

2 **SSB 5706 - H COMM AMD ADOPTED 4/6/99**
3 By Committee on Transportation

4

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that there are
8 residents of this state who intentionally register motor vehicles in
9 other states to evade payment of taxes and fees required by the laws of
10 this state. This results in a substantial loss of revenue to the
11 state. It is the intent of the legislature to decriminalize license
12 fraud and impose stronger civil penalties upon residents who defraud
13 the state, thereby enhancing compliance with state registration laws
14 and increasing state revenues. To further enhance enforcement and
15 collection efforts, the legislature intends to create a license fraud
16 task force within the Washington state patrol.

17 NEW SECTION. **Sec. 2.** The task force consists of staff from the
18 Washington state patrol, the department of revenue, and the attorney
19 general's office. The task force personnel are:

20 (1) One Washington state patrol sergeant, who has overall
21 responsibility to coordinate the task force;

22 (2) Three Washington state patrol detectives, to investigate
23 license fraud;

24 (3) One department of revenue tax discovery agent, to assess and
25 recover delinquent tax, penalties, and interest;

26 (4) One assistant attorney general, to provide legal services to
27 the task force; and

28 (5) One clerical support person, for administrative support for the
29 task force as a whole.

30 NEW SECTION. **Sec. 3.** A penalty assessed pursuant to RCW 46.16.010
31 (1)(a) and (2), 47.68.255, or 82.48.020 is due and payable when the
32 person incurring it receives a notice in writing from the state patrol
33 stating the violation and advising the person that the penalty is due.
34 The state patrol may, upon written application for review received

1 within fifteen days from the date of the penalty assessment, remit or
2 mitigate a penalty. Procedures for these actions are governed by
3 chapter 34.05 RCW. The penalty notice has the effect of an agency
4 order.

5 **Sec. 4.** RCW 46.16.010 and 1997 c 328 s 2 and 1997 c 241 s 13 are
6 each reenacted and amended to read as follows:

7 (1) It is ~~((unlawful))~~ a violation for a person to operate any
8 vehicle over and along a public highway of this state without first
9 having obtained and having in full force and effect a current and
10 proper vehicle license and display vehicle license number plates
11 therefor as by this chapter provided. ~~((Failure to make initial
12 registration before operation on the highways of this state is a
13 misdemeanor, and any person convicted thereof shall be punished by a
14 fine of no less than three hundred thirty dollars, no part of which may
15 be suspended or deferred.))~~

16 (a) Failure to make initial registration of a vehicle before
17 operating it on the highways of this state is a violation of this
18 section. Anyone who violates this section is liable for a penalty of
19 three hundred fifty dollars for each violation in addition to all other
20 penalties provided by law. Persons violating this subsection shall
21 make payment as prescribed in subsection (2)(b) of this section.

22 (b) Failure to renew an expired registration before operation on
23 the highways of this state is a traffic infraction, which shall not be
24 resolved through the civil process instituted under this act.

25 (2)(a) The licensing of a vehicle in another state by a resident of
26 this state, as defined in RCW 46.16.028, ~~((evading))~~ to avoid the
27 payment of any tax or license fee imposed in connection with
28 registration, is a ~~((gross misdemeanor punishable as follows:))~~
29 violation of this section, and violators are liable for a monetary
30 penalty not less than one thousand dollars but not more than ten
31 thousand dollars for each violation.

32 ~~((a) For a first offense, up to one year in the county jail and a
33 fine equal to twice the amount of delinquent taxes and fees, no part of
34 which may be suspended or deferred;))~~

35 (b) ~~((For a second or subsequent offense, up to one year in the
36 county jail and a fine equal to four times the amount of delinquent
37 taxes and fees, no part of which may be suspended or deferred;))~~ The
38 penalty provided in subsection (1)(a) of this section and this

1 subsection is due and payable when the person incurring it receives a
2 notice in writing from the state patrol describing the violation and
3 advising the person that the penalty is due. The state patrol may,
4 upon written application for review, received within fifteen days,
5 remit or mitigate a penalty provided for in this section or discontinue
6 an action to recover the penalty upon such terms it deems proper and
7 may ascertain the facts in a manner and under rules it deems proper.
8 If the amount of the penalty is not paid to the state patrol within
9 fifteen days after receipt of the notice imposing the penalty, or
10 application for remission or mitigation has not been made within
11 fifteen days after the violator has received notice of the disposition
12 of the application, the attorney general shall bring an action in the
13 name of the state of Washington in the superior court of Thurston
14 county or of any other county in which the violator resides or does
15 business, to recover the penalty, administrative fees, and attorneys'
16 fees and costs incurred in recovering the penalties. All penalties
17 recovered under this section shall be paid into the state treasury and
18 credited to the state patrol highway account of the motor vehicle fund
19 for the license fraud task force.

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

23 ~~(d))~~ The avoided taxes and fees shall be deposited and distributed
24 in the same manner as if the taxes and fees were properly paid in a
25 timely fashion.

26 (3) These provisions shall not apply to the following vehicles:

27 (a) Electric-assisted bicycles;

28 (b) Farm vehicles if operated within a radius of fifteen miles of
29 the farm where principally used or garaged, farm tractors and farm
30 implements including trailers designed as cook or bunk houses used
31 exclusively for animal herding temporarily operating or drawn upon the
32 public highways, and trailers used exclusively to transport farm
33 implements from one farm to another during the daylight hours or at
34 night when such equipment has lights that comply with the law;

35 (c) Spray or fertilizer applicator rigs designed and used
36 exclusively for spraying or fertilization in the conduct of
37 agricultural operations and not primarily for the purpose of
38 transportation, and nurse rigs or equipment auxiliary to the use of and
39 designed or modified for the fueling, repairing, or loading of spray

1 and fertilizer applicator rigs and not used, designed, or modified
2 primarily for the purpose of transportation;

3 (d) Fork lifts operated during daylight hours on public highways
4 adjacent to and within five hundred feet of the warehouses which they
5 serve: PROVIDED FURTHER, That these provisions shall not apply to
6 vehicles used by the state parks and recreation commission exclusively
7 for park maintenance and operations upon public highways within state
8 parks;

9 (e) "Special highway construction equipment" defined as follows:
10 Any vehicle which is designed and used primarily for grading of
11 highways, paving of highways, earth moving, and other construction work
12 on highways and which is not designed or used primarily for the
13 transportation of persons or property on a public highway and which is
14 only incidentally operated or moved over the highway. It includes, but
15 is not limited to, road construction and maintenance machinery so
16 designed and used such as portable air compressors, air drills, asphalt
17 spreaders, bituminous mixers, bucket loaders, track laying tractors,
18 ditchers, leveling graders, finishing machines, motor graders, paving
19 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,
20 lighting plants, welders, pumps, power shovels and draglines, self-
21 propelled and tractor-drawn earth moving equipment and machinery,
22 including dump trucks and tractor-dump trailer combinations which
23 either (i) are in excess of the legal width, or (ii) which, because of
24 their length, height, or unladen weight, may not be moved on a public
25 highway without the permit specified in RCW 46.44.090 and which are not
26 operated laden except within the boundaries of the project limits as
27 defined by the contract, and other similar types of construction
28 equipment, or (iii) which are driven or moved upon a public highway
29 only for the purpose of crossing such highway from one property to
30 another, provided such movement does not exceed five hundred feet and
31 the vehicle is equipped with wheels or pads which will not damage the
32 roadway surface.

33 Exclusions:

34 "Special highway construction equipment" does not include any of
35 the following:

36 Dump trucks originally designed to comply with the legal size and
37 weight provisions of this code notwithstanding any subsequent
38 modification which would require a permit, as specified in RCW
39 46.44.090, to operate such vehicles on a public highway, including

1 trailers, truck-mounted transit mixers, cranes and shovels, or other
2 vehicles designed for the transportation of persons or property to
3 which machinery has been attached.

4 (4) The following vehicles, whether operated solo or in
5 combination, are exempt from license registration and displaying
6 license plates as required by this chapter:

7 (a) A converter gear used to convert a semitrailer into a trailer
8 or a two-axle truck or tractor into a three or more axle truck or
9 tractor or used in any other manner to increase the number of axles of
10 a vehicle. Converter gear includes an auxiliary axle, booster axle,
11 dolly, and jeep axle.

12 (b) A tow dolly that is used for towing a motor vehicle behind
13 another motor vehicle. The front or rear wheels of the towed vehicle
14 are secured to and rest on the tow dolly that is attached to the towing
15 vehicle by a tow bar.

16 **Sec. 5.** RCW 47.68.240 and 1993 c 238 s 3 are each amended to read
17 as follows:

18 Any person violating any of the provisions of this chapter, or any
19 of the rules, regulations, or orders issued pursuant thereto, shall be
20 guilty of a misdemeanor and shall be punished as provided under chapter
21 9A.20 RCW, except that any person violating any of the provisions of
22 RCW 47.68.220(~~(7)~~) or 47.68.230(~~(7~~~~-~~~~or~~ ~~47.68.255)~~) shall be guilty of a
23 gross misdemeanor which shall be punished as provided under chapter
24 9A.20 RCW. In addition to, or in lieu of, the penalties provided in
25 this section, or as a condition to the suspension of a sentence which
26 may be imposed pursuant thereto, for violations of RCW 47.68.220 and
27 47.68.230, the court in its discretion may prohibit the violator from
28 operating an aircraft within the state for such period as it may
29 determine but not to exceed one year. Violation of the duly imposed
30 prohibition of the court may be treated as a separate offense under
31 this section or as a contempt of court.

32 **Sec. 6.** RCW 47.68.255 and 1996 c 184 s 3 are each amended to read
33 as follows:

34 (1) A person who is required to register an aircraft under this
35 chapter and who registers an aircraft in another state or foreign
36 country (~~(evading)~~) avoiding the Washington aircraft (~~(excise tax is~~
37 ~~guilty of a gross misdemeanor)~~) taxes, commits a violation of this

1 section and is liable for those unpaid taxes and for a monetary penalty
2 not less than one thousand dollars but not more than ten thousand
3 dollars for each violation. ((For a second or subsequent offense, the
4 person convicted is also subject to a fine equal to four times the
5 amount of avoided taxes and fees, no part of which may be suspended or
6 deferred. Excise taxes owed and fines assessed shall be deposited in
7 the manner provided under RCW 46.16.010(2).))

8 (2) The penalty provided in this section is due and payable when
9 the person incurring it receives a notice in writing from the state
10 patrol describing the violation and advising the person that the
11 penalty is due. The state patrol may, upon written application for
12 review, received within fifteen days, remit or mitigate a penalty
13 provided for in this section or discontinue an action to recover the
14 penalty upon such terms it deems proper and may ascertain the facts in
15 a manner and under rules it deems proper. If the amount of the penalty
16 is not paid to the state patrol within fifteen days after receipt of
17 the notice imposing the penalty, or application for remission or
18 mitigation has not been made within fifteen days after the violator has
19 received notice of the disposition of the application, the attorney
20 general shall bring an action in the name of the state of Washington in
21 the superior court of Thurston county or of any other county in which
22 the violator does business, to recover the penalty, administrative
23 fees, and attorneys' fees. All penalties recovered under this section
24 shall be paid into the state treasury and credited to the state patrol
25 highway account of the motor vehicle fund for the license fraud task
26 force. The department of revenue may assess and collect the unpaid
27 excise tax under chapter 82.32 RCW, including the penalties and
28 interest provided in chapter 82.32 RCW.

29 **Sec. 7.** RCW 82.48.020 and 1993 c 238 s 5 are each amended to read
30 as follows:

31 (1) An annual excise tax is hereby imposed for the privilege of
32 using any aircraft in the state. A current certificate of air
33 worthiness with a current inspection date from the appropriate federal
34 agency and/or the purchase of aviation fuel shall constitute the
35 necessary evidence of aircraft use or intended use. The tax shall be
36 collected annually or under a staggered collection schedule as required
37 by the secretary by rule. No additional tax shall be imposed under
38 this chapter upon any aircraft upon the transfer of ownership thereof,

1 if the tax imposed by this chapter with respect to such aircraft has
2 already been paid for the year in which transfer of ownership occurs.
3 A violation of this subsection is a misdemeanor punishable as provided
4 under chapter 9A.20 RCW.

5 (2)(a) Persons who are required to register aircraft under chapter
6 47.68 RCW and who register aircraft in another state or foreign country
7 and avoid the Washington aircraft ~~((excise tax are liable for such
8 unpaid excise tax))~~ taxes, violate this section and are liable for a
9 monetary penalty of not less than one thousand dollars but not more
10 than ten thousand dollars for each violation. ((A violation of this
11 subsection is a gross misdemeanor.))

12 (b) The penalty provided in this section is due and payable when
13 the person incurring it receives a notice in writing from the state
14 patrol describing the violation and advising the person that the
15 penalty is due. The state patrol may, upon written application for
16 review, received within fifteen days, remit or mitigate a penalty
17 provided for in this section or discontinue an action to recover the
18 penalty upon such terms it deems proper and may ascertain the facts in
19 a manner and under rules it deems proper. If the amount of the penalty
20 is not paid to the state patrol within fifteen days after receipt of
21 the notice imposing the penalty, or application for remission or
22 mitigation has not been made within fifteen days after the violator has
23 received notice of the disposition of the application, the attorney
24 general shall bring an action in the name of the state of Washington in
25 the superior court of Thurston county or of any other county in which
26 the violator resides or does business, to recover the penalty,
27 administrative fees, and attorneys' fees. In all such actions, the
28 procedure and rules of evidence are the same as an ordinary civil
29 action except as otherwise provided in this chapter. All penalties
30 recovered under this section shall be paid into the state treasury and
31 credited to the state patrol highway account of the motor vehicle fund
32 for the license fraud task force.

33 (3) The department of revenue may assess and collect the unpaid
34 excise tax under chapter 82.32 RCW, including the penalties and
35 interest provided in chapter 82.32 RCW.

36 ~~((+3))~~ (4) Except as provided under subsections (1) and (2) of
37 this section, a violation of this chapter is a misdemeanor punishable
38 as provided in chapter 9A.20 RCW.

1 **Sec. 8.** RCW 82.49.010 and 1993 c 238 s 6 are each amended to read
2 as follows:

3 (1) An excise tax is imposed for the privilege of using a vessel
4 upon the waters of this state, except vessels exempt under RCW
5 82.49.020. The annual amount of the excise tax is one-half of one
6 percent of fair market value, as determined under this chapter, or five
7 dollars, whichever is greater. Violation of this subsection is a
8 misdemeanor.

9 (2)(a) A person((s)) who ((are)) is required under chapter 88.02
10 RCW to register a vessel in this state and who registers the vessel in
11 another state or foreign country and avoids the Washington watercraft
12 ((excise tax are guilty of a gross misdemeanor and are liable for such
13 unpaid excise tax)) taxes, violates this section and is liable for
14 those taxes and a monetary penalty not less than one thousand dollars
15 but not more than ten thousand dollars for each violation. ((The
16 department of revenue may assess and collect the unpaid excise tax
17 under chapter 82.32 RCW, including the penalties and interest provided
18 in chapter 82.32 RCW.))

19 (b) The penalty provided in this section is due and payable when
20 the person incurring it receives a notice in writing from the state
21 patrol describing the violation and advising the person that the
22 penalty is due. The state patrol may, upon written application for
23 review, received within fifteen days, remit or mitigate a penalty
24 provided for in this section or discontinue an action to recover the
25 penalty upon such terms it deems proper and may ascertain the facts in
26 a manner and under rules it deems proper. If the amount of the penalty
27 is not paid to the state patrol within fifteen days after receipt of
28 the notice imposing the penalty, or application for remission or
29 mitigation has not been made within fifteen days after the violator has
30 received notice of the disposition of the application, the attorney
31 general shall bring an action in the name of the state of Washington in
32 the superior court of Thurston county or of any other county in which
33 the violator resides or does business, to recover the penalty,
34 administrative fees, and attorneys' fees. All penalties recovered
35 under this section shall be paid into the state treasury and credited
36 to the state patrol highway account of the motor vehicle fund for the
37 license fraud task force.

38 (3) The excise tax upon a vessel registered for the first time in
39 this state shall be imposed for a twelve-month period, including the

1 month in which the vessel is registered, unless the director of
2 licensing extends or diminishes vessel registration periods for the
3 purpose of staggered renewal periods under RCW 88.02.050. A vessel is
4 registered for the first time in this state when the vessel was not
5 registered in this state for the immediately preceding registration
6 year, or when the vessel was registered in another jurisdiction for the
7 immediately preceding year. The excise tax on vessels required to be
8 registered in this state on June 30, 1983, shall be paid by June 30,
9 1983.

10 **Sec. 9.** RCW 82.50.400 and 1993 c 238 s 7 are each amended to read
11 as follows:

12 (1) An annual excise tax is imposed on the owner of any travel
13 trailer or camper for the privilege of using such travel trailer or
14 camper in this state. The excise tax hereby imposed shall be due and
15 payable to the department of licensing or its agents at the time of
16 registration of a travel trailer or camper. Whenever an application is
17 made to the department of licensing or its agents for a license for a
18 travel trailer or camper there shall be collected, in addition to the
19 amount of the license fee or renewal license fee, the amount of the
20 excise tax imposed by this chapter, and no dealer's license or license
21 plates, and no license or license plates for a travel trailer or camper
22 may be issued unless such tax is paid in full. No additional tax shall
23 be imposed under this chapter upon any travel trailer or camper upon
24 the transfer of ownership thereof, if the tax imposed by this chapter
25 with respect to such travel trailer or camper has already been paid for
26 the registration year or fractional part thereof in which such transfer
27 occurs. Violation of this subsection is a ~~((misdemeanor))~~ violation of
28 RCW 46.16.010 (1)(a) and (2), and penalties apply.

29 (2) Persons who are required to license travel trailers or campers
30 under chapter 46.16 RCW and who license travel trailers or campers in
31 another state or foreign country to avoid the Washington travel trailer
32 or camper tax are ~~((guilty of a gross misdemeanor and are liable for~~
33 ~~such unpaid excise tax))~~ in violation of RCW 46.16.010 (1)(a) and (2),
34 and penalties apply. The department of revenue may assess and collect
35 the unpaid excise tax under chapter 82.32 RCW, including the penalties
36 and interest provided in chapter 82.32 RCW.

1 **Sec. 10.** RCW 88.02.118 and 1996 c 184 s 4 are each amended to read
2 as follows:

3 (1)(a) It is a ~~((gross misdemeanor punishable as provided under~~
4 ~~chapter 9A.20 RCW)) violation~~ for any person owning a vessel subject to
5 taxation under chapter 82.49 RCW to register a vessel in another state
6 to avoid Washington state vessel ~~((excise tax)) taxes~~ required under
7 chapter 82.49 RCW or to obtain a vessel dealer's registration for the
8 purpose of ~~((evading excise tax)) avoiding taxes~~ on vessels under
9 chapter 82.49 RCW. ~~((For a second or subsequent offense, the person~~
10 ~~convicted is also subject to a fine equal to four times the amount of~~
11 ~~avoided taxes and fees, no part of which may be suspended or deferred.~~
12 ~~Excise taxes owed and fines assessed shall be deposited in the manner~~
13 ~~provided under RCW 46.16.010(2).))~~

14 (b) The monetary penalty is not less than one thousand dollars but
15 not more than ten thousand dollars for each violation.

16 (2) The penalty provided in this section is due and payable when
17 the person incurring it receives a notice in writing from the state
18 patrol describing the violation and advising the person that the
19 penalty is due. The state patrol may, upon written application for
20 review, received within fifteen days, remit or mitigate a penalty
21 provided for in this section or discontinue an action to recover the
22 penalty upon such terms it deems proper and may ascertain the facts in
23 a manner and under rules it deems proper. If the amount of the penalty
24 is not paid to the state patrol within fifteen days after receipt of
25 the notice imposing the penalty, or application for remission or
26 mitigation has not been made within fifteen days after the violator has
27 received notice of the disposition of the application, the attorney
28 general shall bring an action in the name of the state of Washington in
29 the superior court of Thurston county or of any other county in which
30 the violator resides or does business, to recover the penalty,
31 administrative fees, and attorneys' fees. In all such actions, the
32 procedure and rules of evidence are the same as an ordinary civil
33 action except as otherwise provided in this chapter. All penalties
34 recovered under this section shall be paid into the state treasury and
35 credited to the state patrol highway account of the motor vehicle fund
36 for the license fraud task force.

37 **Sec. 11.** RCW 82.32.090 and 1996 c 149 s 15 are each amended to
38 read as follows:

1 (1) If payment of any tax due on a return to be filed by a taxpayer
2 is not received by the department of revenue by the due date, there
3 shall be assessed a penalty of five percent of the amount of the tax;
4 and if the tax is not received on or before the last day of the month
5 following the due date, there shall be assessed a total penalty of ten
6 percent of the amount of the tax; and if the tax is not received on or
7 before the last day of the second month following the due date, there
8 shall be assessed a total penalty of twenty percent of the amount of
9 the tax. No penalty so added shall be less than five dollars.

10 (2) If payment of any tax assessed by the department of revenue is
11 not received by the department by the due date specified in the notice,
12 or any extension thereof, the department shall add a penalty of ten
13 percent of the amount of the additional tax found due. No penalty so
14 added shall be less than five dollars.

15 (3) If a warrant be issued by the department of revenue for the
16 collection of taxes, increases, and penalties, there shall be added
17 thereto a penalty of five percent of the amount of the tax, but not
18 less than ten dollars.

19 (4) If the department finds that all or any part of a deficiency
20 resulted from the disregard of specific written instructions as to
21 reporting or tax liabilities, the department shall add a penalty of ten
22 percent of the amount of the additional tax found due because of the
23 failure to follow the instructions. A taxpayer disregards specific
24 written instructions when the department of revenue has informed the
25 taxpayer in writing of the taxpayer's tax obligations and the taxpayer
26 fails to act in accordance with those instructions unless the
27 department has not issued final instructions because the matter is
28 under appeal pursuant to this chapter or departmental regulations. The
29 department shall not assess the penalty under this section upon any
30 taxpayer who has made a good faith effort to comply with the specific
31 written instructions provided by the department to that taxpayer.
32 Specific written instructions may be given as a part of a tax
33 assessment, audit, determination, or closing agreement, provided that
34 such specific written instructions shall apply only to the taxpayer
35 addressed or referenced on such documents. Any specific written
36 instructions by the department of revenue shall be clearly identified
37 as such and shall inform the taxpayer that failure to follow the
38 instructions may subject the taxpayer to the penalties imposed by this
39 subsection.

1 (5)(a) If the department finds that all or any part of the
2 deficiency resulted from an intent to evade the tax payable hereunder,
3 a further penalty of fifty percent of the additional tax found to be
4 due shall be added.

5 (b) There is a rebuttable presumption of a tax deficiency and
6 intent to avoid and evade the tax under the motor vehicle excise tax
7 under chapter 82.44 RCW, the aircraft excise tax under chapter 82.48
8 RCW, the watercraft excise tax under chapter 82.49 RCW, the trailers
9 and campers excise tax under chapter 82.50 RCW, or use tax under
10 chapter 82.12 RCW, if there is a finding resulting from a proceeding
11 brought under RCW 46.16.010, 47.68.255, 82.48.020, 82.49.010, or
12 88.02.118, that the person failed to properly register or license a
13 motor vehicle, an aircraft, a watercraft, a trailer, or a camper.

14 (6) The aggregate of penalties imposed under subsections (1), (2),
15 and (3) of this section shall not exceed thirty-five percent of the tax
16 due, or twenty dollars, whichever is greater. This subsection does not
17 prohibit or restrict the application of other penalties authorized by
18 law.

19 (7) The department of revenue may not impose both the evasion
20 penalty and the penalty for disregarding specific written instructions
21 on the same tax found to be due.

22 (8) For the purposes of this section, "return" means any document
23 a person is required by the state of Washington to file to satisfy or
24 establish a tax or fee obligation that is administered or collected by
25 the department of revenue, and that has a statutorily defined due
26 date."

27 Correct the title.

--- END ---