
SUBSTITUTE HOUSE BILL 1789

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Ogden, K. Schmidt, Fisher, Radcliff and Skinner)

Read first time 03/04/1999.

1 AN ACT Relating to the decriminalization of license fraud
2 violations and establishing a license fraud task force in the
3 Washington state patrol; amending RCW 47.68.240, 47.68.255, 82.48.020,
4 82.49.010, 82.50.400, 88.02.118, and 82.32.090; reenacting and amending
5 RCW 46.16.010; creating new sections; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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:

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

3 (2) Three Washington state patrol detectives, to investigate
4 license fraud;

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

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

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

11 NEW SECTION. Sec. 3. A penalty assessed pursuant to RCW 46.16.010
12 (1)(a) and (2), 47.68.255, or 82.48.020 is due and payable when the
13 person incurring it receives a notice in writing from the state patrol
14 stating the violation and advising the person that the penalty is due.
15 The state patrol may, upon written application for review received
16 within fifteen days from the date of the penalty assessment, remit or
17 mitigate a penalty. Procedures for these actions are governed by
18 chapter 34.05 RCW. The penalty notice has the effect of an agency
19 order.

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

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

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

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

4 (2)(a) The licensing of a vehicle in another state by a resident of
5 this state, as defined in RCW 46.16.028, ((evading)) to avoid the
6 payment of any tax or license fee imposed in connection with
7 registration, is a ((gross misdemeanor punishable as follows:))
8 violation of this section, and violators are liable for a monetary
9 penalty not less than one thousand dollars but not more than ten
10 thousand dollars for each violation.

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

14 (b) ((For a second or subsequent offense, up to one year in the
15 county jail and a fine equal to four times the amount of delinquent
16 taxes and fees, no part of which may be suspended or deferred;)) The
17 penalty provided in subsection (1)(a) of this section and this
18 subsection is due and payable when the person incurring it receives a
19 notice in writing from the state patrol describing the violation and
20 advising the person that the penalty is due. The state patrol may,
21 upon written application for review, received within fifteen days,
22 remit or mitigate a penalty provided for in this section or discontinue
23 an action to recover the penalty upon such terms it deems proper and
24 may ascertain the facts in a manner and under rules it deems proper.
25 If the amount of the penalty is not paid to the state patrol within
26 fifteen days after receipt of the notice imposing the penalty, or
27 application for remission or mitigation has not been made within
28 fifteen days after the violator has received notice of the disposition
29 of the application, the attorney general shall bring an action in the
30 name of the state of Washington in the superior court of Thurston
31 county or of any other county in which the violator resides or does
32 business, to recover the penalty, administrative fees, and attorneys'
33 fees and costs incurred in recovering the penalties. 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 (c) ((For fines levied under (b) of this subsection, an amount
38 equal to the avoided taxes and fees owed shall be deposited in the
39 vehicle licensing fraud account created in the state treasury;

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

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

5 (a) Electric-assisted bicycles;

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

13 (c) Spray or fertilizer applicator rigs designed and used
14 exclusively for spraying or fertilization in the conduct of
15 agricultural operations and not primarily for the purpose of
16 transportation, and nurse rigs or equipment auxiliary to the use of and
17 designed or modified for the fueling, repairing, or loading of spray
18 and fertilizer applicator rigs and not used, designed, or modified
19 primarily for the purpose of transportation;

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

26 (e) "Special highway construction equipment" defined as follows:
27 Any vehicle which is designed and used primarily for grading of
28 highways, paving of highways, earth moving, and other construction work
29 on highways and which is not designed or used primarily for the
30 transportation of persons or property on a public highway and which is
31 only incidentally operated or moved over the highway. It includes, but
32 is not limited to, road construction and maintenance machinery so
33 designed and used such as portable air compressors, air drills, asphalt
34 spreaders, bituminous mixers, bucket loaders, track laying tractors,
35 ditchers, leveling graders, finishing machines, motor graders, paving
36 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,
37 lighting plants, welders, pumps, power shovels and draglines, self-
38 propelled and tractor-drawn earth moving equipment and machinery,
39 including dump trucks and tractor-dump trailer combinations which

1 either (i) are in excess of the legal width, or (ii) which, because of
2 their length, height, or unladen weight, may not be moved on a public
3 highway without the permit specified in RCW 46.44.090 and which are not
4 operated laden except within the boundaries of the project limits as
5 defined by the contract, and other similar types of construction
6 equipment, or (iii) which are driven or moved upon a public highway
7 only for the purpose of crossing such highway from one property to
8 another, provided such movement does not exceed five hundred feet and
9 the vehicle is equipped with wheels or pads which will not damage the
10 roadway surface.

11 Exclusions:

12 "Special highway construction equipment" does not include any of
13 the following:

14 Dump trucks originally designed to comply with the legal size and
15 weight provisions of this code notwithstanding any subsequent
16 modification which would require a permit, as specified in RCW
17 46.44.090, to operate such vehicles on a public highway, including
18 trailers, truck-mounted transit mixers, cranes and shovels, or other
19 vehicles designed for the transportation of persons or property to
20 which machinery has been attached.

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

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

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

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

35 Any person violating any of the provisions of this chapter, or any
36 of the rules, regulations, or orders issued pursuant thereto, shall be
37 guilty of a misdemeanor and shall be punished as provided under chapter
38 9A.20 RCW, except that any person violating any of the provisions of

1 RCW 47.68.220(~~(7)~~) or 47.68.230(~~(7 or 47.68.255)~~) shall be guilty of a
2 gross misdemeanor which shall be punished as provided under chapter
3 9A.20 RCW. In addition to, or in lieu of, the penalties provided in
4 this section, or as a condition to the suspension of a sentence which
5 may be imposed pursuant thereto, for violations of RCW 47.68.220 and
6 47.68.230, the court in its discretion may prohibit the violator from
7 operating an aircraft within the state for such period as it may
8 determine but not to exceed one year. Violation of the duly imposed
9 prohibition of the court may be treated as a separate offense under
10 this section or as a contempt of court.

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

13 (1) A person who is required to register an aircraft under this
14 chapter and who registers an aircraft in another state or foreign
15 country (~~(evading)~~) avoiding the Washington aircraft (~~(excise tax is~~
16 guilty of a gross misdemeanor)) taxes, commits a violation of this
17 section and is liable for those unpaid taxes and for a monetary penalty
18 not less than one thousand dollars but not more than ten thousand
19 dollars for each violation. (~~(For a second or subsequent offense, the~~
20 person convicted is also subject to a fine equal to four times the
21 amount of avoided taxes and fees, no part of which may be suspended or
22 deferred. Excise taxes owed and fines assessed shall be deposited in
23 the manner provided under RCW 46.16.010(2).))

24 (2) The penalty provided in this section is due and payable when
25 the person incurring it receives a notice in writing from the state
26 patrol describing the violation and advising the person that the
27 penalty is due. The state patrol may, upon written application for
28 review, received within fifteen days, remit or mitigate a penalty
29 provided for in this section or discontinue an action to recover the
30 penalty upon such terms it deems proper and may ascertain the facts in
31 a manner and under rules it deems proper. If the amount of the penalty
32 is not paid to the state patrol within fifteen days after receipt of
33 the notice imposing the penalty, or application for remission or
34 mitigation has not been made within fifteen days after the violator has
35 received notice of the disposition of the application, the attorney
36 general shall bring an action in the name of the state of Washington in
37 the superior court of Thurston county or of any other county in which
38 the violator does business, to recover the penalty, administrative

1 fees, and attorneys' fees. All penalties recovered under this section
2 shall be paid into the state treasury and credited to the state patrol
3 highway account of the motor vehicle fund for the license fraud task
4 force. The department of revenue may assess and collect the unpaid
5 excise tax under chapter 82.32 RCW, including the penalties and
6 interest provided in chapter 82.32 RCW.

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

9 (1) An annual excise tax is hereby imposed for the privilege of
10 using any aircraft in the state. A current certificate of air
11 worthiness with a current inspection date from the appropriate federal
12 agency and/or the purchase of aviation fuel shall constitute the
13 necessary evidence of aircraft use or intended use. The tax shall be
14 collected annually or under a staggered collection schedule as required
15 by the secretary by rule. No additional tax shall be imposed under
16 this chapter upon any aircraft upon the transfer of ownership thereof,
17 if the tax imposed by this chapter with respect to such aircraft has
18 already been paid for the year in which transfer of ownership occurs.
19 A violation of this subsection is a misdemeanor punishable as provided
20 under chapter 9A.20 RCW.

21 (2)(a) Persons who are required to register aircraft under chapter
22 47.68 RCW and who register aircraft in another state or foreign country
23 and avoid the Washington aircraft ~~((excise tax are liable for such~~
24 ~~unpaid excise tax)) taxes, violate this section and are liable for a~~
25 monetary penalty of not less than one thousand dollars but not more
26 than ten thousand dollars for each violation. ~~((A violation of this~~
27 subsection is a gross misdemeanor.))

28 (b) The penalty provided in this section is due and payable when
29 the person incurring it receives a notice in writing from the state
30 patrol describing the violation and advising the person that the
31 penalty is due. The state patrol may, upon written application for
32 review, received within fifteen days, remit or mitigate a penalty
33 provided for in this section or discontinue an action to recover the
34 penalty upon such terms it deems proper and may ascertain the facts in
35 a manner and under rules it deems proper. If the amount of the penalty
36 is not paid to the state patrol within fifteen days after receipt of
37 the notice imposing the penalty, or application for remission or
38 mitigation has not been made within fifteen days after the violator has

1 received notice of the disposition of the application, the attorney
2 general shall bring an action in the name of the state of Washington in
3 the superior court of Thurston county or of any other county in which
4 the violator resides or does business, to recover the penalty,
5 administrative fees, and attorneys' fees. All penalties recovered
6 under this section shall be paid into the state treasury and credited
7 to the state patrol highway account of the motor vehicle fund for the
8 license fraud task force.

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

12 ~~((+3+))~~ (4) Except as provided under subsections (1) and (2) of
13 this section, a violation of this chapter is a misdemeanor punishable
14 as provided in chapter 9A.20 RCW.

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

17 (1) An excise tax is imposed for the privilege of using a vessel
18 upon the waters of this state, except vessels exempt under RCW
19 82.49.020. The annual amount of the excise tax is one-half of one
20 percent of fair market value, as determined under this chapter, or five
21 dollars, whichever is greater. Violation of this subsection is a
22 misdemeanor.

23 (2)(a) A person~~((s))~~ who ~~((are))~~ is required under chapter 88.02
24 RCW to register a vessel in this state and who registers the vessel in
25 another state or foreign country and avoids the Washington watercraft
26 ~~((excise tax are guilty of a gross misdemeanor and are liable for such~~
27 ~~unpaid excise tax))~~ taxes, violates this section and is liable for
28 those taxes and a monetary penalty not less than one thousand dollars
29 but not more than ten thousand dollars for each violation. ~~((The~~
30 ~~department of revenue may assess and collect the unpaid excise tax~~
31 ~~under chapter 82.32 RCW, including the penalties and interest provided~~
32 ~~in chapter 82.32 RCW.))~~

33 (b) The penalty provided in this section is due and payable when
34 the person incurring it receives a notice in writing from the state
35 patrol describing the violation and advising the person that the
36 penalty is due. The state patrol may, upon written application for
37 review, received within fifteen days, remit or mitigate a penalty
38 provided for in this section or discontinue an action to recover the

1 penalty upon such terms it deems proper and may ascertain the facts in
2 a manner and under rules it deems proper. If the amount of the penalty
3 is not paid to the state patrol within fifteen days after receipt of
4 the notice imposing the penalty, or application for remission or
5 mitigation has not been made within fifteen days after the violator has
6 received notice of the disposition of the application, the attorney
7 general shall bring an action in the name of the state of Washington in
8 the superior court of Thurston county or of any other county in which
9 the violator resides or does business, to recover the penalty,
10 administrative fees, and attorneys' fees. All penalties recovered
11 under this section shall be paid into the state treasury and credited
12 to the state patrol highway account of the motor vehicle fund for the
13 license fraud task force.

14 (3) The excise tax upon a vessel registered for the first time in
15 this state shall be imposed for a twelve-month period, including the
16 month in which the vessel is registered, unless the director of
17 licensing extends or diminishes vessel registration periods for the
18 purpose of staggered renewal periods under RCW 88.02.050. A vessel is
19 registered for the first time in this state when the vessel was not
20 registered in this state for the immediately preceding registration
21 year, or when the vessel was registered in another jurisdiction for the
22 immediately preceding year. The excise tax on vessels required to be
23 registered in this state on June 30, 1983, shall be paid by June 30,
24 1983.

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

27 (1) An annual excise tax is imposed on the owner of any travel
28 trailer or camper for the privilege of using such travel trailer or
29 camper in this state. The excise tax hereby imposed shall be due and
30 payable to the department of licensing or its agents at the time of
31 registration of a travel trailer or camper. Whenever an application is
32 made to the department of licensing or its agents for a license for a
33 travel trailer or camper there shall be collected, in addition to the
34 amount of the license fee or renewal license fee, the amount of the
35 excise tax imposed by this chapter, and no dealer's license or license
36 plates, and no license or license plates for a travel trailer or camper
37 may be issued unless such tax is paid in full. No additional tax shall
38 be imposed under this chapter upon any travel trailer or camper upon

1 the transfer of ownership thereof, if the tax imposed by this chapter
2 with respect to such travel trailer or camper has already been paid for
3 the registration year or fractional part thereof in which such transfer
4 occurs. Violation of this subsection is a ~~((misdemeanor))~~ violation of
5 RCW 46.16.010 (1)(a) and (2), and penalties apply.

6 (2) Persons who are required to license travel trailers or campers
7 under chapter 46.16 RCW and who license travel trailers or campers in
8 another state or foreign country to avoid the Washington travel trailer
9 or camper tax are ~~((guilty of a gross misdemeanor and are liable for~~
10 ~~such unpaid excise tax))~~ in violation of RCW 46.16.010 (1)(a) and (2),
11 and penalties apply. The department of revenue may assess and collect
12 the unpaid excise tax under chapter 82.32 RCW, including the penalties
13 and interest provided in chapter 82.32 RCW.

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

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

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

29 (2) The penalty provided in this section is due and payable when
30 the person incurring it receives a notice in writing from the state
31 patrol describing the violation and advising the person that the
32 penalty is due. The state patrol may, upon written application for
33 review, received within fifteen days, remit or mitigate a penalty
34 provided for in this section or discontinue an action to recover the
35 penalty upon such terms it deems proper and may ascertain the facts in
36 a manner and under rules it deems proper. If the amount of the penalty
37 is not paid to the state patrol within fifteen days after receipt of
38 the notice imposing the penalty, or application for remission or

1 mitigation has not been made within fifteen days after the violator has
2 received notice of the disposition of the application, the attorney
3 general shall bring an action in the name of the state of Washington in
4 the superior court of Thurston county or of any other county in which
5 the violator resides or does business, to recover the penalty,
6 administrative fees, and attorneys' fees. In all such actions, the
7 procedure and rules of evidence are the same as an ordinary civil
8 action except as otherwise provided in this chapter. All penalties
9 recovered under this section shall be paid into the state treasury and
10 credited to the state patrol highway account of the motor vehicle fund
11 for the license fraud task force.

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

14 (1) If payment of any tax due on a return to be filed by a taxpayer
15 is not received by the department of revenue by the due date, there
16 shall be assessed a penalty of five percent of the amount of the tax;
17 and if the tax is not received on or before the last day of the month
18 following the due date, there shall be assessed a total penalty of ten
19 percent of the amount of the tax; and if the tax is not received on or
20 before the last day of the second month following the due date, there
21 shall be assessed a total penalty of twenty percent of the amount of
22 the tax. No penalty so added shall be less than five dollars.

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

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

32 (4) If the department finds that all or any part of a deficiency
33 resulted from the disregard of specific written instructions as to
34 reporting or tax liabilities, the department shall add a penalty of ten
35 percent of the amount of the additional tax found due because of the
36 failure to follow the instructions. A taxpayer disregards specific
37 written instructions when the department of revenue has informed the
38 taxpayer in writing of the taxpayer's tax obligations and the taxpayer

1 fails to act in accordance with those instructions unless the
2 department has not issued final instructions because the matter is
3 under appeal pursuant to this chapter or departmental regulations. The
4 department shall not assess the penalty under this section upon any
5 taxpayer who has made a good faith effort to comply with the specific
6 written instructions provided by the department to that taxpayer.
7 Specific written instructions may be given as a part of a tax
8 assessment, audit, determination, or closing agreement, provided that
9 such specific written instructions shall apply only to the taxpayer
10 addressed or referenced on such documents. Any specific written
11 instructions by the department of revenue shall be clearly identified
12 as such and shall inform the taxpayer that failure to follow the
13 instructions may subject the taxpayer to the penalties imposed by this
14 subsection.

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

19 (b) There is a rebuttable presumption of a tax deficiency and
20 intent to avoid and evade the tax under the motor vehicle excise tax
21 under chapter 82.44 RCW, the aircraft excise tax under chapter 82.48
22 RCW, the watercraft excise tax under chapter 82.49 RCW, the trailers
23 and campers excise tax under chapter 82.50 RCW, or use tax under
24 chapter 82.12 RCW, if there is a finding resulting from a proceeding
25 brought under RCW 46.16.010, 47.68.255, 82.48.020, 82.49.010, or
26 88.02.118, that the person failed to properly register or license a
27 motor vehicle, an aircraft, a watercraft, a trailer, or a camper.

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

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

36 (8) For the purposes of this section, "return" means any document
37 a person is required by the state of Washington to file to satisfy or

- 1 establish a tax or fee obligation that is administered or collected by
- 2 the department of revenue, and that has a statutorily defined due date.

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