

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6467

56th Legislature
2000 Regular Session

Passed by the Senate March 6, 2000
YEAS 45 NAYS 0

President of the Senate

Passed by the House February 29, 2000
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6467** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6467

AS AMENDED BY THE HOUSE

Passed Legislature - 2000 Regular Session

State of Washington 56th Legislature 2000 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Goings, Haugen, Eide, Sellar and Winsley)

Read first time 01/31/2000.

1 AN ACT Relating to vehicle, vessel, and aircraft license fraud;
2 amending RCW 46.16.010, 47.68.240, 47.68.255, 82.48.020, 82.49.010,
3 88.02.118, and 82.32.090; repealing RCW 43.43.410, 43.43.420, and
4 46.16.0101; prescribing penalties; and declaring an emergency.

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

6 **Sec. 1.** RCW 46.16.010 and 1999 c 277 s 4 are each amended to read
7 as follows:

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

17 ~~((a) Failure to make initial registration of a vehicle before~~
18 ~~operating it on the highways of this state is a violation of this~~
19 ~~section. Anyone who violates this section is liable for a penalty of~~

1 three hundred fifty dollars for each violation in addition to all other
2 penalties provided by law. Persons violating this subsection shall
3 make payment as prescribed in subsection (2)(b) of this section.

4 (b)) Failure to renew an expired registration before operation on
5 the highways of this state is a traffic infraction(~~(, which shall not~~
6 ~~be resolved through the civil process instituted under this section)).~~

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

13 (b) The penalty provided in subsection (1)(a) of this section and
14 this subsection is due and payable when the person incurring it
15 receives a notice in writing from the state patrol describing the
16 violation and advising the person that the penalty is due. The state
17 patrol may, upon written application for review, received within
18 fifteen days, remit or mitigate a penalty provided for in this section
19 or discontinue an action to recover the penalty upon such terms it
20 deems proper and may ascertain the facts in a manner and under rules it
21 deems proper. If the amount of the penalty is not paid to the state
22 patrol within fifteen days after receipt of the notice imposing the
23 penalty, or application for remission or mitigation has not been made
24 within fifteen days after the violator has received notice of the
25 disposition of the application, the attorney general shall bring an
26 action in the name of the state of Washington in the superior court of
27 Thurston county or of any other county in which the violator resides or
28 does business, to recover the penalty, administrative fees, and
29 attorneys' fees and costs incurred in recovering the penalties. All
30 penalties recovered under this section shall be paid into the state
31 treasury and credited to the state patrol highway account of the motor
32 vehicle fund for the license fraud task force.)) gross misdemeanor
33 punishable as follows:

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

37 (b) For a second or subsequent offense, up to one year in the
38 county jail and a fine equal to four times the amount of delinquent
39 taxes and fees, no part of which may be suspended or deferred;

1 (c) For fines levied under (b) of this subsection, an amount equal
2 to the avoided taxes and fees owed will be deposited in the vehicle
3 licensing fraud account created in the state treasury;

4 (d) The avoided taxes and fees shall be deposited and distributed
5 in the same manner as if the taxes and fees were properly paid in a
6 timely fashion.

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

8 (a) Electric-assisted bicycles;

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

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

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

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

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

14 Exclusions:

15 "Special highway construction equipment" does not include any of
16 the following:

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

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

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

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

36 **Sec. 2.** RCW 47.68.240 and 1999 c 277 s 5 are each amended to read
37 as follows:

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

15 **Sec. 3.** RCW 47.68.255 and 1999 c 277 s 6 are each amended to read
16 as follows:

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

28 ~~((2) 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 does business, to recover the penalty, administrative
5 fees, and attorneys' fees. All penalties recovered under this section
6 shall be paid into the state treasury and credited to the state patrol
7 highway account of the motor vehicle fund for the license fraud task
8 force. The department of revenue may assess and collect the unpaid
9 excise tax under chapter 82.32 RCW, including the penalties and
10 interest provided in chapter 82.32 RCW.)

11 **Sec. 4.** RCW 82.48.020 and 1999 c 277 s 7 are each amended to read
12 as follows:

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

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

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

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

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

18 ((4)) (3) Except as provided under subsections (1) and (2) of
19 this section, a violation of this chapter is a misdemeanor punishable
20 as provided in chapter 9A.20 RCW.

21 **Sec. 5.** RCW 82.49.010 and 1999 c 277 s 8 are each amended to read
22 as follows:

23 (1) An excise tax is imposed for the privilege of using a vessel
24 upon the waters of this state, except vessels exempt under RCW
25 82.49.020. The annual amount of the excise tax is one-half of one
26 percent of fair market value, as determined under this chapter, or five
27 dollars, whichever is greater. Violation of this subsection is a
28 misdemeanor.

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

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

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

31 **Sec. 6.** RCW 88.02.118 and 1999 c 277 s 10 are each amended to read
32 as follows:

33 (~~(1)(a)~~) It is a (~~(violation)~~) gross misdemeanor punishable as
34 provided under chapter 9A.20 RCW for any person owning a vessel subject
35 to taxation under chapter 82.49 RCW to register a vessel in another
36 state to avoid Washington state vessel (~~(taxes)~~) excise tax required
37 under chapter 82.49 RCW or to obtain a vessel dealer's registration for
38 the purpose of (~~(avoiding taxes)~~) evading excise tax on vessels under

1 chapter 82.49 RCW. For a second or subsequent offense, the person
2 convicted is also subject to a fine equal to four times the amount of
3 avoided taxes and fees, no part of which may be suspended or deferred.
4 Excise taxes owed and fines assessed will be deposited in the manner
5 provided under RCW 46.16.010(2).

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

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 resides or does business, to recover the penalty,~~
23 ~~administrative fees, and attorneys' fees. In all such actions, the~~
24 ~~procedure and rules of evidence are the same as an ordinary civil~~
25 ~~action except as otherwise provided in this chapter. All penalties~~
26 ~~recovered under this section shall be paid into the state treasury and~~
27 ~~credited to the state patrol highway account of the motor vehicle fund~~
28 ~~for the license fraud task force.))~~

29 **Sec. 7.** RCW 82.32.090 and 1999 c 277 s 11 are each amended to read
30 as follows:

31 (1) If payment of any tax due on a return to be filed by a taxpayer
32 is not received by the department of revenue by the due date, there
33 shall be assessed a penalty of five percent of the amount of the tax;
34 and if the tax is not received on or before the last day of the month
35 following the due date, there shall be assessed a total penalty of ten
36 percent of the amount of the tax; and if the tax is not received on or
37 before the last day of the second month following the due date, there

1 shall be assessed a total penalty of twenty percent of the amount of
2 the tax. No penalty so added shall be less than five dollars.

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

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

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

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

37 ~~((b) There is a rebuttable presumption of a tax deficiency and~~
38 ~~intent to avoid and evade the tax under the motor vehicle excise tax~~
39 ~~under chapter 82.44 RCW, the aircraft excise tax under chapter 82.48~~

1 ~~RCW, the watercraft excise tax under chapter 82.49 RCW, the trailers~~
2 ~~and campers excise tax under chapter 82.50 RCW, or use tax under~~
3 ~~chapter 82.12 RCW, if there is a finding resulting from a proceeding~~
4 ~~brought under RCW 46.16.010, 47.68.255, 82.48.020, 82.49.010, or~~
5 ~~88.02.118, that the person failed to properly register or license a~~
6 ~~motor vehicle, an aircraft, a watercraft, a trailer, or a camper.))~~

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

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

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

19 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
20 repealed:

21 (1) RCW 43.43.410 (License fraud task force--Intent) and 1999 c 277
22 s 1;

23 (2) RCW 43.43.420 (License fraud task force--Personnel) and 1999 c
24 277 s 2; and

25 (3) RCW 46.16.0101 (License fraud--Penalties, procedures) and 1999
26 c 277 s 3.

27 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 immediately.

--- END ---