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**SUBSTITUTE SENATE BILL 5172**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Esser and Weinstein)

READ FIRST TIME 02/25/05.

1 AN ACT Relating to the revised uniform arbitration act; amending  
2 RCW 3.46.150, 3.50.800, 3.50.805, 15.49.071, 35.20.010, 35.22.425,  
3 35.23.555, 35.27.515, 35.30.100, 35A.11.200, 46.96.150, 49.66.090,  
4 59.18.320, 59.18.330, 59.20.260, 59.20.270, and 70.87.205; adding a new  
5 chapter to Title 7 RCW; repealing RCW 7.04.010, 7.04.020, 7.04.030,  
6 7.04.040, 7.04.050, 7.04.060, 7.04.070, 7.04.080, 7.04.090, 7.04.100,  
7 7.04.110, 7.04.120, 7.04.130, 7.04.140, 7.04.150, 7.04.160, 7.04.170,  
8 7.04.175, 7.04.180, 7.04.190, 7.04.200, 7.04.210, and 7.04.220; and  
9 providing an effective date.

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

11 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions set forth in  
12 this section apply throughout this chapter.

13 (1) "Arbitration organization" means a neutral association, agency,  
14 board, commission, or other entity that initiates, sponsors, or  
15 administers arbitration proceedings or is involved in the appointment  
16 of arbitrators.

17 (2) "Arbitrator" means an individual appointed to render an award  
18 in a controversy between persons who are parties to an agreement to  
19 arbitrate.

1 (3) "Authenticate" means:

2 (a) To sign; or

3 (b) To execute or adopt a record by attaching to or logically  
4 associating with the record, an electronic sound, symbol, or process  
5 with the intent to sign the record.

6 (4) "Court" means a court of competent jurisdiction in this state.

7 (5) "Knowledge" means actual knowledge.

8 (6) "Person" means an individual, corporation, business trust,  
9 estate, trust, partnership, limited liability company, association,  
10 joint venture, or government; governmental subdivision, agency, or  
11 instrumentality; public corporation; or any other legal or commercial  
12 entity.

13 (7) "Record" means information that is inscribed on a tangible  
14 medium or that is stored in an electronic or other medium and is  
15 retrievable in perceivable form.

16 NEW SECTION. **Sec. 2.** NOTICE. Unless the parties to an agreement  
17 to arbitrate otherwise agree or except as otherwise provided in this  
18 chapter, a person gives notice to another person by taking action that  
19 is reasonably necessary to inform the other person in ordinary course,  
20 whether or not the other person acquires knowledge of the notice. A  
21 person has notice if the person has knowledge of the notice or has  
22 received notice. A person receives notice when it comes to the  
23 person's attention or the notice is delivered at the person's place of  
24 residence or place of business, or at another location held out by the  
25 person as a place of delivery of such communications.

26 NEW SECTION. **Sec. 3.** WHEN CHAPTER APPLIES. (1) Before July 1,  
27 2006, this chapter governs agreements to arbitrate entered into:

28 (a) On or after the effective date of this act; and

29 (b) Before the effective date of this act, if all parties to the  
30 agreement to arbitrate or to arbitration proceedings agree in a record  
31 to be governed by this chapter.

32 (2) On or after July 1, 2006, this chapter governs agreements to  
33 arbitrate even if the arbitration agreement was entered into before the  
34 effective date of this act.

35 (3) This chapter shall not apply to arbitrations governed by  
36 chapter 7.06 RCW.

1 This chapter shall not apply to any arbitration agreement between  
2 employers and employees or between employers and associations of  
3 employees.

4 NEW SECTION. Sec. 4. EFFECT OF AGREEMENT TO ARBITRATE--  
5 NONWAIVABLE PROVISIONS. (1) Except as otherwise provided in  
6 subsections (2) and (3) of this section, the parties to an agreement to  
7 arbitrate or to an arbitration proceeding may waive or vary the  
8 requirements of this chapter to the extent permitted by law.

9 (2) Before a controversy arises that is subject to an agreement to  
10 arbitrate, the parties to the agreement may not:

11 (a) Waive or vary the requirements of section 5(1), 6(1), 8, 17 (1)  
12 or (2), 26, or 28 of this act;

13 (b) Unreasonably restrict the right under section 9 of this act to  
14 notice of the initiation of an arbitration proceeding;

15 (c) Unreasonably restrict the right under section 12 of this act to  
16 disclosure of any facts by a neutral arbitrator; or

17 (d) Waive the right under section 16 of this act of a party to an  
18 agreement to arbitrate to be represented by a lawyer at any proceeding  
19 or hearing under this chapter.

20 (3) The parties to an agreement to arbitrate may not waive or vary  
21 the requirements of this section or section 3 (1)(a) or (2), 7, 14, 18,  
22 20 (3) or (4), 22, 23, 24, 25 (1) or (2), 29, 31, 50, or 51 of this  
23 act.

24 NEW SECTION. Sec. 5. APPLICATION TO COURT. (1) Except as  
25 otherwise provided in section 28 of this act, an application for  
26 judicial relief under this chapter must be made by motion to the court  
27 and heard in the manner and upon the notice provided by law or rule of  
28 court for making and hearing motions.

29 (2) Notice of an initial motion to the court under this chapter  
30 must be served in the manner provided by law for the service of a  
31 summons in a civil action unless a civil action is already pending  
32 involving the agreement to arbitrate.

33 NEW SECTION. Sec. 6. VALIDITY OF AGREEMENT TO ARBITRATE. (1) An  
34 agreement contained in a record to submit to arbitration any existing

1 or subsequent controversy arising between the parties to the agreement  
2 is valid, enforceable, and irrevocable except upon a ground that exists  
3 at law or in equity for the revocation of contract.

4 (2) The court shall decide whether an agreement to arbitrate exists  
5 or a controversy is subject to an agreement to arbitrate.

6 (3) An arbitrator shall decide whether a condition precedent to  
7 arbitrability has been fulfilled and whether a contract containing a  
8 valid agreement to arbitrate is enforceable.

9 (4) If a party to a judicial proceeding challenges the existence  
10 of, or claims that a controversy is not subject to, an agreement to  
11 arbitrate, the arbitration proceeding may continue pending final  
12 resolution of the issue by the court, unless the court otherwise  
13 orders.

14 NEW SECTION. **Sec. 7.** MOTION TO COMPEL OR STAY ARBITRATION. (1)

15 On motion of a person showing an agreement to arbitrate and alleging  
16 another person's refusal to arbitrate pursuant to the agreement, the  
17 court shall order the parties to arbitrate if the refusing party does  
18 not appear or does not oppose the motion. If the refusing party  
19 opposes the motion, the court shall proceed summarily to decide the  
20 issue. Unless the court finds that there is no enforceable agreement  
21 to arbitrate, it shall order the parties to arbitrate. If the court  
22 finds that there is no enforceable agreement, it may not order the  
23 parties to arbitrate.

24 (2) On motion of a person alleging that an arbitration proceeding  
25 has been initiated or threatened but that there is no agreement to  
26 arbitrate, the court shall proceed summarily to decide the issue. If  
27 the court finds that there is an enforceable agreement to arbitrate, it  
28 shall order the parties to arbitrate. If the court finds that there is  
29 no enforceable agreement, it may not order the parties to arbitrate.

30 (3) The court may not refuse to order arbitration because the claim  
31 subject to arbitration lacks merit or grounds for the claim have not  
32 been established.

33 (4) If a proceeding involving a claim referable to arbitration  
34 under an alleged agreement to arbitrate is pending in court, a motion  
35 under this section must be filed in that court. Otherwise a motion  
36 under this section may be filed in any court as required by section 27  
37 of this act.

1 (5) If a party files a motion with the court to order arbitration  
2 under this section, the court shall on just terms stay any judicial  
3 proceeding that involves a claim alleged to be subject to the  
4 arbitration until the court renders a final decision under this  
5 section.

6 (6) If the court orders arbitration, the court shall on just terms  
7 stay any judicial proceeding that involves a claim subject to the  
8 arbitration. If a claim subject to the arbitration is severable, the  
9 court may sever it and limit the stay to that claim.

10 NEW SECTION. **Sec. 8.** PROVISIONAL REMEDIES. (1) Before an  
11 arbitrator is appointed and is authorized and able to act, the court,  
12 upon motion of a party to an arbitration proceeding and for good cause  
13 shown, may enter an order for provisional remedies to protect the  
14 effectiveness of the arbitration proceeding to the same extent and  
15 under the same conditions as if the controversy were the subject of a  
16 civil action.

17 (2) After an arbitrator is appointed and is authorized and able to  
18 act, the arbitrator may issue such orders for provisional remedies,  
19 including interim awards, as the arbitrator finds necessary to protect  
20 the effectiveness of the arbitration proceeding and to promote the fair  
21 and expeditious resolution of the controversy, to the same extent and  
22 under the same conditions as if the controversy were the subject of a  
23 civil action. After an arbitrator is appointed and is authorized and  
24 able to act, a party to an arbitration proceeding may move the court  
25 for a provisional remedy only if the matter is urgent and the  
26 arbitrator is not able to act timely or if the arbitrator cannot  
27 provide an adequate remedy.

28 (3) A motion to a court for a provisional remedy under subsection  
29 (1) or (2) of this section does not waive any right of arbitration.

30 NEW SECTION. **Sec. 9.** INITIATION OF ARBITRATION. (1) A person  
31 initiates an arbitration proceeding by giving notice in a record to the  
32 other parties to the agreement to arbitrate in the agreed manner  
33 between the parties or, in the absence of agreement, by mail certified  
34 or registered, return receipt requested and obtained, or by service as  
35 authorized for the initiation of a civil action. The notice must  
36 describe the nature of the controversy and the remedy sought.

1 (2) Unless a person interposes an objection as to lack or  
2 insufficiency of notice under section 15(3) of this act not later than  
3 the commencement of the arbitration hearing, the person's appearance at  
4 the hearing waives any objection to lack of or insufficiency of notice.

5 NEW SECTION. **Sec. 10.** CONSOLIDATION OF SEPARATE ARBITRATION  
6 PROCEEDINGS. (1) Except as otherwise provided in subsection (3) of  
7 this section, upon motion of a party to an agreement to arbitrate or to  
8 an arbitration proceeding, the court may order consolidation of  
9 separate arbitration proceedings as to all or some of the claims if:

10 (a) There are separate agreements to arbitrate or separate  
11 arbitration proceedings between the same persons or one of them is a  
12 party to a separate agreement to arbitrate or a separate arbitration  
13 proceeding with a third person;

14 (b) The claims subject to the agreements to arbitrate arise in  
15 substantial part from the same transaction or series of related  
16 transactions;

17 (c) The existence of a common issue of law or fact creates the  
18 possibility of conflicting decisions in the separate arbitration  
19 proceedings; and

20 (d) Prejudice resulting from a failure to consolidate is not  
21 outweighed by the risk of undue delay or prejudice to the rights of or  
22 hardship to parties opposing consolidation.

23 (2) The court may order consolidation of separate arbitration  
24 proceedings as to certain claims and allow other claims to be resolved  
25 in separate arbitration proceedings.

26 (3) The court may not order consolidation of the claims of a party  
27 to an agreement to arbitrate that prohibits consolidation.

28 NEW SECTION. **Sec. 11.** APPOINTMENT OF ARBITRATOR--SERVICE AS A  
29 NEUTRAL ARBITRATOR. (1) If the parties to an agreement to arbitrate  
30 agree on a method for appointing an arbitrator, that method must be  
31 followed, unless the method fails. If the parties have not agreed on  
32 a method, the agreed method fails, or an arbitrator appointed fails or  
33 is unable to act and a successor has not been appointed, the court, on  
34 motion of a party to the arbitration proceeding, shall appoint the  
35 arbitrator. The arbitrator so appointed has all the powers of an

1 arbitrator designated in the agreement to arbitrate or appointed under  
2 the agreed method.

3 (2) An arbitrator who has a known, direct, and material interest in  
4 the outcome of the arbitration proceeding or a known, existing, and  
5 substantial relationship with a party may not serve as a neutral  
6 arbitrator.

7 NEW SECTION. **Sec. 12.** DISCLOSURE BY ARBITRATOR. (1) Before  
8 accepting appointment, an individual who is requested to serve as an  
9 arbitrator, after making a reasonable inquiry, shall disclose to all  
10 parties to the agreement to arbitrate and arbitration proceeding and to  
11 any other arbitrators any known facts that a reasonable person would  
12 consider likely to affect the impartiality of the arbitrator in the  
13 arbitration proceeding, including:

14 (a) A financial or personal interest in the outcome of the  
15 arbitration proceeding; and

16 (b) An existing or past relationship with any of the parties to the  
17 agreement to arbitrate or the arbitration proceeding, their counsel or  
18 representatives, witnesses, or the other arbitrators.

19 (2) An arbitrator has a continuing obligation to disclose to all  
20 parties to the agreement to arbitrate and arbitration proceedings and  
21 to any other arbitrators any facts that the arbitrator learns after  
22 accepting appointment that a reasonable person would consider likely to  
23 affect the impartiality of the arbitrator.

24 (3) If an arbitrator discloses a fact required by subsection (1) or  
25 (2) of this section to be disclosed and a party timely objects to the  
26 appointment or continued service of the arbitrator based upon the  
27 disclosure, the objection may be a ground to vacate the award under  
28 section 23(1)(b) of this act.

29 (4) If the arbitrator did not disclose a fact as required by  
30 subsection (1) or (2) of this section, upon timely objection of a  
31 party, an award may be vacated under section 23(1)(b) of this act.

32 (5) An arbitrator appointed as a neutral who does not disclose a  
33 known, direct, and material interest in the outcome of the arbitration  
34 proceeding or a known, existing, and substantial relationship with a  
35 party is presumed to act with evident partiality under section 23(1)(b)  
36 of this act.

1 (6) If the parties to an arbitration proceeding agree to the  
2 procedures of an arbitration organization or any other procedures for  
3 challenges to arbitrators before an award is made, substantial  
4 compliance with those procedures is a condition precedent to a motion  
5 to vacate an award on that ground under section 23(1)(b) of this act.

6 NEW SECTION. **Sec. 13.** ACTION BY MAJORITY. If there is more than  
7 one arbitrator, the powers of the arbitrators must be exercised by a  
8 majority of them.

9 NEW SECTION. **Sec. 14.** IMMUNITY OF ARBITRATOR--COMPETENCY TO  
10 TESTIFY--ATTORNEYS' FEES AND COSTS. (1) An arbitrator or an  
11 arbitration organization acting in that capacity is immune from civil  
12 liability to the same extent as a judge of a court of this state acting  
13 in a judicial capacity.

14 (2) The immunity afforded by this section supplements any other  
15 immunity.

16 (3) If an arbitrator does not make a disclosure required by section  
17 12 of this act, the nondisclosure does not cause a loss of immunity  
18 under this section.

19 (4) In any judicial, administrative, or similar proceeding, an  
20 arbitrator or representative of an arbitration organization is not  
21 competent to testify or required to produce records as to any  
22 statement, conduct, decision, or ruling occurring during the  
23 arbitration proceeding to the same extent as a judge of a court of this  
24 state acting in a judicial capacity. This subsection does not apply:

25 (a) To the extent necessary to determine the claim of an arbitrator  
26 or an arbitration organization or a representative of the arbitration  
27 organization against a party to the arbitration proceeding; or

28 (b) If a party to the arbitration proceeding files a motion to  
29 vacate an award under section 23(1) (a) or (b) of this act and  
30 establishes prima facie that a ground for vacating the award exists.

31 (5) If a person commences a civil action against an arbitrator, an  
32 arbitration organization, or a representative of an arbitration  
33 organization arising from the services of the arbitrator, organization,  
34 or representative or if a person seeks to compel an arbitrator or a  
35 representative of an arbitration organization to testify in violation  
36 of subsection (4) of this section, and the court decides that the



1 arbitrator, arbitration organization, or representative of an  
2 arbitration organization is immune from civil liability or that the  
3 arbitrator or representative of the organization is incompetent to  
4 testify, the court shall award to the arbitrator, organization, or  
5 representative reasonable attorneys' fees and other reasonable expenses  
6 of litigation.

7 NEW SECTION. **Sec. 15.** ARBITRATION PROCESS. (1) The arbitrator  
8 may conduct the arbitration in such manner as the arbitrator considers  
9 appropriate so as to aid in the fair and expeditious disposition of the  
10 proceeding. The authority conferred upon the arbitrator includes the  
11 power to hold conferences with the parties to the arbitration  
12 proceeding before the hearing and to determine the admissibility,  
13 relevance, materiality, and weight of any evidence.

14 (2) The arbitrator may decide a request for summary disposition of  
15 a claim or particular issue by agreement of all interested parties or  
16 upon request of one party to the arbitration proceeding if that party  
17 gives notice to all other parties to the arbitration proceeding and the  
18 other parties have a reasonable opportunity to respond.

19 (3) The arbitrator shall set a time and place for a hearing and  
20 give notice of the hearing not less than five days before the hearing.  
21 Unless a party to the arbitration proceeding interposes an objection to  
22 lack of or insufficiency of notice not later than the commencement of  
23 the hearing, the party's appearance at the hearing waives the  
24 objection. Upon request of a party to the arbitration proceeding and  
25 for good cause shown, or upon the arbitrator's own initiative, the  
26 arbitrator may adjourn the hearing from time to time as necessary but  
27 may not postpone the hearing to a time later than that fixed by the  
28 agreement to arbitrate for making the award unless the parties to the  
29 arbitration proceeding consent to a later date. The arbitrator may  
30 hear and decide the controversy upon the evidence produced although a  
31 party who was duly notified of the arbitration proceeding did not  
32 appear. The court, on request, may direct the arbitrator to promptly  
33 conduct the hearing and render a timely decision.

34 (4) If an arbitrator orders a hearing under subsection (3) of this  
35 section, the parties to the arbitration proceeding are entitled to be  
36 heard, to present evidence material to the controversy, and to cross-  
37 examine witnesses appearing at the hearing.

1 (5) If there is more than one arbitrator, all of them shall conduct  
2 the hearing under subsection (3) of this section; however, a majority  
3 shall decide any issue and make a final award.

4 (6) If an arbitrator ceases, or is unable, to act during the  
5 arbitration proceeding, a replacement arbitrator must be appointed in  
6 accordance with section 11 of this act to continue the hearing and to  
7 decide the controversy.

8 NEW SECTION. **Sec. 16.** REPRESENTATION BY LAWYER. A party to an  
9 arbitration proceeding may be represented by a lawyer.

10 NEW SECTION. **Sec. 17.** WITNESSES--SUBPOENAS--DEPOSITIONS--  
11 DISCOVERY. (1) An arbitrator may issue a subpoena for the attendance  
12 of a witness and for the production of records and other evidence at  
13 any hearing and may administer oaths. A subpoena must be served in the  
14 manner for service of subpoenas in a civil action and, upon motion to  
15 the court by a party to the arbitration proceeding or the arbitrator,  
16 enforced in the manner for enforcement of subpoenas in a civil action.

17 (2) On request of a party to or a witness in an arbitration  
18 proceeding, an arbitrator may permit a deposition of any witness,  
19 including a witness who cannot be subpoenaed for or is unable to attend  
20 a hearing, to be taken under conditions determined by the arbitrator  
21 for use as evidence in order to make the proceeding fair, expeditious,  
22 and cost-effective.

23 (3) An arbitrator may permit such discovery as the arbitrator  
24 decides is appropriate in the circumstances, taking into account the  
25 needs of the parties to the arbitration proceeding and other affected  
26 persons and the desirability of making the proceeding fair,  
27 expeditious, and cost-effective.

28 (4) If an arbitrator permits discovery under subsection (3) of this  
29 section, the arbitrator may order a party to the arbitration proceeding  
30 to comply with the arbitrator's discovery-related orders, including the  
31 issuance of a subpoena for the attendance of a witness and for the  
32 production of records and other evidence at a discovery proceeding, and  
33 may take action against a party to the arbitration proceeding who does  
34 not comply to the extent permitted by law as if the controversy were  
35 the subject of a civil action in this state.

1 (5) An arbitrator may issue a protective order to prevent the  
2 disclosure of privileged information, confidential information, trade  
3 secrets, and other information protected from disclosure as if the  
4 controversy were the subject of a civil action in this state.

5 (6) All laws compelling a person under subpoena to testify and all  
6 fees for attending a judicial proceeding, a deposition, or a discovery  
7 proceeding as a witness apply to an arbitration proceeding as if the  
8 controversy were the subject of a civil action in this state.

9 (7) The court may enforce a subpoena or discovery-related order for  
10 the attendance of a witness within this state and for the production of  
11 records and other evidence issued by an arbitrator in connection with  
12 an arbitration proceeding in another state upon conditions determined  
13 by the court in order to make the arbitration proceeding fair,  
14 expeditious, and cost-effective. A subpoena or discovery-related order  
15 issued by an arbitrator must be served in the manner provided by law  
16 for service of subpoenas in a civil action in this state and, upon  
17 motion to the court by a party to the arbitration proceeding or the  
18 arbitrator, enforced in the manner provided by law for enforcement of  
19 subpoenas in a civil action in this state.

20 NEW SECTION. **Sec. 18.** COURT ENFORCEMENT OF PREAWARD RULING BY  
21 ARBITRATOR. If an arbitrator makes a preaward ruling in favor of a  
22 party to the arbitration proceeding, the party may request the  
23 arbitrator to incorporate the ruling into an award under section 19 of  
24 this act. The successful party may file a motion to the court for an  
25 expedited order to confirm the award under section 22 of this act, in  
26 which case the court shall proceed summarily to decide the motion. The  
27 court shall issue an order to confirm the award unless the court  
28 vacates, modifies, or corrects the award of the arbitrator under  
29 sections 23 and 24 of this act.

30 NEW SECTION. **Sec. 19.** AWARD. (1) An arbitrator shall make a  
31 record of an award. The record must be authenticated by any arbitrator  
32 who concurs with the award. The arbitrator or the arbitration  
33 organization shall give notice of the award, including a copy of the  
34 award, to each party to the arbitration proceeding.

35 (2) An award must be made within the time specified by the  
36 agreement to arbitrate or, if not specified therein, within the time

1 ordered by the court. The court may extend or the parties to the  
2 arbitration proceeding may agree in a record to extend the time. The  
3 court or the parties may do so within or after the time specified or  
4 ordered. A party waives any objection that an award was not timely  
5 made unless the party gives notice of the objection to the arbitrator  
6 before receiving notice of the award.

7 NEW SECTION. **Sec. 20.** CHANGE OF AWARD BY ARBITRATOR. (1) On  
8 motion to an arbitrator by a party to the arbitration proceeding, the  
9 arbitrator may modify or correct an award:

10 (a) Upon the grounds stated in section 24(1) (a) or (c) of this  
11 act;

12 (b) Because the arbitrator has not made a final and definite award  
13 upon a claim submitted by the parties to the arbitration proceeding; or

14 (c) To clarify the award.

15 (2) A motion under subsection (1) of this section must be made and  
16 served on all parties within twenty days after the movant receives  
17 notice of the award.

18 (3) A party to the arbitration proceeding must serve any objections  
19 to the motion within ten days after receipt of the notice.

20 (4) If a motion to the court is pending under section 22, 23, or 24  
21 of this act, the court may submit the claim to the arbitrator to  
22 consider whether to modify or correct the award:

23 (a) Upon the grounds stated in section 24(1) (a) or (c) of this  
24 act;

25 (b) Because the arbitrator has not made a final and definite award  
26 upon a claim submitted by the parties to the arbitration proceeding; or

27 (c) To clarify the award.

28 (5) An award modified or corrected under this section is subject to  
29 sections 22, 23, and 24 of this act.

30 NEW SECTION. **Sec. 21.** REMEDIES--FEES AND EXPENSES OF ARBITRATION  
31 PROCEEDING. (1) An arbitrator may award punitive damages or other  
32 exemplary relief if such an award is authorized under the applicable  
33 law in a civil action involving the same claim and the evidence  
34 produced at the hearing justifies the award under the legal standards  
35 otherwise applicable to the claim.

1 (2) An arbitrator may award attorneys' fees and other reasonable  
2 expenses of arbitration if such an award is authorized under the  
3 applicable law in a civil action involving the same claim or by the  
4 agreement of the parties to the arbitration proceeding.

5 (3) As to all remedies other than those authorized by subsections  
6 (1) and (2) of this section, an arbitrator may order such remedies as  
7 the arbitrator considers just and appropriate under the circumstances  
8 of the arbitration proceeding. The fact that such a remedy could not  
9 or would not be granted by the court is not a ground for refusing to  
10 confirm an award under section 22 of this act or for vacating an award  
11 under section 23 of this act.

12 (4) An arbitrator's expenses and fees, together with other  
13 expenses, must be paid as provided in the award.

14 (5) If an arbitrator awards punitive damages or other exemplary  
15 relief under subsection (1) of this section, the arbitrator shall  
16 specify in the award the basis in fact justifying and the basis in law  
17 authorizing the award and state separately the amount of the punitive  
18 damages or other exemplary relief.

19 NEW SECTION. **Sec. 22.** CONFIRMATION OF AWARD. After a party to  
20 the arbitration proceeding receives notice of an award, the party may  
21 file a motion with the court for an order confirming the award, at  
22 which time the court shall issue such an order unless the award is  
23 modified or corrected under section 20 or 24 of this act or is vacated  
24 under section 23 of this act.

25 NEW SECTION. **Sec. 23.** VACATING AWARD. (1) Upon motion of a party  
26 to the arbitration proceeding, the court shall vacate an award if:

27 (a) The award was procured by corruption, fraud, or other undue  
28 means;

29 (b) There was:

30 (i) Evident partiality by an arbitrator appointed as a neutral;

31 (ii) Corruption by an arbitrator; or

32 (iii) Misconduct by an arbitrator prejudicing the rights of a party  
33 to the arbitration proceeding;

34 (c) An arbitrator refused to postpone the hearing upon showing of  
35 sufficient cause for postponement, refused to consider evidence

1 material to the controversy, or otherwise conducted the hearing  
2 contrary to section 15 of this act, so as to prejudice substantially  
3 the rights of a party to the arbitration proceeding;

4 (d) An arbitrator exceeded the arbitrator's powers;

5 (e) There was no agreement to arbitrate, unless the person  
6 participated in the arbitration proceeding without raising the  
7 objection under section 15(3) of this act not later than the  
8 commencement of the arbitration hearing; or

9 (f) The arbitration was conducted without proper notice of the  
10 initiation of an arbitration as required in section 9 of this act so as  
11 to prejudice substantially the rights of a party to the arbitration  
12 proceeding.

13 (2) A motion under this section must be filed within ninety days  
14 after the movant receives notice of the award in a record under section  
15 19 of this act or within ninety days after the movant receives notice  
16 of an arbitrator's award in a record on a motion to modify or correct  
17 an award under section 20 of this act, unless the motion is predicated  
18 upon the ground that the award was procured by corruption, fraud, or  
19 other undue means, in which case it must be filed within ninety days  
20 after such a ground is known or by the exercise of reasonable care  
21 should have been known by the movant.

22 (3) In vacating an award on a ground other than that set forth in  
23 subsection (1)(e) of this section, the court may order a rehearing  
24 before a new arbitrator. If the award is vacated on a ground stated in  
25 subsection (1)(c), (d), or (f) of this section, the court may order a  
26 rehearing before the arbitrator who made the award or the arbitrator's  
27 successor. The arbitrator must render the decision in the rehearing  
28 within the same time as that provided in section 19(2) of this act for  
29 an award.

30 (4) If a motion to vacate an award is denied and a motion to modify  
31 or correct the award is not pending, the court shall confirm the award.

32 NEW SECTION. **Sec. 24.** MODIFICATION OR CORRECTION OF AWARD. (1)  
33 Upon motion filed within ninety days after the movant receives notice  
34 of the award in a record under section 19 of this act or within ninety  
35 days after the movant receives notice of an arbitrator's award in a  
36 record on a motion to modify or correct an award under section 20 of  
37 this act, the court shall modify or correct the award if:

1 (a) There was an evident mathematical miscalculation or an evident  
2 mistake in the description of a person, thing, or property referred to  
3 in the award;

4 (b) The arbitrator has made an award on a claim not submitted to  
5 the arbitrator and the award may be corrected without affecting the  
6 merits of the decision upon the claims submitted; or

7 (c) The award is imperfect in a matter of form not affecting the  
8 merits of the decision on the claims submitted.

9 (2) If a motion filed under subsection (1) of this section is  
10 granted, the court shall modify or correct and confirm the award as  
11 modified or corrected. Otherwise, the court shall confirm the award.

12 (3) A motion to modify or correct an award under this section may  
13 be joined with a motion to vacate the award.

14 NEW SECTION. **Sec. 25.** JUDGMENT ON AWARD--ATTORNEYS' FEES AND  
15 LITIGATION EXPENSES. (1) Upon granting an order confirming, vacating  
16 without directing a rehearing, modifying, or correcting an award, the  
17 court shall enter a judgment in conformity with the order. The  
18 judgment may be recorded, docketed, and enforced as any other judgment  
19 in a civil action.

20 (2) A court may allow reasonable costs of the motion and subsequent  
21 judicial proceedings.

22 (3) On application of a prevailing party to a contested judicial  
23 proceeding under section 22, 23, or 24 of this act, the court may add  
24 to a judgment confirming, vacating without directing a rehearing,  
25 modifying, or correcting an award, attorneys' fees and other reasonable  
26 expenses of litigation incurred in a judicial proceeding after the  
27 award is made.

28 NEW SECTION. **Sec. 26.** JURISDICTION. (1) A court of this state  
29 having jurisdiction over the dispute and the parties may enforce an  
30 agreement to arbitrate.

31 (2) An agreement to arbitrate providing for arbitration in this  
32 state confers exclusive jurisdiction on the court to enter judgment on  
33 an award under this chapter.

34 NEW SECTION. **Sec. 27.** VENUE. A motion under section 5 of this  
35 act must be filed in the court of the county in which the agreement to

1 arbitrate specifies the arbitration hearing is to be held or, if the  
2 hearing has been held, in the court of the county in which it was held.  
3 Otherwise, the motion must be filed in any county in which an adverse  
4 party resides or has a place of business or, if no adverse party has a  
5 residence or place of business in this state, in the court of any  
6 county in this state. All subsequent motions must be filed in the  
7 court hearing the initial motion unless the court otherwise directs.

8 NEW SECTION. **Sec. 28.** APPEALS. (1) An appeal may be taken from:

- 9 (a) An order denying a motion to compel arbitration;
- 10 (b) An order granting a motion to stay arbitration;
- 11 (c) An order confirming or denying confirmation of an award;
- 12 (d) An order modifying or correcting an award;
- 13 (e) An order vacating an award without directing a rehearing; or
- 14 (f) A final judgment entered under this chapter.

15 (2) An appeal under this section must be taken as from an order or  
16 a judgment in a civil action.

17 NEW SECTION. **Sec. 29.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.

18  
19 In applying and construing this uniform act, consideration must be  
20 given to the need to promote uniformity of the law with respect to its  
21 subject matter among states that enact it.

22 NEW SECTION. **Sec. 30.** CAPTIONS. Captions used in this act are  
23 not part of the law.

24 NEW SECTION. **Sec. 31.** SAVINGS CLAUSE. This act does not affect  
25 an action or proceeding commenced or right accrued before the effective  
26 date of this act.

27 NEW SECTION. **Sec. 32.** RELATIONSHIP TO ELECTRONIC SIGNATURES IN  
28 GLOBAL AND NATIONAL COMMERCE ACT. The provisions of this chapter  
29 governing the legal effect, validity, and enforceability of electronic  
30 records or electronic signatures, and of contracts performed with the  
31 use of such records or signatures conform to the requirements of  
32 section 102 of the electronic signatures in global and national  
33 commerce act.



1       **Sec. 33.** RCW 3.46.150 and 2001 c 68 s 2 are each amended to read  
2 as follows:

3       (1) Any city, having established a municipal department as provided  
4 in this chapter may, by written notice to the county legislative  
5 authority not less than one year prior to February 1st of the year in  
6 which all district court judges are subject to election, require the  
7 termination of the municipal department created pursuant to this  
8 chapter. A city may terminate a municipal department only at the end  
9 of a four-year judicial term. However, the city may not give the  
10 written notice required by this section unless the city has reached an  
11 agreement with the county under chapter 39.34 RCW under which the  
12 county is to be paid a reasonable amount for costs associated with  
13 prosecution, adjudication, and sentencing in criminal cases filed in  
14 district court as a result of the termination. The agreement shall  
15 provide for periodic review and renewal of the terms of the agreement.  
16 If the municipality and the county are unable to agree on the terms for  
17 renewal of the agreement, they shall be deemed to have entered into an  
18 agreement to submit the issue to arbitration under chapter ((7.04))  
19 7.-- RCW (sections 1 through 32 of this act). Pending conclusion of  
20 the arbitration proceeding, the terms of the agreement shall remain in  
21 effect. The municipality and the county have the same rights and are  
22 subject to the same duties as other parties who have agreed to submit  
23 to arbitration under chapter ((7.04)) 7.-- RCW (sections 1 through 32  
24 of this act).

25       (2) A county that wishes to terminate a municipal department of the  
26 district court must provide written notice to the city legislative  
27 authority at least one year prior to the date of the intended  
28 termination.

29       **Sec. 34.** RCW 3.50.800 and 1984 c 258 s 202 are each amended to  
30 read as follows:

31       (1) If a municipality has, prior to July 1, 1984, repealed in its  
32 entirety that portion of its municipal code defining crimes but  
33 continues to hear and determine traffic infraction cases under chapter  
34 46.63 RCW in a municipal court, the municipality and the appropriate  
35 county shall, prior to January 1, 1985, enter into an agreement under  
36 chapter 39.34 RCW under which the county is to be paid a reasonable  
37 amount for costs incurred after January 1, 1985, associated with

1 prosecution, adjudication, and sentencing in criminal cases filed in  
2 district court as a result of the repeal. If the municipality and the  
3 county cannot come to an agreement within the time prescribed by this  
4 section, they shall be deemed to have entered into an agreement to  
5 submit the issue to arbitration pursuant to chapter ((7.04)) 7.-- RCW  
6 (sections 1 through 32 of this act). The municipality and the county  
7 have the same rights and are subject to the same duties as other  
8 parties who have agreed to submit to arbitration under chapter ((7.04))  
9 7.-- RCW (sections 1 through 32 of this act).

10 (2) The agreement between the municipality and the county shall  
11 include provisions for periodic review and renewal of the terms of the  
12 agreement. If the municipality and the county are unable to agree on  
13 the terms for renewal of the agreement, they shall be deemed to have  
14 entered into an agreement to submit the issue to arbitration under  
15 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
16 conclusion of the arbitration proceeding, the terms of the agreement  
17 shall remain in effect. The municipality and the county have the same  
18 rights as other parties who have agreed to submit to arbitration under  
19 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

20 **Sec. 35.** RCW 3.50.805 and 1984 c 258 s 203 are each amended to  
21 read as follows:

22 (1) A municipality operating a municipal court under this chapter  
23 shall not terminate that court unless the municipality has reached an  
24 agreement with the appropriate county or another municipality under  
25 chapter 39.34 RCW under which the county or municipality is to be paid  
26 a reasonable amount for costs associated with prosecution,  
27 adjudication, and sentencing in criminal cases filed in district or  
28 municipal court as a result of the termination. The agreement shall  
29 provide for periodic review and renewal of the terms of the agreement.  
30 If the municipality and the county or municipality are unable to agree  
31 on the terms for renewal of the agreement, they shall be deemed to have  
32 entered into an agreement to submit the issue to arbitration under  
33 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
34 conclusion of the arbitration proceeding, the terms of the agreement  
35 shall remain in effect. The municipality and the county or  
36 municipality have the same rights and are subject to the same duties as  
37 other parties who have agreed to submit to arbitration under chapter

1 ((7.04)) 7.-- RCW (sections 1 through 32 of this act). A municipality  
2 that has entered into agreements with other municipalities that have  
3 terminated their municipal courts may not thereafter terminate its  
4 court unless each municipality has reached an agreement with the  
5 appropriate county in accordance with this section.

6 (2) A municipality operating a municipal court under this chapter  
7 may not repeal in its entirety that portion of its municipal code  
8 defining crimes while retaining the court's authority to hear and  
9 determine traffic infractions under chapter 46.63 RCW unless the  
10 municipality has reached an agreement with the county under chapter  
11 39.34 RCW under which the county is to be paid a reasonable amount for  
12 costs associated with prosecution, adjudication, and sentencing in  
13 criminal cases filed in district court as a result of the repeal. The  
14 agreement shall provide for periodic review and renewal of the terms of  
15 the agreement. If the municipality and the county are unable to agree  
16 on the terms for renewal of the agreement, they shall be deemed to have  
17 entered into an agreement to submit the issue to arbitration under  
18 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
19 conclusion of the arbitration proceeding, the terms of the agreement  
20 shall remain in effect. The municipality and the county have the same  
21 rights and are subject to the same duties as other parties who have  
22 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
23 (sections 1 through 32 of this act).

24 (3) A municipality operating a municipal court under this chapter  
25 may not repeal a provision of its municipal code which defines a crime  
26 equivalent to an offense listed in RCW 46.63.020 unless the  
27 municipality has reached an agreement with the county under chapter  
28 39.34 RCW under which the county is to be paid a reasonable amount for  
29 costs associated with prosecution, adjudication, and sentencing in  
30 criminal cases filed in district court as a result of the repeal. The  
31 agreement shall provide for periodic review and renewal of the terms of  
32 the agreement. If the municipality and the county are unable to agree  
33 on the terms for renewal of the agreement, they shall be deemed to have  
34 entered into an agreement to submit the issue to arbitration under  
35 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
36 conclusion of the arbitration proceeding, the terms of the agreement  
37 shall remain in effect. The municipality and the county have the same

1 rights and are subject to the same duties as other parties who have  
2 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
3 (sections 1 through 32 of this act).

4 **Sec. 36.** RCW 15.49.071 and 1989 c 354 s 77 are each amended to  
5 read as follows:

6 (1) When a buyer is damaged by the failure of any seed covered by  
7 this chapter to produce or perform as represented by the required  
8 label, by warranty, or as a result of negligence, the buyer, as a  
9 prerequisite to maintaining a legal action against the dealer of such  
10 seed, shall have first provided for the arbitration of the claim. Any  
11 statutory period of limitations with respect to such claim shall be  
12 tolled from the date arbitration proceedings are instituted until ten  
13 days after the date on which the arbitration award becomes final.

14 (2) Similarly, no such claim may be asserted as a counterclaim or  
15 defense in any action brought by a dealer against a buyer until the  
16 buyer has first provided for arbitration of the claim. Upon the  
17 buyer's filing of a written notice of intention to assert such a claim  
18 as a counterclaim or defense in the action accompanied by a copy of the  
19 buyer's complaint in arbitration filed as provided in this chapter, the  
20 action shall be stayed, and any applicable statute of limitations shall  
21 be tolled with respect to such claim from the date arbitration  
22 proceedings are instituted until ten days after the arbitration award  
23 becomes final.

24 (3) Conspicuous language calling attention to the requirement for  
25 arbitration under this section shall be referenced or included on the  
26 analysis label required under RCW 15.49.011 through 15.49.101.

27 (4) If the parties agree to submit the claim to arbitration and to  
28 be bound by the arbitration award, then the arbitration shall be  
29 subject to chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this  
30 act), and RCW 15.49.081 through 15.49.111 will not apply to the  
31 arbitration. If the parties do not so agree, then the buyer may  
32 provide for mandatory arbitration by the arbitration committee under  
33 RCW 15.49.081 through 15.49.111. An award rendered in such mandatory  
34 arbitration shall not be binding upon the parties and any trial on any  
35 claim so arbitrated shall be de novo.

36 (5) This section applies only to claims, or counterclaims, where

1 the relief sought is, or includes, a monetary amount in excess of two  
2 thousand dollars. All claims for two thousand dollars or less shall be  
3 commenced in either district court or small claims court.

4 **Sec. 37.** RCW 35.20.010 and 2001 c 68 s 3 are each amended to read  
5 as follows:

6 (1) There is hereby created and established in each incorporated  
7 city of this state having a population of more than four hundred  
8 thousand inhabitants, as shown by the federal or state census,  
9 whichever is the later, a municipal court, which shall be styled "The  
10 Municipal Court of . . . . . (name of city)," hereinafter designated  
11 and referred to as the municipal court, which court shall have  
12 jurisdiction and shall exercise all the powers by this chapter declared  
13 to be vested in such municipal court, together with such powers and  
14 jurisdiction as is generally conferred in this state either by common  
15 law or statute.

16 (2) A municipality operating a municipal court under this section  
17 may terminate that court if the municipality has reached an agreement  
18 with the county under chapter 39.34 RCW under which the county is to be  
19 paid a reasonable amount for costs associated with prosecution,  
20 adjudication, and sentencing in criminal cases filed in district court  
21 as a result of the termination. The agreement shall provide for  
22 periodic review and renewal of the terms of the agreement. If the  
23 municipality and the county are unable to agree on the terms for  
24 renewal of the agreement, they shall be deemed to have entered into an  
25 agreement to submit the issue to arbitration under chapter (~~7.04~~)  
26 7.-- RCW (sections 1 through 32 of this act). Pending conclusion of  
27 the arbitration proceeding, the terms of the agreement shall remain in  
28 effect. The municipality and the county have the same rights and are  
29 subject to the same duties as other parties who have agreed to submit  
30 to arbitration under chapter (~~7.04~~) 7.-- RCW (sections 1 through 32  
31 of this act).

32 (3) A city that has entered into an agreement for court services  
33 with the county must provide written notice of the intent to terminate  
34 the agreement to the county legislative authority not less than one  
35 year prior to February 1st of the year in which all district court  
36 judges are subject to election. A city that terminates an agreement

1 for court services to be provided by a district court may terminate the  
2 agreement only at the end of a four-year district court judicial term.

3 (4) A county that wishes to terminate an agreement with a city for  
4 the provision of court services must provide written notice of the  
5 intent to terminate the agreement to the city legislative authority not  
6 less than one year prior to the expiration of the agreement.

7 **Sec. 38.** RCW 35.22.425 and 1984 c 258 s 204 are each amended to  
8 read as follows:

9 A city of the first class operating a municipal court may not  
10 repeal in its entirety that portion of its municipal code defining  
11 crimes or repeal a provision of its municipal code which defines a  
12 crime equivalent to an offense listed in RCW 46.63.020 unless the  
13 municipality has reached an agreement with the appropriate county under  
14 chapter 39.34 RCW under which the county is to be paid a reasonable  
15 amount for costs associated with prosecution, adjudication, and  
16 sentencing in criminal cases filed in district court as a result of the  
17 repeal. The agreement shall include provisions for periodic review and  
18 renewal of the terms of the agreement. If the municipality and the  
19 county are unable to agree on the terms for renewal of the agreement,  
20 they shall be deemed to have entered into an agreement to submit the  
21 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
22 through 32 of this act). Pending conclusion of the arbitration  
23 proceeding, the terms of the agreement shall remain in effect. The  
24 municipality and the county have the same rights and are subject to the  
25 same duties as other parties who have agreed to submit to arbitration  
26 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

27 **Sec. 39.** RCW 35.23.555 and 1994 c 81 s 52 are each amended to read  
28 as follows:

29 A city of the second class operating a municipal court may not  
30 repeal in its entirety that portion of its municipal code defining  
31 crimes or repeal a provision of its municipal code which defines a  
32 crime equivalent to an offense listed in RCW 46.63.020 unless the  
33 municipality has reached an agreement with the appropriate county under  
34 chapter 39.34 RCW under which the county is to be paid a reasonable  
35 amount for costs associated with prosecution, adjudication, and  
36 sentencing in criminal cases filed in district court as a result of the

1 repeal. The agreement shall include provisions for periodic review and  
2 renewal of the terms of the agreement. If the municipality and the  
3 county are unable to agree on the terms for renewal of the agreement,  
4 they shall be deemed to have entered into an agreement to submit the  
5 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
6 through 32 of this act). Pending conclusion of the arbitration  
7 proceeding, the terms of the agreement shall remain in effect. The  
8 municipality and the county have the same rights and are subject to the  
9 same duties as other parties who have agreed to submit to arbitration  
10 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

11 **Sec. 40.** RCW 35.27.515 and 1984 c 258 s 207 are each amended to  
12 read as follows:

13 A town operating a municipal court may not repeal in its entirety  
14 that portion of its municipal code defining crimes or repeal a  
15 provision of its municipal code which defines a crime equivalent to an  
16 offense listed in RCW 46.63.020 unless the municipality has reached an  
17 agreement with the appropriate county under chapter 39.34 RCW under  
18 which the county is to be paid a reasonable amount for costs associated  
19 with prosecution, adjudication, and sentencing in criminal cases filed  
20 in district court as a result of the repeal. The agreement shall  
21 include provisions for periodic review and renewal of the terms of the  
22 agreement. If the municipality and the county are unable to agree on  
23 the terms for renewal of the agreement, they shall be deemed to have  
24 entered into an agreement to submit the issue to arbitration under  
25 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
26 conclusion of the arbitration proceeding, the terms of the agreement  
27 shall remain in effect. The municipality and the county have the same  
28 rights and are subject to the same duties as other parties who have  
29 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
30 (sections 1 through 32 of this act).

31 **Sec. 41.** RCW 35.30.100 and 1984 c 258 s 208 are each amended to  
32 read as follows:

33 A city operating a municipal court may not repeal in its entirety  
34 that portion of its municipal code defining crimes unless the  
35 municipality has reached an agreement with the appropriate county under  
36 chapter 39.34 RCW under which the county is to be paid a reasonable

1 amount for costs associated with prosecution, adjudication, and  
2 sentencing in criminal cases filed in district court as a result of the  
3 repeal. The agreement shall include provisions for periodic review and  
4 renewal of the terms of the agreement. If the municipality and the  
5 county are unable to agree on the terms for renewal of the agreement,  
6 they shall be deemed to have entered into an agreement to submit the  
7 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
8 through 32 of this act). Pending conclusion of the arbitration  
9 proceeding, the terms of the agreement shall remain in effect. The  
10 municipality and the county have the same rights and are subject to the  
11 same duties as other parties who have agreed to submit to arbitration  
12 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

13 **Sec. 42.** RCW 35A.11.200 and 1984 c 258 s 209 are each amended to  
14 read as follows:

15 A code city operating a municipal court may not repeal in its  
16 entirety that portion of its municipal code defining crimes unless the  
17 municipality has reached an agreement with the appropriate county under  
18 chapter 39.34 RCW under which the county is to be paid a reasonable  
19 amount for costs associated with prosecution, adjudication, and  
20 sentencing in criminal cases filed in district court as a result of the  
21 repeal. The agreement shall include provisions for periodic review and  
22 renewal of the terms of the agreement. If the municipality and the  
23 county are unable to agree on the terms for renewal of the agreement,  
24 they shall be deemed to have entered into an agreement to submit the  
25 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
26 through 32 of this act). Pending conclusion of the arbitration  
27 proceeding, the terms of the agreement shall remain in effect. The  
28 municipality and the county have the same rights and are subject to the  
29 same duties as other parties who have agreed to submit to arbitration  
30 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

31 **Sec. 43.** RCW 46.96.150 and 1994 c 274 s 2 are each amended to read  
32 as follows:

33 (1) Within thirty days after receipt of the notice under RCW  
34 46.96.140, or within thirty days after the end of an appeal procedure  
35 provided by the manufacturer, whichever is greater, a new motor vehicle  
36 dealer so notified or entitled to notice may file a petition with the



1 department protesting the proposed establishment or relocation. The  
2 petition shall contain a short statement setting forth the reasons for  
3 the dealer's objection to the proposed establishment or relocation.  
4 Upon the filing of a protest and the receipt of the filing fee, the  
5 department shall promptly notify the manufacturer that a timely protest  
6 has been filed and shall request the appointment of an administrative  
7 law judge under chapter 34.12 RCW to conduct a hearing. The  
8 manufacturer shall not establish or relocate the new motor vehicle  
9 dealer until the administrative law judge has held a hearing and has  
10 determined that there is good cause for permitting the proposed  
11 establishment or relocation. When more than one protest is filed  
12 against the establishment or relocation of the same dealer, the  
13 administrative law judge shall consolidate the hearings to expedite  
14 disposition of the matter.

15 (2) If a manufacturer provides in the franchise agreement or by  
16 written statement distributed and provided to its dealers for  
17 arbitration under the (~~Washington~~) Uniform Arbitration Act, chapter  
18 (~~7.04~~) 7.-- RCW (sections 1 through 32 of this act), as a mechanism  
19 for resolving disputes relating to the establishment of an additional  
20 new motor vehicle dealer or the relocation of a new motor vehicle  
21 dealer, then the provisions of this section and RCW 46.96.170 relating  
22 to hearings by an administrative law judge do not apply, and a dispute  
23 regarding the establishment of an additional new motor vehicle dealer  
24 or the relocation of an existing new motor vehicle dealer shall be  
25 determined in an arbitration proceeding conducted in accordance with  
26 the (~~Washington~~) Uniform Arbitration Act, chapter (~~7.04~~) 7.-- RCW  
27 (sections 1 through 32 of this act). The thirty-day period for filing  
28 a protest under this section still applies except that the protesting  
29 dealer shall file his protest with the manufacturer within thirty days  
30 after receipt of the notice under RCW 46.96.140.

31 (3) The dispute shall be referred for arbitration to such  
32 arbitrator as may be agreed upon by the parties to the dispute. If the  
33 parties cannot agree upon a single arbitrator within thirty days from  
34 the date the protest is filed, the protesting dealer will select an  
35 arbitrator, the manufacturer will select an arbitrator, and the two  
36 arbitrators will then select a third. If a third arbitrator is not  
37 agreed upon within thirty days, any party may apply to the superior  
38 court, and the judge of the superior court having jurisdiction will

1 appoint the third arbitrator. The protesting dealer will pay the  
2 arbitrator selected by him, and the manufacturer will pay the  
3 arbitrator it selected. The expense of the third arbitrator and all  
4 other expenses of arbitration will be shared equally by the parties.  
5 Attorneys' fees and fees paid to expert witnesses are not expenses of  
6 arbitration and will be paid by the person incurring them.

7 (4) Notwithstanding the terms of a franchise or written statement  
8 of the manufacturer and notwithstanding the terms of a waiver, the  
9 arbitration will take place in the state of Washington in the county  
10 where the protesting dealer has his principal place of business. RCW  
11 46.96.160 applies to a determination made by the arbitrator or  
12 arbitrators in determining whether good cause exists for permitting the  
13 proposed establishment or relocation of a new motor vehicle dealer, and  
14 the manufacturer has the burden of proof to establish that good cause  
15 exists for permitting the proposed establishment or relocation. After  
16 a hearing has been held, the arbitrator or arbitrators shall render a  
17 decision as expeditiously as possible, but in any event not later than  
18 one hundred twenty days from the date the arbitrator or arbitrators are  
19 selected or appointed. The manufacturer shall not establish or  
20 relocate the new motor vehicle dealer until the arbitration hearing has  
21 been held and the arbitrator or arbitrators have determined that there  
22 is good cause for permitting the proposed establishment or relocation.  
23 The written decision of the arbitrator is binding upon the parties  
24 unless modified, corrected, or vacated under the Washington Arbitration  
25 Act. Any party may appeal the decision of the arbitrator under the  
26 ((Washington)) Uniform Arbitration Act, chapter ((7.04)) 7.-- RCW  
27 (sections 1 through 32 of this act).

28 (5) If the franchise agreement or the manufacturer's written  
29 statement distributed and provided to its dealers does not provide for  
30 arbitration under the ((Washington)) Uniform Arbitration Act as a  
31 mechanism for resolving disputes relating to the establishment of an  
32 additional new motor vehicle dealer or the relocation of a new motor  
33 vehicle dealer, then the hearing provisions of this section and RCW  
34 46.96.170 apply. Nothing in this section is intended to preclude a new  
35 motor vehicle dealer from electing to use any other dispute resolution  
36 mechanism offered by a manufacturer.

1           **Sec. 44.** RCW 49.66.090 and 1973 2nd ex.s. c 3 s 7 are each amended  
2 to read as follows:

3           In the event that a health care activity and an employees'  
4 bargaining unit shall reach an impasse, the matters in dispute shall be  
5 submitted to a board of arbitration composed of three arbitrators for  
6 final and binding resolution. The board shall be selected in the  
7 following manner: Within ten days, the employer shall appoint one  
8 arbitrator and the employees shall appoint one arbitrator. The two  
9 arbitrators so selected and named shall within ten days agree upon and  
10 select the name of a third arbitrator who shall act as chairman. If,  
11 upon the expiration of the period allowed therefor the arbitrators are  
12 unable to agree on the selection of a third arbitrator, such arbitrator  
13 shall be appointed at the request of either party in accordance with  
14 (~~the provisions of RCW 7.04.050~~) section 11 of this act, and (~~he~~)  
15 that person shall act as (~~chairman~~) chair of the arbitration board.

16           **Sec. 45.** RCW 59.18.320 and 1973 1st ex.s. c 207 s 32 are each  
17 amended to read as follows:

18           (1) The landlord and tenant may agree, in writing, except as  
19 provided in RCW 59.18.230(2)(e), to submit to arbitration, in  
20 conformity with the provisions of this section, any controversy arising  
21 under the provisions of this chapter, except the following:

22           (a) Controversies regarding the existence of defects covered in  
23 subsections (1) and (2) of RCW 59.18.070: PROVIDED, That this  
24 exception shall apply only before the implementation of any remedy by  
25 the tenant;

26           (b) Any situation where court action has been started by either  
27 landlord or tenant to enforce rights under this chapter; when the court  
28 action substantially affects the controversy, including but not limited  
29 to:

30           (i) Court action pursuant to subsections (2) and (3) of RCW  
31 59.18.090 and subsections (1) and (2) of RCW 59.18.160; and

32           (ii) Any unlawful detainer action filed by the landlord pursuant to  
33 chapter 59.12 RCW.

34           (2) The party initiating arbitration under subsection (1) of this  
35 section shall give reasonable notice to the other party or parties.

36           (3) Except as otherwise provided in this section, the arbitration  
37 process shall be administered by any arbitrator agreed upon by the

1 parties at the time the dispute arises: PROVIDED, That the procedures  
2 shall comply with the requirements of chapter ((7.04)) 7.-- RCW  
3 (sections 1 through 32 of this act) (relating to arbitration) and of  
4 this chapter.

5 **Sec. 46.** RCW 59.18.330 and 1973 1st ex.s. c 207 s 33 are each  
6 amended to read as follows:

7 (1) Unless otherwise mutually agreed to, in the event a controversy  
8 arises under RCW 59.18.320 the landlord or tenant, or both, shall  
9 complete an application for arbitration and deliver it to the selected  
10 arbitrator.

11 (2) The arbitrator so designated shall schedule a hearing to be  
12 held no later than ten days following receipt of notice of the  
13 controversy, except as provided in RCW 59.18.350.

14 (3) The arbitrator shall conduct public or private hearings.  
15 Reasonable notice of such hearings shall be given to the parties, who  
16 shall appear and be heard either in person or by counsel or other  
17 representative. Hearings shall be informal and the rules of evidence  
18 prevailing in judicial proceedings shall not be binding. A recording  
19 of the proceedings may be taken. Any oral or documentary evidence and  
20 other data deemed relevant by the arbitrator may be received in  
21 evidence. The arbitrator shall have the power to administer oaths, to  
22 issue subpoenas, to require the attendance of witnesses and the  
23 production of such books, papers, contracts, agreements, and documents  
24 as may be deemed by the arbitrator material to a just determination of  
25 the issues in dispute. If any person refuses to obey such subpoena or  
26 refuses to be sworn to testify, or any witness, party, or attorney is  
27 guilty of any contempt while in attendance at any hearing held  
28 hereunder, the arbitrator may invoke the jurisdiction of any superior  
29 court, and such court shall have jurisdiction to issue an appropriate  
30 order. A failure to obey such order may be punished by the court as a  
31 contempt thereof.

32 (4) Within five days after conclusion of the hearing, the  
33 arbitrator shall make a written decision upon the issues presented, a  
34 copy of which shall be mailed by certified mail or otherwise delivered  
35 to the parties or their designated representatives. The determination  
36 of the dispute made by the arbitrator shall be final and binding upon  
37 both parties.

1 (5) If a defective condition exists which affects more than one  
2 dwelling unit in a similar manner, the arbitrator may consolidate the  
3 issues of fact common to those dwelling units in a single proceeding.

4 (6) Decisions of the arbitrator shall be enforced or appealed  
5 according to the provisions of chapter ((7.04)) 7.-- RCW (sections 1  
6 through 32 of this act).

7 **Sec. 47.** RCW 59.20.260 and 1984 c 58 s 13 are each amended to read  
8 as follows:

9 (1) The landlord and tenant may agree in writing to submit a  
10 controversy arising under this chapter to arbitration. The agreement  
11 shall contain the name of the arbitrator agreed upon by the parties or  
12 the process for selecting the arbitrator.

13 (2) The arbitration shall be administered under this chapter and  
14 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

15 **Sec. 48.** RCW 59.20.270 and 1984 c 58 s 14 are each amended to read  
16 as follows:

17 (1) If the landlord and tenant agree to submit the matter to  
18 arbitration, the parties shall complete an application for arbitration  
19 and deliver it to the selected arbitrator.

20 (2) The arbitrator shall schedule a hearing to be held no later  
21 than ten days following receipt of the application.

22 (3) Reasonable notice of the hearings shall be given to the  
23 parties, who shall appear and be heard either in person, by counsel, or  
24 by other representative. Hearings shall be informal and the rules of  
25 evidence prevailing in judicial proceedings shall not be binding.  
26 Hearings may be public or private. The proceedings may be recorded.  
27 Any oral or documentary evidence and other data deemed relevant by the  
28 arbitrator may be received in evidence. The arbitrator may administer  
29 oaths, issue subpoenas, and require the attendance of witnesses and the  
30 production of books, papers, contracts, agreements, and documents  
31 deemed by the arbitrator to be material to a just determination of the  
32 issues in dispute. If a person refuses to obey a subpoena or refuses  
33 to be sworn to testify, or any witness, party, or attorney is guilty of  
34 any contempt while in attendance at any hearing held under this  
35 section, the arbitrator may invoke the jurisdiction of any district or

1 superior court, and the court shall have jurisdiction to issue an  
2 appropriate order. Failure to obey the order may be punished by the  
3 court as contempt.

4 (4) Within five days after the hearing, the arbitrator shall make  
5 a written decision upon the issues presented. A copy of the decision  
6 shall be mailed by certified mail or otherwise delivered to the parties  
7 or their designated representatives. The decision of the arbitrator  
8 shall be final and binding upon all parties.

9 (5) If a dispute exists affecting more than one tenant in a similar  
10 manner, the arbitrator may with the consent of the parties consolidate  
11 the cases into a single proceeding.

12 (6) Decisions of the arbitrator shall be enforced or appealed under  
13 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

14 **Sec. 49.** RCW 70.87.205 and 1983 c 123 s 23 are each amended to  
15 read as follows:

16 (1) Disputes arising under RCW 70.87.200(2) shall be resolved by  
17 arbitration. The request shall be sent by certified mail.

18 (2) The department shall appoint one arbitrator; the municipality  
19 shall appoint one arbitrator; and the arbitrators chosen by the  
20 department and the municipality shall appoint the third arbitrator. If  
21 the two arbitrators cannot agree on the third arbitrator, the presiding  
22 judge of the Thurston county superior court, or his or her designee,  
23 shall appoint the third arbitrator.

24 (3) The arbitration shall be held pursuant to the procedures in  
25 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act), except  
26 that ((RCW 7.04.220)) section 28(1)(f) of this act shall not apply.  
27 The decision of the arbitrators is final and binding on the parties.  
28 Neither party may appeal a decision to any court.

29 (4) A party may petition the Thurston county superior court to  
30 enforce a decision of the arbitrators.

31 NEW SECTION. **Sec. 50.** REPEALER. The following acts or parts of  
32 acts are each repealed:

33 (1) RCW 7.04.010 (Arbitration authorized) and 1947 c 209 s 1 & 1943  
34 c 138 s 1;

35 (2) RCW 7.04.020 (Applications in writing--How heard--Jurisdiction)  
36 and 1982 c 122 s 1 & 1943 c 138 s 2;

- 1 (3) RCW 7.04.030 (Stay of action pending arbitration) and 1943 c  
2 138 s 3;
- 3 (4) RCW 7.04.040 (Motion to compel arbitration--Notice and  
4 hearing--Motion for stay) and 1943 c 138 s 4;
- 5 (5) RCW 7.04.050 (Appointment of arbitrators by court) and 1943 c  
6 138 s 5;
- 7 (6) RCW 7.04.060 (Notice of intention to arbitrate--Contents) and  
8 1943 c 138 s 6;
- 9 (7) RCW 7.04.070 (Hearing by arbitrators) and 1943 c 138 s 7;
- 10 (8) RCW 7.04.080 (Failure of party to appear no bar to hearing and  
11 determination) and 1943 c 138 s 8;
- 12 (9) RCW 7.04.090 (Time of making award--Extension--Failure to make  
13 award when required) and 1985 c 265 s 1 & 1943 c 138 s 9;
- 14 (10) RCW 7.04.100 (Representation by attorney) and 1943 c 138 s 10;
- 15 (11) RCW 7.04.110 (Witnesses--Compelling attendance) and 1943 c 138  
16 s 11;
- 17 (12) RCW 7.04.120 (Depositions) and 1943 c 138 s 12;
- 18 (13) RCW 7.04.130 (Order to preserve property or secure  
19 satisfaction of award) and 1943 c 138 s 13;
- 20 (14) RCW 7.04.140 (Form of award--Copies to parties) and 1943 c 138  
21 s 14;
- 22 (15) RCW 7.04.150 (Confirmation of award by court) and 1982 c 122  
23 s 2 & 1943 c 138 s 15;
- 24 (16) RCW 7.04.160 (Vacation of award--Rehearing) and 1943 c 138 s  
25 16;
- 26 (17) RCW 7.04.170 (Modification or correction of award by court)  
27 and 1943 c 138 s 17;
- 28 (18) RCW 7.04.175 (Modification or correction of award by  
29 arbitrators) and 1985 c 265 s 2;
- 30 (19) RCW 7.04.180 (Notice of motion to vacate, modify, or correct  
31 award--Stay) and 1943 c 138 s 18;
- 32 (20) RCW 7.04.190 (Judgment--Costs) and 1943 c 138 s 19;
- 33 (21) RCW 7.04.200 (Judgment roll--Docketing) and 1943 c 138 s 20;
- 34 (22) RCW 7.04.210 (Effect of judgment) and 1943 c 138 s 21; and  
35 (23) RCW 7.04.220 (Appeal) and 1943 c 138 s 22.

36 NEW SECTION. **Sec. 51.** This act takes effect July 1, 2006.

1        NEW SECTION.   **Sec. 52.**   Sections 1 through 32 of this act  
2   constitute a new chapter in Title 7 RCW.

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