement officer or other public  
6 official with jurisdiction if the vehicle is on public property, or at  
7 the direction of the property owner or an agent if it is on private  
8 property. A law enforcement officer may also direct the impoundment of  
9 a vehicle pursuant to a writ or court order.

10       (2) The person requesting a private impound or a law enforcement  
11 officer or public official requesting a public impound shall provide a  
12 signed authorization for the impound at the time and place of the  
13 impound to the registered tow truck operator before the operator may  
14 proceed with the impound. A registered tow truck operator, employee,  
15 or his or her agent may not serve as an agent of a property owner for  
16 the purposes of signing an impound authorization or, independent of the  
17 property owner, identify a vehicle for impound.

18       (3) In the case of a private impound, the impound authorization  
19 shall include the following statement: "A person authorizing this  
20 impound, if the impound is found in violation of chapter 46.55 RCW, may  
21 be held liable for the costs incurred by the vehicle owner."

22       (4) A registered tow truck operator shall record and keep in the  
23 operator's files the date and time that a vehicle is put in the  
24 operator's custody and released. The operator shall make an entry into  
25 a master log regarding transactions relating to impounded vehicles.  
26 The operator shall make this master log available, upon request, to  
27 representatives of the department or the state patrol.

28       (5) A person who engages in or offers to engage in the activities  
29 of a registered tow truck operator may not be associated in any way  
30 with a person or business whose main activity is authorizing the  
31 impounding of vehicles.

32       **Sec. 5.** RCW 46.55.100 and 1998 c 203 s 9 are each amended to read  
33 as follows:

34       (1) At the time of impoundment the registered tow truck operator  
35 providing the towing service shall give immediate notification, by  
36 telephone or radio, to a law enforcement agency having jurisdiction who  
37 shall maintain a log of such reports. A law enforcement agency, or a  
38 private communication center acting on behalf of a law enforcement

1 agency, shall within six to twelve hours of the impoundment, provide to  
2 a requesting operator the name and address of the legal and registered  
3 owners of the vehicle, and the registered owner of any personal  
4 property registered or titled with the department that is attached to  
5 or contained in or on the impounded vehicle, the vehicle identification  
6 number, and any other necessary, pertinent information. The initial  
7 notice of impoundment shall be followed by a written or electronic  
8 facsimile notice within twenty-four hours. In the case of a vehicle  
9 from another state, time requirements of this subsection do not apply  
10 until the requesting law enforcement agency in this state receives the  
11 information.

12 (2) The operator shall immediately send an abandoned vehicle report  
13 to the department for any vehicle, and for any items of personal  
14 property registered or titled with the department, that are in the  
15 operator's possession after the one hundred twenty hour abandonment  
16 period. Such report need not be sent when the impoundment is pursuant  
17 to a writ, court order, or police hold that is not a suspended license  
18 impound. The owner notification and abandonment process shall be  
19 initiated by the registered tow truck operator immediately following  
20 notification by a court or law enforcement officer that the writ, court  
21 order, or police hold that is not a suspended license impound is no  
22 longer in effect.

23 (3) Following the submittal of an abandoned vehicle report, the  
24 department shall provide the registered tow truck operator with owner  
25 information within seventy-two hours.

26 (4) Within fourteen days of the sale of an abandoned vehicle at  
27 public auction, the towing operator shall send a copy of the abandoned  
28 vehicle report showing the disposition of the abandoned vehicle and any  
29 other items of personal property registered or titled with the  
30 department to the crime information center of the Washington state  
31 patrol.

32 (5) If the operator sends an abandoned vehicle report to the  
33 department and the department finds no owner information, an operator  
34 may proceed with an inspection of the vehicle and any other items of  
35 personal property registered or titled with the department to determine  
36 whether owner identification is within the vehicle.

37 (6) If the operator finds no owner identification, the operator  
38 shall immediately notify the appropriate law enforcement agency, which  
39 shall search the vehicle and any other items of personal property

1 registered or titled with the department for the vehicle identification  
2 number or other appropriate identification numbers and check the  
3 necessary records to determine the vehicle's or other property's  
4 owners.

5 **Sec. 6.** RCW 46.55.110 and 1998 c 203 s 3 are each amended to read  
6 as follows:

7 (1) When an unauthorized vehicle is impounded, the impounding  
8 towing operator shall notify the legal and registered owners of the  
9 impoundment of the unauthorized vehicle and the owners of any other  
10 items of personal property registered or titled with the department.  
11 The notification shall be sent by first-class mail within twenty-four  
12 hours after the impoundment to the last known registered and legal  
13 owners of the vehicle, and the owners of any other items of personal  
14 property registered or titled with the department, as provided by the  
15 law enforcement agency, and shall inform the owners of the identity of  
16 the person or agency authorizing the impound. The notification shall  
17 include the name of the impounding tow firm, its address, and telephone  
18 number. The notice shall also include the location, time of the  
19 impound, and by whose authority the vehicle was impounded. The notice  
20 shall also include the written notice of the right of redemption and  
21 opportunity for a hearing to contest the validity of the impoundment  
22 pursuant to RCW 46.55.120.

23 (2) In addition, if a suspended license impound has been ordered,  
24 the notice must state the length of the impound, the requirement of the  
25 posting of a security deposit to ensure payment of the costs of  
26 removal, towing, and storage, notification that if the security deposit  
27 is not posted the vehicle will immediately be processed and sold at  
28 auction as an abandoned vehicle, and the requirements set out in RCW  
29 46.55.120(1)(b) regarding the payment of the costs of removal, towing,  
30 and storage as well as providing proof of satisfaction of any  
31 penalties, fines, or forfeitures before redemption. The notice must  
32 also state that the registered owner is ineligible to purchase the  
33 vehicle at the abandoned vehicle auction, if held.

34 (3) In the case of an abandoned vehicle, or other item of personal  
35 property registered or titled with the department, within twenty-four  
36 hours after receiving information on the owners from the department  
37 through the abandoned vehicle report, the tow truck operator shall send

1 by certified mail, with return receipt requested, a notice of custody  
2 and sale to the legal and registered owners.

3 ~~((+3+))~~ (4) If the date on which a notice required by subsection  
4 ~~((+2+))~~ (3) of this section is to be mailed falls upon a Saturday,  
5 Sunday, or a postal holiday, the notice may be mailed on the next day  
6 that is neither a Saturday, Sunday, nor a postal holiday.

7 ~~((+4+))~~ (5) No notices need be sent to the legal or registered  
8 owners of an impounded vehicle or other item of personal property  
9 registered or titled with the department, if the vehicle or personal  
10 property has been redeemed.

11 **Sec. 7.** RCW 46.55.120 and 1998 c 203 s 5 are each amended to read  
12 as follows:

13 (1) Vehicles or other items of personal property registered or  
14 titled with the department that are impounded by registered tow truck  
15 operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be  
16 redeemed only under the following circumstances:

17 (a) Only the legal owner, the registered owner, a person authorized  
18 in writing by the registered owner or the vehicle's insurer, a person  
19 who is determined and verified by the operator to have the permission  
20 of the registered owner of the vehicle or other item of personal  
21 property registered or titled with the department, or one who has  
22 purchased a vehicle or item of personal property registered or titled  
23 with the department from the registered owner who produces proof of  
24 ownership or written authorization and signs a receipt therefor, may  
25 redeem an impounded vehicle or items of personal property registered or  
26 titled with the department. In addition, a vehicle impounded because  
27 the operator is in violation of RCW 46.20.342(1)(c) shall not be  
28 released until a person eligible to redeem it under this subsection  
29 (1)(a) satisfies the requirements of ~~((+b+))~~ (e) of this subsection,  
30 including paying all towing, removal, and storage fees, notwithstanding  
31 the fact that the hold was ordered by a government agency. If the  
32 department's records show that the operator has been convicted of a  
33 violation of RCW 46.20.342 or a similar local ordinance within the past  
34 five years, the vehicle may be held for up to thirty days at the  
35 written direction of the agency ordering the vehicle impounded. A  
36 vehicle impounded because the operator is arrested for a violation of  
37 RCW 46.20.342 may be released only pursuant to a written order from the  
38 agency that ordered the vehicle impounded or from the court having

1 jurisdiction. An agency may issue a written order to release pursuant  
2 to a provision of an applicable state agency rule or local ordinance  
3 authorizing release on the basis of economic or personal hardship to  
4 the spouse of the operator, taking into consideration public safety  
5 factors, including the operator's criminal history and driving record.

6 If a vehicle is impounded because the operator is in violation of  
7 RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty  
8 days at the written direction of the agency ordering the vehicle  
9 impounded. However, if the department's records show that the operator  
10 has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a  
11 similar local ordinance within the past five years, the vehicle may be  
12 held at the written direction of the agency ordering the vehicle  
13 impounded for up to sixty days, and for up to ninety days if the  
14 operator has two or more such prior offenses. If a vehicle is  
15 impounded because the operator is arrested for a violation of RCW  
16 46.20.342, the vehicle may not be released until a person eligible to  
17 redeem it under this subsection (1)(a) satisfies the requirements of  
18 ~~((b))~~ (e) of this subsection, including paying all towing, removal,  
19 and storage fees, notwithstanding the fact that the hold was ordered by  
20 a government agency.

21 (b) If the vehicle is directed to be held for a suspended license  
22 impound, a person who desires to redeem the vehicle at the end of the  
23 period of impound shall within five days of the impound at the request  
24 of the tow truck operator pay a security deposit to the tow truck  
25 operator of not more than one-half of the applicable impound storage  
26 rate for each day of the proposed suspended license impound. The tow  
27 truck operator shall credit this amount against the final bill for  
28 removal, towing, and storage upon redemption. The tow truck operator  
29 may accept other sufficient security in lieu of the security deposit.  
30 If the person desiring to redeem the vehicle does not pay the security  
31 deposit or provide other security acceptable to the tow truck operator,  
32 the tow truck operator may process and sell at auction the vehicle as  
33 an abandoned vehicle within the normal time limits set out in RCW  
34 46.55.130(1). The security deposit required by this section may be  
35 paid and must be accepted at any time up to twenty-four hours before  
36 the beginning of the auction to sell the vehicle as abandoned. The  
37 registered owner is not eligible to purchase the vehicle at the  
38 auction, and the tow truck operator shall sell the vehicle to the  
39 highest bidder who is not the registered owner.



1        (c) Notwithstanding (b) of this subsection, a rental car business  
2 may immediately redeem a rental vehicle it owns by payment of the costs  
3 of removal, towing, and storage, whereupon the vehicle will not be held  
4 for a suspended license impound.

5        (d) Notwithstanding (b) of this subsection, a motor vehicle dealer  
6 or lender with a perfected security interest in the vehicle may redeem  
7 or lawfully repossess a vehicle immediately by payment of the costs of  
8 removal, towing, and storage, whereupon the vehicle will not be held  
9 for a suspended license impound. A motor vehicle dealer or lender with  
10 a perfected security interest in the vehicle may not knowingly and  
11 intentionally engage in collusion with a registered owner to repossess  
12 and then return or resell a vehicle to the registered owner in an  
13 attempt to avoid a suspended license impound. However, this provision  
14 does not preclude a vehicle dealer or a lender with a perfected  
15 security interest in the vehicle from repossessing the vehicle and then  
16 selling, leasing, or otherwise disposing of it in accordance with  
17 chapter 62A.9 RCW, including providing redemption rights to the debtor  
18 under RCW 62A.9-506. If the debtor is the registered owner of the  
19 vehicle, the debtor's right to redeem the vehicle under chapter 62A.9  
20 RCW is conditioned upon the debtor obtaining and providing proof from  
21 the impounding authority or court having jurisdiction that any fines,  
22 penalties, and forfeitures owed by the registered owner, as a result of  
23 the suspended license impound, have been paid, and proof of the payment  
24 must be tendered to the vehicle dealer or lender at the time the debtor  
25 tenders all other obligations required to redeem the vehicle. Vehicle  
26 dealers or lenders are not liable for damages if they rely in good  
27 faith on an order from the impounding agency or a court in releasing a  
28 vehicle held under a suspended license impound.

29        (e) The vehicle or other item of personal property registered or  
30 titled with the department shall be released upon the presentation to  
31 any person having custody of the vehicle of commercially reasonable  
32 tender sufficient to cover the costs of towing, storage, or other  
33 services rendered during the course of towing, removing, impounding, or  
34 storing any such vehicle, with credit being given for the amount of any  
35 security deposit paid under (b) of this subsection. In addition, if a  
36 vehicle is impounded because the operator was arrested for a violation  
37 of RCW 46.20.342 or 46.20.420 and was being operated by the registered  
38 owner when it was impounded under local ordinance or agency rule, it  
39 must not be released to any person until the registered owner

1 establishes with the agency that ordered the vehicle impounded or the  
2 court having jurisdiction that any penalties, fines, or forfeitures  
3 owed by him or her have been satisfied. Registered tow truck operators  
4 are not liable for damages if they rely in good faith on an order from  
5 the impounding agency or a court in releasing a vehicle held under a  
6 suspended license impound. Commercially reasonable tender shall  
7 include, without limitation, cash, major bank credit cards, or personal  
8 checks drawn on in-state banks if accompanied by two pieces of valid  
9 identification, one of which may be required by the operator to have a  
10 photograph. If the towing firm can determine through the customer's  
11 bank or a check verification service that the presented check would not  
12 be paid by the bank or guaranteed by the service, the towing firm may  
13 refuse to accept the check. Any person who stops payment on a personal  
14 check or credit card, or does not make restitution within ten days from  
15 the date a check becomes insufficient due to lack of funds, to a towing  
16 firm that has provided a service pursuant to this section or in any  
17 other manner defrauds the towing firm in connection with services  
18 rendered pursuant to this section shall be liable for damages in the  
19 amount of twice the towing and storage fees, plus costs and reasonable  
20 attorney's fees.

21 (2)(a) The registered tow truck operator shall give to each person  
22 who seeks to redeem an impounded vehicle, or item of personal property  
23 registered or titled with the department, written notice of the right  
24 of redemption and opportunity for a hearing, which notice shall be  
25 accompanied by a form to be used for requesting a hearing, the name of  
26 the person or agency authorizing the impound, and a copy of the towing  
27 and storage invoice. The registered tow truck operator shall maintain  
28 a record evidenced by the redeeming person's signature that such  
29 notification was provided.

30 (b) Any person seeking to redeem an impounded vehicle under this  
31 section has a right to a hearing in the district or municipal court for  
32 the jurisdiction in which the vehicle was impounded to contest the  
33 validity of the impoundment or the amount of towing and storage  
34 charges. The district court has jurisdiction to determine the issues  
35 involving all impoundments including those authorized by the state or  
36 its agents. The municipal court has jurisdiction to determine the  
37 issues involving impoundments authorized by agents of the municipality.  
38 Any request for a hearing shall be made in writing on the form provided  
39 for that purpose and must be received by the appropriate court within

1 ten days of the date the opportunity was provided for in subsection  
2 (2)(a) of this section and more than five days before the date of the  
3 auction. At the time of the filing of the hearing request, the  
4 petitioner shall pay to the court clerk a filing fee in the same amount  
5 required for the filing of a suit in district court. If the hearing  
6 request is not received by the court within the ten-day period, the  
7 right to a hearing is waived and the registered owner is liable for any  
8 towing, storage, or other impoundment charges permitted under this  
9 chapter. Upon receipt of a timely hearing request, the court shall  
10 proceed to hear and determine the validity of the impoundment.

11 (3)(a) The court, within five days after the request for a hearing,  
12 shall notify the registered tow truck operator, the person requesting  
13 the hearing if not the owner, the registered and legal owners of the  
14 vehicle or other item of personal property registered or titled with  
15 the department, and the person or agency authorizing the impound in  
16 writing of the hearing date and time.

17 (b) At the hearing, the person or persons requesting the hearing  
18 may produce any relevant evidence to show that the impoundment, towing,  
19 or storage fees charged were not proper. The court may consider a  
20 written report made under oath by the officer who authorized the  
21 impoundment in lieu of the officer's personal appearance at the  
22 hearing.

23 (c) At the conclusion of the hearing, the court shall determine  
24 whether the impoundment was proper, whether the towing or storage fees  
25 charged were in compliance with the posted rates, and who is  
26 responsible for payment of the fees. The court may not adjust fees or  
27 charges that are in compliance with the posted or contracted rates.

28 (d) If the impoundment is found proper, the impoundment, towing,  
29 and storage fees as permitted under this chapter together with court  
30 costs shall be assessed against the person or persons requesting the  
31 hearing, unless the operator did not have a signed and valid  
32 impoundment authorization from a private property owner or an  
33 authorized agent.

34 (e) If the impoundment is determined to be in violation of this  
35 chapter, then the registered and legal owners of the vehicle or other  
36 item of personal property registered or titled with the department  
37 shall bear no impoundment, towing, or storage fees, and any security  
38 shall be returned or discharged as appropriate, and the person or  
39 agency who authorized the impoundment shall be liable for any towing,

1 storage, or other impoundment fees permitted under this chapter. The  
2 court shall enter judgment in favor of the registered tow truck  
3 operator against the person or agency authorizing the impound for the  
4 impoundment, towing, and storage fees paid. In addition, the court  
5 shall enter judgment in favor of the registered and legal owners of the  
6 vehicle, or other item of personal property registered or titled with  
7 the department, for the amount of the filing fee required by law for  
8 the impound hearing petition as well as reasonable damages for loss of  
9 the use of the vehicle during the time the same was impounded, for not  
10 less than fifty dollars per day, against the person or agency  
11 authorizing the impound. However, if an impoundment arising from an  
12 alleged violation of RCW 46.20.342 or 46.20.420 is determined to be in  
13 violation of this chapter, then the law enforcement officer directing  
14 the impoundment and the government employing the officer are not liable  
15 for damages if the officer relied in good faith and without gross  
16 negligence on the records of the department in ascertaining that the  
17 operator of the vehicle had a suspended or revoked driver's license.  
18 If any judgment entered is not paid within fifteen days of notice in  
19 writing of its entry, the court shall award reasonable attorneys' fees  
20 and costs against the defendant in any action to enforce the judgment.  
21 Notice of entry of judgment may be made by registered or certified  
22 mail, and proof of mailing may be made by affidavit of the party  
23 mailing the notice. Notice of the entry of the judgment shall read  
24 essentially as follows:

25 TO: . . . . .  
26 YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the  
27 . . . . . Court located at . . . . . in the sum of  
28 \$. . . . ., in an action entitled . . . . ., Case No.  
29 . . . . YOU ARE FURTHER NOTIFIED that attorneys fees and costs  
30 will be awarded against you under RCW . . . if the judgment is  
31 not paid within 15 days of the date of this notice.  
32 DATED this . . . . day of . . . . ., (year) . . .  
33 Signature . . . . .  
34 Typed name and address  
35 of party mailing notice

36 (4) Any impounded abandoned vehicle or item of personal property  
37 registered or titled with the department that is not redeemed within  
38 fifteen days of mailing of the notice of custody and sale as required

1 by RCW 46.55.110(~~(+2)~~) (3) shall be sold at public auction in  
2 accordance with all the provisions and subject to all the conditions of  
3 RCW 46.55.130. A vehicle or item of personal property registered or  
4 titled with the department may be redeemed at any time before the start  
5 of the auction upon payment of the applicable towing and storage fees.

6 **Sec. 8.** RCW 46.55.130 and 1998 c 203 s 6 are each amended to read  
7 as follows:

8 (1) If, after the expiration of fifteen days from the date of  
9 mailing of notice of custody and sale required in RCW 46.55.110(~~(+2)~~)  
10 (3) to the registered and legal owners, the vehicle remains unclaimed  
11 and has not been listed as a stolen vehicle, or for which a suspended  
12 license impound has been directed but no security paid under RCW  
13 46.55.120, then the registered tow truck operator having custody of the  
14 vehicle shall conduct a sale of the vehicle at public auction after  
15 having first published a notice of the date, place, and time of the  
16 auction in a newspaper of general circulation in the county in which  
17 the vehicle is located not less than three days and no more than ten  
18 days before the date of the auction. The notice shall contain a  
19 description of the vehicle including the make, model, year, and license  
20 number and a notification that a three-hour public viewing period will  
21 be available before the auction. The auction shall be held during  
22 daylight hours of a normal business day or a Saturday.

23 (2) The following procedures are required in any public auction of  
24 such abandoned vehicles:

25 (a) The auction shall be held in such a manner that all persons  
26 present are given an equal time and opportunity to bid;

27 (b) All bidders must be present at the time of auction unless they  
28 have submitted to the registered tow truck operator, who may or may not  
29 choose to use the preauction bid method, a written bid on a specific  
30 vehicle. Written bids may be submitted up to five days before the  
31 auction and shall clearly state which vehicle is being bid upon, the  
32 amount of the bid, and who is submitting the bid;

33 (c) The open bid process, including all written bids, shall be used  
34 so that everyone knows the dollar value that must be exceeded;

35 (d) The highest two bids received shall be recorded in written form  
36 and shall include the name, address, and telephone number of each such  
37 bidder;

1 (e) In case the high bidder defaults, the next bidder has the right  
2 to purchase the vehicle for the amount of his or her bid;

3 (f) The successful bidder shall apply for title within fifteen  
4 days;

5 (g) The registered tow truck operator shall post a copy of the  
6 auction procedure at the bidding site. If the bidding site is  
7 different from the licensed office location, the operator shall post a  
8 clearly visible sign at the office location that describes in detail  
9 where the auction will be held. At the bidding site a copy of the  
10 newspaper advertisement that lists the vehicles for sale shall be  
11 posted;

12 (h) All surplus moneys derived from the auction after satisfaction  
13 of the registered tow truck operator's lien shall be remitted within  
14 thirty days to the ~~((department for deposit in the state motor vehicle  
15 fund. A report identifying the vehicles resulting in any surplus shall  
16 accompany the remitted funds. If the director subsequently receives a  
17 valid claim from the))~~ registered vehicle owner of record as determined  
18 by the department ~~((within one year from the date of the auction, the  
19 surplus moneys shall be remitted to such owner))~~;

20 (i) If an operator receives no bid, or if the operator is the  
21 successful bidder at auction, the operator shall, within forty-five  
22 days sell the vehicle to a licensed vehicle wrecker, hulk hauler, or  
23 scrap processor by use of the abandoned vehicle report-affidavit of  
24 sale, or the operator shall apply for title to the vehicle.

25 (3) In no case may an operator hold a vehicle for longer than  
26 ninety days without holding an auction on the vehicle, except for  
27 vehicles that are under a police or judicial hold.

28 (4)(a) In no case may the accumulation of storage charges exceed  
29 fifteen days from the date of receipt of the information by the  
30 operator from the department as provided by RCW 46.55.110~~((+2))~~ (3).

31 (b) The failure of the registered tow truck operator to comply with  
32 the time limits provided in this chapter limits the accumulation of  
33 storage charges to five days except where delay is unavoidable.  
34 Providing incorrect or incomplete identifying information to the  
35 department in the abandoned vehicle report shall be considered a  
36 failure to comply with these time limits if correct information is  
37 available. However, storage charges begin to accrue again on the date  
38 the correct and complete information is provided to the department by  
39 the registered tow truck operator.

1       **Sec. 9.** RCW 46.61.625 and 1995 c 360 s 10 are each amended to read  
2 as follows:

3       (1) No person or persons shall occupy any trailer while it is being  
4 moved upon a public highway, except a person occupying a proper  
5 position for steering a trailer designed to be steered from a rear-end  
6 position.

7       (2) No person or persons may occupy a vehicle while it is being  
8 towed by a tow truck as defined in RCW 46.55.010(~~(+8)~~)).

9       **Sec. 10.** RCW 46.70.180 and 1997 c 153 s 1 are each amended to read  
10 as follows:

11       Each of the following acts or practices is unlawful:

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

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

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

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

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

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

33       (2) To incorporate within the terms of any purchase and sale  
34 agreement any statement or representation with regard to the sale or  
35 financing of a vehicle which is false, deceptive, or misleading,  
36 including but not limited to terms that include as an added cost to the  
37 selling price of a vehicle an amount for licensing or transfer of title

1 of that vehicle which is not actually due to the state, unless such  
2 amount has in fact been paid by the dealer prior to such sale.

3 (3) To set up, promote, or aid in the promotion of a plan by which  
4 vehicles are to be sold to a person for a consideration and upon  
5 further consideration that the purchaser agrees to secure one or more  
6 persons to participate in the plan by respectively making a similar  
7 purchase and in turn agreeing to secure one or more persons likewise to  
8 join in said plan, each purchaser being given the right to secure  
9 money, credits, goods, or something of value, depending upon the number  
10 of persons joining the plan.

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

15 (a) Is subject to the dealer's, or his or her authorized  
16 representative's future acceptance, and the dealer fails or refuses  
17 within three calendar days, exclusive of Saturday, Sunday, or legal  
18 holiday, and prior to any further negotiations with said buyer, either  
19 (i) to deliver to the buyer the dealer's signed acceptance, or (ii) to  
20 void the order, offer, or contract document and tender the return of  
21 any initial payment or security made or given by the buyer, including  
22 but not limited to money, check, promissory note, vehicle keys, a  
23 trade-in, or certificate of title to a trade-in; or

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

27 (i) Failure to disclose that the vehicle's certificate of ownership  
28 has been branded for any reason, including, but not limited to, status  
29 as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

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

34 (iii) Excessive additional miles or a discrepancy in the mileage.  
35 "Excessive additional miles" means the addition of five hundred miles  
36 or more, as reflected on the vehicle's odometer, between the time the  
37 vehicle was first valued by the dealer for purposes of determining its  
38 trade-in value and the time of actual delivery of the vehicle to the  
39 dealer. "A discrepancy in the mileage" means (A) a discrepancy between



1 the mileage reflected on the vehicle's odometer and the stated mileage  
2 on the signed odometer statement; or (B) a discrepancy between the  
3 mileage stated on the signed odometer statement and the actual mileage  
4 on the vehicle; or

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

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

12 (6) For any vehicle dealer or vehicle salesperson to refuse to  
13 furnish, upon request of a prospective purchaser, for vehicles  
14 previously registered to a business or governmental entity, the name  
15 and address of the business or governmental entity.

16 (7) To commit any other offense under RCW 46.37.423, 46.37.424, or  
17 46.37.425.

18 (8) To commit any offense relating to a dealer's temporary license  
19 permit, including but not limited to failure to properly complete each  
20 such permit, or the issuance of more than one such permit on any one  
21 vehicle. However, a dealer may issue a second temporary permit on a  
22 vehicle if the following conditions are met:

23 (a) The lienholder fails to deliver the vehicle title to the dealer  
24 within the required time period;

25 (b) The dealer has satisfied the lien; and

26 (c) The dealer has proof that payment of the lien was made within  
27 two calendar days, exclusive of Saturday, Sunday, or a legal holiday,  
28 after the sales contract has been executed by all parties and all  
29 conditions and contingencies in the sales contract have been met or  
30 otherwise satisfied.

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

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

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

19 (11) For a vehicle dealer to pay to or receive from any person,  
20 firm, partnership, association, or corporation acting, either directly  
21 or through a subsidiary, as a buyer's agent for consumers, any  
22 compensation, fee, purchase moneys or funds that have been deposited  
23 into or withdrawn out of any account controlled or used by any buyer's  
24 agent, gratuity, or reward in connection with the purchase or sale of  
25 a new motor vehicle.

26 (12) For a buyer's agent, acting directly or through a subsidiary,  
27 to pay to or to receive from any motor vehicle dealer any compensation,  
28 fee, gratuity, or reward in connection with the purchase or sale of a  
29 new motor vehicle. In addition, it is unlawful for any buyer's agent  
30 to engage in any of the following acts on behalf of or in the name of  
31 the consumer:

32 (a) Receiving or paying any purchase moneys or funds into or out of  
33 any account controlled or used by any buyer's agent;

34 (b) Signing any vehicle purchase orders, sales contract, odometer  
35 statements, or title documents, or having the name of the buyer's agent  
36 appear on the vehicle purchase order, sales contract, or title; or

37 (c) Signing any other documentation relating to the purchase, sale,  
38 or transfer of any new motor vehicle.

1 It is unlawful for a buyer's agent to use a power of attorney  
2 obtained from the consumer to accomplish or effect the purchase, sale,  
3 or transfer of ownership documents of any new motor vehicle by any  
4 means which would otherwise be prohibited under (a) through (c) of this  
5 subsection. However, the buyer's agent may use a power of attorney for  
6 physical delivery of motor vehicle license plates to the consumer.

7 Further, it is unlawful for a buyer's agent to engage in any false,  
8 deceptive, or misleading advertising, disseminated in any manner  
9 whatsoever, including but not limited to making any claim or statement  
10 that the buyer's agent offers, obtains, or guarantees the lowest price  
11 on any motor vehicle or words to similar effect.

12 (13) For a buyer's agent to arrange for or to negotiate the  
13 purchase, or both, of a new motor vehicle through an out-of-state  
14 dealer without disclosing in writing to the customer that the new  
15 vehicle would not be subject to chapter 19.118 RCW. In addition, it is  
16 unlawful for any buyer's agent to fail to have a written agreement with  
17 the customer that: (a) Sets forth the terms of the parties' agreement;  
18 (b) discloses to the customer the total amount of any fees or other  
19 compensation being paid by the customer to the buyer's agent for the  
20 agent's services; and (c) further discloses whether the fee or any  
21 portion of the fee is refundable. The department of licensing shall by  
22 December 31, 1996, in rule, adopt standard disclosure language for  
23 buyer's agent agreements under RCW 46.70.011, 46.70.070, and this  
24 section.

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

27 (a) Coerce or attempt to coerce any vehicle dealer to order or  
28 accept delivery of any vehicle or vehicles, parts or accessories, or  
29 any other commodities which have not been voluntarily ordered by the  
30 vehicle dealer: PROVIDED, That recommendation, endorsement,  
31 exposition, persuasion, urging, or argument are not deemed to  
32 constitute coercion;

33 (b) Cancel or fail to renew the franchise or selling agreement of  
34 any vehicle dealer doing business in this state without fairly  
35 compensating the dealer at a fair going business value for his or her  
36 capital investment which shall include but not be limited to tools,  
37 equipment, and parts inventory possessed by the dealer on the day he or  
38 she is notified of such cancellation or termination and which are still  
39 within the dealer's possession on the day the cancellation or

1 termination is effective, if: (i) The capital investment has been  
2 entered into with reasonable and prudent business judgment for the  
3 purpose of fulfilling the franchise; and (ii) the cancellation or  
4 nonrenewal was not done in good faith. Good faith is defined as the  
5 duty of each party to any franchise to act in a fair and equitable  
6 manner towards each other, so as to guarantee one party freedom from  
7 coercion, intimidation, or threats of coercion or intimidation from the  
8 other party: PROVIDED, That recommendation, endorsement, exposition,  
9 persuasion, urging, or argument are not deemed to constitute a lack of  
10 good faith.

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

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

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

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

32 Nothing in this section may be construed to impair the obligations  
33 of a contract or to prevent a manufacturer, distributor,  
34 representative, or any other person, whether or not licensed under this  
35 chapter, from requiring performance of a written contract entered into  
36 with any licensee hereunder, nor does the requirement of such  
37 performance constitute a violation of any of the provisions of this  
38 section if any such contract or the terms thereof requiring  
39 performance, have been freely entered into and executed between the

1 contracting parties. This paragraph and subsection (14)(b) of this  
2 section do not apply to new motor vehicle manufacturers governed by  
3 chapter 46.96 RCW.

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

6 (16) To knowingly and intentionally engage in collusion with a  
7 registered owner of a vehicle to repossess and return or resell the  
8 vehicle to the registered owner in an attempt to avoid a suspended  
9 license impound under chapter 46.55 RCW. However, compliance with  
10 chapter 62A.9 RCW in repossessing, selling, leasing, or otherwise  
11 disposing of the vehicle, including providing redemption rights to the  
12 debtor, is not a violation of this section."

--- END ---