

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6239

61st Legislature
2010 Regular Session

Passed by the Senate February 11, 2010
YEAS 46 NAYS 0

President of the Senate

Passed by the House February 28, 2010
YEAS 85 NAYS 10

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6239** 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 6239

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Gordon, and Fraser; by request of Statute Law Committee)

READ FIRST TIME 01/19/10.

1 AN ACT Relating to making technical corrections to gender-based
2 terms; amending RCW 10.01.050, 10.01.060, 10.01.120, 10.01.140,
3 10.01.150, 10.01.180, 10.04.110, 10.10.060, 10.16.080, 10.16.110,
4 10.16.145, 10.16.150, 10.19.040, 10.19.060, 10.22.010, 10.22.020,
5 10.25.070, 10.27.060, 10.27.070, 10.27.080, 10.27.090, 10.27.100,
6 10.27.120, 10.27.130, 10.27.140, 10.27.150, 10.29.050, 10.29.110,
7 10.31.030, 10.31.040, 10.31.050, 10.31.060, 10.34.010, 10.34.020,
8 10.34.030, 10.37.040, 10.37.050, 10.40.050, 10.40.060, 10.40.140,
9 10.40.170, 10.43.040, 10.43.050, 10.46.060, 10.46.110, 10.46.200,
10 10.46.220, 10.52.060, 10.52.090, 10.55.020, 10.55.060, 10.55.100,
11 10.58.020, 10.58.030, 10.61.006, 10.64.060, 10.64.070, 10.70.010,
12 10.70.020, 10.73.040, 10.79.020, 10.79.040, 10.79.050, 10.82.030,
13 10.82.040, 10.88.210, 10.88.220, 10.88.230, 10.88.240, 10.88.260,
14 10.88.270, 10.88.290, 10.88.300, 10.88.310, 10.88.320, 10.88.330,
15 10.88.340, 10.88.350, 10.88.360, 10.88.370, 10.88.380, 10.88.390,
16 10.88.400, 10.88.410, 10.88.420, 10.88.430, 10.88.450, 10.89.020,
17 10.91.010, 10.91.020, 10.91.030, 10.91.050, 10.97.080, 10.97.110,
18 10.97.120, 11.04.015, 11.04.035, 11.04.041, 11.04.085, 11.04.250,
19 11.08.111, 11.08.180, 11.08.200, 11.08.230, 11.08.240, 11.12.030,
20 11.12.060, 11.12.170, 11.12.190, 11.20.010, 11.20.020, 11.28.110,
21 11.28.190, 11.28.230, 11.28.250, 11.28.290, 11.28.300, 11.28.330,

1	11.28.340,	11.32.010,	11.32.020,	11.32.030,	11.32.040,	11.32.060,
2	11.48.020,	11.48.025,	11.48.030,	11.48.040,	11.48.050,	11.48.060,
3	11.48.070,	11.48.080,	11.48.120,	11.48.140,	11.48.160,	11.48.180,
4	11.48.200,	11.48.210,	11.56.040,	11.56.045,	11.56.070,	11.56.100,
5	11.56.110,	11.56.180,	11.56.210,	11.56.230,	11.60.040,	11.60.060,
6	11.64.008,	11.64.030,	11.66.010,	11.68.070,	11.68.100,	11.68.120,
7	11.72.002,	11.76.010,	11.76.030,	11.76.040,	11.76.050,	11.76.060,
8	11.76.070,	11.76.100,	11.76.110,	11.76.150,	11.76.160,	11.76.170,
9	11.76.190,	11.76.210,	11.76.230,	11.76.240,	11.76.243,	11.76.245,
10	11.80.020,	11.80.030,	11.80.040,	11.80.060,	11.80.080,	11.80.090,
11	11.80.100,	11.80.110,	11.84.060,	11.84.900,	11.88.100,	11.88.150,
12	11.92.115,	11.98.070,	11.106.030,	11.110.100,	11.110.110,	11.110.120,
13	12.04.020,	12.04.030,	12.04.040,	12.04.060,	12.04.070,	12.04.080,
14	12.04.090,	12.04.110,	12.04.120,	12.04.160,	12.04.170,	12.04.180,
15	12.04.190,	12.04.201,	12.04.203,	12.04.206,	12.04.207,	12.08.040,
16	12.08.060,	12.08.070,	12.08.080,	12.08.090,	12.08.100,	12.08.120,
17	12.12.080,	12.12.090,	12.16.020,	12.16.030,	12.16.040,	12.16.050,
18	12.16.060,	12.16.080,	12.16.090,	12.20.010,	12.20.020,	12.20.040,
19	12.20.070,	12.40.025,	13.04.050,	13.04.180,	13.20.020,	13.20.030,
20	13.24.050,	14.08.290,	14.08.112,	14.12.030,	14.12.110,	14.12.140,
21	14.16.010,	14.16.030,	14.16.040,	14.20.030,	14.20.050,	14.20.070,
22	14.20.090,	14.20.100,	15.04.090,	15.04.110,	15.04.160,	15.08.010,
23	15.08.040,	15.08.080,	15.08.090,	15.08.100,	15.08.120,	15.08.140,
24	15.08.150,	15.08.160,	15.08.180,	15.08.190,	15.08.250,	15.09.040,
25	15.09.050,	15.09.080,	15.09.100,	15.24.120,	15.24.130,	15.24.150,
26	15.24.210,	15.26.030,	15.26.040,	15.26.050,	15.26.060,	15.26.080,
27	15.26.110,	15.26.170,	15.26.180,	15.26.190,	15.26.210,	15.26.230,
28	15.26.240,	15.28.030,	15.28.100,	15.28.150,	15.28.190,	15.28.210,
29	15.28.220,	15.28.230,	15.28.260,	15.28.280,	15.28.310,	15.30.010,
30	15.30.030,	15.30.070,	15.30.080,	15.37.010,	15.37.040,	15.37.060,
31	15.37.070,	15.37.120,	15.44.027,	15.44.050,	15.44.060,	15.44.090,
32	15.44.100,	15.49.101,	15.49.111,	15.49.380,	15.49.400,	15.58.100,
33	15.58.280,	15.64.010,	15.65.100,	15.65.110,	15.65.130,	15.65.160,
34	15.65.190,	15.65.210,	15.65.280,	15.65.290,	15.65.320,	15.65.330,
35	15.65.340,	15.65.390,	15.65.400,	15.65.410,	15.65.420,	15.65.440,
36	15.65.480,	15.65.490,	15.65.500,	15.65.520,	15.65.530,	15.65.540,
37	15.65.550,	15.65.590,	15.66.200,	15.66.210,	15.66.230,	15.66.240,
38	15.70.020,	15.70.030,	15.70.040,	15.76.170,	15.80.320,	15.80.460,

1	15.80.470,	15.80.480,	15.80.490,	15.80.500,	15.80.510,	15.80.550,
2	15.80.590,	15.80.610,	15.80.620,	15.80.630,	15.80.640,	15.88.070,
3	15.100.080,	43.21A.405,	43.21C.030,	44.39.060,	46.01.250,	46.09.080,
4	46.10.120,	46.10.220,	46.12.130,	46.12.240,	46.12.280,	46.12.300,
5	46.12.320,	46.16.025,	46.16.047,	46.16.210,	46.16.230,	46.16.260,
6	46.16.371,	46.16.505,	46.16.595,	46.20.017,	46.20.024,	46.20.220,
7	46.20.325,	46.20.327,	46.20.332,	46.20.333,	46.20.334,	46.20.349,
8	46.29.040,	46.29.050,	46.29.070,	46.29.080,	46.29.120,	46.29.140,
9	46.29.160,	46.29.170,	46.29.180,	46.29.190,	46.29.230,	46.29.290,
10	46.29.310,	46.29.360,	46.29.450,	46.29.470,	46.29.490,	46.29.510,
11	46.29.540,	46.29.550,	46.29.560,	46.29.570,	46.29.600,	46.32.010,
12	46.32.020,	46.37.380,	46.37.423,	46.37.424,	46.37.550,	46.37.560,
13	46.37.590,	46.44.047,	46.52.050,	46.52.070,	46.55.030,	46.55.085,
14	46.55.200,	46.55.240,	46.61.024,	46.61.035,	46.61.202,	46.61.255,
15	46.61.350,	46.61.385,	46.61.519,	46.61.600,	46.61.613,	46.61.614,
16	46.61.615,	46.61.765,	46.63.020,	46.65.020,	46.65.080,	46.65.100,
17	46.68.080,	46.70.075,	46.70.102,	46.70.111,	46.70.190,	46.70.220,
18	46.70.230,	46.70.250,	46.72.040,	46.72.060,	46.72.110,	46.76.010,
19	46.76.060,	46.79.030,	46.79.040,	46.79.060,	46.80.010,	46.80.030,
20	46.82.300,	46.85.020,	46.87.360,	46.96.150,	47.01.070,	47.10.150,
21	47.12.023,	47.12.160,	47.12.230,	47.12.283,	47.26.150,	47.26.4254,
22	47.28.080,	47.32.060,	47.32.070,	47.32.090,	47.36.110,	47.36.200,
23	47.41.040,	47.42.080,	47.42.103,	47.52.150,	47.52.170,	47.60.310,
24	47.64.130,	47.64.250,	47.68.330,	47.68.340,	48.08.090,	48.08.130,
25	48.18A.060,	48.30.120,	48.34.100,	48.56.110,	48.64.130,	49.08.010,
26	49.08.020,	49.08.050,	49.12.050,	49.17.020,	49.17.050,	49.17.060,
27	49.17.080,	49.17.090,	49.17.100,	49.17.110,	49.17.130,	49.17.160,
28	49.17.170,	49.17.180,	49.17.190,	49.17.200,	49.17.220,	49.17.240,
29	49.17.260,	49.24.020,	49.24.040,	49.24.180,	49.24.190,	49.24.230,
30	49.24.370,	49.26.010,	49.32.020,	49.32.030,	49.32.080,	49.32.110,
31	49.36.015,	49.40.040,	49.40.050,	49.40.060,	49.44.020,	49.44.030,
32	49.44.060,	49.44.080,	49.46.010,	49.46.040,	49.46.070,	49.46.090,
33	49.46.100,	49.46.130,	49.46.160,	49.48.010,	49.48.030,	49.48.050,
34	49.48.060,	49.48.090,	49.48.150,	49.52.010,	49.52.020,	49.52.050,
35	49.52.070,	49.52.090,	49.56.010,	49.56.020,	49.56.030,	49.64.030,
36	49.66.030,	49.66.050,	49.66.060,	49.66.080,	49.66.090,	49.66.100,
37	49.70.170,	50.01.010,	50.04.040,	50.04.230,	50.04.235,	50.04.290,
38	50.04.320,	50.04.330,	50.04.340,	50.04.350,	50.06.030,	50.08.010,

1 50.08.020, 50.12.010, 50.12.060, 50.12.080, 50.12.120, 50.12.150,
2 50.12.160, 50.12.170, 50.16.050, 50.20.020, 50.20.130, 50.20.150,
3 50.20.170, 50.20.180, 50.22.040, 50.24.040, 50.24.050, 50.24.080,
4 50.24.090, 50.24.100, 50.24.115, 50.24.140, 50.24.150, 50.29.080,
5 50.32.010, 50.32.080, 50.32.110, 50.32.150, 50.36.030, 50.40.020,
6 50.44.040, 50.44.060, 50.44.070, 50.72.060, 51.04.110, 51.12.080,
7 51.14.040, 51.14.050, 51.14.100, 51.16.150, 51.16.170, 51.32.025,
8 51.32.230, 51.44.120, 51.48.017, 51.48.250, 51.52.102, 51.52.106,
9 52.04.111, 52.12.031, 52.14.080, 53.08.091, 53.08.208, 53.08.390,
10 53.12.265, 53.18.030, 53.25.020, 53.25.150, 53.25.160, 53.34.020,
11 53.34.140, 53.36.010, 53.36.050, 53.36.060, 53.46.030, 53.46.080,
12 53.46.090, 53.47.030, 53.47.040, 53.49.020, 54.04.060, 54.04.120,
13 54.04.140, 54.08.010, 54.08.070, 54.12.100, 54.16.097, 54.16.150,
14 54.40.050, 58.08.035, 58.09.030, 58.09.040, 58.09.090, 58.17.210,
15 58.28.030, 58.28.070, 58.28.080, 58.28.090, 58.28.140, 58.28.220,
16 58.28.240, 58.28.280, 58.28.290, 58.28.300, 58.28.310, 58.28.350,
17 58.28.390, 58.28.410, 58.28.460, 58.28.470, 58.28.480, 58.28.500,
18 58.28.510, 59.04.040, 59.04.050, 59.08.030, 59.08.040, 59.08.070,
19 59.12.035, 59.12.040, 59.12.060, 59.12.080, 59.12.090, 59.12.100,
20 59.12.121, 59.12.140, 59.12.170, 59.12.190, 59.16.020, 59.16.030,
21 59.18.070, 59.18.080, 59.18.090, 59.18.100, 59.18.140, 59.18.190,
22 59.18.230, 59.18.240, 59.18.250, 59.18.280, 59.18.290, 59.18.300,
23 59.18.340, 59.18.350, 59.18.380, 59.18.410, 59.20.090, and 59.20.140;
24 reenacting and amending RCW 15.35.240; and providing an effective date.

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

26 **PART I**

27 **Sec. 1001.** RCW 10.01.050 and Code 1881 s 770 are each amended to
28 read as follows:

29 No person charged with any offense against the law shall be
30 punished for such offense, unless he or she shall have been duly and
31 legally convicted thereof in a court having competent jurisdiction of
32 the case and of the person.

33 **Sec. 1002.** RCW 10.01.060 and 1951 c 52 s 1 are each amended to
34 read as follows:

1 No person informed against or indicted for a crime shall be
2 convicted thereof, unless by admitting the truth of the charge in his
3 or her plea, by confession in open court, or by the verdict of a jury,
4 accepted and recorded by the court: PROVIDED HOWEVER, That except in
5 capital cases, where the person informed against or indicted for a
6 crime is represented by counsel, such person may, with the assent of
7 the court, waive trial by jury and submit to trial by the court.

8 **Sec. 1003.** RCW 10.01.120 and Code 1881 s 1136 are each amended to
9 read as follows:

10 Whenever a prisoner has been sentenced to death, the governor shall
11 have power to commute such sentence to imprisonment for life at hard
12 labor; and in all cases in which the governor is authorized to grant
13 pardons or commute sentence of death, he or she may, upon the petition
14 of the person convicted, commute a sentence or grant a pardon, upon
15 such conditions, and with such restrictions, and under such limitations
16 as he or she may think proper; and he or she may issue his or her
17 warrant to all proper officers to carry into effect such pardon or
18 commutation, which warrant shall be obeyed and executed, instead of the
19 sentence, if any, which was originally given. The governor may also,
20 on good cause shown, grant respites or reprieves from time to time as
21 he or she may think proper.

22 **Sec. 1004.** RCW 10.01.140 and 1895 c 10 s 2 are each amended to
23 read as follows:

24 No allowance of mileage shall be made to a juror or witness who has
25 not verified his or her claim of mileage under oath before the clerk of
26 the court on which he or she is in attendance.

27 **Sec. 1005.** RCW 10.01.150 and 1999 c 163 s 6 are each amended to
28 read as follows:

29 Whenever a state officer or employee is charged with a criminal
30 offense arising out of the performance of an official act which was
31 fully in conformity with established written rules, policies, and
32 guidelines of the state or state agency, the employing agency may
33 request the attorney general to defend the officer or employee. If the
34 agency finds, and the attorney general concurs, that the officer's or
35 employee's conduct was fully in accordance with established written

1 rules, policies, and guidelines of the state or a state agency and the
2 act performed was within the scope of employment, then the request
3 shall be granted and the costs of defense shall be paid by the
4 requesting agency: PROVIDED, HOWEVER, If the agency head is the person
5 charged, then approval must be obtained from both the attorney general
6 and the state auditor. If the court finds that the officer or employee
7 was performing an official act, or was within the scope of employment,
8 and that his or her actions were in conformity with the established
9 rules, regulations, policies, and guidelines of the state and the state
10 agency, the cost of any monetary fine assessed shall be paid from the
11 liability account.

12 **Sec. 1006.** RCW 10.01.180 and 1989 c 373 s 13 are each amended to
13 read as follows:

14 (1) A defendant sentenced to pay a fine or costs who defaults in
15 the payment thereof or of any installment is in contempt of court as
16 provided in chapter 7.21 RCW. The court may issue a warrant of arrest
17 for his or her appearance.

18 (2) When a fine or assessment of costs is imposed on a corporation
19 or unincorporated association, it is the duty of the person authorized
20 to make disbursement from the assets of the corporation or association
21 to pay the fine or costs from those assets, and his or her failure to
22 do so may be held to be contempt.

23 (3) If a term of imprisonment for contempt for nonpayment of a fine
24 or costs is ordered, the term of imprisonment shall be set forth in the
25 commitment order, and shall not exceed one day for each twenty-five
26 dollars of the fine or costs, thirty days if the fine or assessment of
27 costs was imposed upon conviction of a violation or misdemeanor, or one
28 year in any other case, whichever is the shorter period. A person
29 committed for nonpayment of a fine or costs shall be given credit
30 toward payment for each day of imprisonment at the rate specified in
31 the commitment order.

32 (4) If it appears to the satisfaction of the court that the default
33 in the payment of a fine or costs is not contempt, the court may enter
34 an order allowing the defendant additional time for payment, reducing
35 the amount thereof or of each installment or revoking the fine or costs
36 or the unpaid portion thereof in whole or in part.

1 (5) A default in the payment of a fine or costs or any installment
2 thereof may be collected by any means authorized by law for the
3 enforcement of a judgment. The levy of execution for the collection of
4 a fine or costs shall not discharge a defendant committed to
5 imprisonment for contempt until the amount of the fine or costs has
6 actually been collected.

7 **Sec. 1007.** RCW 10.04.110 and 1987 c 202 s 153 are each amended to
8 read as follows:

9 In all cases of conviction, unless otherwise provided in this
10 chapter, the judge shall enter judgment for the fine and costs against
11 the defendant, and may commit him or her to jail until the amount of
12 such fine and costs owing are paid, or the payment thereof be secured
13 as provided by RCW 10.04.120. The amount of such fine and costs owing
14 shall be computed as provided for superior court cases in RCW 10.82.030
15 and 10.82.040. Further proceedings therein shall be had as in like
16 cases in the superior court: PROVIDED, That all fees, fines,
17 forfeitures and penalties collected or assessed by a district court
18 because of the violation of a state law shall be remitted as provided
19 in chapter 3.62 RCW as now exists or is later amended.

20 **Sec. 1008.** RCW 10.10.060 and 1891 c 29 s 7 are each amended to
21 read as follows:

22 The appellant in a criminal action shall not be required to advance
23 any fees in claiming his or her appeal nor in prosecuting the same; but
24 if convicted in the appellate court, or if sentenced for failing to
25 prosecute his or her appeal, he or she may be required as a part of the
26 sentence to pay the costs of the prosecution. If the appellant shall
27 fail to enter and prosecute his or her appeal he or she shall be
28 defaulted of his or her recognizance, if any was taken, and the
29 superior court may award sentence against him or her for the offense
30 whereof he or she was convicted in like manner as if he or she had been
31 convicted thereof in that court; and if he or she be not then in
32 custody process may be issued to bring him or her into court to receive
33 sentence.

34 **Sec. 1009.** RCW 10.16.080 and Code 1881 s 1925 are each amended to
35 read as follows:

1 If it should appear upon the whole examination that no offense has
2 been committed, or that there is not probable cause for charging the
3 defendant with an offense, he or she shall be discharged, and if in the
4 opinion of the magistrate, the complaint was malicious, or without
5 probable cause, and there was no reasonable ground therefor, the costs
6 shall be taxed against the party making the complaint.

7 **Sec. 1010.** RCW 10.16.110 and 1890 p 102 s 6 are each amended to
8 read as follows:

9 It shall be the duty of the prosecuting attorney of the proper
10 county to inquire into and make full examination of all the facts and
11 circumstances connected with any case of preliminary examination, as
12 provided by law, touching the commission of any offense wherein the
13 offender shall be committed to jail, or become recognized or held to
14 bail; and if the prosecuting attorney shall determine in any such case
15 that an information ought not to be filed, he or she shall make,
16 subscribe, and file with the clerk of the court a statement in writing
17 containing his or her reasons, in fact and in law, for not filing an
18 information in such case, and such statement shall be filed at and
19 during the session of court at which the offender shall be held for his
20 or her appearance: PROVIDED, That in such case such court may examine
21 such statement, together with the evidence filed in the case, and if
22 upon such examination the court shall not be satisfied with such
23 statement, the prosecuting attorney shall be directed by the court to
24 file the proper information and bring the case to trial.

25 **Sec. 1011.** RCW 10.16.145 and Code 1881 s 1930 are each amended to
26 read as follows:

27 If the magistrate shall be satisfied that there is good cause to
28 believe that any such witness will not perform the condition of his or
29 her recognizance unless other security be given, such magistrate may
30 order the witness to enter into recognizance with such sureties as may
31 be deemed necessary for his or her appearance at court.

32 **Sec. 1012.** RCW 10.16.150 and 1973 1st ex.s. c 154 s 19 are each
33 amended to read as follows:

34 When any minor is a material witness, any other person may be
35 allowed to recognize for the appearance of such witness, or the

1 magistrate may, in his or her discretion, take the recognizance of such
2 minor in a sum not exceeding fifty dollars which shall be valid and
3 binding in law, notwithstanding the disability of minority.

4 **Sec. 1013.** RCW 10.19.040 and Code 1881 s 1034 are each amended to
5 read as follows:

6 Any officer authorized to execute a warrant in a criminal action,
7 may take the recognizance and justify and approve the bail; he or she
8 may administer an oath and examine the bail as to its sufficiency.

9 **Sec. 1014.** RCW 10.19.060 and Code 1881 s 1035 are each amended to
10 read as follows:

11 Every recognizance taken by any peace officer must be certified by
12 him or her forthwith to the clerk of the court to which the defendant
13 is recognized. The clerk must thereupon record the recognizance in the
14 order book, and, from the time of filing, it has the same effect as if
15 taken in open court.

16 **Sec. 1015.** RCW 10.22.010 and 2008 c 276 s 308 are each amended to
17 read as follows:

18 When a defendant is prosecuted in a criminal action for a
19 misdemeanor, other than a violation of RCW 9A.48.105, for which the
20 person injured by the act constituting the offense has a remedy by a
21 civil action, the offense may be compromised as provided in RCW
22 10.22.020, except when it was committed:

23 (1) By or upon an officer while in the execution of the duties of
24 his or her office;

25 (2) Riotously;

26 (3) With an intent to commit a felony; or

27 (4) By one family or household member against another as defined in
28 RCW 10.99.020 and was a crime of domestic violence as defined in RCW
29 10.99.020.

30 **Sec. 1016.** RCW 10.22.020 and 1891 c 28 s 63 are each amended to
31 read as follows:

32 In such case, if the party injured appear in the court in which the
33 cause is pending at any time before the final judgment therein, and
34 acknowledge, in writing, that he or she has received satisfaction for

1 the injury, the court may, in its discretion, on payment of the costs
2 incurred, order all proceedings to be discontinued and the defendant to
3 be discharged. The reasons for making the order must be set forth
4 therein and entered in the minutes. Such order is a bar to another
5 prosecution for the same offense.

6 **Sec. 1017.** RCW 10.25.070 and 1891 c 28 s 7 are each amended to
7 read as follows:

8 The defendant may show to the court, by affidavit, that he or she
9 believes he or she cannot receive a fair trial in the county where the
10 action is pending, owing to the prejudice of the judge, or to
11 excitement or prejudice against the defendant in the county or some
12 part thereof, and may thereupon demand to be tried in another county.
13 The application shall not be granted on the ground of excitement or
14 prejudice other than prejudice of the judge, unless the affidavit of
15 the defendant be supported by other evidence, nor in any case unless
16 the judge is satisfied the ground upon which the application is made
17 does exist.

18 **Sec. 1018.** RCW 10.27.060 and 1971 ex.s. c 67 s 6 are each amended
19 to read as follows:

20 Neither the grand jury panel nor any individual grand juror may be
21 challenged, but the court may:

22 (1) At any time before a grand jury is sworn discharge the panel
23 and summon another if it finds that the original panel does not
24 substantially conform to the requirements of chapter 2.36 RCW; or

25 (2) At any time after a grand juror is drawn, refuse to swear him
26 or her, or discharge him or her after he or she has been sworn, upon a
27 finding that he or she is disqualified from service pursuant to chapter
28 2.36 RCW, or incapable of performing his or her duties because of bias
29 or prejudice, or guilty of misconduct in the performance of his or her
30 duties such as to impair the proper functioning of the grand jury.

31 **Sec. 1019.** RCW 10.27.070 and 1971 ex.s. c 67 s 7 are each amended
32 to read as follows:

33 (1) When the grand jury is impaneled, the court shall appoint one
34 of the jurors to be (~~foreman~~) foreperson, and also another of the

1 jurors to act as ((foreman)) foreperson in case of the absence of the
2 ((foreman)) foreperson.

3 (2) The grand jurors must be sworn pursuant to the following oath:
4 "You, as grand jurors for the county of, do solemnly swear
5 (or affirm) that you will diligently inquire into and true presentment
6 make of all such matters and things as shall come to your knowledge and
7 you will submit things truly as they come to your knowledge, according
8 to your charge the laws of this state and your understanding; you shall
9 indict no person through envy, hatred, malice or political
10 consideration; neither will you leave any person unindicted through
11 fear, favor, affection, reward or the hope thereof or political
12 consideration. The counsel of the state, his or her advice, and that
13 of your fellows you shall keep secret."

14 (3) After a grand jury has been sworn, the court must deliver or
15 cause to be delivered to each grand juror a printed copy of all the
16 provisions of this chapter, and the court may give the grand jurors any
17 oral or written instructions, or both, relating to the proper
18 performance of their duties at any time it deems necessary or
19 appropriate.

20 (4) The court shall appoint a reporter to record the proceedings
21 before the grand jury or special inquiry judge, and shall swear him or
22 her not to disclose any testimony or the name of any witness except as
23 provided in RCW 10.27.090. In addition, the ((foreman)) foreperson of
24 the grand jury may, in his or her discretion, select one of the grand
25 jurors to act as secretary to keep records of the grand jury's
26 business.

27 (5) The court, whenever necessary, shall appoint an interpreter,
28 and shall swear him or her not to disclose any testimony or the name of
29 any witness except as provided in RCW 10.27.090.

30 (6) When a person held in official custody is a witness before a
31 grand jury or special inquiry judge, a public servant, assigned to
32 guard him or her during his or her appearance may accompany him or her.
33 The court shall swear such public servant not to disclose any testimony
34 or the name of any witness except as provided in RCW 10.27.090.

35 (7) Proceedings of a grand jury shall not be valid unless at least
36 twelve of its members are present. The ((foreman)) foreperson or
37 acting ((foreman)) foreperson of the grand jury shall conduct

1 proceedings in an orderly manner and shall administer an oath or
2 affirmation in the manner prescribed by law to any witness who shall
3 testify before the grand jury.

4 (8) The legal advisers of a grand jury are the court and public
5 attorneys, and a grand jury may not seek or receive legal advice from
6 any other source. When necessary or appropriate, the court or public
7 attorneys or both must instruct the grand jury concerning the law with
8 respect to its duties or any matter before it, and such instructions
9 shall be recorded by the reporter.

10 (9)(a) Upon request of the prosecuting attorney of the county in
11 which a grand jury or special inquiry judge is impaneled, the attorney
12 general shall assist such prosecuting attorney in attending such grand
13 jury or special inquiry judge.

14 (b) Whenever directed by the court, the attorney general shall
15 supersede the prosecuting attorney in attending the grand jury and in
16 which event the attorney general shall be responsible for the
17 prosecution of any indictment returned by the grand jury.

18 (c) When the attorney general is conducting a criminal
19 investigation pursuant to powers otherwise granted to him or her, he or
20 she shall attend all grand juries or special inquiry judges in relation
21 thereto and shall prosecute any indictments returned by a grand jury.

22 (10) After consulting with the court and receiving its approval,
23 the grand jury may request the governor to appoint a special prosecutor
24 to attend the grand jury. The grand jury shall in the request nominate
25 three persons approved by the court. From those nominated, the
26 governor shall appoint a special prosecutor, who shall supersede the
27 prosecuting attorney and the attorney general and who shall be
28 responsible for the prosecution of any indictments returned by the
29 grand jury attended by him or her.

30 (11) A public attorney shall attend the grand jurors when requested
31 by them, and he or she may do so on his or her own motion within the
32 limitations of RCW 10.27.020(2), 10.27.070(9) and 10.27.070(10) hereof,
33 for the purpose of examining witnesses in their presence, or of giving
34 the grand jurors legal advice regarding any matter cognizable by them.
35 He or she shall also, when requested by them, draft indictments and
36 issue process for the attendance of witnesses.

37 (12) Subject to the approval of the court, the corporation counsel
38 or city attorney for any city or town in the county where any grand

1 jury has been convened may appear as a witness before the grand jury to
2 advise the grand jury of any criminal activity or corruption within his
3 or her jurisdiction.

4 **Sec. 1020.** RCW 10.27.080 and 1971 ex.s. c 67 s 8 are each amended
5 to read as follows:

6 No person shall be present at sessions of the grand jury or special
7 inquiry judge except the witness under examination and his or her
8 attorney, public attorneys, the reporter, an interpreter, a public
9 servant guarding a witness who has been held in custody, if any, and,
10 for the purposes provided for in RCW 10.27.170, any corporation counsel
11 or city attorney. The attorney advising the witness shall only advise
12 such witness concerning his or her right to answer or not answer any
13 questions and the form of his or her answer and shall not otherwise
14 engage in the proceedings. No person other than grand jurors shall be
15 present while the grand jurors are deliberating or voting. Any person
16 violating either of the above provisions may be held in contempt of
17 court.

18 **Sec. 1021.** RCW 10.27.090 and 1971 ex.s. c 67 s 9 are each amended
19 to read as follows:

20 (1) Every member of the grand jury shall keep secret whatever he,
21 she, or any other grand juror has said, and how he, she, or any other
22 grand juror has voted, except for disclosure of indictments, if any, as
23 provided in RCW 10.27.150.

24 (2) No grand juror shall be permitted to state or testify in any
25 court how he, she, or any other grand juror voted on any question
26 before them or what opinion was expressed by himself, herself, or any
27 other grand juror regarding such question.

28 (3) No grand juror, public or private attorney, city attorney or
29 corporation counsel, reporter, interpreter or public servant who held
30 a witness in custody before a grand jury or special inquiry judge, or
31 witness, principal or other person shall disclose the testimony of a
32 witness examined before the grand jury or special inquiry judge or
33 other evidence received by it, except when required by the court to
34 disclose the testimony of the witness examined before the grand jury or
35 special inquiry judge for the purpose of ascertaining whether it is
36 consistent with that of the witness given before the court, or to

1 disclose his or her testimony given before the grand jury or special
2 inquiry judge by any person upon a charge against such person for
3 perjury in giving his or her testimony or upon trial therefor, or when
4 permitted by the court in furtherance of justice.

5 (4) The public attorney shall have access to all grand jury and
6 special inquiry judge evidence and may introduce such evidence before
7 any other grand jury or any trial in which the same may be relevant.

8 (5) The court upon a showing of good cause may make any or all
9 grand jury or special inquiry judge evidence available to any other
10 public attorney, prosecuting attorney, city attorney or corporation
11 counsel upon proper application and with the concurrence of the public
12 attorney attending such grand jury. Any witness' testimony, given
13 before a grand jury or a special inquiry judge and relevant to any
14 subsequent proceeding against the witness, shall be made available to
15 the witness upon proper application to the court. The court may also,
16 upon proper application and upon a showing of good cause, make
17 available to a defendant in a subsequent criminal proceeding other
18 testimony or evidence:

19 (a) When given or presented before a special inquiry judge, if
20 doing so is in the furtherance of justice; or

21 (b) When given or presented before a grand jury, if the court finds
22 that doing so is necessary to prevent an injustice and that there is no
23 reason to believe that doing so would endanger the life or safety of
24 any witness or his or her family. The cost of any such transcript made
25 available shall be borne by the applicant.

26 **Sec. 1022.** RCW 10.27.100 and 1971 ex.s. c 67 s 10 are each amended
27 to read as follows:

28 The grand jurors shall inquire into every offense triable within
29 the county for which any person has been held to answer, if an
30 indictment has not been found or an information filed in such case, and
31 all other indictable offenses within the county which are presented to
32 them by a public attorney or otherwise come to their knowledge. If a
33 grand juror knows or has reason to believe that an indictable offense,
34 triable within the county, has been committed, he or she shall declare
35 such a fact to his or her fellow jurors who may begin an investigation.
36 In such investigation the grand juror may be sworn as a witness.

1 **Sec. 1023.** RCW 10.27.120 and 1971 ex.s. c 67 s 12 are each amended
2 to read as follows:

3 Any individual called to testify before a grand jury or special
4 inquiry judge, whether as a witness or principal, if not represented by
5 an attorney appearing with the witness before the grand jury or special
6 inquiry judge, must be told of his or her privilege against self-
7 incrimination. Such an individual has a right to representation by an
8 attorney to advise him or her as to his or her rights, obligations, and
9 duties before the grand jury or special inquiry judge, and must be
10 informed of this right. The attorney may be present during all
11 proceedings attended by his or her client unless immunity has been
12 granted pursuant to RCW 10.27.130. After immunity has been granted,
13 such an individual may leave the grand jury room to confer with his or
14 her attorney.

15 **Sec. 1024.** RCW 10.27.130 and 1971 ex.s. c 67 s 13 are each amended
16 to read as follows:

17 If in any proceedings before a grand jury or special inquiry judge,
18 a person refuses, or indicates in advance a refusal, to testify or
19 provide evidence of any other kind on the ground that he or she may be
20 incriminated thereby, and if a public attorney requests the court to
21 order that person to testify or provide the evidence, the court shall
22 then hold a hearing and shall so order unless it finds that to do so
23 would be clearly contrary to the public interest, and that person shall
24 comply with the order. The hearing shall be subject to the provisions
25 of RCW 10.27.080 and 10.27.090, unless the witness shall request that
26 the hearing be public.

27 If, but for this section, he or she would have been privileged to
28 withhold the answer given or the evidence produced by him or her, the
29 witness may not refuse to comply with the order on the basis of his or
30 her privilege against self-incrimination; but he or she shall not be
31 prosecuted or subjected to criminal penalty or forfeiture for or on
32 account of any transaction, matter, or fact concerning which he or she
33 has been ordered to testify pursuant to this section. He or she may
34 nevertheless be prosecuted for failing to comply with the order to
35 answer, or for perjury or for offering false evidence to the grand
36 jury.

1 **Sec. 1025.** RCW 10.27.140 and 1971 ex.s. c 67 s 14 are each amended
2 to read as follows:

3 (1) Except as provided in this section, no person has the right to
4 appear as a witness in a grand jury or special inquiry judge
5 proceeding.

6 (2) A public attorney may call as a witness in a grand jury or
7 special inquiry judge proceeding any person believed by him or her to
8 possess information or knowledge relevant thereto and may issue legal
9 process and subpoena to compel his or her attendance and the production
10 of evidence.

11 (3) The grand jury or special inquiry judge may cause to be called
12 as a witness any person believed by it to possess relevant information
13 or knowledge. If the grand jury or special inquiry judge desires to
14 hear any such witness who was not called by a public attorney, it may
15 direct a public attorney to issue and serve a subpoena upon such
16 witness and the public attorney must comply with such direction. At
17 any time after service of such subpoena and before the return date
18 thereof, however, the public attorney may apply to the court which
19 impaneled the grand jury for an order vacating or modifying the
20 subpoena on the grounds that such is in the public interest. Upon such
21 application, the court may in its discretion vacate the subpoena,
22 extend its return date, attach reasonable conditions to directions, or
23 make such other qualification thereof as is appropriate.

24 (4) The proceedings to summon a person and compel him or her to
25 testify or provide evidence shall as far as possible be the same as
26 proceedings to summon witnesses and compel their attendance. Such
27 persons shall receive only those fees paid witnesses in superior court
28 criminal trials.

29 **Sec. 1026.** RCW 10.27.150 and 1971 ex.s. c 67 s 15 are each amended
30 to read as follows:

31 After hearing, examining, and investigating the evidence before it,
32 a grand jury may, in its discretion, issue an indictment against a
33 principal. A grand jury shall find an indictment only when from all
34 the evidence at least three-fourths of the jurors are convinced that
35 there is probable cause to believe a principal is guilty of a criminal
36 offense. When an indictment is found by a grand jury the ((foreman))

1 foreperson or acting (~~foreman~~) foreperson shall present it to the
2 court.

3 **Sec. 1027.** RCW 10.29.050 and 1980 c 146 s 5 are each amended to
4 read as follows:

5 A statewide special inquiry judge shall have the following powers
6 and duties:

7 (1) To hear and receive evidence of crime and corruption.

8 (2) To appoint a reporter to record the proceedings; and to swear
9 the reporter not to disclose any testimony or the name of any witness
10 except as provided in RCW 10.27.090.

11 (3) Whenever necessary, to appoint an interpreter, and to swear him
12 or her not to disclose any testimony or the name of any witness except
13 as provided in RCW 10.27.090.

14 (4) When a person held in official custody is a witness before a
15 statewide special inquiry judge, a public servant, assigned to guard
16 him or her during his or her appearance may accompany him or her. The
17 statewide special inquiry judge shall swear such public servant not to
18 disclose any testimony or the name of any witness except as provided in
19 RCW 10.27.090.

20 (5) To cause to be called as a witness any person believed by him
21 or her to possess relevant information or knowledge. If the statewide
22 special inquiry judge desires to hear any such witness who was not
23 called by the special prosecutor, it may direct the special prosecutor
24 to issue and serve a subpoena upon such witness and the special
25 prosecutor must comply with such direction. At any time after service
26 of such subpoena and before the return date thereof, however, the
27 special prosecutor may apply to the statewide special inquiry judge for
28 an order vacating or modifying the subpoena on the grounds that such is
29 in the public interest. Upon such application, the statewide special
30 inquiry judge may in its discretion vacate the subpoena, extend its
31 return date, attach reasonable conditions to directions, or make such
32 other qualification thereof as is appropriate.

33 (6) Upon a showing of good cause may make available any or all
34 evidence obtained to any other public attorney, prosecuting attorney,
35 city attorney, or corporation counsel upon proper application and with
36 the concurrence of the special prosecutor. Any witness' testimony,
37 given before a statewide special inquiry judge and relevant to any

1 subsequent proceeding against the witness, shall be made available to
2 the witness upon proper application to the statewide special inquiry
3 judge. The statewide special inquiry judge may also, upon proper
4 application and upon a showing of good cause, make available to a
5 defendant in a subsequent criminal proceeding other testimony or
6 evidence when given or presented before a special inquiry judge, if
7 doing so is in the furtherance of justice.

8 (7) Have authority to perform such other duties as may be required
9 to effectively implement this chapter, in accord with rules adopted by
10 the supreme court relating to these proceedings.

11 (8) Have authority to hold in contempt of court any person who
12 shall disclose the name or testimony of a witness examined before a
13 statewide special inquiry judge except when required by a court to
14 disclose the testimony given before such statewide special inquiry
15 judge in a subsequent criminal proceeding.

16 **Sec. 1028.** RCW 10.29.110 and 1980 c 146 s 11 are each amended to
17 read as follows:

18 The special prosecutor or his or her designee shall:

- 19 (1) Attend all proceedings of the statewide special inquiry judge;
20 (2) Have the authority to issue subpoenas for witnesses statewide;
21 (3) Examine witnesses, present evidence, draft reports as directed
22 by the statewide special inquiry judge, and draft and file informations
23 under RCW 10.29.120.

24 **Sec. 1029.** RCW 10.31.030 and 1970 ex.s. c 49 s 3 are each amended
25 to read as follows:

26 The officer making an arrest must inform the defendant that he or
27 she acts under authority of a warrant, and must also show the warrant:
28 PROVIDED, That if the officer does not have the warrant in his or her
29 possession at the time of arrest he or she shall declare that the
30 warrant does presently exist and will be shown to the defendant as soon
31 as possible on arrival at the place of intended confinement: PROVIDED,
32 FURTHER, That any officer making an arrest under this section shall, if
33 the person arrested wishes to deposit bail, take such person directly
34 and without delay before a judge or before an officer authorized to
35 take the recognizance and justify and approve the bail, including the
36 deposit of a sum of money equal to bail. Bail shall be the amount

1 fixed by the warrant. Such judge or authorized officer shall hold bail
2 for the legal authority within this state which issued such warrant if
3 other than such arresting authority.

4 **Sec. 1030.** RCW 10.31.040 and Code 1881 s 1170 are each amended to
5 read as follows:

6 To make an arrest in criminal actions, the officer may break open
7 any outer or inner door, or windows of a dwelling house or other
8 building, or any other inclosure, if, after notice of his or her office
9 and purpose, he or she be refused admittance.

10 **Sec. 1031.** RCW 10.31.050 and Code 1881 s 1031 are each amended to
11 read as follows:

12 If after notice of the intention to arrest the defendant, he or she
13 either flee or forcibly resist, the officer may use all necessary means
14 to effect the arrest.

15 **Sec. 1032.** RCW 10.31.060 and 1971 c 81 s 48 are each amended to
16 read as follows:

17 Whenever any person or persons shall have been indicted or accused
18 on oath of any public offense, or thereof convicted, and a warrant of
19 arrest shall have been issued, the magistrate issuing such warrant, or
20 any justice of the supreme court, or any judge of either the court of
21 appeals or superior court may indorse thereon an order signed by him or
22 her and authorizing the service thereof by telegraph or teletype, and
23 thereupon such warrant and order may be sent by telegraph or teletype
24 to any marshal, sheriff, constable or (~~police man~~) police officer, and
25 on the receipt of the telegraphic or teletype copy thereof by any such
26 officer, he or she shall have the same authority and be under the same
27 obligations to arrest, take into custody and detain the said person or
28 persons, as if the said original warrant of arrest, with the proper
29 direction for the service thereof, duly indorsed thereon, had been
30 placed in his or her hands, and the said telegraphic or teletype copy
31 shall be entitled to full faith and credit, and have the same force and
32 effect in all courts and places as the original; but prior to
33 indictment and conviction, no such order shall be made by any officer,
34 unless in his or her judgment there is probable cause to believe the
35 said accused person or persons guilty of the offense charged:

1 PROVIDED, That the making of such order by any officer aforesaid, shall
2 be prima facie evidence of the regularity thereof, and of all the
3 proceedings prior thereto. The original warrant and order, or a copy
4 thereof, certified by the officer making the order, shall be preserved
5 in the telegraph office or police agency from which the same is sent,
6 and in telegraphing or teletyping the same, the original or the said
7 certified copy may be used.

8 **Sec. 1033.** RCW 10.34.010 and Code 1881 s 1922 are each amended to
9 read as follows:

10 If any person against whom a warrant may be issued for an alleged
11 offense, committed in any county, shall either before or after the
12 issuing of such warrant, escape from, or be out of the county, the
13 sheriff or other officer to whom such warrant may be directed, may
14 pursue and apprehend the party charged, in any county in this state,
15 and for that purpose may command aid, and exercise the same authority
16 as in his or her own county.

17 **Sec. 1034.** RCW 10.34.020 and Code 1881 s 1032 are each amended to
18 read as follows:

19 If a person arrested escape or be rescued, the person from whose
20 custody he or she made his or her escape, or was rescued, may
21 immediately pursue and retake him or her at any time, and within any
22 place in the state. To retake the person escaping or rescued, the
23 person pursuing has the same power to command assistance as given in
24 cases of arrest.

25 **Sec. 1035.** RCW 10.34.030 and 1993 c 442 s 1 are each amended to
26 read as follows:

27 The governor may appoint agents to make a demand upon the executive
28 authority of any state or territory for the surrender of any fugitive
29 from justice, or any other person charged with a felony or any other
30 crime in this state. Whenever an application shall be made to the
31 governor for the appointment of an agent he or she may require the
32 official submitting the same to provide whatever information is
33 necessary prior to approval of the application.

1 (4) That the crime was committed within the jurisdiction of the
2 court, except where, as provided by law, the act, though done without
3 the county in which the court is held, is triable therein;

4 (5) That the crime was committed at some time previous to the
5 finding of the indictment or filing of the information, and within the
6 time limited by law for the commencement of an action therefor;

7 (6) That the act or omission charged as the crime is clearly and
8 distinctly set forth in ordinary and concise language, without
9 repetition, and in such a manner as to enable a person of common
10 understanding to know what is intended;

11 (7) The act or omission charged as the crime is stated with such a
12 degree of certainty as to enable the court to pronounce judgment upon
13 a conviction according to the right of the case.

14 **Sec. 1038.** RCW 10.40.050 and 1891 c 28 s 49 are each amended to
15 read as follows:

16 If he or she alleges that another name is his or her true name it
17 must be entered in the minutes of the court, and the subsequent
18 proceedings on the indictment or information may be had against him or
19 her by that name, referring also to the name by which he or she is
20 indicted or informed against.

21 **Sec. 1039.** RCW 10.40.060 and 1891 c 28 s 50 are each amended to
22 read as follows:

23 In answer to the arraignment, the defendant may move to set aside
24 the indictment or information, or he or she may demur or plead to it,
25 and is entitled to one day after arraignment in which to answer thereto
26 if he or she demands it.

27 **Sec. 1040.** RCW 10.40.140 and Code 1881 s 1053 are each amended to
28 read as follows:

29 If the demurrer is overruled the defendant has a right to put in a
30 plea. If he or she fails to do so, judgment may be rendered against
31 him or her on the demurrer, and, if necessary, a jury may be impaneled
32 to inquire and ascertain the degree of the offense.

33 **Sec. 1041.** RCW 10.40.170 and Code 1881 s 1056 are each amended to
34 read as follows:

1 The plea of guilty can only be put in by the defendant himself or
2 herself in open court.

3 **Sec. 1042.** RCW 10.43.040 and 1999 c 141 s 1 are each amended to
4 read as follows:

5 Whenever, upon the trial of any person for a crime, it appears that
6 the offense was committed in another state or country, under such
7 circumstances that the courts of this state had jurisdiction thereof,
8 and that the defendant has already been acquitted or convicted upon the
9 merits, in a judicial proceeding conducted under the criminal laws of
10 such state or country, founded upon the act or omission with respect to
11 which he or she is upon trial, such former acquittal or conviction is
12 a sufficient defense. Nothing in this section affects or prevents a
13 prosecution in a court of this state of any person who has received
14 administrative or nonjudicial punishment, civilian or military, in
15 another state or country based upon the same act or omission.

16 **Sec. 1043.** RCW 10.43.050 and 1909 c 249 s 64 are each amended to
17 read as follows:

18 No order of dismissal or directed verdict of not guilty on the
19 ground of a variance between the indictment or information and the
20 proof, or on the ground of any defect in such indictment or
21 information, shall bar another prosecution for the same offense.
22 Whenever a defendant shall be acquitted or convicted upon an indictment
23 or information charging a crime consisting of different degrees, he or
24 she cannot be proceeded against or tried for the same crime in another
25 degree, nor for an attempt to commit such crime, or any degree thereof.

26 **Sec. 1044.** RCW 10.46.060 and 1891 c 28 s 23 are each amended to
27 read as follows:

28 When a defendant is designated in the indictment or information by
29 a fictitious or erroneous name, and in any stage of the proceedings his
30 or her true name is discovered, it may be inserted in the subsequent
31 proceedings, referring to the fact of his or her being indicted or
32 informed against by the name mentioned in the indictment or
33 information.

1 **Sec. 1045.** RCW 10.46.110 and Code 1881 s 1092 are each amended to
2 read as follows:

3 When two or more persons are included in one prosecution, the court
4 may, at any time before the defendant has gone into his or her defense,
5 direct any defendant to be discharged, that he or she may be a witness
6 for the state. A defendant may also, when there is not sufficient
7 evidence to put him or her on his or her defense, at any time before
8 the evidence is closed, be discharged by the court, for the purpose of
9 giving evidence for a codefendant. The order of discharge is a bar to
10 another prosecution for the same offense.

11 **Sec. 1046.** RCW 10.46.200 and Code 1881 s 1168 are each amended to
12 read as follows:

13 No prisoner or person under recognizance who shall be acquitted by
14 verdict or discharged because no indictment is found against him or
15 her, or for want of prosecution, shall be liable for any costs or fees
16 of any officer or for any charge of subsistence while he or she was in
17 custody, but in every such case the fees of the defendant's witnesses,
18 and of the officers for services rendered at the request of the
19 defendant; and charges for subsistence of the defendant while in
20 custody shall be taxed and paid as other costs and charges in such
21 cases.

22 **Sec. 1047.** RCW 10.46.220 and 1979 c 129 s 1 are each amended to
23 read as follows:

24 In all convictions for felony, whether capital or punishable by
25 imprisonment in the penitentiary, the clerk of the superior court shall
26 forthwith, after sentence, tax the costs in the case. The cost bill
27 shall be made out in triplicate, and be examined by the prosecuting
28 attorney of the county in which the trial was had. After which the
29 judge of the superior court shall allow and approve such bill or so
30 much thereof, as is allowable by law. The clerk of the superior court
31 shall thereupon, under his or her hand, and under the seal of the
32 court, certify said triplicate cost bills, and shall file one with the
33 papers of cause, and shall transmit one to the administrator for the
34 courts and one to the county auditor of the county in which said felony
35 was committed.

1 **Sec. 1048.** RCW 10.52.060 and 1909 c 249 s 54 are each amended to
2 read as follows:

3 Every person accused of crime shall have the right to meet the
4 witnesses produced against him or her face to face: PROVIDED, That
5 whenever any witness whose deposition shall have been taken pursuant to
6 law by a magistrate, in the presence of the defendant and his or her
7 counsel, shall be absent, and cannot be found when required to testify
8 upon any trial or hearing, so much of such deposition as the court
9 shall deem admissible and competent shall be admitted and read as
10 evidence in such case.

11 **Sec. 1049.** RCW 10.52.090 and 1909 c 249 s 39 are each amended to
12 read as follows:

13 In every case where it is provided in this act that a witness shall
14 not be excused from giving testimony tending to criminate himself or
15 herself, no person shall be excused from testifying or producing any
16 papers or documents on the ground that his or her testimony may tend to
17 criminate or subject him or her to a penalty or forfeiture; but he or
18 she shall not be prosecuted or subjected to a penalty or forfeiture for
19 or on account of any action, matter or thing concerning which he or she
20 shall so testify, except for perjury or offering false evidence
21 committed in such testimony.

22 **Sec. 1050.** RCW 10.55.020 and 1943 c 218 s 2 are each amended to
23 read as follows:

24 If a judge of a court of record in any state which by its laws has
25 made provision for commanding persons within that state to attend and
26 testify in this state certified under the seal of such court that there
27 is a criminal prosecution pending in such court, or that a grand jury
28 investigation has commenced or is about to commence, that a person
29 being within this state is a material witness in such prosecution, or
30 grand jury investigation, and that his or her presence will be required
31 for a specified number of days, upon presentation of such certificate
32 to any judge of a court of record in the county in which such person
33 is, such judge shall fix a time and place for a hearing, and shall make
34 an order directing the witness to appear at a time and place certain
35 for the hearing.

1 If at a hearing the judge determines that the witness is material
2 and necessary, that it will not cause undue hardship to the witness to
3 be compelled to attend and testify in the prosecution or a grand jury
4 investigation in the other state, and that the laws of the state in
5 which the prosecution is pending, or grand jury investigation has
6 commenced or is about to commence, will give to him or her protection
7 from arrest and the service of civil and criminal process, he or she
8 shall issue a summons, with a copy of the certificate attached,
9 directing the witness to attend and testify in the court where the
10 prosecution is pending, or where a grand jury investigation has
11 commenced or is about to commence and of any other state through which
12 the witness may be required to travel by ordinary course of travel, at
13 a time and place specified in the certificate. In any such hearing the
14 certificate shall be prima facie evidence of all the facts stated
15 therein.

16 If said certificate recommends that the witness be taken into
17 immediate custody and delivered to an officer of the requesting state
18 to assure his or her attendance in the requesting state, such judge
19 may, in lieu of notification of the hearing, direct that such witness
20 be forthwith brought before him or her for said hearing; and the judge
21 at the hearing being satisfied of the desirability of such custody and
22 delivery, for which determination the certificate shall be prima facie
23 proof of such desirability may, in lieu of issuing subpoena or summons,
24 order that said witness be forthwith taken into custody and delivered
25 to an officer of the requesting state.

26 If the witness, who is summoned as above provided, after being paid
27 or tendered by some properly authorized person the sum of ten cents a
28 mile for each mile by the ordinary traveled route to and from the court
29 where the prosecution is pending and five dollars for each day, that he
30 or she is required to travel and attend as a witness, fails without
31 good cause to attend and testify as directed in the summons, he or she
32 shall be punished in the manner provided for the punishment of any
33 witness who disobeys a summons issued from a court of record in this
34 state.

35 **Sec. 1051.** RCW 10.55.060 and 1943 c 218 s 3 are each amended to
36 read as follows:

37 If any person in any state, which by its laws has made provision

1 for commanding persons within its borders to attend and testify in
2 criminal prosecutions, or grand jury investigations commenced or about
3 to commence, in this state, is a material witness either for the
4 prosecution or for the defense, in a criminal action pending in a court
5 of record in this state, or in a grand jury investigation which has
6 commenced or is about to commence, a judge of such court may issue a
7 certificate under the seal of the court stating these facts and
8 specifying the number of days the witness will be required. Said
9 certificate may include a recommendation that the witness be taken into
10 immediate custody and delivered to an officer of this state to assure
11 his or her attendance in this state. This certificate shall be
12 presented to a judge of a court of record in the county in which the
13 witness is found.

14 If the witness is summoned to attend and testify in this state he
15 or she shall be tendered the sum of ten cents a mile for each mile by
16 the ordinary traveled route to and from the court where the prosecution
17 is pending and five dollars for each day that he or she is required to
18 travel and attend as a witness. A witness who has appeared in
19 accordance with the provisions of the summons shall not be required to
20 remain within this state a longer period of time than the period
21 mentioned in the certificate, unless otherwise ordered by the court.
22 If such witness, after coming into this state, fails without good cause
23 to attend and testify as directed in the summons, he or she shall be
24 punished in the manner provided for the punishment of any witness who
25 disobeys a summons issued from a court of record in this state.

26 **Sec. 1052.** RCW 10.55.100 and 1943 c 218 s 4 are each amended to
27 read as follows:

28 If a person comes into this state in obedience to a summons
29 directing him or her to attend and testify in this state he or she
30 shall not while in this state pursuant to such summons be subject to
31 arrest or the service of process, civil or criminal, in connection with
32 matters which arose before his or her entrance into this state under
33 the summons.

34 If a person passes through this state while going to another state
35 in obedience to a summons to attend and testify in that state or while
36 returning therefrom, he or she shall not while so passing through this

1 state be subject to arrest or the service of process, civil or
2 criminal, in connection with matters which arose before his or her
3 entrance into this state under the summons.

4 **Sec. 1053.** RCW 10.58.020 and 1909 c 249 s 56 are each amended to
5 read as follows:

6 Every person charged with the commission of a crime shall be
7 presumed innocent until the contrary is proved by competent evidence
8 beyond a reasonable doubt; and when an offense has been proved against
9 him or her, and there exists a reasonable doubt as to which of two or
10 more degrees he or she is guilty, he or she shall be convicted only of
11 the lowest.

12 **Sec. 1054.** RCW 10.58.030 and Code 1881 s 1070 are each amended to
13 read as follows:

14 The confession of a defendant made under inducement, with all the
15 circumstances, may be given as evidence against him or her, except when
16 made under the influence of fear produced by threats; but a confession
17 made under inducement is not sufficient to warrant a conviction without
18 corroborating testimony.

19 **Sec. 1055.** RCW 10.61.006 and 1891 c 28 s 76 are each amended to
20 read as follows:

21 In all other cases the defendant may be found guilty of an offense
22 the commission of which is necessarily included within that with which
23 he or she is charged in the indictment or information.

24 **Sec. 1056.** RCW 10.64.060 and Code 1881 s 1127 are each amended to
25 read as follows:

26 In every case where imprisonment in the penitentiary is awarded
27 against any convict, the form of the sentence shall be, that he or she
28 be punished by confinement at hard labor; and he or she may also be
29 sentenced to solitary imprisonment for such term as the court shall
30 direct, not exceeding twenty days at any one time; and in the execution
31 of such punishment the solitary shall precede the punishment by hard
32 labor, unless the court shall otherwise order.

1 **Sec. 1057.** RCW 10.64.070 and 1891 c 28 s 83 are each amended to
2 read as follows:

3 Every court before whom any person shall be convicted upon an
4 indictment or information for an offense not punishable with death or
5 imprisonment in the penitentiary may, in addition to the punishment
6 prescribed by law, require such person to recognize with sufficient
7 sureties in a reasonable sum to keep the peace, or to be of good
8 behavior, or both, for any term not exceeding one year, and to stand
9 committed until he or she shall so recognize.

10 **Sec. 1058.** RCW 10.70.010 and Code 1881 s 1119 are each amended to
11 read as follows:

12 When the defendant is adjudged to pay a fine and costs, the court
13 shall order him or her to be committed to the custody of the sheriff
14 until the fine and costs are paid or secured as provided by law.

15 **Sec. 1059.** RCW 10.70.020 and Code 1881 s 1126 are each amended to
16 read as follows:

17 When any person shall be sentenced to be imprisoned in the
18 penitentiary or county jail, the clerk of the court shall, as soon as
19 may be, make out and deliver to the sheriff of the county, or his or
20 her deputy, a transcript from the minutes of the court of such
21 conviction and sentence, duly certified by such clerk, which shall be
22 sufficient authority for such sheriff to execute the sentence, who
23 shall execute it accordingly.

24 **Sec. 1060.** RCW 10.73.040 and 1999 c 143 s 48 are each amended to
25 read as follows:

26 In all criminal actions, except capital cases in which the proof of
27 guilt is clear or the presumption great, upon an appeal being taken
28 from a judgment of conviction, the court in which the judgment was
29 rendered, or a judge thereof, must, by an order entered in the journal
30 or filed with the clerk, fix and determine the amount of bail to be
31 required of the appellant; and the appellant shall be committed until
32 a bond to the state of Washington in the sum so fixed be executed on
33 his or her behalf by at least two sureties possessing the
34 qualifications required for sureties on appeal bonds, such bond to be
35 conditioned that the appellant shall appear whenever required, and

1 stand to and abide by the judgment or orders of the appellate court,
2 and any judgment and order of the superior court that may be rendered
3 or made in pursuance thereof. If the appellant be already at large on
4 bail, his or her sureties shall be liable to the amount of their bond,
5 in the same manner and upon the same conditions as if they had executed
6 the bond prescribed by this section; but the court may by order require
7 a new bond in a larger amount or with new sureties, and may commit the
8 appellant until the order be complied with.

9 **Sec. 1061.** RCW 10.79.020 and Code 1881 s 969 are each amended to
10 read as follows:

11 All such warrants shall be directed to the sheriff of the county,
12 or his or her deputy, or to any constable of the county, commanding
13 such officer to search the house or place where the stolen property or
14 other things for which he or she is required to search are believed to
15 be concealed, which place and property, or things to be searched for
16 shall be designated and described in the warrant, and to bring such
17 stolen property or other things, when found, and the person in whose
18 possession the same shall be found, before the magistrate who shall
19 issue the warrant, or before some other magistrate or court having
20 cognizance of the case.

21 **Sec. 1062.** RCW 10.79.040 and 2003 c 53 s 95 are each amended to
22 read as follows:

23 (1) It shall be unlawful for any (~~policeman~~) police officer or
24 other peace officer to enter and search any private dwelling house or
25 place of residence without the authority of a search warrant issued
26 upon a complaint as by law provided.

27 (2) Any (~~policeman~~) police officer or other peace officer
28 violating the provisions of this section is guilty of a gross
29 misdemeanor.

30 **Sec. 1063.** RCW 10.79.050 and Code 1881 s 851 are each amended to
31 read as follows:

32 All property obtained by larceny, robbery or burglary, shall be
33 restored to the owner; and no sale, whether in good faith on the part
34 of the purchaser or not, shall divest the owner of his or her rights to
35 such property; and it shall be the duty of the officer who shall arrest

1 any person charged as principal or accessory in any robbery or larceny,
2 to secure the property alleged to have been stolen, and he or she shall
3 be answerable for the same, and shall annex a schedule thereof to his
4 or her return of the warrant.

5 **Sec. 1064.** RCW 10.82.030 and 1991 c 183 s 1 are each amended to
6 read as follows:

7 If any person ordered into custody until the fine and costs
8 adjudged against him or her be paid shall not, within five days, pay,
9 or cause the payment of the same to be made, the clerk of the court
10 shall issue a warrant to the sheriff commanding him or her to imprison
11 such defendant in the county jail until the amount of such fine and
12 costs owing are paid. Execution may at any time issue against the
13 property of the defendant for that portion of such fine and costs not
14 reduced by the application of this section. The amount of such fine
15 and costs owing shall be the whole of such fine and costs reduced by
16 the amount of any portion thereof paid, and an amount established by
17 the county legislative authority for every day the defendant performs
18 labor as provided in RCW 10.82.040, and a lesser amount established by
19 the county legislative authority for every day the defendant does not
20 perform such labor while imprisoned.

21 **Sec. 1065.** RCW 10.82.040 and 1967 c 200 s 5 are each amended to
22 read as follows:

23 When a defendant is committed to jail, on failure to pay any fines
24 and costs, he or she shall, under the supervision of the county sheriff
25 and subject to the terms of any ordinances adopted by the county
26 commissioners, be permitted to perform labor to reduce the amount owing
27 of the fine and costs.

28 **Sec. 1066.** RCW 10.88.210 and 1971 ex.s. c 46 s 2 are each amended
29 to read as follows:

30 Subject to the provisions of this chapter, the provisions of the
31 Constitution of the United States controlling, and any and all acts of
32 congress enacted in pursuance thereof, the governor of this state may
33 in his or her discretion have arrested and delivered up to the
34 executive authority of any other state of the United States any person

1 charged in that state with treason, felony, or other crime, who has
2 fled from justice and is found in this state.

3 **Sec. 1067.** RCW 10.88.220 and 1971 ex.s. c 46 s 3 are each amended
4 to read as follows:

5 No demand for the extradition of a person charged with crime in
6 another state shall be recognized by the governor unless in writing
7 alleging, except in cases arising under RCW 10.88.250, that the accused
8 was present in the demanding state at the time of the commission of the
9 alleged crime, and that thereafter he or she fled from the state, and
10 accompanied by a copy of an indictment found or by information
11 supported by affidavit in the state having jurisdiction of the crime,
12 or by a copy of an affidavit made before a magistrate there, together
13 with a copy of any warrant which was issued thereupon; or by a copy of
14 a judgment of conviction or of a sentence imposed in execution thereof,
15 together with a statement by the executive authority of the demanding
16 state that the person claimed has escaped from confinement or has
17 broken the terms of his or her bail, probation, or parole. The
18 indictment, information, or affidavit made before the magistrate must
19 substantially charge the person demanded with having committed a crime
20 under the law of that state; and the copy of indictment, information,
21 affidavit, judgment of conviction, or sentence must be certified or
22 authenticated by the executive authority making the demand.

23 **Sec. 1068.** RCW 10.88.230 and 1971 ex.s. c 46 s 4 are each amended
24 to read as follows:

25 When a demand shall be made upon the governor of this state by the
26 executive authority of another state for the surrender of a person so
27 charged with crime, the governor may call upon the attorney general or
28 any prosecuting officer in this state to investigate or assist in
29 investigating the demand, and to report to him or her the situation and
30 circumstances of the person so demanded, and whether he or she ought to
31 be surrendered.

32 **Sec. 1069.** RCW 10.88.240 and 1971 ex.s. c 46 s 5 are each amended
33 to read as follows:

34 When it is desired to have returned to this state a person charged
35 in this state with a crime, and such person is imprisoned or is held

1 under criminal proceedings then pending against him or her in another
2 state, the governor of this state may agree with the executive
3 authority of such other state for the extradition of such person before
4 the conclusion of such proceedings or his or her term of sentence in
5 such other state, upon condition that such person be returned to such
6 other state at the expense of this state as soon as the prosecution in
7 this state is terminated.

8 The governor of this state may also surrender on demand of the
9 executive authority of any other state any person in this state who is
10 charged in the manner provided in RCW 10.88.410 with having violated
11 the laws of the state whose executive authority is making the demand,
12 even though such person left the demanding state involuntarily.

13 **Sec. 1070.** RCW 10.88.260 and 1971 ex.s. c 46 s 7 are each amended
14 to read as follows:

15 If the governor decides that the demand should be complied with, he
16 or she shall sign a warrant of arrest, which shall be sealed with the
17 state seal, and be directed to any peace officer or other person whom
18 he or she may think fit to entrust with the execution thereof. The
19 warrant must substantially recite the facts necessary to the validity
20 of its issuance.

21 **Sec. 1071.** RCW 10.88.270 and 1971 ex.s. c 46 s 8 are each amended
22 to read as follows:

23 Such warrant shall authorize the peace officer or other person to
24 whom directed to arrest the accused at any time and any place where he
25 or she may be found within the state and to command the aid of all
26 peace officers or other persons in the execution of the warrant, and to
27 deliver the accused, subject to the provisions of this chapter to the
28 duly authorized agent of the demanding state.

29 **Sec. 1072.** RCW 10.88.290 and 1971 ex.s. c 46 s 10 are each amended
30 to read as follows:

31 No person arrested upon such warrant shall be delivered over to the
32 agent whom the executive authority demanding him or her shall have
33 appointed to receive him or her unless he or she shall first be taken
34 forthwith before a judge of a court of record in this state, who shall
35 inform him or her of the demand made for his or her surrender and of

1 the crime with which he or she is charged, and that he or she has the
2 right to demand and procure legal counsel; and if the prisoner or his
3 or her counsel shall state that he or she or they desire to test the
4 legality of his or her arrest, the judge of such court of record shall
5 fix a reasonable time to be allowed him or her within which to apply
6 for a writ of habeas corpus. When such writ is applied for, notice
7 thereof, and of the time and place of hearing thereon, shall be given
8 to the prosecuting officer of the county in which the arrest is made
9 and in which the accused is in custody, and to the said agent of the
10 demanding state: PROVIDED, That the hearing provided for in this
11 section shall not be available except as may be constitutionally
12 required if a hearing on the legality of arrest has been held pursuant
13 to RCW 10.88.320 or 10.88.330.

14 **Sec. 1073.** RCW 10.88.300 and 1971 ex.s. c 46 s 11 are each amended
15 to read as follows:

16 Any officer who shall deliver to the agent for extradition of the
17 demanding state a person in his or her custody under the governor's
18 warrant, in wilful disobedience to RCW 10.88.290, shall be guilty of a
19 gross misdemeanor and, on conviction, shall be imprisoned in the county
20 jail for not more than one year, or be fined not more than one thousand
21 dollars, or both.

22 **Sec. 1074.** RCW 10.88.310 and 1971 ex.s. c 46 s 12 are each amended
23 to read as follows:

24 The officer or persons executing the governor's warrant of arrest,
25 or the agent of the demanding state to whom the prisoner may have been
26 delivered may, when necessary, confine the prisoner in the jail of any
27 county or city through which he or she may pass; and the keeper of such
28 jail must receive and safely keep the prisoner until the officer or
29 person having charge of him or her is ready to proceed on his or her
30 route, such officer or person being chargeable with the expense of
31 keeping.

32 The officer or agent of a demanding state to whom a prisoner may
33 have been delivered following extradition proceedings in another state,
34 or to whom a prisoner may have been delivered after waiving extradition
35 in such other state, and who is passing through this state with such a
36 prisoner for the purpose of immediately returning such prisoner to the

1 demanding state may, when necessary, confine the prisoner in the jail
2 of any county or city through which he or she may pass; and the keeper
3 of such jail must receive and safely keep the prisoner until the
4 officer or agent having charge of him or her is ready to proceed on his
5 or her route, such officer or agent, however, being chargeable with the
6 expense of keeping: PROVIDED, HOWEVER, That such officer or agent
7 shall produce and show to the keeper of such jail satisfactory written
8 evidence of the fact that he or she is actually transporting such
9 prisoner to the demanding state after a requisition by the executive
10 authority of such demanding state. Such prisoner shall not be entitled
11 to demand a new requisition while in this state.

12 **Sec. 1075.** RCW 10.88.320 and 1971 ex.s. c 46 s 13 are each amended
13 to read as follows:

14 Whenever any person within this state shall be charged on the oath
15 of any credible person before any judge or magistrate of this state
16 with the commission of any crime in any other state and, except in
17 cases arising under RCW 10.88.250, with having fled from justice, or
18 with having been convicted of a crime in that state and having escaped
19 from confinement, or having broken the terms of his or her bail,
20 probation, or parole, or whenever complaint shall have been made before
21 any judge or magistrate in this state setting forth on the affidavit of
22 any credible person in another state that a crime has been committed in
23 such other state and that the accused has been charged in such state
24 with the commission of the crime, and, except in cases arising under
25 RCW 10.88.250, has fled from justice, or with having been convicted of
26 a crime in that state and having escaped from confinement, or having
27 broken the terms of his or her bail, probation, or parole and is
28 believed to be in this state, the judge or magistrate shall issue a
29 warrant directed to any peace officer commanding him or her to
30 apprehend the person named therein, wherever he or she may be found in
31 this state, and to bring him or her before the same or any other judge,
32 magistrate or court who or which may be available in or convenient of
33 access to the place where the arrest may be made, to answer the charge
34 or complaint and affidavit, and a certified copy of the sworn charge or
35 complaint and affidavit upon which the warrant is issued shall be
36 attached to the warrant.

1 **Sec. 1076.** RCW 10.88.330 and 1979 ex.s. c 244 s 16 are each
2 amended to read as follows:

3 (1) The arrest of a person may be lawfully made also by any peace
4 officer or a private person, without a warrant upon reasonable
5 information that the accused stands charged in the courts of a state
6 with a crime punishable by death or imprisonment for a term exceeding
7 one year, but when so arrested the accused must be taken before a judge
8 or magistrate with all practicable speed and complaint must be made
9 against him or her under oath setting forth the ground for the arrest
10 as in RCW 10.88.320; and thereafter his or her answer shall be heard as
11 if he or she had been arrested on a warrant.

12 (2) An officer of the United States customs service or the
13 immigration and naturalization service may, without a warrant, arrest
14 a person if:

15 (a) The officer is on duty;

16 (b) One or more of the following situations exists:

17 (i) The person commits an assault or other crime involving physical
18 harm, defined and punishable under chapter 9A.36 RCW, against the
19 officer or against any other person in the presence of the officer;

20 (ii) The person commits an assault or related crime while armed,
21 defined and punishable under chapter 9.41 RCW, against the officer or
22 against any other person in the presence of the officer;

23 (iii) The officer has reasonable cause to believe that a crime as
24 defined in (b)(i) or (ii) of this subsection has been committed and
25 reasonable cause to believe that the person to be arrested has
26 committed it;

27 (iv) The officer has reasonable cause to believe that a felony has
28 been committed and reasonable cause to believe that the person to be
29 arrested has committed it; or

30 (v) The officer has received positive information by written,
31 telegraphic, teletypic, telephonic, radio, or other authoritative
32 source that a peace officer holds a warrant for the person's arrest;
33 and

34 (c) The regional commissioner of customs certifies to the state of
35 Washington that the customs officer has received proper training within
36 the agency to enable that officer to enforce or administer this
37 subsection.

1 **Sec. 1077.** RCW 10.88.340 and 1971 ex.s. c 46 s 15 are each amended
2 to read as follows:

3 If from the examination before the judge or magistrate it appears
4 that the person held is the person charged with having committed the
5 crime alleged and, except in cases arising under RCW 10.88.250, that he
6 or she has fled from justice, the judge or magistrate must, by a
7 warrant reciting the accusation, commit him or her to the county jail
8 for such a time not exceeding thirty days and specified in the warrant,
9 as will enable the arrest of the accused to be made under a warrant of
10 the governor on a requisition of the executive authority of the state
11 having jurisdiction of the offense, unless the accused give bail as
12 provided in RCW 10.88.350, or until he or she shall be legally
13 discharged.

14 **Sec. 1078.** RCW 10.88.350 and 1971 ex.s. c 46 s 16 are each amended
15 to read as follows:

16 Unless the offense with which the prisoner is charged is shown to
17 be an offense punishable by death or life imprisonment under the laws
18 of the state in which it was committed, a judge or magistrate in this
19 state may admit the person arrested to bail by bond, with sufficient
20 sureties, and in such sum as he or she deems proper, conditioned for
21 his or her appearance before him or her at a time specified in such a
22 bond, and for his or her surrender, to be arrested upon the warrant of
23 the governor of this state.

24 **Sec. 1079.** RCW 10.88.360 and 1971 ex.s. c 46 s 17 are each amended
25 to read as follows:

26 If the accused is not arrested under warrant of the governor by the
27 expiration of the time specified in the warrant or bond, a judge or
28 magistrate may discharge him or her or may recommit him or her for a
29 further period not to exceed sixty days, or a judge or magistrate judge
30 may again take bail for his or her appearance and surrender, as
31 provided in RCW 10.88.350, but within a period not to exceed sixty days
32 after the date of such new bond: PROVIDED, That the governor may,
33 except in cases in which the offense is punishable under laws of the
34 demanding state by death or life imprisonment, deny a demand for
35 extradition when such demand is not received by the governor before the

1 expiration of one hundred twenty days from the date of arrest in this
2 state of the alleged fugitive, in the absence of a showing of good
3 cause for such delay.

4 **Sec. 1080.** RCW 10.88.370 and 1971 ex.s. c 46 s 18 are each amended
5 to read as follows:

6 If the prisoner is admitted to bail, and fails to appear and
7 surrender himself or herself according to the conditions of his or her
8 bond, the judge, or magistrate by proper order, shall declare the bond
9 forfeited and order his or her immediate arrest without warrant if he
10 or she be within this state. Recovery may be had on such bond in the
11 name of the state as in the case of other bonds given by the accused in
12 criminal proceedings within this state.

13 **Sec. 1081.** RCW 10.88.380 and 1971 ex.s. c 46 s 19 are each amended
14 to read as follows:

15 If a criminal prosecution has been instituted against such person
16 under the laws of this state and is still pending the governor, in his
17 or her discretion, either may surrender him or her on demand of the
18 executive authority of another state or hold him or her until he or she
19 has been tried and discharged or convicted and punished in this state.

20 **Sec. 1082.** RCW 10.88.390 and 1971 ex.s. c 46 s 20 are each amended
21 to read as follows:

22 The governor may recall his or her warrant of arrest or may issue
23 another warrant whenever he or she deems proper.

24 **Sec. 1083.** RCW 10.88.400 and 1971 ex.s. c 46 s 21 are each amended
25 to read as follows:

26 Whenever the governor of this state shall demand a person charged
27 with crime or with escaping from confinement or breaking the terms of
28 his or her bail, probation, or parole in this state, from the executive
29 authority of any other state, or from the appropriate authority of the
30 District of Columbia authorized to receive such demand under the laws
31 of the United States, he or she shall issue a warrant under the seal of
32 this state, to some agent, commanding him or her to receive the person
33 so charged if delivered to him or her and convey him or her to the

1 proper officer of the county in this state in which the offense was
2 committed.

3 **Sec. 1084.** RCW 10.88.410 and 1971 ex.s. c 46 s 22 are each amended
4 to read as follows:

5 (1) When the return to this state of a person charged with crime in
6 this state is required, the prosecuting attorney shall present to the
7 governor his or her written application for a requisition for the
8 return of the person charged, in which application shall be stated the
9 name of the person so charged, the crime charged against him or her,
10 the approximate time, place, and circumstances of its commission, the
11 state in which he or she is believed to be, including the location of
12 the accused therein at the time the application is made and certifying
13 that, in the opinion of the said prosecuting attorney the ends of
14 justice require the arrest and return of the accused to this state for
15 trial and that the proceeding is not instituted to enforce a private
16 claim.

17 (2) When the return to this state is required of a person who has
18 been convicted of a crime in this state and has escaped from
19 confinement or broken the terms of his or her bail, probation, or
20 parole, the prosecuting attorney of the county in which the offense was
21 committed, the parole board, or the warden of the institution or
22 sheriff of the county, from which escape was made, shall present to the
23 governor a written application for a requisition for the return of such
24 person, in which application shall be stated the name of the person,
25 the crime of which he or she was convicted, the circumstances of his or
26 her escape from confinement or of the breach of the terms of his or her
27 bail, probation, or parole, the state in which he or she is believed to
28 be, including the location of the person therein at the time
29 application is made.

30 (3) The application shall be verified by affidavit, shall be
31 executed in duplicate, and shall be accompanied by two certified copies
32 of the indictment returned, or information and affidavit filed, or of
33 the complaint made to the judge or magistrate, stating the offense with
34 which the accused is charged, or of the judgment of conviction or of
35 the sentence. The prosecuting officer, parole board, warden, or
36 sheriff may also attach such further affidavits and other documents in
37 duplicate as he or she shall deem proper to be submitted with such

1 application. One copy of the application, with the action of the
2 governor indicated by endorsement thereon, and one of the certified
3 copies of the indictment, complaint, information, and affidavits, or of
4 the judgment of conviction or of the sentence shall be filed in the
5 office of the secretary of state to remain of record in that office.
6 The other copies of all papers shall be forwarded with the governor's
7 requisition.

8 **Sec. 1085.** RCW 10.88.420 and 1971 ex.s. c 46 s 23 are each amended
9 to read as follows:

10 A person brought into this state by, or after waiver of,
11 extradition based on a criminal charge shall not be subject to service
12 of personal process in civil actions arising out of the same facts as
13 the criminal proceeding to answer which he or she is being or has been
14 returned, until he or she has been finally convicted in the criminal
15 proceeding, or, if acquitted, until he or she has had reasonable
16 opportunity to return to the state from which he or she was extradited.

17 **Sec. 1086.** RCW 10.88.430 and 1971 ex.s. c 46 s 24 are each amended
18 to read as follows:

19 Any person arrested in this state charged with having committed any
20 crime in another state or alleged to have escaped from confinement, or
21 broken the terms of his or her bail, probation, or parole may waive the
22 issuance and service of the warrant provided for in RCW 10.88.260 and
23 10.88.270 and all other procedure incidental to extradition
24 proceedings, by executing or subscribing in the presence of a judge of
25 any court of record within this state a writing which states that he or
26 she consents to return to the demanding state: PROVIDED, HOWEVER, That
27 before such waiver shall be executed or subscribed by such person it
28 shall be the duty of such judge to inform such person of his or her
29 rights to the issuance and service of a warrant of extradition and to
30 obtain a writ of habeas corpus as provided for in RCW 10.88.290.

31 If and when such consent has been duly executed it shall forthwith
32 be forwarded to the office of the governor of this state and filed
33 therein. The judge shall direct the officer having such person in
34 custody to deliver forthwith such person to the duly accredited agent
35 or agents of the demanding state, and shall deliver or cause to be
36 delivered to such agent or agents a copy of such consent: PROVIDED,

1 HOWEVER, That nothing in this section shall be deemed to limit the
2 rights of the accused person to return voluntarily and without
3 formality to the demanding state, nor shall this waiver procedure be
4 deemed to be an exclusive procedure or to limit the powers, rights, or
5 duties of the officers of the demanding state or of this state.

6 **Sec. 1087.** RCW 10.88.450 and 1971 ex.s. c 46 s 26 are each amended
7 to read as follows:

8 After a person has been brought back to this state by, or after
9 waiver of extradition proceedings, he or she may be tried in this state
10 for other crimes which he or she may be charged with having committed
11 here as well as that specified in the requisition for his or her
12 extradition.

13 **Sec. 1088.** RCW 10.89.020 and 1943 c 261 s 2 are each amended to
14 read as follows:

15 If an arrest is made in this state by an officer of another state
16 in accordance with the provisions of RCW 10.89.010, he or she shall,
17 without unnecessary delay, take the person arrested before a magistrate
18 of the county in which the arrest was made, who shall conduct a hearing
19 for the purpose of determining the lawfulness of the arrest. If the
20 magistrate determines that the arrest was lawful, he or she shall
21 commit the person arrested to await for a reasonable time the issuance
22 of an extradition warrant by the governor of this state. If the
23 magistrate determines that the arrest was unlawful, he or she shall
24 discharge the person arrested.

25 **Sec. 1089.** RCW 10.91.010 and 1971 ex.s. c 17 s 2 are each amended
26 to read as follows:

27 (1) If a person who has been charged with crime in another state
28 and released from custody prior to final judgment, including the final
29 disposition of any appeal, is alleged to have violated the terms and
30 conditions of his or her release, and is present in this state, a
31 designated agent of the court, judge, or magistrate which authorized
32 the release may request the issuance of a warrant for the arrest of the
33 person and an order authorizing his or her return to the demanding
34 court, judge, or magistrate. Before the warrant is issued, the

1 designated agent must file with a judicial officer of this state the
2 following documents:

3 (a) An affidavit stating the name and whereabouts of the person
4 whose removal is sought, the crime with which the person was charged,
5 the time and place of the crime charged, and the status of the
6 proceedings against him or her;

7 (b) A certified copy of the order or other document specifying the
8 terms and conditions under which the person was released from custody;
9 and

10 (c) A certified copy of an order of the demanding court, judge, or
11 magistrate stating the manner in which the terms and the conditions of
12 the release have been violated and designating the affiant its agent
13 for seeking removal of the person.

14 (2) Upon initially determining that the affiant is a designated
15 agent of the demanding court, judge, or magistrate, and that there is
16 a probable cause for believing that the person whose removal is sought
17 has violated the terms or conditions of his or her release, the
18 judicial officer shall issue a warrant to a law enforcement officer of
19 this state for the person's arrest.

20 (3) The judicial officer shall notify the prosecuting attorney of
21 his or her action and shall direct him or her to investigate the case
22 to ascertain the validity of the affidavits and documents required by
23 subsection (1) of this section and the identity and authority of the
24 affiant.

25 **Sec. 1090.** RCW 10.91.020 and 1971 ex.s. c 17 s 3 are each amended
26 to read as follows:

27 (1) The person whose removal is sought shall be brought before the
28 judicial officer without unnecessary delay upon arrest pursuant to the
29 warrant; whereupon the judicial officer shall set a time and place for
30 hearing, and shall advise the person of his or her right to have the
31 assistance of counsel, to confront the witnesses against him or her,
32 and to produce evidence in his or her own behalf at the hearing.

33 (2) The person whose removal is sought may at this time in writing
34 waive the hearing and agree to be returned to the demanding court,
35 judge, or magistrate. If a waiver is executed, the judicial officer
36 shall issue an order pursuant to RCW 10.91.030.

1 (3) The judicial officer may impose conditions of release
2 authorized by the laws of this state which will reasonably assure the
3 appearance at the hearing of the person whose removal is sought.

4 **Sec. 1091.** RCW 10.91.030 and 1971 ex.s. c 17 s 4 are each amended
5 to read as follows:

6 The prosecuting attorney shall appear at the hearing and report to
7 the judicial officer the results of his or her investigation. If the
8 judicial officer finds that the affiant is a designated agent of the
9 demanding court, judge, or magistrate and that the person whose removal
10 is sought was released from custody by the demanding court, judge, or
11 magistrate, and that the person has violated the terms or conditions of
12 his or her release, the judicial officer shall issue an order
13 authorizing the return of the person to the custody of the demanding
14 court, judge, or magistrate forthwith.

15 **Sec. 1092.** RCW 10.91.050 and 1971 ex.s. c 17 s 9 are each amended
16 to read as follows:

17 The costs of the procedures required by this chapter shall be borne
18 by the demanding state, except when the designated agent is not a
19 public official. In any case when the designated agent is not a public
20 official, he or she shall bear the cost of such procedures.

21 **Sec. 1093.** RCW 10.97.080 and 2005 c 274 s 206 are each amended to
22 read as follows:

23 All criminal justice agencies shall permit an individual who is, or
24 who believes that he or she may be, the subject of a criminal record
25 maintained by that agency, to appear in person during normal business
26 hours of that criminal justice agency and request to see the criminal
27 history record information held by that agency pertaining to the
28 individual. The individual's right to access and review of criminal
29 history record information shall not extend to data contained in
30 intelligence, investigative, or other related files, and shall not be
31 construed to include any information other than that defined as
32 criminal history record information by this chapter.

33 Every criminal justice agency shall adopt rules and make available
34 forms to facilitate the inspection and review of criminal history
35 record information by the subjects thereof, which rules may include

1 requirements for identification, the establishment of reasonable
2 periods of time to be allowed an individual to examine the record, and
3 for assistance by an individual's counsel, interpreter, or other
4 appropriate persons.

5 No person shall be allowed to retain or mechanically reproduce any
6 nonconviction data except for the purpose of challenge or correction
7 when the person who is the subject of the record asserts the belief in
8 writing that the information regarding such person is inaccurate or
9 incomplete. The provisions of chapter 42.56 RCW shall not be construed
10 to require or authorize copying of nonconviction data for any other
11 purpose.

12 The Washington state patrol shall establish rules for the challenge
13 of records which an individual declares to be inaccurate or incomplete,
14 and for the resolution of any disputes between individuals and criminal
15 justice agencies pertaining to the accuracy and completeness of
16 criminal history record information. The Washington state patrol shall
17 also adopt rules for the correction of criminal history record
18 information and the dissemination of corrected information to agencies
19 and persons to whom inaccurate or incomplete information was previously
20 disseminated. Such rules may establish time limitations of not less
21 than ninety days upon the requirement for disseminating corrected
22 information.

23 **Sec. 1094.** RCW 10.97.110 and 1979 ex.s. c 36 s 5 are each amended
24 to read as follows:

25 Any person may maintain an action to enjoin a continuance of any
26 act or acts in violation of any of the provisions of this chapter, and
27 if injured thereby, for the recovery of damages and for the recovery of
28 reasonable attorneys' fees. If, in such action, the court shall find
29 that the defendant is violating or has violated any of the provisions
30 of this chapter, it shall enjoin the defendant from a continuance
31 thereof, and it shall not be necessary that actual damages to the
32 plaintiff be alleged or proved. In addition to such injunctive relief,
33 the plaintiff in said action shall be entitled to recover from the
34 defendant the amount of the actual damages, if any, sustained by him or
35 her if actual damages to the plaintiff are alleged and proved. In any
36 suit brought to enjoin a violation of this chapter, the prevailing
37 party may be awarded reasonable attorneys' fees, including fees

1 incurred upon appeal. Commencement, pendency, or conclusion of a civil
2 action for injunction or damages shall not affect the liability of a
3 person or agency to criminal prosecution for a violation of this
4 chapter.

5 **Sec. 1095.** RCW 10.97.120 and 1977 ex.s. c 314 s 12 are each
6 amended to read as follows:

7 Violation of the provisions of this chapter shall constitute a
8 misdemeanor, and any person whether as principal, agent, officer, or
9 director for himself or herself or for another person, or for any firm
10 or corporation, public or private, or any municipality who or which
11 shall violate any of the provisions of this chapter shall be guilty of
12 a misdemeanor for each single violation. Any criminal prosecution
13 shall not affect the right of any person to bring a civil action as
14 authorized by this chapter or otherwise authorized by law.

15 **PART II**

16 **Sec. 2001.** RCW 11.04.015 and 2007 c 156 s 27 are each amended to
17 read as follows:

18 The net estate of a person dying intestate, or that portion thereof
19 with respect to which the person shall have died intestate, shall
20 descend subject to the provisions of RCW 11.04.250 and 11.02.070, and
21 shall be distributed as follows:

22 (1) Share of surviving spouse or state registered domestic partner.
23 The surviving spouse or state registered domestic partner shall receive
24 the following share:

25 (a) All of the decedent's share of the net community estate; and

26 (b) One-half of the net separate estate if the intestate is
27 survived by issue; or

28 (c) Three-quarters of the net separate estate if there is no
29 surviving issue, but the intestate is survived by one or more of his or
30 her parents, or by one or more of the issue of one or more of his or
31 her parents; or

32 (d) All of the net separate estate, if there is no surviving issue
33 nor parent nor issue of parent.

34 (2) Shares of others than surviving spouse or state registered
35 domestic partner. The share of the net estate not distributable to the

1 surviving spouse or state registered domestic partner, or the entire
2 net estate if there is no surviving spouse or state registered domestic
3 partner, shall descend and be distributed as follows:

4 (a) To the issue of the intestate; if they are all in the same
5 degree of kinship to the intestate, they shall take equally, or if of
6 unequal degree, then those of more remote degree shall take by
7 representation.

8 (b) If the intestate not be survived by issue, then to the parent
9 or parents who survive the intestate.

10 (c) If the intestate not be survived by issue or by either parent,
11 then to those issue of the parent or parents who survive the intestate;
12 if they are all in the same degree of kinship to the intestate, they
13 shall take equally, or, if of unequal degree, then those of more remote
14 degree shall take by representation.

15 (d) If the intestate not be survived by issue or by either parent,
16 or by any issue of the parent or parents who survive the intestate,
17 then to the grandparent or grandparents who survive the intestate; if
18 both maternal and paternal grandparents survive the intestate, the
19 maternal grandparent or grandparents shall take one-half and the
20 paternal grandparent or grandparents shall take one-half.

21 (e) If the intestate not be survived by issue or by either parent,
22 or by any issue of the parent or parents or by any grandparent or
23 grandparents, then to those issue of any grandparent or grandparents
24 who survive the intestate; taken as a group, the issue of the maternal
25 grandparent or grandparents shall share equally with the issue of the
26 paternal grandparent or grandparents, also taken as a group; within
27 each such group, all members share equally if they are all in the same
28 degree of kinship to the intestate, or, if some be of unequal degree,
29 then those of more remote degree shall take by representation.

30 **Sec. 2002.** RCW 11.04.035 and 1967 c 168 s 3 are each amended to
31 read as follows:

32 Kindred of the half blood shall inherit the same share which they
33 would have inherited if they had been of the whole blood, unless the
34 inheritance comes to the intestate by descent, devise, or gift from one
35 of his or her ancestors, or kindred of such ancestor's blood, in which
36 case all those who are not of the blood of such ancestors shall be
37 excluded from such inheritance: PROVIDED, HOWEVER, That the words

1 "kindred of such ancestor's blood" and "blood of such ancestors" shall
2 be construed to include any child lawfully adopted by one who is in
3 fact of the blood of such ancestors.

4 **Sec. 2003.** RCW 11.04.041 and 1965 c 145 s 11.04.041 are each
5 amended to read as follows:

6 If a person dies intestate as to all his or her estate, property
7 which he or she gave in his or her lifetime as an advancement to any
8 person who, if the intestate had died at the time of making the
9 advancement, would be entitled to inherit a part of his or her estate,
10 shall be counted toward the advancee's intestate share, and to the
11 extent that it does not exceed such intestate share shall be taken into
12 account in computing the estate to be distributed. Every gratuitous
13 inter vivos transfer is deemed to be an absolute gift and not an
14 advancement unless shown to be an advancement. The advancement shall
15 be considered as of its value at the time when the advancee came into
16 possession or enjoyment or at the time of the death of the intestate,
17 whichever first occurs. If the advancee dies before the intestate,
18 leaving a lineal heir who takes from the intestate, the advancement
19 shall be taken into account in the same manner as if it had been made
20 directly to such heir. If such heir is entitled to a lesser share in
21 the estate than the advancee would have been entitled had he or she
22 survived the intestate, then the heir shall only be charged with such
23 proportion of the advancement as the amount he or she would have
24 inherited, had there been no advancement, bears to the amount which the
25 advancee would have inherited, had there been no advancement.

26 **Sec. 2004.** RCW 11.04.085 and 1965 c 145 s 11.04.085 are each
27 amended to read as follows:

28 A lawfully adopted child shall not be considered an "heir" of his
29 or her natural parents for purposes of this title.

30 **Sec. 2005.** RCW 11.04.250 and 1965 c 145 s 11.04.250 are each
31 amended to read as follows:

32 When a person dies seized of lands, tenements or hereditaments, or
33 any right thereto or entitled to any interest therein in fee or for the
34 life of another, his or her title shall vest immediately in his or her
35 heirs or devisees, subject to his or her debts, family allowance,

1 expenses of administration, and any other charges for which such real
2 estate is liable under existing laws. No administration of the estate
3 of such decedent, and no decree of distribution or other finding or
4 order of any court shall be necessary in any case to vest such title in
5 the heirs or devisees, but the same shall vest in the heirs or devisees
6 instantly upon the death of such decedent: PROVIDED, That no person
7 shall be deemed a devisee until the will has been probated. The title
8 and right to possession of such lands, tenements, or hereditaments so
9 vested in such heirs or devisees, together with the rents, issues, and
10 profits thereof, shall be good and valid against all persons claiming
11 adversely to the claims of any such heirs, or devisees, excepting only
12 the personal representative when appointed, and persons lawfully
13 claiming under such personal representative; and any one or more of
14 such heirs or devisees, or their grantees, jointly or severally, may
15 sue for and recover their respective shares or interests in any such
16 lands, tenements, or hereditaments and the rents, issues, and profits
17 thereof, whether letters testamentary or of administration be granted
18 or not, from any person except the personal representative and those
19 lawfully claiming under such personal representative.

20 **Sec. 2006.** RCW 11.08.111 and 1990 c 225 s 2 are each amended to
21 read as follows:

22 Prior to the expiration of the two-year period provided for in RCW
23 11.08.101, the superintendent may transfer such money or property in
24 his or her possession, upon request and satisfactory proof submitted to
25 him or her, to the following designated persons:

26 (1) To the personal representative of the estate of such deceased
27 inmate; or

28 (2) To the successor or successors defined in RCW 11.62.005, where
29 such money and property does not exceed the amount specified in RCW
30 6.13.030, and the successor or successors shall have furnished proof of
31 death and an affidavit made by said successor or successors meeting the
32 requirements of RCW 11.62.010; or

33 (3) In the case of money, to the person who may have deposited such
34 money with the superintendent for the use of the decedent, where the
35 sum involved does not exceed one thousand dollars; or

36 (4) To the department of social and health services, when there are
37 moneys due and owing from such deceased person's estate for the cost of

1 his or her care and maintenance at a state institution: PROVIDED, That
2 transfer of such money or property may be made to the person first
3 qualifying under this section and such transfer shall exonerate the
4 superintendent from further responsibility relative to such money or
5 property: AND PROVIDED FURTHER, That upon satisfactory showing the
6 funeral expenses of such decedent are unpaid, the superintendent may
7 pay up to one thousand dollars from said deceased inmate's funds on
8 said obligation.

9 **Sec. 2007.** RCW 11.08.180 and 1975 1st ex.s. c 278 s 3 are each
10 amended to read as follows:

11 The department of revenue may demand copies of any papers,
12 documents, or pleadings involving the escheat property or the probate
13 thereof deemed by it to be necessary for the enforcement of RCW
14 11.08.140 through 11.08.280 and it shall be the duty of the
15 administrator or his or her attorney to furnish such copies to the
16 department.

17 **Sec. 2008.** RCW 11.08.200 and 1975 1st ex.s. c 278 s 4 are each
18 amended to read as follows:

19 If any person shall take possession of escheat property without
20 proper authorization to do so, and shall have the use thereof for a
21 period exceeding sixty days, he or she shall be liable to the state for
22 the reasonable value of such use, payment of which may be enforced by
23 the department of revenue or by the administrator of the estate.

24 **Sec. 2009.** RCW 11.08.230 and 1975 1st ex.s. c 278 s 7 are each
25 amended to read as follows:

26 Upon the appearance of heirs and the establishment of their claim
27 to the satisfaction of the court prior to entry of the decree of
28 distribution to the estate, the provisions of RCW 11.08.140 through
29 11.08.280 shall not further apply, except for purposes of appeal:
30 PROVIDED, That the department of revenue shall be promptly given
31 written notice of such appearance by the claimants and furnished copies
32 of all papers or documents on which such claim of heirship is based.
33 Any documents in a foreign language shall be accompanied by
34 translations made by a properly qualified translator, certified by him
35 or her to be true and correct translations of the original documents.

1 The administrator or his or her attorney shall also furnish the
2 department of revenue with any other available information bearing on
3 the validity of the claim.

4 **Sec. 2010.** RCW 11.08.240 and 1975 1st ex.s. c 278 s 8 are each
5 amended to read as follows:

6 Any claimant to escheated funds or real property shall have seven
7 years from the date of issuance of letters testamentary or of
8 administration within which to file his or her claim. Such claim shall
9 be filed with the court having original jurisdiction of the estate, and
10 a copy thereof served upon the department of revenue, together with
11 twenty days notice of the hearing thereon.

12 **Sec. 2011.** RCW 11.12.030 and 1965 c 145 s 11.12.030 are each
13 amended to read as follows:

14 Every person who shall sign the testator's or testatrix's name to
15 any will by his or her direction shall subscribe his or her own name to
16 such will and state that he or she subscribed the testator's name at
17 his or her request: PROVIDED, That such signing and statement shall
18 not be required if the testator shall evidence the approval of the
19 signature so made at his or her request by making his or her mark on
20 the will.

21 **Sec. 2012.** RCW 11.12.060 and 1965 c 145 s 11.12.060 are each
22 amended to read as follows:

23 A bond, covenant, or agreement made for a valuable consideration by
24 a testator to convey any property, devised or bequeathed in any last
25 will previously made, shall not be deemed a revocation of such previous
26 devise or bequest, but such property shall pass by the devise or
27 bequest, subject to the same remedies on such bond, covenant, or
28 agreement, for specific performance or otherwise, against devisees or
29 legatees, as might be had by law against the heirs of the testator or
30 his or her next of kin, if the same had descended to him or her.

31 **Sec. 2013.** RCW 11.12.170 and 1965 c 145 s 11.12.170 are each
32 amended to read as follows:

33 Every devise of land in any will shall be construed to convey all

1 the estate of the devisor therein which he or she could lawfully
2 devise, unless it shall clearly appear by the will that he or she
3 intended to convey a less estate.

4 **Sec. 2014.** RCW 11.12.190 and 1965 c 145 s 11.12.190 are each
5 amended to read as follows:

6 Any estate, right or interest in property acquired by the testator
7 after the making of his or her will may pass thereby and in like manner
8 as if title thereto was vested in him or her at the time of making the
9 will, unless the contrary manifestly appears by the will to have been
10 the intention of the testator.

11 **Sec. 2015.** RCW 11.20.010 and 1965 c 145 s 11.20.010 are each
12 amended to read as follows:

13 Any person having the custody or control of any will shall, within
14 thirty days after he or she shall have received knowledge of the death
15 of the testator, deliver said will to the court having jurisdiction or
16 to the person named in the will as executor, and any executor having in
17 his or her custody or control any will shall within forty days after he
18 or she received knowledge of the death of the testator deliver the same
19 to the court having jurisdiction. Any person who shall wilfully
20 violate any of the provisions of this section shall be liable to any
21 party aggrieved for the damages which may be sustained by such
22 violation.

23 **Sec. 2016.** RCW 11.20.020 and 1977 ex.s. c 234 s 2 are each amended
24 to read as follows:

25 (1) Applications for the probate of a will and for letters
26 testamentary, or either, may be made to the judge of the court having
27 jurisdiction and the court may immediately hear the proofs and either
28 probate or reject such will as the testimony may justify. Upon such
29 hearing the court shall make and cause to be entered a formal order,
30 either establishing and probating such will, or refusing to establish
31 and probate the same, and such order shall be conclusive except in the
32 event of a contest of such will as hereinafter provided. All testimony
33 in support of the will shall be reduced to writing, signed by the
34 witnesses, and certified by the judge of the court. If the application
35 for probate of a will does not request the appointment of a personal

1 representative and the court enters an adjudication of testacy
2 establishing such will no further administration shall be required
3 except as commenced pursuant to RCW 11.28.330 or 11.28.340.

4 (2) In addition to the foregoing procedure for the proof of wills,
5 any or all of the attesting witnesses to a will may, at the request of
6 the testator or, after his or her decease, at the request of the
7 executor or any person interested under it, make an affidavit before
8 any person authorized to administer oaths, stating such facts as they
9 would be required to testify to in court to prove such will, which
10 affidavit may be written on the will or may be attached to the will or
11 to a photographic copy of the will. The sworn statement of any witness
12 so taken shall be accepted by the court as if it had been taken before
13 the court.

14 **Sec. 2017.** RCW 11.28.110 and 1977 ex.s. c 234 s 4 are each amended
15 to read as follows:

16 Application for letters of administration, or, application for an
17 adjudication of intestacy and heirship without the issuance of letters
18 of administration shall be made by petition in writing, signed and
19 verified by the applicant or his or her attorney, and filed with the
20 court, which petition shall set forth the facts essential to giving the
21 court jurisdiction of the case, and state, if known, the names, ages
22 and addresses of the heirs of the deceased and that the deceased died
23 without a will. If the application for an adjudication of intestacy
24 and heirship does not request the appointment of a personal
25 representative and the court enters an adjudication of intestacy no
26 further administration shall be required except as set forth in RCW
27 11.28.330 or 11.28.340.

28 **Sec. 2018.** RCW 11.28.190 and 1965 c 145 s 11.28.190 are each
29 amended to read as follows:

30 Before the judge approves any bond required under this chapter, and
31 after its approval, he or she may, of his or her own motion, or upon
32 the motion of any person interested in the estate, supported by
33 affidavit that the sureties, or some one or more of them, are not worth
34 as much as they have justified to, order a citation to issue, requiring
35 such sureties to appear before him or her at a designated time and
36 place, to be examined touching their property and its value; and the

1 judge must, at the same time, cause notice to be issued to the personal
2 representative, requiring his or her appearance on the return of the
3 citation, and on its return he or she may examine the sureties and such
4 witnesses as may be produced touching the property of the sureties and
5 its value; and if upon such examination he or she is satisfied that the
6 bond is insufficient he or she must require sufficient additional
7 security. If the bond and sureties are found by the court to be
8 sufficient, the costs incident to such hearing shall be taxed against
9 the party instituting such hearing. As a part of such costs the
10 sureties appearing shall be allowed such fees and mileage as witnesses
11 are allowed in civil proceedings: PROVIDED, That when the citation
12 herein referred to is issued on the motion of the court, no costs shall
13 be imposed.

14 **Sec. 2019.** RCW 11.28.230 and 1965 c 145 s 11.28.230 are each
15 amended to read as follows:

16 No bond required under the provisions of this chapter, and intended
17 as such bond, shall be void for want of form, recital or condition; nor
18 shall the principal or surety on such account be discharged, but all
19 the parties thereto shall be held and bound to the full extent
20 contemplated by the law requiring the same, to the amount specified in
21 such bond. In all actions on such defective bond the plaintiff may
22 state its legal effect in the same manner as though it were a perfect
23 bond. The bond shall not be void upon the first recovery, but may be
24 sued and recovered upon, from time to time, by any person aggrieved in
25 his or her own name, until the whole penalty is exhausted.

26 **Sec. 2020.** RCW 11.28.250 and 1965 c 145 s 11.28.250 are each
27 amended to read as follows:

28 Whenever the court has reason to believe that any personal
29 representative has wasted, embezzled, or mismanaged, or is about to
30 waste, or embezzle the property of the estate committed to his or her
31 charge, or has committed, or is about to commit a fraud upon the
32 estate, or is incompetent to act, or is permanently removed from the
33 state, or has wrongfully neglected the estate, or has neglected to
34 perform any acts as such personal representative, or for any other
35 cause or reason which to the court appears necessary, it shall have
36 power and authority, after notice and hearing to revoke such letters.

1 The manner of the notice and of the service of the same and of the time
2 of hearing shall be wholly in the discretion of the court, and if the
3 court for any such reasons revokes such letters the powers of such
4 personal representative shall at once cease, and it shall be the duty
5 of the court to immediately appoint some other personal representative,
6 as in this title provided.

7 **Sec. 2021.** RCW 11.28.290 and 1965 c 145 s 11.28.290 are each
8 amended to read as follows:

9 If any personal representative resign, or his or her letters be
10 revoked, or he or she die, he or she or his or her representatives
11 shall account for, pay, and deliver to his or her successor or to the
12 surviving or remaining personal representatives, all money and property
13 of every kind, and all rights, credits, deeds, evidences of debt, and
14 papers of every kind, of the deceased, at such time and in such manner
15 as the court shall order on final settlement with such personal
16 representative or his or her legal representatives.

17 **Sec. 2022.** RCW 11.28.300 and 1965 c 145 s 11.28.300 are each
18 amended to read as follows:

19 The succeeding administrator, or remaining personal representative
20 may proceed by law against any delinquent former personal
21 representative, or his or her personal representatives, or the sureties
22 of either, or against any other person possessed of any part of the
23 estate.

24 **Sec. 2023.** RCW 11.28.330 and 2004 c 193 s 1 are each amended to
25 read as follows:

26 If no personal representative is appointed to administer the estate
27 of a decedent, the person obtaining the adjudication of testacy, or
28 intestacy and heirship, within thirty days shall personally serve or
29 mail a true copy of the adjudication to each heir, legatee, and devisee
30 of the decedent, which copy shall contain the name of the decedent's
31 estate and the probate cause number, and shall:

- 32 (1) State the name and address of the applicant;
- 33 (2) State that on the day of , , the
34 applicant obtained an order from the superior court of

1 county, state of Washington, adjudicating that the decedent died
2 intestate, or testate, whichever shall be the case;

3 (3) In the event the decedent died testate, enclose a copy of his
4 or her will therewith, and state that the adjudication of testacy will
5 become final and conclusive for all legal intents and purposes unless
6 any heir, legatee, or devisee of the decedent shall contest said will
7 within four months after the date the said will was adjudicated to be
8 the last will and testament of the decedent;

9 (4) In the event that the decedent died intestate, set forth the
10 names and addresses of the heirs of the decedent, their relationship to
11 the decedent, the distributive shares of the estate of the decedent
12 which they are entitled to receive, and that said adjudication of
13 intestacy and heirship shall become final and conclusive for all legal
14 intents and purposes, unless, within four months of the date of said
15 adjudication of intestacy, a petition shall be filed seeking the
16 admission of a will of the decedent for probate, or contesting the
17 adjudication of heirship.

18 Notices provided for in this section may be served personally or
19 sent by regular mail, and proof of such service or mailing shall be
20 made by an affidavit filed in the cause;

21 (5) Mail a true copy of the adjudication, including the decedent's
22 social security number and the name and address of the applicant, to
23 the state of Washington department of social and health services office
24 of financial recovery.

25 **Sec. 2024.** RCW 11.28.340 and 2004 c 193 s 2 are each amended to
26 read as follows:

27 Unless, within four months after the entry of the order
28 adjudicating testacy or intestacy and heirship, and the mailing or
29 service of the notice required in RCW 11.28.330 any heir, legatee or
30 devisee of the decedent shall offer a later will for probate or contest
31 an adjudication of testacy in the manner provided in this title for
32 will contests, or offer a will of the decedent for probate following an
33 adjudication of intestacy and heirship, or contesting the determination
34 of heirship, an order adjudicating testacy or intestacy and heirship
35 without appointing a personal representative to administer a decedent's
36 estate shall, as to those persons by whom notice was waived or to whom

1 said notice was mailed or on whom served, be deemed the equivalent of
2 the entry of a final decree of distribution in accordance with the
3 provisions of chapter 11.76 RCW for the purpose of:

4 (1) Establishing the decedent's will as his or her last will and
5 testament and persons entitled to receive his or her estate thereunder;
6 or

7 (2) Establishing the fact that the decedent died intestate, and
8 those persons entitled to receive his or her estate as his or her heirs
9 at law.

10 The right of an heir, legatee, or devisee to receive the assets of
11 a decedent shall, to the extent otherwise provided by this title, be
12 subject to the prior rights of the decedent's creditors and of any
13 persons entitled to a homestead award or award in lieu of homestead or
14 family allowance, and nothing contained in this section shall be deemed
15 to alter or diminish such prior rights, or to prohibit any person for
16 good cause shown, from obtaining the appointment of a personal
17 representative to administer the estate of the decedent after the entry
18 of an order adjudicating testacy or intestacy and heirship. However,
19 if the petition for letters testamentary or of administration shall be
20 filed more than four months after the date of the adjudication of
21 testacy or of intestacy and heirship, the issuance of such letters
22 shall not affect the finality of said adjudications.

23 Four months after providing all notices as required in RCW
24 11.28.330, any person paying, delivering, transferring, or issuing
25 property to the person entitled thereto under an adjudication of
26 testacy or intestacy and heirship that is deemed the equivalent of a
27 final decree of distribution as set forth in this section is discharged
28 and released to the same extent as if such person has dealt with a
29 personal representative of the decedent.

30 **Sec. 2025.** RCW 11.32.010 and 1965 c 145 s 11.32.010 are each
31 amended to read as follows:

32 When, by reason of an action concerning the proof of a will, or
33 from any other cause, there shall be a delay in granting letters
34 testamentary or of administration, the judge may, in his or her
35 discretion, appoint a special administrator (other than one of the
36 parties) to collect and preserve the effects of the deceased; and in
37 case of an appeal from the decree appointing such special

1 administrator, he or she shall, nevertheless, proceed in the execution
2 of his or her trust until he or she shall be otherwise ordered by the
3 appellate court.

4 **Sec. 2026.** RCW 11.32.020 and 1965 c 145 s 11.32.020 are each
5 amended to read as follows:

6 Every such administrator shall, before entering on the duties of
7 his or her trust, give bond, with sufficient surety or sureties, in
8 such sum as the judge shall order, payable to the state of Washington,
9 with conditions as required of an executor or in other cases of
10 administration: PROVIDED, That in all cases where a bank or trust
11 company authorized to act as administrator is appointed special
12 administrator or acts as special administrator under an appointment as
13 such heretofore made, no bond shall be required.

14 **Sec. 2027.** RCW 11.32.030 and 1965 c 145 s 11.32.030 are each
15 amended to read as follows:

16 Such special administrator shall collect all the goods, chattels,
17 money, effects, and debts of the deceased, and preserve the same for
18 the personal representative who shall thereafter be appointed; and for
19 that purpose may commence and maintain suits as an administrator, and
20 may also sell such perishable and other goods as the court shall order
21 sold, and make family allowances under the order of the court. The
22 appointment may be for a specified time, to perform duties respecting
23 specific property, or to perform particular acts, as stated in the
24 order of appointment. Such special administrator shall be allowed such
25 compensation for his or her services as the said court shall deem
26 reasonable, together with reasonable fees for his or her attorney.

27 **Sec. 2028.** RCW 11.32.040 and 1965 c 145 s 11.32.040 are each
28 amended to read as follows:

29 Upon granting letters testamentary or of administration the power
30 of the special administrator shall cease, and he or she shall forthwith
31 deliver to the personal representative all the goods, chattels, money,
32 effects, and debts of the deceased in his or her hands, and the
33 personal representative may be admitted to prosecute any suit commenced
34 by the special administrator, in like manner as an administrator de
35 bonis non is authorized to prosecute a suit commenced by a former

1 personal representative. The estate shall be liable for obligations
2 incurred by the special administrator pursuant to the order of
3 appointment or approved by the court.

4 **Sec. 2029.** RCW 11.32.060 and 1965 c 145 s 11.32.060 are each
5 amended to read as follows:

6 The special administrator shall also render an account, under oath,
7 of his or her proceedings, in like manner as other administrators are
8 required to do.

9 **Sec. 2030.** RCW 11.48.020 and 1965 c 145 s 11.48.020 are each
10 amended to read as follows:

11 Every personal representative shall, after having qualified, by
12 giving bond as hereinbefore provided, have a right to the immediate
13 possession of all the real as well as personal estate of the deceased,
14 and may receive the rents and profits of the real estate until the
15 estate shall be settled or delivered over, by order of the court, to
16 the heirs or devisees, and shall keep in tenable repair all houses,
17 buildings and fixtures thereon, which are under his or her control.

18 **Sec. 2031.** RCW 11.48.025 and 1965 c 145 s 11.48.025 are each
19 amended to read as follows:

20 Upon a showing of advantage to the estate the court may authorize
21 a personal representative to continue any business of the decedent,
22 other than the business of a partnership of which the decedent was a
23 member: PROVIDED, That if decedent left a nonintervention will or a
24 will specifically authorizing a personal representative to continue any
25 business of decedent, and his or her estate is solvent, or a will
26 providing that the personal representative liquidate any business of
27 decedent, this section shall not apply.

28 The order shall specify:

29 (1) The extent of the authority of the personal representative to
30 incur liabilities;

31 (2) The period of time during which he or she may operate the
32 business;

33 (3) Any additional provisions or restrictions which the court may,
34 at its discretion, include.

1 Any interested person may for good cause require the personal
2 representative to show cause why the authority granted him or her
3 should not be limited or terminated. The order to show cause shall set
4 forth the manner of service thereof and the time and place of hearing
5 thereon.

6 **Sec. 2032.** RCW 11.48.030 and 1965 c 145 s 11.48.030 are each
7 amended to read as follows:

8 Every personal representative shall be chargeable in his or her
9 accounts with the whole estate of the deceased which may come into his
10 or her possession. He or she shall not be responsible for loss or
11 decrease or destruction of any of the property or effects of the
12 estate, without his or her fault.

13 **Sec. 2033.** RCW 11.48.040 and 1965 c 145 s 11.48.040 are each
14 amended to read as follows:

15 No personal representative shall be chargeable upon any special
16 promise to answer damages, or to pay the debts of the testator or
17 intestate out of his or her own estate, unless the agreement for that
18 purpose, or some memorandum or note thereof, is in writing and signed
19 by such personal representative, or by some other person by him or her
20 thereunto specially authorized.

21 **Sec. 2034.** RCW 11.48.050 and 1965 c 145 s 11.48.050 are each
22 amended to read as follows:

23 He or she shall be allowed all necessary expenses in the care,
24 management, and settlement of the estate.

25 **Sec. 2035.** RCW 11.48.060 and 1965 c 145 s 11.48.060 are each
26 amended to read as follows:

27 If any person, before the granting of letters testamentary or of
28 administration, shall embezzle or alienate any of the moneys, goods,
29 chattels, or effects of any deceased person, he or she shall stand
30 chargeable, and be liable to the personal representative of the estate,
31 in the value of the property so embezzled or alienated, together with
32 any damage occasioned thereby, to be recovered for the benefit of the
33 estate.

1 **Sec. 2036.** RCW 11.48.070 and 1965 c 145 s 11.48.070 are each
2 amended to read as follows:

3 The court shall have authority to bring before it any person or
4 persons suspected of having in his or her possession or having
5 concealed, embezzled, conveyed, or disposed of any of the property of
6 the estate of decedents or incompetents subject to administration under
7 this title, or who has in his or her possession or within his or her
8 knowledge any conveyances, bonds, contracts, or other writings which
9 contain evidence of or may tend to establish the right, title,
10 interest, or claim of the deceased in and to any property. If such
11 person be not in the county in which the letters were granted, he or
12 she may be cited and examined either before the court of the county
13 where found or before the court issuing the order of citation, and if
14 he or she be found innocent of the charges he or she shall be entitled
15 to recover costs of the estate, which costs shall be fees and mileage
16 of witnesses, statutory attorney's fees, and such per diem and mileage
17 for the person so charged as allowed to witnesses in civil proceedings.
18 Such party may be brought before the court by means of citation such as
19 the court may choose to issue, and if he or she refuses to answer such
20 interrogatories as may be put to him or her touching such matters, the
21 court may commit him or her to the county jail, there to remain until
22 he or she shall be willing to make such answers.

23 **Sec. 2037.** RCW 11.48.080 and 1965 c 145 s 11.48.080 are each
24 amended to read as follows:

25 No personal representative shall be accountable for any debts due
26 the estate, if it shall appear that they remain uncollected without his
27 or her fault. No personal representative shall purchase any claim
28 against the estate he or she represents, but the personal
29 representative may make application to the court for permission to
30 purchase certain claims, and if it appears to the court to be for the
31 benefit of the estate that such purchase shall be made, the court may
32 make an order allowing such claims and directing that the same may be
33 purchased by the personal representative under such terms as the court
34 shall order, and such claims shall thereafter be paid as are other
35 claims, but the personal representative shall not profit thereby.

1 **Sec. 2038.** RCW 11.48.120 and 1965 c 145 s 11.48.120 are each
2 amended to read as follows:

3 Any personal representative may in his or her own name, for the
4 benefit of all parties interested in the estate, maintain actions on
5 the bond of a former personal representative of the same estate.

6 **Sec. 2039.** RCW 11.48.140 and 1965 c 145 s 11.48.140 are each
7 amended to read as follows:

8 When there shall be a deficiency of assets in the hands of a
9 personal representative, and when the deceased shall in his or her
10 lifetime have conveyed any real estate, or any rights, or interest
11 therein, with intent to defraud his or her creditors or to avoid any
12 right, duty, or debt of any person, or shall have so conveyed such
13 estate, which deeds or conveyances by law are void as against
14 creditors, the personal representative may, and it shall be his or her
15 duty to, commence and prosecute to final judgment any proper action for
16 the recovery of the same, and may recover for the benefit of the
17 creditors all such real estate so fraudulently conveyed, and may also,
18 for the benefit of the creditors, sue and recover all goods, chattels,
19 rights, and credits which may have been so fraudulently conveyed by the
20 deceased in his or her lifetime, whatever may have been the manner of
21 such fraudulent conveyance.

22 **Sec. 2040.** RCW 11.48.160 and 1965 c 145 s 11.48.160 are each
23 amended to read as follows:

24 When a judgment is given against a personal representative for want
25 of answer, such judgment is not to be deemed evidence of assets in his
26 or her hands, unless it appear that the complaint alleged assets and
27 that the notice was served upon him or her.

28 **Sec. 2041.** RCW 11.48.180 and 1965 c 145 s 11.48.180 are each
29 amended to read as follows:

30 No person is liable to an action as executor of his or her own
31 wrong for having taken, received, or interfered with the property of a
32 deceased person, but is responsible to the personal representatives of
33 such deceased person for the value of all property so taken or
34 received, and for all injury caused by his or her interference with the
35 estate of the deceased.

1 **Sec. 2042.** RCW 11.48.200 and 1965 c 145 s 11.48.200 are each
2 amended to read as follows:

3 In an action against a personal representative as such, the
4 remedies of arrest and attachment shall not be allowed on account of
5 the acts of his or her testator or intestate, but for his or her own
6 acts as such personal representative, such remedies shall be allowed
7 for the same causes in the manner and with like effect as in actions at
8 law generally.

9 **Sec. 2043.** RCW 11.48.210 and 1965 c 145 s 11.48.210 are each
10 amended to read as follows:

11 If testator by will makes provision for the compensation of his or
12 her personal representative, that shall be taken as his or her full
13 compensation unless he or she files in the court a written instrument
14 renouncing all claim for the compensation provided by the will before
15 qualifying as personal representative. The personal representative,
16 when no compensation is provided in the will, or when he or she
17 renounces all claim to the compensation provided in the will, shall be
18 allowed such compensation for his or her services as the court shall
19 deem just and reasonable. Additional compensation may be allowed for
20 his or her services as attorney and for other services not required of
21 a personal representative. An attorney performing services for the
22 estate at the instance of the personal representative shall have such
23 compensation therefor out of the estate as the court shall deem just
24 and reasonable. Such compensation may be allowed at the final account;
25 but at any time during administration a personal representative or his
26 or her attorney may apply to the court for an allowance upon the
27 compensation of the personal representative and upon attorney's fees.
28 If the court finds that the personal representative has failed to
29 discharge his or her duties as such in any respect, it may deny him or
30 her any compensation whatsoever or may reduce the compensation which
31 would otherwise be allowed.

32 **Sec. 2044.** RCW 11.56.040 and 1965 c 145 s 11.56.040 are each
33 amended to read as follows:

34 If the court should determine that it is necessary or proper, for
35 any of the said purposes, to mortgage any or all of said property, it
36 may make an order directing the personal representative to mortgage

1 such thereof as it may determine upon, and such order shall contain the
2 terms and conditions of such transaction and authorize the personal
3 representative to execute and deliver his or her note or notes and
4 secure the same by mortgage, and thereafter it shall be the duty of
5 such personal representative to comply with such order. The personal
6 representative shall not deliver any such note, mortgage, or other
7 evidence of indebtedness until he or she has first presented same to
8 the court and obtained its approval of the form. Every mortgage so
9 made and approved shall be effectual to mortgage and encumber all the
10 right, title, and interest of the said estate in the property described
11 therein at the time of the death of the said decedent, or acquired by
12 his or her estate, and no irregularity in the proceedings shall impair
13 or invalidate any mortgage given under such order of the court and
14 approved by it.

15 **Sec. 2045.** RCW 11.56.045 and 1965 c 145 s 11.56.045 are each
16 amended to read as follows:

17 If the court should determine that it is necessary or proper, for
18 any of the said purposes to lease any or all of said property, it may
19 make an order directing the personal representative to lease such
20 thereof as it may determine upon, and such order shall contain the
21 terms and conditions of such transaction and authorize the personal
22 representative to execute the lease and thereafter it shall be the duty
23 of the personal representative to comply with such order. The personal
24 representative shall not execute such lease until he or she has first
25 presented the same to the court and obtained its approval of the form.

26 **Sec. 2046.** RCW 11.56.070 and 1965 c 145 s 11.56.070 are each
27 amended to read as follows:

28 The personal representative, should he or she deem it for the best
29 interests of all concerned, may postpone such sale to a time fixed but
30 not to exceed twenty days, and such postponement shall be made by
31 proclamation of the personal representative at the time and place first
32 appointed for the sale; if there be an adjournment of such sale for
33 more than three days, then it shall be the duty of the personal
34 representative to cause a notice of such adjournment to be published in
35 a legal newspaper in the county in which notice was published as
36 provided in RCW 11.56.060, in addition to making such proclamation.

1 **Sec. 2047.** RCW 11.56.100 and 1965 c 145 s 11.56.100 are each
2 amended to read as follows:

3 The personal representative making any sale of real estate, either
4 at public or private sale, or sale by negotiation shall within ten days
5 after making such sale file with the clerk of the court his or her
6 return of such sale, the same being duly verified. In the case of a
7 sale by negotiation the personal representative shall publish a notice
8 in one issue of a legal newspaper of the county in which the estate is
9 being administered; such notice shall include the legal description of
10 the property sold, the selling price and the date after which the sale
11 can be confirmed: PROVIDED, That such confirmation date shall be at
12 least ten days after such notice is published. At any time after the
13 expiration of ten days from the publication of such notice, in the case
14 of sale by negotiation, and at any time after the expiration of ten
15 days from the filing of such return, in the case of public or private
16 sale the court may approve and confirm such sale and direct proper
17 instruments of transfer to be executed and delivered. But if the court
18 shall be of the opinion that the proceedings were unfair, or that the
19 sum obtained was disproportionate to the value of the property sold, or
20 if made at private sale or sale by negotiation that it did not sell for
21 at least ninety percent of the appraised value as in RCW 11.56.090
22 provided, and that a sum exceeding said bid by at least ten percent
23 exclusive of the expense of a new sale, may be obtained, the court may
24 refuse to approve or confirm such sale and may order a resale. On a
25 resale, notice shall be given and the sale shall be conducted in all
26 respects as though no previous sale had been made.

27 **Sec. 2048.** RCW 11.56.110 and 1967 ex.s. c 106 s 2 are each amended
28 to read as follows:

29 If, at any time before confirmation of any such sale, any person
30 shall file with the clerk of the court a bid on such property in an
31 amount not less than ten percent higher than the bid the acceptance of
32 which was reported by the return of sale and shall deposit with the
33 clerk not less than twenty percent of his or her bid in the form of
34 cash, money order, cashier's check, or certified check made payable to
35 the clerk, to be forfeited to the estate unless such bidder complies
36 with his or her bid, the bidder whose bid was accepted shall be
37 informed of such increased bid by registered or certified mail

1 addressed to such bidder at any address which may have been given by
2 him or her at the time of making such bid. Such bidder then shall have
3 a period of five days, not including holidays, in which to make and
4 file a bid better than that of the subsequent bidder. After the
5 expiration of such five-day period the court may refuse to confirm the
6 sale reported in the return of sale and direct a sale to the person
7 making the best bid then on file, indicating which is the best bid, and
8 a sale made pursuant to such direction shall need no further
9 confirmation. Instead of such a direction, the court, upon application
10 of the personal representative, may direct the reception of sealed
11 bids. Thereupon the personal representative shall mail notice by
12 registered or certified mail to all those who have made bids on such
13 property, informing them that sealed bids will be received by the clerk
14 of the court within ten days. At the expiration of such period the
15 personal representative, in the presence of the clerk of the court,
16 shall open such bids as shall have been submitted to the clerk within
17 the time stated in the notice (whether by previous bidders or not) and
18 shall file a recommendation of the acceptance of the bid which he or
19 she deems best in view of the requirements of the particular estate.
20 The court may thereupon direct a sale to the bidder whose bid is deemed
21 best by the court and a sale made pursuant to such direction shall need
22 no confirmation: PROVIDED, HOWEVER, That the court shall consider the
23 net realization to the estate in determining the best bid.

24 **Sec. 2049.** RCW 11.56.180 and 1965 c 145 s 11.56.180 are each
25 amended to read as follows:

26 If the deceased person at the time of his or her death was
27 possessed of a contract for the purchase of lands, his or her interest
28 in such lands under such contract may be sold on the application of his
29 or her personal representative in the same manner as if he or she died
30 seized of such lands; and the same proceedings may be had for that
31 purpose as are prescribed in this title in respect to lands of which he
32 or she died seized, except as hereinafter provided.

33 **Sec. 2050.** RCW 11.56.210 and 1965 c 145 s 11.56.210 are each
34 amended to read as follows:

35 Upon the confirmation of such sale, the personal representative
36 shall execute to the purchaser an assignment of the contract and deed,

1 which shall vest in the purchaser, his or her heirs and assigns, all
2 the right, title, and interest of the persons entitled to the interest
3 of the deceased in the land sold at the time of the sale, and such
4 purchaser shall have the same rights and remedies against the vendor of
5 such lands as the deceased would have had if living.

6 **Sec. 2051.** RCW 11.56.230 and 1965 c 145 s 11.56.230 are each
7 amended to read as follows:

8 If it shall be made to appear to the satisfaction of the court that
9 it will be to the interest of the estate of any deceased person to sell
10 or mortgage other personal estate or to sell or mortgage other real
11 estate of the decedent than that mortgaged by him or her to redeem the
12 property so mortgaged, the court may order the sale or mortgaging of
13 any personal estate, or the sale or mortgaging of any real estate of
14 the decedent which it may deem expedient to be sold or mortgaged for
15 such purpose, which sale or mortgaging shall be conducted in all
16 respects as other sales or mortgages of like property ordered by the
17 court.

18 **Sec. 2052.** RCW 11.60.040 and 1965 c 145 s 11.60.040 are each
19 amended to read as follows:

20 In the case of real property, a conveyance executed under the
21 provisions of this title shall so refer to the order authorizing the
22 conveyance that the same may be readily found, but need not recite the
23 record in the case generally, and the conveyance made in pursuance of
24 such order shall pass to the grantee all the estate, right, title, and
25 interest contracted to be conveyed by the deceased, as fully as if the
26 contracting party himself or herself were still living and executed the
27 conveyance in pursuance of such contract.

28 **Sec. 2053.** RCW 11.60.060 and 1965 c 145 s 11.60.060 are each
29 amended to read as follows:

30 If the person entitled to performance shall die before the
31 commencement of the proceedings according to the provisions of this
32 title or before the completion of performance, any person who would
33 have been entitled to the performance under him or her, as heir,
34 devisee, or otherwise, in case the performance had been made according
35 to the terms of the contract, or the personal representative of such

1 deceased person, for the benefit of persons entitled, may commence such
2 proceedings, or prosecute the same if already commenced; and the
3 performance shall inure to the persons who would have been entitled to
4 it, or to the personal representative for their benefit.

5 **Sec. 2054.** RCW 11.64.008 and 1977 ex.s. c 234 s 14 are each
6 amended to read as follows:

7 The surviving partner or partners may continue in possession of the
8 partnership estate, pay its debts, and settle its business, and shall
9 account to the personal representative of the decedent and shall pay
10 over such balances as may, from time to time, be payable to him or her.

11 **Sec. 2055.** RCW 11.64.030 and 1977 ex.s. c 234 s 17 are each
12 amended to read as follows:

13 The surviving partner or the surviving partners jointly, shall have
14 the right at any time to petition the court to purchase the interests
15 of a deceased partner in the partnership. Upon a hearing pursuant to
16 such petition the court shall, in such manner as it sees fit, determine
17 and by order fix the value of the interest of the deceased partner over
18 and above all partnership debts and obligations, the price, terms, and
19 conditions of such sale and the period of time during which the
20 surviving partner or partners shall have the prior right to purchase
21 the interest of the deceased partner. If any such surviving partner be
22 also the personal representative of the estate of the deceased partner,
23 such fact shall not affect his or her right to purchase, or to join
24 with the other surviving partners to purchase such interest in the
25 manner hereinbefore provided.

26 The court shall make such orders in connection with such sale as it
27 deems proper or necessary to protect the estate of the deceased against
28 any liability for partnership debts or obligations.

29 **Sec. 2056.** RCW 11.66.010 and 1979 c 141 s 12 are each amended to
30 read as follows:

31 (1) If not less than thirty days after the death of an individual
32 entitled at the time of death to a monthly benefit or benefits under
33 Title II of the social security act, all or part of the amount of such
34 benefit or benefits, not in excess of one thousand dollars, is paid by
35 the United States to (a) the surviving spouse, (b) one or more of the

1 deceased's children, or descendants of his or her deceased children,
2 (c) the secretary of social and health services if the decedent was a
3 resident of a state institution at the date of death and liable for the
4 cost of his or her care in an amount at least as large as the amount of
5 such benefits, (d) the deceased's father or mother, or (e) the
6 deceased's brother or sister, preference being given in the order named
7 if more than one request for payment shall have been made by or for
8 such individuals, such payment shall be deemed to be a payment to the
9 legal representative of the decedent and shall constitute a full
10 discharge and release from any further claim for such payment to the
11 same extent as if such payment had been made to an executor or
12 administrator of the decedent's estate.

13 (2) The provisions of subsection (1) (~~hereof~~) of this section
14 shall apply only if an affidavit has been made and filed with the
15 United States department of health, education, and welfare by the
16 surviving spouse or other relative by whom or on whose behalf request
17 for payment is made and such affidavit shows (a) the date of death of
18 the deceased, (b) the relationship of the affiant to the deceased, (c)
19 that no executor or administrator for the deceased has qualified or
20 been appointed, nor to the affiant's knowledge is administration of the
21 deceased's estate contemplated, and (d) that, to the affiant's
22 knowledge, there exists at the time of the filing of such affidavit, no
23 relative of a closer degree of kindred to the deceased than the
24 affiant: PROVIDED, That the affidavit filed by the secretary of social
25 and health services shall meet the requirements of (~~parts~~) (a) and
26 (c) of this subsection and, in addition, show that the decedent left no
27 known surviving spouse or children and died while a resident of a state
28 institution at the date of death and liable for the cost of his or her
29 care in an amount at least as large as the amount of such benefits.

30 **Sec. 2057.** RCW 11.68.070 and 1977 ex.s. c 234 s 23 are each
31 amended to read as follows:

32 If any personal representative who has been granted nonintervention
33 powers fails to execute his or her trust faithfully or is subject to
34 removal for any reason specified in RCW 11.28.250 as now or hereafter
35 amended, upon petition of any unpaid creditor of the estate who has
36 filed a claim or any heir, devisee, legatee, or of any person on behalf
37 of any incompetent heir, devisee, or legatee, such petition being

1 supported by affidavit which makes a prima facie showing of cause for
2 removal or restriction of powers, the court shall cite such personal
3 representative to appear before it, and if, upon hearing of the
4 petition it appears that said personal representative has not
5 faithfully discharged said trust or is subject to removal for any
6 reason specified in RCW 11.28.250 as now or hereafter amended, then, in
7 the discretion of the court the powers of the personal representative
8 may be restricted or the personal representative may be removed and a
9 successor appointed. In the event the court shall restrict the powers
10 of the personal representative in any manner, it shall endorse the
11 words "Powers restricted" upon the original order of solvency together
12 with the date of said endorsement, and in all such cases the cost of
13 the citation, hearing, and reasonable attorney's fees may be awarded as
14 the court determines.

15 **Sec. 2058.** RCW 11.68.100 and 1977 ex.s. c 234 s 25 are each
16 amended to read as follows:

17 (1) When the estate is ready to be closed, the court, upon
18 application by the personal representative who has nonintervention
19 powers, shall have the authority and it shall be its duty, to make and
20 cause to be entered a decree which either:

21 (a) Finds and adjudges that all approved claims of the decedent
22 have been paid, finds and adjudges the heirs of the decedent or those
23 persons entitled to take under his or her will, and distributes the
24 property of the decedent to the persons entitled thereto; or

25 (b) Approves the accounting of the personal representative and
26 settles the estate of the decedent in the manner provided for in the
27 administration of those estates in which the personal representative
28 has not acquired nonintervention powers.

29 (2) Either decree provided for in this section shall be made after
30 notice given as provided for in the settlement of estates by a personal
31 representative who has not acquired nonintervention powers. The
32 petition for either decree provided for in this section shall state the
33 fees paid or proposed to be paid to the personal representative, his or
34 her attorneys, accountants, and appraisers, and any heir, devisee, or
35 legatee whose interest in the assets of a decedent's estate would be
36 reduced by the payment of said fees shall receive a copy of said
37 petition with the notice of hearing thereon; at the request of the

1 personal representative or any said heir, devisee, or legatee, the
2 court shall, at the time of the hearing on either petition, determine
3 the reasonableness of said fees. The court shall take into
4 consideration all criteria forming the basis for the determination of
5 the amount of such fees as contained in the code of professional
6 responsibility; in determining the reasonableness of the fees charged
7 by any personal representative, accountants, and appraisers the court
8 shall take into consideration the criteria forming the basis for the
9 determination of attorney's fees, to the extent applicable, and any
10 other factors which the court determines to be relevant in the
11 determination of the amount of fees to be paid to such personal
12 representative.

13 **Sec. 2059.** RCW 11.68.120 and 1974 ex.s. c 117 s 24 are each
14 amended to read as follows:

15 A personal representative who has acquired nonintervention powers
16 in accordance with this chapter shall not be deemed to have waived his
17 or her nonintervention powers by obtaining any order or decree during
18 the course of his or her administration of the estate.

19 **Sec. 2060.** RCW 11.72.002 and 1965 c 145 s 11.72.002 are each
20 amended to read as follows:

21 Upon application of the personal representative, with or without
22 notice as the court may direct, the court may order the personal
23 representative to deliver to any distributee who consents to it,
24 possession of any specific real or personal property to which he or she
25 is entitled under the terms of the will or by intestacy, provided that
26 other distributees and claimants are not prejudiced thereby. The court
27 may at any time prior to the decree of final distribution order him or
28 her to return such property to the personal representative, if it is
29 for the best interests of the estate. The court may require the
30 distributee to give security for such return.

31 **Sec. 2061.** RCW 11.76.010 and 1965 c 145 s 11.76.010 are each
32 amended to read as follows:

33 Not less frequently than annually from the date of qualification,
34 unless a final report has theretofore been rendered, the personal
35 representative shall make, verify by his or her oath, and file with the

1 clerk of the court a report of the affairs of the estate. Such report
2 shall contain a statement of the claims filed and allowed and all those
3 rejected, and if it be necessary to sell, mortgage, lease, or exchange
4 any property for the purpose of paying debts or settling any
5 obligations against the estate or expenses of administration or
6 allowance to the family, he or she may in such report set out the facts
7 showing such necessity and ask for such sale, mortgage, lease, or
8 exchange; such report shall likewise state the amount of property, real
9 and personal, which has come into his or her hands, and give a detailed
10 statement of all sums collected by him or her, and of all sums paid
11 out, and it shall state such other things and matters as may be proper
12 or necessary to give the court full information regarding any
13 transactions by him or her done or which should be done. Such personal
14 representative may at any time, however, make, verify, and file any
15 reports which in his or her judgment would be proper or which the court
16 may order to be made.

17 **Sec. 2062.** RCW 11.76.030 and 1965 c 145 s 11.76.030 are each
18 amended to read as follows:

19 When the estate shall be ready to be closed, such personal
20 representative shall make, verify, and file with the court his or her
21 final report and petition for distribution. Such final report and
22 petition shall, among other things, show that the estate is ready to be
23 settled and shall show any moneys collected since the previous report,
24 and any property which may have come into the hands of the personal
25 representative since his or her previous report, and debts paid, and
26 generally the condition of the estate at that time. It shall likewise
27 set out the names and addresses, as nearly as may be, of all the
28 legatees and devisees in the event there shall have been a will, and
29 the names and addresses, as nearly as may be, of all the heirs who may
30 be entitled to share in such estate, and shall give a particular
31 description of all the property of the estate remaining undisposed of,
32 and shall set out such other matters as may tend to inform the court of
33 the condition of the estate, and it may ask the court for a settlement
34 of the estate and distribution of property and the discharge of the
35 personal representative. If the personal representative has been
36 discharged without having legally closed the estate, without having
37 legally obtained an adjudication as to the heirs, or without having

1 legally procured a decree of distribution or final settlement the court
2 may in its discretion upon petition of any person interested, cause all
3 such steps to be taken in such estate as were omitted or defective.

4 **Sec. 2063.** RCW 11.76.040 and 1969 c 70 s 3 are each amended to
5 read as follows:

6 When such final report and petition for distribution, or either,
7 has been filed, the court, or the clerk of the court, shall fix a day
8 for hearing it which must be at least twenty days subsequent to the day
9 of the publication as hereinafter provided. Notice of the time and
10 place fixed for the hearing shall be given by the personal
11 representative by publishing a notice thereof in a legal newspaper
12 published in the county for one publication at least twenty days
13 preceding the time fixed for the hearing. It shall state in substance
14 that a final report and petition for distribution have, or either
15 thereof has, been filed with the clerk of the court and that the court
16 is asked to settle such report, distribute the property to the heirs or
17 persons entitled thereto, and discharge the personal representative,
18 and it shall give the time and place fixed for the hearing of such
19 final report and petition and shall be signed by the personal
20 representative or the clerk of the court.

21 Whenever a final report and petition for distribution, or either,
22 shall have been filed in the estate of a decedent and a day fixed for
23 the hearing of the same, the personal representative of such estate
24 shall, not less than twenty days before the hearing, cause to be mailed
25 a copy of the notice of the time and place fixed for hearing to each
26 heir, legatee, devisee and distributee whose name and address are known
27 to him or her, and proof of such mailing shall be made by affidavit and
28 filed at or before the hearing.

29 **Sec. 2064.** RCW 11.76.050 and 1965 c 145 s 11.76.050 are each
30 amended to read as follows:

31 Upon the date fixed for the hearing of such final report and
32 petition for distribution, or either thereof, or any day to which such
33 hearing may have been adjourned by the court, if the court be satisfied
34 that the notice of the time and place of hearing has been given as
35 provided herein, it may proceed to the hearing aforesaid. Any person
36 interested may file objections to the said report and petition for

1 distribution, or may appear at the time and place fixed for the hearing
2 thereof and present his or her objections thereto. The court may take
3 such testimony as to it appears proper or necessary to determine
4 whether the estate is ready to be settled, and whether the transactions
5 of the personal representative should be approved, and to determine who
6 are the legatees or heirs or persons entitled to have the property
7 distributed to them, and the court shall, if it approves such report,
8 and finds the estate ready to be closed, cause to be entered a decree
9 approving such report, find and adjudge the persons entitled to the
10 remainder of the estate, and that all debts have been paid, and by such
11 decree shall distribute the real and personal property to those
12 entitled to the same. Upon the production of receipts from the
13 beneficiaries or distributees for their portions of the estate, the
14 court shall, if satisfied with the correctness thereof, adjudge the
15 estate closed and discharge the personal representative.

16 The court may, upon such final hearing, partition among the persons
17 entitled thereto, the estate held in common and undivided, and
18 designate and distribute their respective shares; or assign the whole
19 or any part of said estate to one or more of the persons entitled to
20 share therein. The person or persons to whom said estate is assigned
21 shall pay or secure to the other parties interested in said estate
22 their just proportion of the value thereof as determined by the court
23 from the appraisement, or from any other evidence which the court may
24 require.

25 If it shall appear to the court at or prior to any final hearing
26 that the estate cannot be fairly divided, then the whole or any part of
27 said estate may be sold or mortgaged in the manner provided by law for
28 the sale or mortgaging of property by personal representatives and the
29 proceeds thereof distributed to the persons entitled thereto as
30 provided in the final decree.

31 The court shall have the authority to make partition, distribution
32 and settlement of all estates in any manner which to the court seems
33 right and proper, to the end that such estates may be administered and
34 distributed to the persons entitled thereto. No estate shall be
35 partitioned, nor sale thereof made where partition is impracticable
36 except upon a hearing before the court and the court shall fix the
37 values of the several pieces or parcels to be partitioned at the time
38 of making such order of partition or sale; and may order the property

1 sold and the proceeds distributed, or may order partition and
2 distribute the several pieces or parcels, subject to such charges or
3 burdens as shall be proper and equitable.

4 The provisions of this section shall be concurrent with and not in
5 derogation of other statutes as to partition of property or sale.

6 **Sec. 2065.** RCW 11.76.060 and 1965 c 145 s 11.76.060 are each
7 amended to read as follows:

8 If, at any hearing upon any report of any personal representative,
9 it shall appear to the court before which said proceeding is pending
10 that said personal representative has not fully accounted to the
11 beneficiaries of his or her trust and that said report should not be
12 approved as rendered, the court may continue said hearing to a day
13 certain and may cite the surety upon the bond of said personal
14 representative to appear upon the date fixed in said citation and show
15 cause why the account should not be disapproved and judgment entered
16 for any deficiency against said personal representative and the surety
17 upon his or her bond. Said citation shall be personally served upon
18 said surety in the manner provided by law for the service of summons in
19 civil actions and shall be served not less than twenty days previous to
20 said hearing. At said hearing any interested party, including the
21 surety so cited, shall have the right to introduce any evidence which
22 shall be material to the matter before the court. If, at said hearing,
23 the report of said personal representative shall not be approved and
24 the court shall find that said personal representative is indebted to
25 the beneficiary of his or her trust in any amount, the court may
26 thereupon enter final judgment against said personal representative and
27 the surety upon his or her bond, which judgment shall be enforceable in
28 the same manner and to the same extent as judgments in ordinary civil
29 actions.

30 **Sec. 2066.** RCW 11.76.070 and 1965 c 145 s 11.76.070 are each
31 amended to read as follows:

32 If, in any probate or guardianship proceeding, any personal
33 representative shall fail or neglect to report to the court concerning
34 his or her trust and any beneficiary or other interested party shall be
35 reasonably required to employ legal counsel to institute legal
36 proceedings to compel an accounting, or if an erroneous account or

1 report shall be rendered by any personal representative and any
2 beneficiary of said trust or other interested party shall be reasonably
3 required to employ legal counsel to resist said account or report as
4 rendered, and upon a hearing an accounting shall be ordered, or the
5 account as rendered shall not be approved, and the said personal
6 representative shall be charged with further liability, the court
7 before which said proceeding is pending may, in its discretion, in
8 addition to statutory costs, enter judgment for reasonable attorney's
9 fees in favor of the person or persons instituting said proceedings and
10 against said personal representative, and in the event that the surety
11 or sureties upon the bond of said personal representative be made a
12 party to said proceeding, then jointly against said surety and said
13 personal representative, which judgment shall be enforced in the same
14 manner and to the same extent as judgments in ordinary civil actions.

15 **Sec. 2067.** RCW 11.76.100 and 1987 c 363 s 2 are each amended to
16 read as follows:

17 In rendering his or her accounts or reports the personal
18 representative shall produce receipts or canceled checks for the
19 expenses and charges which he or she shall have paid, which receipts
20 shall be filed and remain in court until the probate has been completed
21 and the personal representative has been discharged; however, he or she
22 may be allowed any item of expenditure, not exceeding twenty dollars,
23 for which no receipt is produced, if such item be supported by his or
24 her own oath, but such allowances without receipts shall not exceed the
25 sum of three hundred dollars in any one estate.

26 **Sec. 2068.** RCW 11.76.110 and 1965 c 145 s 11.76.110 are each
27 amended to read as follows:

28 After payment of costs of administration the debts of the estate
29 shall be paid in the following order:

30 (1) Funeral expenses in such amount as the court shall order.

31 (2) Expenses of the last sickness, in such amount as the court
32 shall order.

33 (3) Wages due for labor performed within sixty days immediately
34 preceding the death of decedent.

35 (4) Debts having preference by the laws of the United States.

36 (5) Taxes, or any debts or dues owing to the state.

1 (6) Judgments rendered against the deceased in his or her lifetime
2 which are liens upon real estate on which executions might have been
3 issued at the time of his or her death, and debts secured by mortgages
4 in the order of their priority.

5 (7) All other demands against the estate.

6 **Sec. 2069.** RCW 11.76.150 and 1965 c 145 s 11.76.150 are each
7 amended to read as follows:

8 If the estate shall be insufficient to pay the debts of any class,
9 each creditor shall be paid in proportion to his or her claim, and no
10 other creditor of any lower class shall receive any payment until all
11 those of the preceding class shall have been fully paid.

12 **Sec. 2070.** RCW 11.76.160 and 1965 c 145 s 11.76.160 are each
13 amended to read as follows:

14 Whenever a decree shall have been made by the court for the payment
15 of creditors, the personal representative shall be personally liable to
16 each creditor for his or her claim or the dividend thereon, except when
17 his or her inability to make the payment thereof from the property of
18 the estate shall result without fault upon his or her part. The
19 personal representative shall likewise be liable on his or her bond to
20 each creditor.

21 **Sec. 2071.** RCW 11.76.170 and 1965 c 145 s 11.76.170 are each
22 amended to read as follows:

23 If, after the accounts of the personal representative have been
24 settled and the property distributed, it shall appear that there is a
25 creditor or creditors whose claim or claims have been duly filed and
26 not paid or disallowed, the said claim or claims shall not be a lien
27 upon any of the property distributed, but the said creditor or
28 creditors shall have a cause of action against the personal
29 representative and his or her bond, for such an amount as such creditor
30 or creditors would have been entitled to receive had the said claim
31 been duly allowed and paid, and shall also have a cause of action
32 against the distributees and creditors for a contribution from them in
33 proportion to the amount which they have received. If the personal
34 representative or his or her sureties be required to make any payment

1 in this section provided for, he or she or they shall have a right of
2 action against said distributees and creditors to compel them to
3 contribute their just share.

4 **Sec. 2072.** RCW 11.76.190 and 1965 c 145 s 11.76.190 are each
5 amended to read as follows:

6 If there be any contingent or disputed claim against the estate,
7 the amount thereof, or such part thereof as the holder would be
8 entitled to, if the claim were established or absolute, shall be paid
9 into the court, where it shall remain to be paid over to the party when
10 he or she shall become entitled thereto; or if he or she fails to
11 establish his or her claim, to be paid over or distributed as the
12 circumstances of the case may require.

13 **Sec. 2073.** RCW 11.76.210 and 1965 c 145 s 11.76.210 are each
14 amended to read as follows:

15 Such agent shall make, subscribe and file an oath for the faithful
16 performance of his or her duties, and shall give a bond to the state,
17 to be approved by the court, conditioned faithfully to manage and
18 account for such estate, before he or she shall be authorized to
19 receive any property of said estate.

20 **Sec. 2074.** RCW 11.76.230 and 1965 c 145 s 11.76.230 are each
21 amended to read as follows:

22 The agent shall be liable on his or her bond for the care and
23 preservation of the estate while in his or her hands, and for the
24 payment of the funds to the county treasury, and may be sued thereon by
25 any person interested including the state.

26 **Sec. 2075.** RCW 11.76.240 and 1975 1st ex.s. c 278 s 11 are each
27 amended to read as follows:

28 During the time the estate is held by the agent, or within four
29 years after it is delivered to the county treasury, claim may be made
30 thereto only by the absentee person or his or her legal representative,
31 excepting that if it clearly appears that such person died prior to the
32 decedent in whose estate distribution was made to him or her, but
33 leaving lineal descendants surviving, such lineal descendants may
34 claim. If any claim to the estate is made during the period specified

1 above, the claimant shall forthwith notify the department of revenue in
2 writing of such claim. The court, being first satisfied as to the
3 right of such person to the estate, and after the filing of a clearance
4 from the department of revenue, shall order the agent, or the county
5 treasurer, as the case may be, to forthwith deliver the estate, or the
6 proceeds thereof, if sold, to such person.

7 **Sec. 2076.** RCW 11.76.243 and 1965 c 145 s 11.76.243 are each
8 amended to read as follows:

9 If no person appears to claim the estate within four years after it
10 is delivered to the county treasury, as provided by RCW 11.76.240, any
11 heirs of the absentee person may institute probate proceedings on the
12 estate of such absentee within ninety days thereafter. The fact that
13 no claim has been made to the estate by the absentee person during the
14 specified time shall be deemed prima facie proof of the death of such
15 person for the purpose of issuing letters of administration in his or
16 her estate. In the event letters of administration are issued within
17 the period provided above, the county treasurer shall make payment of
18 the funds held by him or her to the administrator upon being furnished
19 a certified copy of the letters of administration.

20 **Sec. 2077.** RCW 11.76.245 and 1975 1st ex.s. c 278 s 12 are each
21 amended to read as follows:

22 After any time limitation prescribed in RCW 11.76.220, 11.76.240 or
23 11.76.243, the absentee claimant may, at any time, if the assets of the
24 estate have not been claimed under the provisions of RCW 11.76.240 and
25 11.76.243, notify the department of revenue of his or her claim to the
26 estate, and file in the court which had jurisdiction of the original
27 probate a petition claiming the assets of the estate. The department
28 of revenue may appear in answer to such petition. Upon proof being
29 made to the probate court that the claimant is entitled to the estate
30 assets, the court shall render its judgment to that effect and the
31 assets shall be paid to the claimant without interest, upon
32 appropriation made by the legislature.

33 **Sec. 2078.** RCW 11.80.020 and 1967 c 168 s 15 are each amended to
34 read as follows:

35 The trustee so appointed shall make, subscribe and file in the

1 office of the clerk of the court an oath for the faithful performance
2 of his or her duties, and shall, within such time as may be fixed by
3 the judge, prepare and file an inventory of such property, and the
4 judge shall thereupon appoint a disinterested and qualified person to
5 appraise such property, and report his or her appraisement to the court
6 within such time as the court may fix. Upon the coming in of the
7 inventory and appraisement, the judge shall fix the amount of the bond
8 to be given by the trustee, which bond shall in no case be less than
9 the appraised value of the personal property and the annual rents and
10 profits of the real property, and the trustee shall thereupon file with
11 the clerk of the court a good and sufficient bond in the amount fixed
12 and with surety to be approved by the court, conditioned for the
13 faithful performance of his or her duties as trustee, and for
14 accounting for such property, its rents, issues, profits, and increase.

15 **Sec. 2079.** RCW 11.80.030 and 1965 c 145 s 11.80.030 are each
16 amended to read as follows:

17 The trustee shall, at the expiration of one year from the date of
18 his or her appointment and annually thereafter and at such times as the
19 court may direct, make and file a report and account of his or her
20 trusteeship, setting forth specifically the amounts received and
21 expended and the conditions of the property.

22 **Sec. 2080.** RCW 11.80.040 and 1965 c 145 s 11.80.040 are each
23 amended to read as follows:

24 If necessary to pay debts against the absentee which have been duly
25 approved and allowed in the same form and manner as provided for the
26 approving and allowing of claims against the estate of a deceased
27 person or for such other purpose as the court may deem proper for the
28 preservation of the estate, the trustee may sell, lease, or mortgage
29 real or personal property of the estate under order of the court so to
30 do, which order shall specify the particular property affected and the
31 method, whether by public sale, private sale, or by negotiation, and
32 the terms thereof, and the trustee shall hold the proceeds of such
33 sale, after deducting the necessary expenses thereof, subject to the
34 order of the court. The trustee is authorized and empowered to, by
35 order of the court, expend the proceeds received from the sale of such
36 property, and also the rents, issues, and profits accruing therefrom in

1 the care, maintenance, and upkeep of the property, so long as the
2 trusteeship shall continue, and the trustee shall receive out of such
3 property such compensation for his or her services and those of his or
4 her attorney as may be fixed by the court. The notices and procedures
5 in conducting sales, leases, and mortgages hereunder shall be as
6 provided in chapter 11.56 RCW.

7 **Sec. 2081.** RCW 11.80.060 and 1965 c 145 s 11.80.060 are each
8 amended to read as follows:

9 The court shall have the power to remove or to accept the
10 resignation of such trustee and appoint another in his or her stead.
11 At the termination of his or her trust, as hereinafter provided or in
12 case of his or her resignation or removal, the trustee shall file a
13 final account, which account shall be settled in the manner provided by
14 law for settling the final accounts of personal representatives.

15 **Sec. 2082.** RCW 11.80.080 and 1965 c 145 s 11.80.080 are each
16 amended to read as follows:

17 Whenever the owner of such property shall have been absent from the
18 county for the space of five years and his or her whereabouts are
19 unknown and cannot with reasonable diligence be ascertained, his or her
20 presumptive heirs at law may apply to the court for an order of
21 provisional distribution of such property, and to be let into
22 provisional possession thereof: PROVIDED, That such provisional
23 distribution may be made at any time prior to the expiration of five
24 years, when it shall be made to appear to the satisfaction of the court
25 that there are strong presumptions that the absentee is dead; and in
26 determining the question of presumptive death, the court shall take
27 into consideration the habits of the absentee, the motives of and the
28 circumstances surrounding the absence, and the reasons which may have
29 prevented the absentee from being heard of.

30 Notice of hearing upon application for provisional distribution
31 shall be published in like manner as notices for the appointment of
32 trustees are published.

33 If the absentee left a will in the possession of any person such
34 person shall present such will at the time of hearing of the
35 application for provisional distribution and if it shall be made to
36 appear to the court that the absentee has left a will and the person in

1 possession thereof shall fail to present it, a citation shall issue
2 requiring him or her so to do, and such will shall be opened, read,
3 proven, filed, and recorded in the case, as are the wills of decedents.

4 **Sec. 2083.** RCW 11.80.090 and 1965 c 145 s 11.80.090 are each
5 amended to read as follows:

6 If it shall appear to the satisfaction of the court upon the
7 hearing of the application for provisional distribution that the
8 absentee has been absent and his or her whereabouts unknown for the
9 space of five years, or there are strong presumptions that he or she is
10 dead, the court shall enter an order directing that the property in the
11 hands of the trustee shall be provisionally distributed to the
12 presumptive heirs, or to the devisees and legatees under the will, as
13 the case may be, upon condition that such heirs, devisees, and legatees
14 respectively give and file in the court bonds with good and sufficient
15 surety to be approved by the court, conditioned for the return of or
16 accounting for the property provisionally distributed in case the
17 absentee shall return and demand the same, which bonds shall be
18 respectively in twice the amount of the value of the personal property
19 distributed, and in ten times the amount of estimated annual rents,
20 issues, and profits of any real property so provisionally distributed.

21 **Sec. 2084.** RCW 11.80.100 and 1965 c 145 s 11.80.100 are each
22 amended to read as follows:

23 Whenever the owner of such property shall have been absent from the
24 county for a space of seven years and his or her whereabouts are
25 unknown and cannot with reasonable diligence be ascertained, his or her
26 presumptive heirs at law or the legatees and devisees under the will,
27 as the case may be, to whom the property has been provisionally
28 distributed, may apply to the court for a decree of final distribution
29 of such property and satisfaction, discharge and exoneration of the
30 bonds given upon provisional distribution. Notice of hearing of such
31 application shall be given in the same manner as notice of hearing of
32 application for the appointment of trustee and for provisional
33 distribution and if at the final hearing it shall appear to the
34 satisfaction of the court that the owner of the property has been
35 absent and unheard of for the space of seven years and his or her
36 whereabouts are unknown, the court shall exonerate the bonds given on

1 provisional distribution and enter a decree of final distribution,
2 distributing the property to the presumptive heirs at law of the
3 absentee or to his or her devisees and legatees, as the case may be.

4 **Sec. 2085.** RCW 11.80.110 and 1965 c 145 s 11.80.110 are each
5 amended to read as follows:

6 Whenever the owner of such property for which a trustee has been
7 appointed under the provisions of this chapter shall have been absent
8 and unheard of for a period of seven years and no presumptive heirs at
9 law have appeared and applied for the provisional distribution of such
10 property and no will of the absentee has been presented and proven, the
11 trustee appointed under the provisions of the chapter shall apply to
12 the court for a final settlement of his or her account and upon the
13 settlement of such final account the property of the absentee shall be
14 escheated in the manner provided by law for escheating property of
15 persons who die intestate leaving no heirs.

16 **Sec. 2086.** RCW 11.84.060 and 1965 c 145 s 11.84.060 are each
17 amended to read as follows:

18 Property in which the slayer holds a reversion or vested remainder
19 and would have obtained the right of present possession upon the death
20 of the decedent shall pass to the estate of the decedent during the
21 period of the life expectancy of decedent; if he or she held the
22 particular estate or if the particular estate is held by a third person
23 it shall remain in his or her hands for such period.

24 **Sec. 2087.** RCW 11.84.900 and 1998 c 292 s 503 are each amended to
25 read as follows:

26 This chapter shall be construed broadly to effect the policy of
27 this state that no person shall be allowed to profit by his or her own
28 wrong, wherever committed.

29 **Sec. 2088.** RCW 11.88.100 and 1990 c 122 s 10 are each amended to
30 read as follows:

31 Before letters of guardianship are issued, each guardian or limited
32 guardian shall take and subscribe an oath and, unless dispensed with by
33 order of the court as provided in RCW 11.88.105, file a bond, with
34 sureties to be approved by the court, payable to the state, in such sum

1 as the court may fix, taking into account the character of the assets
2 on hand or anticipated and the income to be received and disbursements
3 to be made, and such bond shall be conditioned substantially as
4 follows:

5 The condition of this obligation is such, that if the above bound
6 A.B., who has been appointed guardian or limited guardian for C.D.,
7 shall faithfully discharge the office and trust of such guardian or
8 limited guardian according to law and shall render a fair and just
9 account of his or her guardianship or limited guardianship to the
10 superior court of the county of, from time to time as he or
11 she shall thereto be required by such court, and comply with all orders
12 of the court, lawfully made, relative to the goods, chattels, moneys,
13 care, management, and education of such incapacitated person, or his or
14 her property, and render and pay to such incapacitated person all
15 moneys, goods, chattels, title papers, and effects which may come into
16 the hands or possession of such guardian or limited guardian, at such
17 time and in such manner as the court may order, then this obligation
18 shall be void, otherwise it shall remain in effect.

19 The bond shall be for the use of the incapacitated person, and
20 shall not become void upon the first recovery, but may be put in suit
21 from time to time against all or any one of the obligors, in the name
22 and for the use and benefit of any person entitled by the breach
23 thereof, until the whole penalty is recovered thereon. The court may
24 require an additional bond whenever for any reason it appears to the
25 court that an additional bond should be given.

26 In all guardianships or limited guardianships of the person, and in
27 all guardianship or limited guardianships of the estate, in which the
28 petition alleges that the alleged incapacitated person has total assets
29 of a value of less than three thousand dollars, the court may dispense
30 with the requirement of a bond pending filing of an inventory
31 confirming that the estate has total assets of less than three thousand
32 dollars: PROVIDED, That the guardian or limited guardian shall swear
33 to report to the court any changes in the total assets of the
34 incapacitated person increasing their value to over three thousand
35 dollars: PROVIDED FURTHER, That the guardian or limited guardian shall
36 file a yearly statement showing the monthly income of the incapacitated
37 person if said monthly income, excluding moneys from state or federal

1 benefits, is over the sum of five hundred dollars per month for any
2 three consecutive months.

3 **Sec. 2089.** RCW 11.88.150 and 1990 c 122 s 18 are each amended to
4 read as follows:

5 (1) Upon the death of an incapacitated person, a guardian or
6 limited guardian of the estate shall have authority to disburse or
7 commit those funds under the control of the guardian or limited
8 guardian as are prudent and within the means of the estate for the
9 disposition of the deceased incapacitated person's remains. Consent
10 for such arrangement shall be secured according to RCW 68.50.160. If
11 no person authorized by RCW 68.50.150 accepts responsibility for giving
12 consent, the guardian or limited guardian of the estate may consent,
13 subject to the provisions of this section and to the known directives
14 of the deceased incapacitated person. Reasonable financial commitments
15 made by a guardian or limited guardian pursuant to this section shall
16 be binding against the estate of the deceased incapacitated person.

17 (2) Upon the death of an incapacitated person intestate the
18 guardian or limited guardian of his or her estate has power under the
19 letters issued to him or her and subject to the direction of the court
20 to administer the estate as the estate of the deceased incapacitated
21 person without further letters unless within forty days after death of
22 the incapacitated person a petition is filed for letters of
23 administration or for letters testamentary and the petition is granted.
24 If the guardian or limited guardian elects to administer the estate
25 under his or her letters of guardianship or limited guardianship, he or
26 she shall petition the court for an order transferring the guardianship
27 or limited guardianship proceeding to a probate proceeding, and upon
28 court approval, the clerk of the court shall re-index the cause as a
29 decedent's estate, using the same file number which was assigned to the
30 guardianship or limited guardianship proceeding. The guardian or
31 limited guardian shall then be authorized to continue administration of
32 the estate without the necessity for any further petition or hearing.
33 Notice to creditors and other persons interested in the estate shall be
34 published and may be combined with the notice of the guardian's or
35 limited guardian's final account. This notice shall be given and
36 published in the manner provided in chapter 11.40 RCW. Upon the
37 hearing, the account may be allowed and the balance distributed to the

1 persons entitled thereto, after the payment of such claims as may be
2 allowed. Liability on the guardian's or limited guardian's bond shall
3 continue until exonerated on settlement of his or her account, and may
4 apply to the complete administration of the estate of the deceased
5 incapacitated person with the consent of the surety. If letters of
6 administration are granted upon petition filed within forty days after
7 the death of the incapacitated person, the personal representative
8 shall supersede the guardian or limited guardian in the administration
9 of the estate and the estate shall be administered as a decedent's
10 estate as provided in this title, including the publication of notice
11 to creditors and other interested persons and the barring of creditors
12 claims.

13 **Sec. 2090.** RCW 11.92.115 and 1990 c 122 s 30 are each amended to
14 read as follows:

15 The guardian or limited guardian making any sale of real estate,
16 either at public or private sale or sale by negotiation, shall within
17 ten days after making such sale file with the clerk of the court his or
18 her return of such sale, the same being duly verified. At any time
19 after the expiration of ten days from the filing of such return, the
20 court may, without notice, approve and confirm such sale and direct
21 proper instruments of transfer to be executed and delivered. Upon the
22 confirmation of any such sale, the court shall direct the guardian or
23 limited guardian to make, execute and deliver instruments conveying the
24 title to the person to whom such property may be sold and such
25 instruments of conveyance shall be deemed to convey all the estate,
26 rights and interest of the incapacitated person and of the person's
27 estate. In the case of a sale by negotiation the guardians or limited
28 guardians shall publish a notice in one issue of a legal newspaper
29 published in the county in which the estate is being administered; the
30 substance of such notice shall include the legal description of the
31 property sold, the selling price and the date after which the sale may
32 be confirmed: PROVIDED, That such confirmation date shall be at least
33 ten days after such notice is published.

34 **Sec. 2091.** RCW 11.98.070 and 2002 c 66 s 1 are each amended to
35 read as follows:

36 A trustee, or the trustees jointly, of a trust, in addition to the

1 authority otherwise given by law, have discretionary power to acquire,
2 invest, reinvest, exchange, sell, convey, control, divide, partition,
3 and manage the trust property in accordance with the standards provided
4 by law, and in so doing may:

5 (1) Receive property from any source as additions to the trust or
6 any fund of the trust to be held and administered under the provisions
7 of the trust;

8 (2) Sell on credit;

9 (3) Grant, purchase or exercise options;

10 (4) Sell or exercise subscriptions to stock or other corporate
11 securities and to exercise conversion rights;

12 (5) Deposit stock or other corporate securities with any protective
13 or other similar committee;

14 (6) Assent to corporate sales, leases, and encumbrances;

15 (7) Vote trust securities in person or by proxy with power of
16 substitution; and enter into voting trusts;

17 (8) Register and hold any stocks, securities, or other property in
18 the name of a nominee or nominees without mention of the trust
19 relationship, provided the trustee or trustees are liable for any loss
20 occasioned by the acts of any nominee, except that this subsection
21 shall not apply to situations covered by subsection (31) of this
22 section;

23 (9) Grant leases of trust property, with or without options to
24 purchase or renew, to begin within a reasonable period and for terms
25 within or extending beyond the duration of the trust, for any purpose
26 including exploration for and removal of oil, gas and other minerals;
27 enter into community oil leases, pooling and unitization agreements;

28 (10) Subdivide, develop, dedicate to public use, make or obtain the
29 vacation of public plats, adjust boundaries, partition real property,
30 and on exchange or partition to adjust differences in valuation by
31 giving or receiving money or money's worth;

32 (11) Compromise or submit claims to arbitration;

33 (12) Borrow money, secured or unsecured, from any source, including
34 a corporate trustee's banking department, or from the individual
35 trustee's own funds;

36 (13) Make loans, either secured or unsecured, at such interest as
37 the trustee may determine to any person, including any beneficiary of
38 a trust, except that no trustee who is a beneficiary of a trust may

1 participate in decisions regarding loans to such beneficiary from the
2 trust, unless the loan is as described in RCW 83.110.020(2), and then
3 only to the extent of the loan, and also except that if a beneficiary
4 or the grantor of a trust has the power to change a trustee of the
5 trust, the power to loan shall be limited to loans at a reasonable rate
6 of interest and for adequate security;

7 (14) Determine the hazards to be insured against and maintain
8 insurance for them;

9 (15) Select any part of the trust estate in satisfaction of any
10 partition or distribution, in kind, in money or both; make nonpro rata
11 distributions of property in kind; allocate particular assets or
12 portions of them or undivided interests in them to any one or more of
13 the beneficiaries without regard to the income tax basis of specific
14 property allocated to any beneficiary and without any obligation to
15 make an equitable adjustment;

16 (16) Pay any income or principal distributable to or for the use of
17 any beneficiary, whether that beneficiary is under legal disability, to
18 the beneficiary or for the beneficiary's use to the beneficiary's
19 parent, guardian, custodian under the uniform gifts to minors act of
20 any state, person with whom he or she resides, or third person;

21 (17) Change the character of or abandon a trust asset or any
22 interest in it;

23 (18) Mortgage, pledge the assets or the credit of the trust estate,
24 or otherwise encumber trust property, including future income, whether
25 an initial encumbrance or a renewal or extension of it, for a term
26 within or extending beyond the term of the trust, in connection with
27 the exercise of any power vested in the trustee;

28 (19) Make ordinary or extraordinary repairs or alterations in
29 buildings or other trust property, demolish any improvements, raze
30 existing structures, and make any improvements to trust property;

31 (20) Create restrictions, easements, including easements to public
32 use without consideration, and other servitudes;

33 (21) Manage any business interest, including any farm or ranch
34 interest, regardless of form, received by the trustee from the trustor
35 of the trust, as a result of the death of a person, or by gratuitous
36 transfer from any other transferor, and with respect to the business
37 interest, have the following powers:

1 (a) To hold, retain, and continue to operate that business interest
2 solely at the risk of the trust, without need to diversify and without
3 liability on the part of the trustee for any resulting losses;

4 (b) To enlarge or diminish the scope or nature or the activities of
5 any business;

6 (c) To authorize the participation and contribution by the business
7 to any employee benefit plan, whether or not qualified as being tax
8 deductible, as may be desirable from time to time;

9 (d) To use the general assets of the trust for the purpose of the
10 business and to invest additional capital in or make loans to such
11 business;

12 (e) To endorse or guarantee on behalf of the trust any loan made to
13 the business and to secure the loan by the trust's interest in the
14 business or any other property of the trust;

15 (f) To leave to the discretion of the trustee the manner and degree
16 of the trustee's active participation in the management of the
17 business, and the trustee is authorized to delegate all or any part of
18 the trustee's power to supervise, manage, or operate to such persons as
19 the trustee may select, including any partner, associate, director,
20 officer, or employee of the business; and also including electing or
21 employing directors, officers, or employees of the trustee to take part
22 in the management of the business as directors or officers or
23 otherwise, and to pay that person reasonable compensation for services
24 without regard to the fees payable to the trustee;

25 (g) To engage, compensate, and discharge or to vote for the
26 engaging, compensating, and discharging of managers, employees, agents,
27 lawyers, accountants, consultants, or other representatives, including
28 anyone who may be a beneficiary of the trust or any trustee;

29 (h) To cause or agree that surplus be accumulated or that dividends
30 be paid;

31 (i) To accept as correct financial or other statements rendered by
32 any accountant for any sole proprietorship or by any partnership or
33 corporation as to matters pertaining to the business except upon actual
34 notice to the contrary;

35 (j) To treat the business as an entity separate from the trust, and
36 in any accounting by the trustee it is sufficient if the trustee
37 reports the earning and condition of the business in a manner
38 conforming to standard business accounting practice;

1 (k) To exercise with respect to the retention, continuance, or
2 disposition of any such business all the rights and powers that the
3 trustor of the trust would have if alive at the time of the exercise,
4 including all powers as are conferred on the trustee by law or as are
5 necessary to enable the trustee to administer the trust in accordance
6 with the instrument governing the trust, subject to any limitations
7 provided for in the instrument; and

8 (l) To satisfy contractual and tort liabilities arising out of an
9 unincorporated business, including any partnership, first out of the
10 business and second out of the estate or trust, but in no event may
11 there be a liability of the trustee, except as provided in RCW
12 11.98.110 (2) and (4), and if the trustee is liable, the trustee is
13 entitled to indemnification from the business and the trust,
14 respectively;

15 (22) Participate in the establishment of, and thereafter in the
16 operation of, any business or other enterprise according to subsection
17 (21) of this section except that the trustee shall not be relieved of
18 the duty to diversify;

19 (23) Cause or participate in, directly or indirectly, the
20 formation, reorganization, merger, consolidation, dissolution, or other
21 change in the form of any corporate or other business undertaking where
22 trust property may be affected and retain any property received
23 pursuant to the change;

24 (24) Limit participation in the management of any partnership and
25 act as a limited or general partner;

26 (25) Charge profits and losses of any business operation, including
27 farm or ranch operation, to the trust estate as a whole and not to the
28 trustee; make available to or invest in any business or farm operation
29 additional moneys from the trust estate or other sources;

30 (26) Pay reasonable compensation to the trustee or co-trustees
31 considering all circumstances including the time, effort, skill, and
32 responsibility involved in the performance of services by the trustee;

33 (27) Employ persons, including lawyers, accountants, investment
34 advisors, or agents, even if they are associated with the trustee, to
35 advise or assist the trustee in the performance of the trustee's duties
36 or to perform any act, regardless of whether the act is discretionary,
37 and to act without independent investigation upon their
38 recommendations, except that:

1 (a) A trustee may not delegate all of the trustee's duties and
2 responsibilities;

3 (b) This power to employ and to delegate duties does not relieve
4 the trustee of liability for such person's discretionary acts, that, if
5 done by the trustee, would result in liability to the trustee;

6 (c) This power to employ and to delegate duties does not relieve
7 the trustee of the duty to select and retain a person with reasonable
8 care;

9 (d) The trustee, or a successor trustee, may sue the person to
10 collect any damages suffered by the trust estate even though the
11 trustee might not be personally liable for those damages, subject to
12 the statutes of limitation that would have applied had the claim been
13 one against the trustee who was serving when the act or failure to act
14 occurred;

15 (28) Appoint an ancillary trustee or agent to facilitate management
16 of assets located in another state or foreign country;

17 (29) Retain and store such items of tangible personal property as
18 the trustee selects and pay reasonable storage charges thereon from the
19 trust estate;

20 (30) Issue proxies to any adult beneficiary of a trust for the
21 purpose of voting stock of a corporation acting as the trustee of the
22 trust;

23 (31) Place all or any part of the securities at any time held by
24 the trustee in the care and custody of any bank, trust company, or
25 member firm of the New York Stock Exchange with no obligation while the
26 securities are so deposited to inspect or verify the same and with no
27 responsibility for any loss or misapplication by the bank, trust
28 company, or firm, so long as the bank, trust company, or firm was
29 selected and retained with reasonable care, and have all stocks and
30 registered securities placed in the name of the bank, trust company, or
31 firm, or in the name of its nominee, and to appoint such bank, trust
32 company, or firm agent as attorney to collect, receive, receipt for,
33 and disburse any income, and generally may perform, but is under no
34 requirement to perform, the duties and services incident to a so-called
35 "custodian" account;

36 (32) Determine at any time that the corpus of any trust is
37 insufficient to implement the intent of the trust, and upon this
38 determination by the trustee, terminate the trust by distribution of

1 the trust to the current income beneficiary or beneficiaries of the
2 trust or their legal representatives, except that this determination
3 may only be made by the trustee if the trustee is neither the grantor
4 nor the beneficiary of the trust, and if the trust has no charitable
5 beneficiary;

6 (33) Continue to be a party to any existing voting trust agreement
7 or enter into any new voting trust agreement or renew an existing
8 voting trust agreement with respect to any assets contained in trust;
9 and

10 (34)(a) Donate a qualified conservation easement, as defined by
11 section 2031(c) of the internal revenue code, on any real property, or
12 consent to the donation of a qualified conservation easement on any
13 real property by a personal representative of an estate of which the
14 trustee is a devisee, to obtain the benefit of the estate tax exclusion
15 allowed under section 2031(c) of the internal revenue code or the
16 deduction allowed under section 2055(f) of the internal revenue code as
17 long as:

18 (i)(A) The governing instrument authorizes the donation of a
19 qualified conservation easement on the real property; or

20 (B) Each beneficiary that may be affected by the qualified
21 conservation easement consents to the donation under the provisions of
22 chapter 11.96A RCW; and

23 (ii) The donation of a qualified conservation easement will not
24 result in the insolvency of the decedent's estate.

25 (b) The authority granted under this subsection includes the
26 authority to amend a previously donated qualified conservation
27 easement, as defined under section 2031(c)(8)(B) of the internal
28 revenue code, and to amend a previously donated unqualified
29 conservation easement for the purpose of making the easement a
30 qualified conservation easement under section 2031(c)(8)(B).

31 **Sec. 2092.** RCW 11.106.030 and 1985 c 30 s 97 are each amended to
32 read as follows:

33 In addition to the statement required by RCW 11.106.020 any such
34 trustee or trustees whenever it or they so desire, may file in the
35 superior court of the county in which the trustees or one of the
36 trustees resides an intermediate account under oath showing:

37 (1) The period covered by the account;

1 (2) The total principal with which the trustee is chargeable
2 according to the last preceding account or the inventory if there is no
3 preceding account;

4 (3) An itemized statement of all principal funds received and
5 disbursed during such period;

6 (4) An itemized statement of all income received and disbursed
7 during such period, unless waived;

8 (5) The balance of such principal and income remaining at the close
9 of such period and how invested;

10 (6) The names and addresses of all living beneficiaries, including
11 contingent beneficiaries, of the trust, and a statement as to any such
12 beneficiary known to be under legal disability;

13 (7) A description of any possible unborn or unascertained
14 beneficiary and his or her interest in the trust fund.

15 After the time for termination of the trust has arrived, the
16 trustee or trustees may also file a final account in similar manner.

17 **Sec. 2093.** RCW 11.110.100 and 1985 c 30 s 123 are each amended to
18 read as follows:

19 The attorney general may investigate transactions and relationships
20 of trustees and other persons subject to this chapter for the purpose
21 of determining whether the trust or other relationship is administered
22 according to law and the terms and purposes of the trust, or to
23 determine compliance with this chapter in any other respect. He or she
24 may require any officer, agent, trustee, fiduciary, beneficiary, or
25 other person, to appear, at a time and place designated by the attorney
26 general in the county where the person resides or is found, to give
27 information under oath and to produce books, memoranda, papers,
28 documents of title, and evidence of assets, liabilities, receipts, or
29 disbursements in the possession or control of the person ordered to
30 appear.

31 **Sec. 2094.** RCW 11.110.110 and 1988 c 202 s 20 are each amended to
32 read as follows:

33 When the attorney general requires the attendance of any person, as
34 provided in RCW 11.110.100, he or she shall issue an order setting
35 forth the time when and the place where attendance is required and
36 shall cause the same to be delivered to or sent by registered mail to

1 the person at least fourteen days before the date fixed for attendance.
2 Such order shall have the same force and effect as a subpoena, and,
3 upon application of the attorney general, obedience to the order may be
4 enforced by any superior court judge in the county where the person
5 receiving it resides or is found, in the same manner as though the
6 notice were a subpoena. The court, after hearing, for good cause, and
7 upon application of any person aggrieved by the order, shall have the
8 right to alter, amend, revise, suspend, or postpone all or any part of
9 its provisions. In any case where the order is not enforced by the
10 court according to its terms, the reasons for the court's actions shall
11 be clearly stated in the record, and shall be subject to review by the
12 supreme court or the court of appeals.

13 **Sec. 2095.** RCW 11.110.120 and 1999 c 42 s 632 are each amended to
14 read as follows:

15 The attorney general may institute appropriate proceedings to
16 secure compliance with this chapter and to secure the proper
17 administration of any trust or other relationship to which this chapter
18 applies. He or she shall be notified of all judicial proceedings
19 involving or affecting the charitable trust or its administration in
20 which, at common law, he or she is a necessary or proper party as
21 representative of the public beneficiaries. The notification shall be
22 given as provided in RCW 11.96A.110, but this notice requirement may be
23 waived at the discretion of the attorney general. The powers and
24 duties of the attorney general provided in this chapter are in addition
25 to his or her existing powers and duties, and are not to be construed
26 to limit or to restrict the exercise of the powers or the performance
27 of the duties of the attorney general or of any prosecuting attorney
28 which they may exercise or perform under any other provision of law.
29 Except as provided herein, nothing in this chapter shall impair or
30 restrict the jurisdiction of any court with respect to any of the
31 matters covered by it.

32 **PART III**

33 **Sec. 3001.** RCW 12.04.020 and Code 1881 s 1713 are each amended to
34 read as follows:

35 A party desiring to commence an action before a justice of the

1 to such return, and any person other than one of said officers serving
2 summons or complaint and notice shall file with the justice his or her
3 affidavit, stating the time, place, and manner of the service of such
4 summons or notice and complaint and shall indorse thereon the legal
5 fees therefor.

6 **Sec. 3006.** RCW 12.04.080 and 1971 ex.s. c 292 s 12 are each
7 amended to read as follows:

8 Any justice may, by appointment in writing, authorize any person
9 other than the parties to the proceeding, or action, to serve any
10 subpoena, summons, or notice and complaint issued by such justice; and
11 any such person making such service shall return on such process or
12 paper, in writing, the time and manner of service, and shall sign his
13 or her name to such return, and be entitled to like fees for making
14 such service as a sheriff or constable, and shall indorse his or her
15 fees for service thereon: PROVIDED, It shall not be lawful for any
16 justice to issue process or papers to any person but a regularly
17 qualified sheriff or constable, in any precinct where such officers
18 reside, unless from sickness or some other cause said sheriff or
19 constable is not able to serve the same: PROVIDED FURTHER, That it
20 shall be lawful for notice and complaint or summons in a civil action
21 in the justice court to be served by any person eighteen years of age
22 or over and not a party to the action in which the summons or notice
23 and complaint shall be issued without previous appointment by the
24 justice.

25 **Sec. 3007.** RCW 12.04.090 and Code 1881 s 1719 are each amended to
26 read as follows:

27 Proof of service in either of the above cases shall be as follows:
28 When made by a constable or sheriff his or her return signed by him or
29 her and indorsed on the paper or process. When made by any person
30 other than such officer, then by the affidavit of the person making the
31 service.

32 **Sec. 3008.** RCW 12.04.110 and Code 1881 s 1721 are each amended to
33 read as follows:

34 Proof of service, in case of publication, shall be the affidavit of

1 the publisher, printer, (~~foreman~~) foreperson, or principal clerk,
2 showing the same.

3 **Sec. 3009.** RCW 12.04.120 and Code 1881 s 1722 are each amended to
4 read as follows:

5 The written admission of the defendant, his or her agent or
6 attorney, indorsed upon any summons, complaint and notice, or other
7 paper, shall be complete proof of service in any case.

8 **Sec. 3010.** RCW 12.04.160 and 1957 c 89 s 1 are each amended to
9 read as follows:

10 The parties shall be entitled to one hour in which to make their
11 appearance after the time mentioned in the summons or notice for
12 appearance, but shall not be required to remain longer than that time,
13 unless both parties appear; and the justice being present, is actually
14 engaged in the trial of another action or proceeding; in such case he
15 or she may postpone the time of appearance until the close of such
16 trial.

17 **Sec. 3011.** RCW 12.04.170 and 1929 c 102 s 1 are each amended to
18 read as follows:

19 Whenever the plaintiff in an action, or in a garnishment or other
20 proceeding is a nonresident of the county or begins such action or
21 proceeding as the assignee of some other person, or of a firm or
22 corporation, as to all causes of action sued upon, the justice may
23 require of him or her security for the costs in the action or
24 proceeding in a sum not exceeding fifty dollars, at the time of the
25 commencement of the action, and after an action or proceeding has been
26 commenced by such nonresident or assignee plaintiff, the defendant or
27 garnishee defendant may require such security by motion; and all
28 proceedings shall be stayed until such security has been given.

29 **Sec. 3012.** RCW 12.04.180 and 1929 c 102 s 2 are each amended to
30 read as follows:

31 In lieu of separate security for each action or proceeding in any
32 court, the plaintiff may cause to be executed and filed in the court a
33 bond in the penal sum of fifty dollars running to the state of
34 Washington, with surety approved by the court, and conditioned for the

1 payment of all judgments for costs which may thereafter be rendered
2 against him or her in that court. Any defendant or garnishee who shall
3 thereafter recover a judgment for costs in said court against the
4 principal on such bond shall likewise be entitled to judgment against
5 the sureties. Such bond shall not be sufficient unless the penalty
6 thereof is unimpaired by any outstanding obligation at the time of the
7 commencement of the action.

8 **Sec. 3013.** RCW 12.04.190 and Code 1881 s 1752 are each amended to
9 read as follows:

10 If any officer, without showing good cause therefor, fail to
11 execute any process to him or her delivered, and make due return
12 thereof, or make a false return, such officer, for every such offense,
13 shall pay to the party injured ten dollars, and all damage such party
14 may have sustained by reason thereof, to be recovered in a civil
15 action.

16 **Sec. 3014.** RCW 12.04.201 and 1957 c 89 s 4 are each amended to
17 read as follows:

18
19 FORM OF SUBPOENA

20 State of Washington, }
21 } ss.
22 County of, }
23 To

24 In the name of the state of Washington, you are hereby
25 required to appear before the undersigned, one of the
26 justices of the peace in and for said county, on the ... day
27 of, 19..., at ... o'clock in the ... noon, at his
28 or her office in, to give evidence in a certain cause,
29 then and there to be tried, between A B, plaintiff, and C D,
30 defendant, on the part of (the plaintiff, or defendant as the
31 case may be).

32 Given under my hand this ... day of,
33 19...

34 J. P., Justice of the Peace.

1 Whereas, judgment against C D for the sum of
2 dollars, and for dollars, costs of
3 suit, was recovered on the day of, 19....,
4 before the undersigned, one of the justices of the peace in
5 and for said county, at the suit of A B; and whereas, on the
6 day of, 19...., E F became surety to pay said
7 judgment and costs, in month from the date of the
8 judgment aforesaid, agreeably to law, in the payment of
9 which said C D and E F have failed; these are, therefore, in
10 the name, etc., [as in the common form].

11 **Sec. 3016.** RCW 12.04.206 and 1957 c 89 s 8 are each amended to
12 read as follows:

13 FORM OF UNDERTAKING IN REPLEVIN

14 Whereas, A B, plaintiff, has commenced an action before J P, one of
15 the justices of the peace in and for county, against C D,
16 defendant, for the recovery of certain personal property, mentioned and
17 described in the affidavit of the plaintiff, to wit: [here set forth
18 the property claimed]. Now, therefore we, A B, plaintiff, E F and G H,
19 acknowledge ourselves bound unto C D in the sum of dollars
20 for the prosecution of the action for the return of the property to the
21 defendant, if return thereof be adjudged, and for the payment to him or
22 her of such sum as may for any cause be recovered against the
23 plaintiff.

24 Dated the day of, 19 A B, E F, G H.

25 **Sec. 3017.** RCW 12.04.207 and 1957 c 89 s 9 are each amended to
26 read as follows:

27 FORM OF UNDERTAKING IN ATTACHMENT

28 Whereas, an application has been made by A B, plaintiff, to J P,
29 one of the justices of the peace in and for county, for a
30 writ of attachment against the personal property of C D, defendant;
31 Now, therefore, we, A B, plaintiff, and E F, acknowledge ourselves
32 bound to C D in the sum of dollars, that if the defendant
33 recover judgment in this action, the plaintiff will pay all costs that
34 may be awarded to the defendant, and all damages which he or she may

1 sustain by reason of the said attachment and not exceeding the sum of
2 dollars.

3 Dated the day of, 19 A B, E F.

4 FORM OF UNDERTAKING
5 TO DISCHARGE ATTACHMENT

6 Whereas, a writ of attachment has been issued by J P, one of the
7 justices of the peace in and for county, against the
8 personal property of C D, defendant, in an action in which A B is
9 plaintiff; Now, therefore, we C D, defendant, E F, and G H, acknowledge
10 ourselves bound unto J K, constable, in the sum of
11 dollars, [double the value of the property], engaging to deliver the
12 property attached, to wit: [here set forth a list of articles
13 attached], or pay the value thereof to the sheriff or constable, to
14 whom the execution upon a judgment obtained by plaintiff in the
15 aforesaid action may be issued.

16 Dated this day of, 19 C D, E F, G H.

17 **Sec. 3018.** RCW 12.08.040 and Code 1881 s 1759 are each amended to
18 read as follows:

19 When the pleadings are oral, the substance of them shall be entered
20 by the justice in his or her docket. When in writing they shall be
21 filed in his or her office and a reference made to them in his or her
22 docket. Pleadings shall not be required to be in any particular form,
23 but shall be such as to enable a person of common understanding to know
24 what is intended.

25 **Sec. 3019.** RCW 12.08.060 and Code 1881 s 1761 are each amended to
26 read as follows:

27 When the cause of action, or setoff, arises upon an account or
28 instrument for the payment of money only, it shall be sufficient for
29 the party to deliver the account or instrument, or a copy thereof, to
30 the court, and to state that there is due to him or her thereon, from
31 the adverse party, a specified sum, which he or she claims to recover
32 or setoff. The court may, at the time of pleading, require that the
33 original account, or instrument, be exhibited to the inspection of the
34 adverse party, with liberty to copy the same; or if not so exhibited,
35 may prohibit its being given in evidence.

1 **Sec. 3020.** RCW 12.08.070 and Code 1881 s 1762 are each amended to
2 read as follows:

3 Every complaint, answer, or reply shall be verified by the oath of
4 the party pleading; or if he or she be not present, by the oath of his
5 or her attorney or agent, to the effect that he or she believes it to
6 be true. The verification shall be oral, or in writing, in conformity
7 with the pleading verified.

8 **Sec. 3021.** RCW 12.08.080 and Code 1881 s 1763 are each amended to
9 read as follows:

10 Every material allegation in a complaint, or relating to a setoff
11 in an answer, not denied by the pleading of the adverse party, shall,
12 on the trial, be taken to be true, except that when a defendant, who
13 has not been served with a copy of the complaint, fails to appear and
14 answer, the plaintiff cannot recover without proving his or her case.

15 **Sec. 3022.** RCW 12.08.090 and Code 1881 s 1764 are each amended to
16 read as follows:

17 Either party may object to a pleading by his or her adversary, or
18 to any part thereof that is not sufficiently explicit for him or her to
19 understand it, or that it contains no cause of action or defense
20 although it be taken as true. If the court deem the objection well
21 founded, it shall order the pleading to be amended; and if the party
22 refuse to amend, the defective pleading shall be disregarded.

23 **Sec. 3023.** RCW 12.08.100 and Code 1881 s 1765 are each amended to
24 read as follows:

25 A variance between the proof on the trial, and the allegations in
26 a pleading, shall be disregarded as immaterial, unless the court be
27 satisfied that the adverse party has been misled to his or her
28 prejudice thereby.

29 **Sec. 3024.** RCW 12.08.120 and Code 1881 s 1767 are each amended to
30 read as follows:

31 To entitle a defendant to any setoff he or she may have against the
32 plaintiff, he or she must allege the same in his or her answer; and the
33 statutes regulating setoffs in the superior court, shall in all
34 respects be applicable to a setoff in a justice's court, if the amount

1 claimed to be setoff, after deducting the amount found due to the
2 plaintiff, be within the jurisdiction of the justice of the peace;
3 judgment may, in like manner, be rendered by the justice in favor of
4 the defendant, for the balance found due the plaintiff.

5 **Sec. 3025.** RCW 12.12.080 and Code 1881 s 1777 are each amended to
6 read as follows:

7 When the jury have agreed on their verdict, they shall deliver the
8 same to the justice, publicly, who shall enter it on his or her docket.

9 **Sec. 3026.** RCW 12.12.090 and Code 1881 s 1778 are each amended to
10 read as follows:

11 Whenever a justice shall be satisfied that a jury, sworn in any
12 civil cause before him or her, having been out a reasonable time,
13 cannot agree on their verdict, he or she may discharge them, and issue
14 a new venire, unless the parties consent that the justice may render
15 judgment on the evidence before him or her, or upon such other evidence
16 as they may produce.

17 **Sec. 3027.** RCW 12.16.020 and Code 1881 s 1870 are each amended to
18 read as follows:

19 A subpoena may be served by any person above the age of eighteen
20 years, by reading it to the witness, or by delivering to him or her a
21 copy at his or her usual place of abode.

22 **Sec. 3028.** RCW 12.16.030 and Code 1881 s 1871 are each amended to
23 read as follows:

24 Whenever it shall appear to the satisfaction of the justice, by
25 proof made before him or her, that any person, duly subpoenaed to
26 appear before him or her in an action, shall have failed, without a
27 just cause, to attend as a witness, in conformity to such subpoena, and
28 the party in whose behalf such subpoena was issued, or his or her
29 agent, shall make oath that the testimony of such witness is material,
30 the justice shall have the power to issue an attachment to compel the
31 attendance of such witness: PROVIDED, That no attachment shall issue
32 against a witness in any civil action, unless his or her fees for
33 mileage and one day's attendance have been tendered or paid in advance,

1 if previously demanded by such witness from the person serving the
2 subpoena.

3 **Sec. 3029.** RCW 12.16.040 and Code 1881 s 1872 are each amended to
4 read as follows:

5 Every such attachment may be directed to any sheriff or constable
6 of the county in which the justice resides, and shall be executed in
7 the same manner as a warrant; and the fees of the officer for issuing
8 and serving the same shall be paid by the person against whom the same
9 was issued, unless he or she show reasonable cause, to the satisfaction
10 of the justice, for his or her omission to attend; in which case the
11 party requiring such attachment shall pay all such costs.

12 **Sec. 3030.** RCW 12.16.050 and Code 1881 s 1873 are each amended to
13 read as follows:

14 Every person subpoenaed as aforesaid, and neglecting to appear,
15 shall also be liable to the party in whose behalf he or she may have
16 been subpoenaed, for all damages which such party may have sustained by
17 reason of his or her nonappearance: PROVIDED, That such witness had
18 the fees allowed for mileage and one day's attendance paid, or tendered
19 him or her, in advance, if demanded by him or her at the time of the
20 service.

21 **Sec. 3031.** RCW 12.16.060 and Code 1881 s 1874 are each amended to
22 read as follows:

23 A party to an action may be examined as a witness, at the instance
24 of the adverse party, and for that purpose may be compelled in the same
25 manner, and subject to the same rules of examination, as any other
26 witness, to testify at the trial, or appear and have his or her
27 deposition taken.

28 **Sec. 3032.** RCW 12.16.080 and Code 1881 s 1876 are each amended to
29 read as follows:

30 If a party refuse to attend and testify at the trial, or give his
31 or her deposition before trial, when required, his or her complaint,
32 answer or reply, may be stricken out, and judgment taken against him or
33 her.

1 **Sec. 3033.** RCW 12.16.090 and Code 1881 s 1877 are each amended to
2 read as follows:

3 A party examined by an adverse party may be examined on his or her
4 own behalf, in respect to any matter pertinent to the issue. But if he
5 or she testify to any new matter, not responsive to the inquiries put
6 to him or her by the adverse party, or necessary to qualify or explain
7 his or her answer thereto, or to discharge, when his or her answer
8 would charge himself or herself, such adverse party may offer himself
9 or herself as a witness, and he or she shall be so received.

10 **Sec. 3034.** RCW 12.20.010 and Code 1881 s 1780 are each amended to
11 read as follows:

12 Judgment that the action be dismissed, without prejudice to a new
13 action, may be entered, with costs, in the following cases:

14 (1) When the plaintiff voluntarily dismisses the action before it
15 is finally submitted.

16 (2) When he or she fails to appear at the time specified in the
17 notice, upon continuance, or within one hour thereafter.

18 (3) When it is objected at the trial, and appears by the evidence
19 that the action is brought in the wrong (~~(county-[precinct])~~) precinct;
20 but if the objection be taken and overruled, it shall be cause only of
21 reversal or appeal; if not taken at the trial it shall be deemed
22 waived, and shall not be cause of reversal.

23 **Sec. 3035.** RCW 12.20.020 and 1915 c 41 s 1 are each amended to
24 read as follows:

25 When the defendant fails to appear and plead at the time specified
26 in the notice, or within one hour thereafter, judgment shall be given
27 as follows:

28 (1) When the defendant has been served with a true copy of the
29 complaint, judgment shall be given without further evidence for the sum
30 specified therein;

31 (2) In other cases, the justice shall hear the evidence of the
32 plaintiff, and render judgment for such sum only as shall appear by the
33 evidence to be just, but in no case exceed the amount specified in the
34 complaint.

35 (3) The justice shall have full power at any time after a judgment
36 has been given by default for failure of the defendant to appear and

1 plead at the proper time, to vacate and set aside said judgment for any
2 good cause and upon such terms as he or she shall deem sufficient and
3 proper. Such judgment shall only be set aside upon five days notice in
4 writing served upon the plaintiff or the plaintiff's attorney and filed
5 with the justice within ten days after the entry of the judgment. The
6 justice shall hear the application to set aside such judgment either
7 upon affidavits or oral testimony as he or she may deem proper. In
8 case such judgment is set aside the making of the application for
9 setting the same aside shall be considered an entry of general
10 appearance in the case by the applicant, and the case shall duly
11 proceed to a trial upon the merits: PROVIDED, That, no justice of the
12 peace shall pay out or turn over money or property received by him or
13 her by virtue of any default judgment until the expiration of the ten
14 days for moving to set aside such default judgment has expired.

15 **Sec. 3036.** RCW 12.20.040 and Code 1881 s 1784 are each amended to
16 read as follows:

17 If the defendant, at any time before the trial, offer in writing to
18 allow judgment to be taken against him or her for a specified sum, the
19 plaintiff may immediately have judgment therefor, with costs then
20 accrued; but if he or she do not accept such offer before the trial,
21 and fail to recover on the trial of the action, a sum greater than the
22 offer, such plaintiff shall not recover any costs that may accrue after
23 he or she shall have been notified of the offer of the defendant, but
24 such costs shall be adjudged against him or her, and if he or she
25 recover, deducted from his or her recovery. But the offer and failure
26 to accept it, shall not be given in evidence to affect the recovery,
27 otherwise than as to costs, as above provided.

28 **Sec. 3037.** RCW 12.20.070 and Code 1881 s 1868 are each amended to
29 read as follows:

30 If it appear on the trial of any cause before a justice of the
31 peace, from the evidence of either party, that the title to lands is in
32 question, which title shall be disputed by the other, the justice shall
33 immediately make an entry thereof in his or her docket, and cease all
34 further proceedings in the cause, and shall certify and return to the
35 superior court of the county, a transcript of all the entries made in
36 his or her docket, relating to the cause, together with all the process

1 and other papers relating to the action, in the same manner, and within
2 the same time, as upon an appeal; and thereupon the parties shall file
3 their pleadings, and the superior court shall proceed in the cause to
4 final judgment and execution, in the same manner as if the said action
5 had been originally commenced therein, and the cost shall abide the
6 event of the suit.

7 **Sec. 3038.** RCW 12.40.025 and 1984 c 258 s 59 are each amended to
8 read as follows:

9 A defendant in a district court proceeding in which the claim is
10 within the jurisdictional amount for the small claims department may in
11 accordance with court rules transfer the action to the small claims
12 department. In the event of such a transfer the provisions of RCW
13 12.40.070 shall not be applicable if the plaintiff was an assignee of
14 the claim at the time the action was commenced nor shall the provisions
15 of RCW 12.40.080 prohibit an attorney from representing the plaintiff
16 if he or she was the attorney of record for the plaintiff at the time
17 the action was commenced.

18 **PART IV**

19 **Sec. 4001.** RCW 13.04.050 and 1913 c 160 s 4 are each amended to
20 read as follows:

21 The probation officers, and assistant probation officers, and
22 deputy probation officers in all counties of the state shall be allowed
23 such necessary incidental expenses as may be authorized by the judge of
24 the juvenile court, and the same shall be a charge upon the county in
25 which the court appointing them has jurisdiction, and the expenses
26 shall be paid out of the county treasury upon a written order of the
27 judge of the juvenile court of said county directing the county auditor
28 to draw his or her warrant upon the county treasurer for the specified
29 amount of such expenses.

30 **Sec. 4002.** RCW 13.04.180 and 1913 c 160 s 18 are each amended to
31 read as follows:

32 In each county, the judge presiding over the juvenile court
33 sessions, as defined in this chapter, may appoint a board of four
34 reputable citizens, who shall serve without compensation, to constitute

1 a board of visitation, whose duty it shall be to visit as often as
2 twice a year all institutions, societies and associations within the
3 county receiving children under this chapter, as well as all homes for
4 children or other places where individuals are holding themselves out
5 as caretakers of children, also to visit other institutions, societies
6 and associations within the state receiving and caring for children,
7 whenever requested to do so by the judge of the juvenile court:
8 PROVIDED, The actual expenses of such board may be paid by the county
9 commissioners when members thereof are requested to visit institutions
10 outside of the county seat, and no member of the board shall be
11 required to visit any institutions outside the county unless his or her
12 actual traveling expenses shall be paid as aforesaid. Such visits
13 shall be made by not less than two members of the board, who shall go
14 together or make a joint report. The board of visitors shall report to
15 the court from time to time the condition of children received by or in
16 charge of such institutions, societies, associations, or individuals.
17 It shall be the duty of every institution, society, or association, or
18 individual receiving and caring for children to permit any member or
19 members of the board of visitation to visit and inspect such
20 institution, society, association or home where such child is kept, in
21 all its departments, so that a full report may be made to the court.

22 **Sec. 4003.** RCW 13.20.020 and 1955 c 232 s 2 are each amended to
23 read as follows:

24 The nonjudicial members of the board first appointed shall be
25 appointed for the respective terms of one, two, three, and four years
26 and until their successors are appointed and qualified; and thereafter
27 their successors shall be appointed for terms of four years and until
28 their successors are appointed and qualified.

29 Any such member of the board may be removed at any time by majority
30 vote of the judges of the superior court.

31 Vacancies on the board may be filled at any time by majority vote
32 of said judges, and such appointee shall hold office for the remainder
33 of the term of the member in whose stead he or she was appointed.

34 **Sec. 4004.** RCW 13.20.030 and 1955 c 232 s 3 are each amended to
35 read as follows:

36 The judicial member of the board shall be the (~~chairman~~) chair

1 thereof; a majority thereof shall constitute a quorum for the
2 transaction of business; and the board shall have authority to organize
3 itself in such manner and to establish such rules of procedure as it
4 deems proper for the performance of its duties.

5 **Sec. 4005.** RCW 13.24.050 and 1955 c 284 s 5 are each amended to
6 read as follows:

7 Any judge of this state who appoints counsel or guardian ad litem
8 pursuant to the provision of the compact may, in his or her discretion,
9 fix a fee to be paid out of funds available for disposition by the
10 court but no such fee shall exceed twenty-five dollars.

11 **PART V**

12 **Sec. 5001.** RCW 14.08.290 and 1973 1st ex.s. c 195 s 1 are each
13 amended to read as follows:

14 The establishment of county airport districts is hereby authorized.
15 Written application for the formation of such a district signed by at
16 least one hundred registered voters, who reside and own real estate in
17 the proposed districts, shall be filed with the board of county
18 commissioners. The board shall immediately transmit the application to
19 the proper registrar of voters for the proposed district who shall
20 check the names, residence, and registration of the signers with the
21 records of his or her office and shall, as soon as possible, certify to
22 said board the number of qualified signers. If the requisite number of
23 signers is so certified, the board shall thereupon place the
24 proposition: "Shall a county airport district be established in the
25 following area: (describing the proposed district)?," upon the ballot
26 for vote of the people of the proposed district at the next election,
27 general or special. If a majority of the voters on such proposition
28 shall vote in favor of the proposition, the board, shall, by
29 resolution, declare the district established. If the requisite number
30 of qualified persons have not signed the application, further
31 signatures may be added and certified until the requisite number have
32 signed and the above procedure shall be thereafter followed.

33 The area of such district may be the area of the county including
34 incorporated cities and towns, or such portion or portions thereof as
35 the board may determine to be the most feasible for establishing an

1 airport. When established, an airport district shall be a municipality
2 as defined in this chapter and entitled to all the powers conferred by
3 this chapter and exercised by municipal corporations in this state.
4 The airport district is hereby empowered to levy not more than
5 seventy-five cents per thousand dollars of assessed value of the
6 property lying within the said airport district: PROVIDED, HOWEVER,
7 Such levy shall not be made unless first approved at any election
8 called for the purpose of voting on such levy.

9 **Sec. 5002.** RCW 14.08.112 and 1983 c 167 s 16 are each amended to
10 read as follows:

11 (1) Municipalities, including any governmental subdivision which
12 may be hereafter authorized by law to own, control, and operate an
13 airport or other air navigation facility, are hereby authorized to
14 issue revenue bonds to provide part or all of the funds required to
15 accomplish the powers granted them by chapter 14.08 RCW, and to
16 construct, acquire by purchase or condemnation, equip, add to, extend,
17 enlarge, improve, replace and repair airports, facilities and
18 structures thereon including but not being limited to facilities for
19 the servicing of aircraft and for the comfort and accommodation of air
20 travelers, and other properties incidental to the operation of airports
21 and to pay all costs incidental thereto.

22 The legislative body of the municipality shall create a special
23 fund for the sole purpose of paying the principal of and interest on
24 the bonds of each issue, into which fund the legislative body shall
25 obligate the municipality to pay an amount of the gross revenue derived
26 from its ownership, control, use, and operation of the airport and all
27 airport facilities and structures thereon and used and operated in
28 connection therewith, including but not being limited to fees charged
29 for all uses of the airport and facilities, rentals derived from leases
30 of part or all of the airport, buildings and any or all air navigation
31 facilities thereon, fees derived from concessions granted, and proceeds
32 of sales of part or all of the airport and any or all buildings and
33 structures thereon or equipment therefor, sufficient to pay the
34 principal and interest as the same shall become due, and to maintain
35 adequate reserves therefor if necessary. Revenue bonds and the
36 interest thereon shall be payable only out of and shall be a valid

1 claim of the owner thereof only as against the special fund and the
2 revenue pledged to it, and shall not constitute a general indebtedness
3 of the municipality.

4 Each revenue bond and any interest coupon attached thereto shall
5 name the fund from which it is payable and state upon its face that it
6 is only payable therefrom; however, all revenue bonds and any interest
7 coupons issued under RCW 14.08.112 and 14.08.114 shall be negotiable
8 instruments within the provisions and intent of the negotiable
9 instruments law of this state. Each issue of revenue bonds may be
10 bearer coupon bonds or may be registered either as to principal only or
11 as to principal and interest as provided in RCW 39.46.030; shall be in
12 the denomination or denominations the legislative body of the
13 municipality shall deem proper; shall be payable at the time or times
14 and at the place or places as shall be determined by the legislative
15 body; shall bear interest at such rate or rates as authorized by the
16 legislative body; shall be signed on behalf of the municipality by the
17 (~~chairman~~) chair of the county legislative authority, mayor of the
18 city or town, president of the port commission, and similar officer of
19 any other municipality, shall be attested by the county auditor, the
20 clerk or comptroller of the city or town, the secretary of the port
21 commission, and similar officer of any other municipality, one of which
22 signatures may be a facsimile signature, and shall have the seal of the
23 municipality impressed thereon; any interest coupons attached thereto
24 shall be signed by the facsimile signatures of said officials. Revenue
25 bonds shall be sold in the manner as the legislative body of the
26 municipality shall deem best, either at public or private sale.

27 The municipality at the time of the issuance of revenue bonds may
28 provide covenants as it may deem necessary to secure and guarantee the
29 payment of the principal thereof and interest thereon, including but
30 not being limited to covenants to create a reserve fund or account and
31 to authorize the payment or deposit of certain moneys therein for the
32 purpose of securing or guaranteeing the payment of the principal and
33 interest, to establish and maintain rates, charges, fees, rentals, and
34 sales prices sufficient to pay the principal and interest and to
35 maintain an adequate coverage over annual debt service, to appoint a
36 trustee for the bond owners and a trustee for the safeguarding and
37 disbursing of the proceeds of sale of the bonds and to fix the powers
38 and duties of the trustee or trustees, and to make any and all other

1 covenants as the legislative body may deem necessary to its best
2 interest and that of its inhabitants to accomplish the most
3 advantageous sale possible of the bonds. The legislative body may also
4 provide that revenue bonds payable out of the same source or sources
5 may later be issued on a parity with revenue bonds being issued and
6 sold.

7 The legislative body of the municipality may include an amount for
8 working capital and an amount necessary for interest during the period
9 of construction of the airport or any facilities plus six months, in
10 the principal amount of any revenue bond issue; if it deems it to the
11 best interest of the municipality and its inhabitants, it may provide
12 in any contract for the construction or acquisition of an airport or
13 facilities that payment therefor shall be made only in revenue bonds at
14 the par value thereof.

15 If the municipality or any of its officers shall fail to carry out
16 any of its or their obligations, pledges or covenants made in the
17 authorization, issuance and sale of bonds, the owner of any bond or the
18 trustee may bring action against the municipality and/or said officers
19 to compel the performance of any or all of the covenants.

20 (2) Notwithstanding subsection (1) of this section, such bonds may
21 be issued and sold in accordance with chapter 39.46 RCW.

22 **Sec. 5003.** RCW 14.12.030 and 1945 c 174 s 3 are each amended to
23 read as follows:

24 (1) In order to prevent the creation or establishment of airport
25 hazards, every political subdivision having an airport hazard area
26 within its territorial limits may adopt, administer, and enforce, under
27 the police power and in the manner and upon the conditions hereinafter
28 prescribed, airport zoning regulations for such airport hazard area,
29 which regulations may divide such area into zones, and, within such
30 zones, specify the land uses permitted and regulate and restrict the
31 height to which structures and trees may be erected or allowed to grow.

32 (2) Where an airport is owned or controlled by a political
33 subdivision and any airport hazard area appertaining to such airport is
34 located outside the territorial limits of said political subdivision,
35 the political subdivision owning or controlling the airport and the
36 political subdivision within which the airport hazard area is located
37 may, by ordinance or resolution duly adopted, create a joint airport

1 zoning board, which board shall have the same power to adopt,
2 administer, and enforce airport zoning regulations applicable to the
3 airport hazard area in question as that vested by subsection (1) of
4 this section in the political subdivision within which such area is
5 located. Each such joint board shall have as members two
6 representatives appointed by each political subdivision participating
7 in its creation and in addition a (~~chairman~~) chair elected by a
8 majority of the members so appointed.

9 **Sec. 5004.** RCW 14.12.110 and 1945 c 174 s 7 are each amended to
10 read as follows:

11 (1) Permits. Any airport zoning regulations adopted under this
12 chapter may require that a permit be obtained before any new structure
13 or use may be constructed or established and before any existing use or
14 structure may be substantially changed or substantially altered or
15 repaired. In any event, however, all such regulations shall provide
16 that before any nonconforming structure or tree may be replaced,
17 substantially altered or repaired, rebuilt, allowed to grow higher, or
18 replanted, a permit must be secured from the administrative agency
19 authorized to administer and enforce the regulations, authorizing such
20 replacement, change, or repair. No permit shall be granted that would
21 allow the establishment or creation of an airport hazard or permit a
22 nonconforming structure or tree or nonconforming use to be made or
23 become higher or become a greater hazard to air navigation than it was
24 when the applicable regulation was adopted or than it is when the
25 application for a permit is made. Except as provided herein, all
26 applications for permits shall be granted.

27 (2) Variances. Any person desiring to erect any structure, or
28 increase the height of any structure, or permit the growth of any tree,
29 or otherwise use his or her property in violation of airport zoning
30 regulations adopted under this chapter, may apply to the board of
31 adjustment for a variance from the zoning regulations in question.
32 Such variances shall be allowed where a literal application or
33 enforcement of the regulations would result in practical difficulty or
34 unnecessary hardship and the relief granted would not be contrary to
35 the public interest but do substantial justice and be in accordance
36 with the spirit of the regulations and this chapter: PROVIDED, That

1 any variance may be allowed subject to any reasonable conditions that
2 the board of adjustment may deem necessary to effectuate the purposes
3 of this chapter.

4 (3) Hazard marking and lighting. In granting any permit or
5 variance under this section, the administrative agency or board of
6 adjustment may, if it deems such action advisable to effectuate the
7 purposes of this chapter and reasonable in the circumstances, so
8 condition such permit or variance as to require the owner of the
9 structure or tree in question to permit the political subdivision, at
10 its own expense, to install, operate, and maintain thereon such markers
11 and lights as may be necessary to indicate to flyers the presence of an
12 airport hazard.

13 **Sec. 5005.** RCW 14.12.140 and 1945 c 174 s 10 are each amended to
14 read as follows:

15 (1) All airport zoning regulations adopted under this chapter shall
16 provide for a board of adjustment to have and exercise the following
17 powers:

18 (a) To hear and decide appeals from any order, requirement,
19 decision, or determination made by the administrative agency in the
20 enforcement of the airport zoning regulations, as provided in RCW
21 14.12.190.

22 (b) To hear and decide any special exceptions to the terms of the
23 airport zoning regulations upon which such board may be required to
24 pass under such regulations.

25 (c) To hear and decide specific variances under RCW 14.12.110(2).

26 (2) Where a zoning board of appeals or adjustment already exists,
27 it may be appointed as the board of adjustment. Otherwise, the board
28 of adjustment shall consist of five members, each to be appointed for
29 a term of three years by the authority adopting the regulations and to
30 be removable by the appointing authority for cause, upon written
31 charges and after public hearing.

32 (3) The concurring vote of a majority of the members of the board
33 of adjustment shall be sufficient to reverse any order, requirement,
34 decision, or determination of the administrative agency, or to decide
35 in favor of the applicant on any matter upon which it is required to
36 pass under the airport zoning regulations, or to effect any variation
37 in such regulations.

1 (4) The board shall adopt rules in accordance with the provisions
2 of the ordinance or resolution by which it was created. Meetings of
3 the board shall be held at the call of the ((~~chairman~~)) chair and at
4 such other times as the board may determine. The ((~~chairman~~)) chair,
5 or in his or her absence the acting ((~~chairman~~)) chair, may administer
6 oaths and compel the attendance of witnesses. All hearings of the
7 board shall be public. The board shall keep minutes of its
8 proceedings, showing the vote of each member upon each question, or, if
9 absent or failing to vote, indicating such fact, and shall keep records
10 of its examinations and other official actions, all of which shall
11 immediately be filed in the office of the board and shall be a public
12 record.

13 **Sec. 5006.** RCW 14.16.010 and 1984 c 7 s 8 are each amended to read
14 as follows:

15 In this chapter "aircraft" means any contrivance now known or
16 hereafter invented, used, or designed for navigation of or flight in
17 the air, except a parachute or other contrivance designed for such
18 navigation but used primarily as safety equipment. The term "airman"
19 or "airwoman" means any individual (including the person in command and
20 any pilot, mechanic, or member of the crew) who engages in the
21 navigation of aircraft while under way and any individual who is in
22 charge of the inspection, overhauling, or repairing of aircraft.
23 "Operating aircraft" means performing the services of aircraft pilot.
24 "Person" means any individual, proprietorship, partnership,
25 corporation, or trust. "Downed aircraft rescue transmitter" means a
26 transmitter of a type approved by the state department of
27 transportation or the federal aviation administration with sufficient
28 transmission power and reliability that it will be automatically
29 activated upon the crash of an aircraft so as to transmit a signal on
30 a preset frequency so that it will be effective to assist in the
31 location of the downed aircraft. "Air school" means air school as
32 defined in RCW 47.68.020(11).

33 **Sec. 5007.** RCW 14.16.030 and 1929 c 157 s 3 are each amended to
34 read as follows:

35 The public safety requiring and the advantages of uniform
36 regulation making it desirable in the interest of aeronautical progress

1 that a person serving as an airman or airwoman within this state should
2 have the qualifications necessary for obtaining and holding the class
3 of license required by the United States government with respect to
4 such an airman or airwoman subject to its jurisdiction, it shall be
5 unlawful for any person to serve as an airman or airwoman within this
6 state unless he (~~have~~) or she has such a license: PROVIDED, HOWEVER,
7 That for the first thirty days after entrance into this state this
8 section shall not apply to nonresidents of this state operating
9 aircraft within this state, other than aircraft carrying persons or
10 property for hire, if such person shall have fully complied with the
11 laws of the state, territory or foreign country of his or her residence
12 respecting the licensing of airmen or airwomen.

13 **Sec. 5008.** RCW 14.16.040 and 1929 c 157 s 4 are each amended to
14 read as follows:

15 The certificate of the license herein required shall be kept in the
16 personal possession of the licensee when he or she is serving as an
17 airman or airwoman within this state, and must be presented for
18 inspection upon the demand of any passenger, any peace officer of this
19 state, or any official, manager, or person in charge of any airport or
20 landing field in this state upon which he or she shall land.

21 **Sec. 5009.** RCW 14.20.030 and 1984 c 7 s 11 are each amended to
22 read as follows:

23 Applications for an aircraft dealer's license shall contain:

24 (1) The name under which the dealer's business is conducted and the
25 address of the dealer's established place of business;

26 (2) The residence address of each owner, director, or principal
27 officer of the aircraft dealer, and, if a foreign corporation, the
28 state of incorporation and names of its resident officers or managers;

29 (3) The make or makes of aircraft for which franchised, if any;

30 (4) Whether or not used aircraft are dealt in;

31 (5) A certificate that the applicant is a dealer having an
32 established place of business at the address shown on the application,
33 which place of business is open during regular business hours to
34 inspection by the secretary or his or her representatives; and

35 (6) Whether or not the applicant has ever been denied an aircraft

1 dealer's license or has had one which has been denied, suspended, or
2 revoked.

3 **Sec. 5010.** RCW 14.20.050 and 1998 c 187 s 1 are each amended to
4 read as follows:

5 The fee for original aircraft dealer's license for each calendar
6 year or fraction thereof is seventy-five dollars, which includes one
7 aircraft dealer's certificate and which must be renewed annually for a
8 fee of seventy-five dollars. Additional aircraft dealer certificates
9 may be obtained for ten dollars each per year. If any dealer fails or
10 neglects to apply for renewal of his or her license prior to February
11 1st in each year, his or her license shall be declared canceled by the
12 secretary, in which case any such dealer desiring a license shall
13 reapply and pay a fee of seventy-five dollars.

14 **Sec. 5011.** RCW 14.20.070 and 1984 c 7 s 15 are each amended to
15 read as follows:

16 Before issuing an aircraft dealer license, the secretary shall
17 require the applicant to file with the secretary a surety bond in the
18 amount of twenty-five thousand dollars running to the state, and
19 executed by a surety company authorized to do business in the state.
20 The bond shall be approved by the attorney general as to form and
21 conditioned that the dealer shall conduct his or her business in
22 conformity with the provisions of this chapter, RCW 47.68.250, and
23 82.48.100. Any person who has suffered any loss or damage by reason of
24 any act by a dealer which constitutes ground for refusal, suspension,
25 or revocation of license under RCW 14.20.090 has a right of action
26 against the aircraft dealer and the surety upon the bond. Successive
27 recoveries against the bond shall be permitted, but the aggregate
28 liability of the surety to all persons shall in no event exceed the
29 amount of the bond.

30 **Sec. 5012.** RCW 14.20.090 and 1984 c 7 s 16 are each amended to
31 read as follows:

32 The secretary shall refuse to issue an aircraft dealer's license or
33 shall suspend or revoke an aircraft dealer's license whenever he or she
34 has reasonable grounds to believe that the dealer has:

1 (1) Forged or altered any federal certificate, permit, rating, or
2 license relating to ownership and airworthiness of an aircraft;

3 (2) Sold or disposed of an aircraft which he or she knows or has
4 reason to know has been stolen or appropriated without the consent of
5 the owner;

6 (3) Wilfully misrepresented any material fact in the application
7 for an aircraft dealer's license, aircraft dealer's certificate, or
8 registration certificate;

9 (4) Wilfully withheld or caused to be withheld from a purchaser of
10 an aircraft any document referred to in subsection (1) of this section
11 if applicable, or an affidavit to the effect that there are no liens,
12 mortgages, or encumbrances of any type on the aircraft other than noted
13 thereon, if the document or affidavit has been requested by the
14 purchaser;

15 (5) Suffered or permitted the cancellation of his or her bond or
16 the exhaustion of the penalty thereof;

17 (6) Used an aircraft dealer's certificate for any purpose other
18 than those permitted by this chapter or RCW 47.68.250 and 82.48.100;

19 (7) Been adjudged guilty of a crime that directly relates to the
20 business of an aircraft dealer and the time elapsed since the
21 conviction is less than ten years, or had a judgment entered against
22 the dealer within the preceding five years in any civil action
23 involving fraud, misrepresentation, or conversion. For the purpose of
24 this section, the term "adjudged guilty" means, in addition to a final
25 conviction in either a state or municipal court, an unvacated
26 forfeiture of bail or collateral deposited to secure a defendant's
27 appearance in court, the payment of a fine, a plea of guilty, or a
28 finding of guilt regardless of whether the imposition of the sentence
29 is deferred or the penalty is suspended.

30 **PART VI**

31 **Sec. 6001.** RCW 14.20.100 and 1984 c 7 s 17 are each amended to
32 read as follows:

33 If the secretary issues an order that any person is not entitled to
34 an aircraft dealer's license or that an existing license should be
35 suspended or revoked, he or she shall forthwith notify the applicant or
36 dealer in writing. The applicant has thirty days from the date of the

1 secretary's order to appeal therefrom to the superior court of Thurston
2 county, which he or she may do by filing a notice of the appeal with
3 the clerk of the superior court and at the same time filing a copy of
4 the notice with the secretary.

5 **Sec. 6002.** RCW 15.04.090 and 1998 c 345 s 1 are each amended to
6 read as follows:

7 The director of agriculture may, at his or her discretion, for a
8 period of not to exceed ten years, lease state lands which are now or
9 may hereafter be, under his or her direction and control, the retention
10 of which he or her deems unnecessary for present state purposes or
11 needs, to any nonprofit group or organization having educational,
12 agricultural, or youth development purposes. Such leases shall be upon
13 such terms as the director deems beneficial to the state. All rental
14 funds received by the director under the provisions of this section
15 shall be deposited in the fair fund created under RCW 15.76.115.

16 **Sec. 6003.** RCW 15.04.110 and 1961 c 247 s 1 are each amended to
17 read as follows:

18 The director of the state department of agriculture may control
19 birds which he or she determines to be injurious to agriculture, and
20 for this purpose enter into written agreements with the federal and
21 state governments, political subdivisions and agencies of such
22 governments, political subdivisions and agencies of this state
23 including counties, municipal corporations and associations and
24 individuals, when such cooperation will implement the control of
25 predatory birds injurious to agriculture.

26 **Sec. 6004.** RCW 15.04.160 and 1975 1st ex.s. c 238 s 2 are each
27 amended to read as follows:

28 (1) An employee engaged to pick berries in this state outside of
29 school hours for the school district where such employee is living
30 while so employed may be less than twelve years of age: PROVIDED, That
31 (a) the employee is employed with the consent of his or her parent or
32 person standing in the place of his or her parent, (b) the berries are
33 for sale within the state only, and are not to be shipped out of the
34 state in any form; (c) the secretary of agriculture or his or her
35 designated representative has certified that there are not sufficient

1 workers available in the immediate area to harvest the crop without
2 such youthful employees, and (d) all employees of any employer engaging
3 youthful employees are paid at the same rate for picking berries.

4 (2) Each basket, package, or other container containing berries or
5 berry products picked by an employee under twelve years of age shall be
6 distinctively marked so as to insure that the berries do not enter
7 interstate commerce: PROVIDED HOWEVER, That nothing in RCW 15.04.150
8 and 15.04.160 shall apply to employers who are exempt from the federal
9 fair labor standards act.

10 **Sec. 6005.** RCW 15.08.010 and 1981 c 296 s 4 are each amended to
11 read as follows:

12 As used in this chapter:

13 (1) "Supervisor" means an assistant director known as the
14 supervisor of plant industry.

15 (2) "Horticultural premises" includes orchards, vineyards,
16 nurseries, berry farms, vegetable farms, cultivated cranberry marshes,
17 packing houses, dryhouses, warehouses, depots, docks, cars, vessels and
18 other places where nursery stock, fruits, vegetables and other
19 horticultural products are grown, stored, packed, shipped, held for
20 shipment or delivery, sold or otherwise disposed of.

21 (3) "Nursery stock" includes, but is not limited to, any
22 horticultural, floricultural, viticultural, and vegetable plant, for
23 planting, propagation or ornamentation, growing or otherwise, including
24 cut plant material.

25 (4) "Pests and diseases" means, but is not limited to, any living
26 stage of any insect, mite, nematode, slug, snail, protozoa, or other
27 invertebrate animal, bacteria, fungus, other parasitic plant, weed, or
28 reproductive part thereof, virus or any organism similar to or allied
29 with any of the foregoing, or any infectious substance, which can
30 directly or indirectly injure or cause disease or damage in or to any
31 plant or parts thereof, or any processed, manufactured, or other
32 products of plants.

33 (5) "Nuisance" means any plant, produce or property found in any
34 commercial area upon which is found any pest or disease that is or may
35 be a source of infestation of other properties.

36 (6) "Commercial area" means a district where any horticultural

1 product is being produced to the extent that a producer is dependent
2 thereon, in whole or in part, for his or her livelihood.

3 (7) "Infect," and its derivatives "infected," "infecting," and
4 "infection," means affected by or infested with pests or diseases as
5 above defined.

6 (8) "Disinfect," and its derivatives, means the control, cure, or
7 eradication of such pests or diseases by cutting or destroying infected
8 parts or the application of effective pesticides.

9 **Sec. 6006.** RCW 15.08.040 and 1961 c 11 s 15.08.040 are each
10 amended to read as follows:

11 The director, supervisor, and horticultural inspectors are
12 authorized to at any time enter horticultural premises and any
13 structure where fruit, vegetables, nursery stock, or horticultural
14 products are grown or situated for any purpose, to inspect the same for
15 infection.

16 No person shall hinder or interfere with any such officer in
17 entering or inspecting or performing any duty imposed upon him or her.

18 **Sec. 6007.** RCW 15.08.080 and 1961 c 11 s 15.08.080 are each
19 amended to read as follows:

20 Personal service of said notice shall be made upon the person in
21 possession or in charge of said premises or property if possible. If
22 such person is not the owner, or personal service cannot be made on
23 such person, then a copy of the notice shall be mailed or telegraphed
24 to the owner at his or her home or post office address if known or can
25 with reasonable diligence be ascertained. If personal service cannot
26 be made upon any person in possession or charge of the premises or
27 property and the name and address of the owner thereof are not known or
28 cannot be so ascertained, then the notice shall be served by posting
29 the same in some conspicuous place on the premises where the property
30 to be disinfected or destroyed is situated, which service by posting
31 shall be construed to be constructive personal service upon such owner.
32 If the name and address of the owner are not known or cannot be so
33 ascertained, service upon the person in possession or charge of the
34 premises or property shall constitute substituted personal service upon
35 the owner, in the absence of fraud or gross neglect.

1 **Sec. 6008.** RCW 15.08.090 and 1961 c 11 s 15.08.090 are each
2 amended to read as follows:

3 Except as hereinabove provided, upon service of said notice the
4 owner or person in possession or charge of the premises or property
5 shall comply with its terms within the time specified. In case of
6 their failure so to do, the inspector may enter the premises and
7 perform or cause to be performed the services required in the notice.
8 He or she shall keep an accurate account of the expense of performing
9 said services, which shall become a lien on the premises or property
10 which may be foreclosed in the manner herein provided. The lien on
11 personal property shall have preference over all other liens.

12 If the inspector has not disinfected or destroyed the property it
13 may be declared a nuisance as herein provided and treated as such.

14 **Sec. 6009.** RCW 15.08.100 and 1961 c 11 s 15.08.100 are each
15 amended to read as follows:

16 The officer disinfecting personal property may enforce the lien
17 thereon provided for in RCW 15.08.090 by impounding and selling the
18 property. He or she shall give notice of the impounding and proposed
19 sale by posting a written notice in a conspicuous place upon the
20 premises where the property is impounded and serve said notice upon the
21 owner or person in charge of the property in the manner provided for
22 service of notice to disinfect in RCW 15.08.080. Said notice shall
23 state that the property, describing it with reasonable certainty, has
24 been impounded, where it is situated, the amount of costs and expenses
25 charged against it, and that unless same are paid within a specified
26 time the property will be sold to satisfy said charges, accrued
27 transportation and storage charges, if any, and costs of sale. Said
28 specified time shall not be less than ten days after giving of the
29 notice, except that immediate sale may be made of perishable fruits or
30 vegetables.

31 **Sec. 6010.** RCW 15.08.120 and 1961 c 11 s 15.08.120 are each
32 amended to read as follows:

33 The inspector shall make and sign a record of the proceedings,
34 stating the name of the owner or reputed owner of the property, if
35 known; location of the property, date of inspection and the results
36 thereof; date and manner of giving notice to disinfect; failure to

1 disinfect; disinfection by the inspector; the cost thereof in detail;
2 date and manner of giving notice of impounding and sale; date, place,
3 and manner of sale; name of the purchaser; and amount of the proceeds
4 and disposition thereof.

5 Upon demand of the owner or person in charge of the property, the
6 inspector shall furnish him or her with a verified copy of the record,
7 and tender him or her the balance of the proceeds. If no demand is
8 made within thirty days of the sale, or if the tender is refused, the
9 inspector shall file a verified copy of the record with and remit any
10 balance of the proceeds to the director, and if it is not claimed by
11 the owner within six months, it shall be deposited in the state
12 treasury.

13 The record or a verified copy thereof shall be admissible in
14 evidence as prima facie evidence of the truth of its contents.

15 **Sec. 6011.** RCW 15.08.140 and 1961 c 11 s 15.08.140 are each
16 amended to read as follows:

17 The county auditor shall forthwith issue warrants in payment of the
18 labor employed in the work, and thereupon the county shall be
19 subrogated to all rights of the laborers so paid. He or she shall fix
20 the day for hearing on the record before the county commissioners,
21 which shall be not less than twenty days from the date of filing. He
22 or she shall prepare a notice directed to the owner or reputed owner of
23 the premises of the filing of the record and claim and the hearing
24 thereon, the time and place of the hearing and the amount of the claim.
25 The sheriff shall serve the notice in the manner provided for service
26 of the notice to disinfect, and file with the auditor before the
27 hearing, his or her return of service and the amount of his or her
28 fees, which shall be the same as for service of summons in civil
29 proceedings.

30 **Sec. 6012.** RCW 15.08.150 and 1961 c 11 s 15.08.150 are each
31 amended to read as follows:

32 If before or at the hearing the amount of the claim and the
33 auditor's and sheriff's fees are paid to the county treasurer, he or
34 she shall deliver to the auditor a duplicate receipt of the payment and
35 the auditor shall cancel the lien and notify the county commissioners

1 thereof. The treasurer shall pay the funds to the persons entitled
2 thereto as appears from the records in the auditor's office.

3 If payment is not made, the auditor shall present to the board of
4 county commissioners a verified copy of the record and claim, which
5 shall be accepted in any proceeding as prima facie evidence of the
6 truth of the contents thereof. The board shall receive and consider
7 the record and claim and all sworn testimony offered, and shall enter
8 an order fixing the amount of the claim and costs, and direct the
9 amount paid from the current expense fund, and the auditor shall draw
10 warrants therefor. The auditor shall record the order in his or her
11 office as other lien claims and it shall be a lien against the premises
12 in favor of the county, and shall bear interest at six percent per year
13 from the date of the order.

14 **Sec. 6013.** RCW 15.08.160 and 1961 c 11 s 15.08.160 are each
15 amended to read as follows:

16 The lien and interest may be paid on or before the first Monday in
17 October following the entry of the order, upon presenting to the
18 treasurer, a statement from the auditor showing the amount due. Upon
19 payment the treasurer shall stamp the statement and file it in his or
20 her records, and shall issue a receipt to the person making the
21 payment, showing payment and shall deliver a duplicate to the auditor,
22 who shall then cancel the lien.

23 **Sec. 6014.** RCW 15.08.180 and 1961 c 11 s 15.08.180 are each
24 amended to read as follows:

25 If a horticultural inspector finds premises or property infected,
26 he or she shall make a written report thereof to the inspector-at-large
27 in his or her district stating the disease or infestation found, the
28 estimated extent thereof, and whether in his or her opinion it is or
29 will become a nuisance. Upon receipt of the report the inspector-at-
30 large shall appoint a person residing within three miles of the said
31 premises or property and who is a grower of horticultural products
32 which could be infected from said premises or property, and who, with
33 the inspector-at-large or someone delegated by him or her from his or
34 her department, shall appoint a third person likewise a grower of
35 agricultural products which could be so infected. Said three persons
36 shall constitute an inspection board whose duty shall be to forthwith

1 examine the infested premises or property so as to determine whether
2 same or any part thereof is infested with any pest or disease named in
3 RCW 15.08.010.

4 The board members shall have the same power of entry and inspection
5 as the director, supervisor, or horticultural inspector and shall be
6 compensated at the rate of four dollars per day to be paid from the
7 county current expense budget for horticulture.

8 **Sec. 6015.** RCW 15.08.190 and 1961 c 11 s 15.08.190 are each
9 amended to read as follows:

10 Said board shall make a written report to the inspector-at-large of
11 its findings, signed under oath by a majority of its members and
12 stating:

- 13 (1) Whether said premises or a part thereof are infested,
14 (2) If infested, the nature and extent of infestation, and
15 (3) Whether the infestation constitutes a nuisance. If the report
16 shows the premises infested and constituting a nuisance, it and the
17 findings of the inspector, shall be transmitted forthwith to the
18 prosecuting attorney of the county. Within five days the prosecuting
19 attorney shall file in the superior court a petition, signed and
20 verified by him or her, describing the premises or property, giving the
21 names of the owners, encumbrancers and other persons interested
22 therein, as ascertained from the county records, containing a recital
23 of the proceedings taken under RCW 15.08.050, 15.08.060, 15.08.070,
24 15.08.080, 15.08.090, and 15.08.180, and praying for an order declaring
25 the premises or property to be a nuisance. Said report of the
26 inspection board shall be attached to the petition as an exhibit and
27 made a part thereof.

28 **Sec. 6016.** RCW 15.08.250 and 1961 c 11 s 15.08.250 are each
29 amended to read as follows:

30 Whenever the director determines that a particular pest cannot be
31 eradicated or effectively controlled by ordinary means, or that it is
32 impractical to eradicate or control it without the destruction in whole
33 or in part of uninfected host plants, he or she may issue a
34 proclamation setting out the host-free period or host-free district, or
35 both, describing the host plant and the district wherein planting,
36 growing, cultivating, or maintenance in any manner of any plants or

1 products capable of continuing the particular pests is prohibited
2 during a specified period of time and until the menace therefrom no
3 longer exists.

4 **Sec. 6017.** RCW 15.09.040 and 1969 c 113 s 4 are each amended to
5 read as follows:

6 Within thirty days after the appointed seats on the horticultural
7 pest and disease board have been filled, the board shall conduct its
8 first meeting. A majority of the voting members of the board shall
9 constitute a quorum for the transaction of business and shall be
10 necessary for any action taken by the board. The board shall elect
11 from its members a (~~chairman~~) chair and such other officers as may be
12 necessary.

13 **Sec. 6018.** RCW 15.09.050 and 1969 c 113 s 5 are each amended to
14 read as follows:

15 Each horticultural pest and disease board shall have the following
16 powers and duties:

17 (1) To receive complaints concerning the infection of horticultural
18 pests and diseases on any parcel of land within the county;

19 (2) To inspect or cause to be inspected any parcel of land within
20 the county for the purpose of ascertaining the presence of
21 horticultural pests and diseases as provided by RCW 15.09.070;

22 (3) To order any landowner to control and prevent the spread of
23 horticultural pests and diseases from his or her property, as provided
24 by RCW 15.09.080;

25 (4) To control and prevent the spread of horticultural pests and
26 diseases on any property within the county as provided by RCW
27 15.09.080, and to charge the owner for the expense of such work in
28 accordance with RCW 15.09.080 and 15.09.090;

29 (5) To employ such persons and purchase such goods and machinery as
30 the board of county commissioners may provide;

31 (6) To adopt, following a hearing, such rules and regulations as
32 may be necessary for the administration of this chapter.

33 **Sec. 6019.** RCW 15.09.080 and 1991 c 257 s 1 are each amended to
34 read as follows:

35 (1) Whenever the horticultural pest and disease control board finds

1 that an owner of land has failed to control and prevent the spread of
2 horticultural pests and diseases on his or her land, as is his or her
3 duty under RCW 15.09.060, it shall provide such person with written
4 notice, which notice shall identify the pests and diseases found to be
5 present and shall order prompt control or disinfection action to be
6 taken within a specified and reasonable time period.

7 (2) If the person to whom the notice is directed fails to take
8 action in accordance with this notice, then the board shall perform or
9 cause to be performed such measures as are necessary to control and
10 prevent the spread of the pests and diseases on such property and the
11 expense of this work shall be charged to such person. Any action that
12 the board determines requires the destruction of infested plants,
13 absent the consent of the owner, shall be subject to the provisions of
14 subsection (3) of this section.

15 (3) In the event the owner of land fails to control and prevent the
16 spread of horticultural pests and diseases as required by RCW
17 15.09.060, and the county horticultural pest and disease board
18 determines that actions it has taken to control and prevent the spread
19 of such pests or diseases has not been effective or the county
20 horticultural pest and disease board determines that no reasonable
21 measures other than removal of the plants will control and prevent the
22 spread of such pests or diseases, the county horticultural pest and
23 disease board may petition the superior court of the county in which
24 the property is situated for an order directing the owner to show cause
25 why the plants should not be removed at the owner's expense and for an
26 order authorizing removal of said infected plants. The petition shall
27 state: (a) The legal description of the property on which the plants
28 are located; (b) the name and place of residence, if known, of the
29 owners of said property; (c) that the county horticultural pest and
30 disease board has, through its officers or agents, inspected said
31 property and that the plants thereon, or some of them, are infested
32 with a horticultural pest or disease as defined by RCW 15.08.010; (d)
33 the dates of all notices and orders delivered to the owners pursuant to
34 this section; (e) that the owner has failed to control and prevent the
35 spread of said horticultural pest or disease; and (f) that the county
36 horticultural pest and disease board has determined that the measures
37 taken by it have not controlled or prevented the spread of the pest or
38 disease or that no reasonable measure can be taken that will control

1 and prevent the spread of such pest or disease except removal of the
2 plants. The petition shall request an order directing the owner to
3 appear and show cause why the plants on said property shall not be
4 removed at the expense of the owner, to be collected as provided in
5 this chapter. The order to show cause shall direct the owner to appear
6 on a date certain and show cause, if any, why the plants on the
7 property described in the petition should not be removed at the owner's
8 expense. The order to show cause and petition shall be served on the
9 owner not less than five days before the hearing date specified in the
10 order in the same manner as a summons and complaint. In the event the
11 owner fails to appear or fails to show by competent evidence that the
12 horticultural pest or disease has been controlled, then the court shall
13 authorize the county horticultural pest and disease board to remove the
14 plants at the owner's expense, to be collected as provided by this
15 chapter. If the procedure provided herein is followed, no action for
16 damages for removal of the plants shall lie against the county
17 horticultural pest and disease board, its officers or agents, or the
18 county in which it is situated.

19 **Sec. 6020.** RCW 15.09.100 and 1969 c 113 s 10 are each amended to
20 read as follows:

21 Any amount charged to the owner of land in accordance with the
22 provisions of RCW 15.09.080 and 15.09.090 shall be paid by such owner
23 within sixty days of the date in which he or she was billed for such
24 amount. If payment is not made within such sixty day period, the
25 amount of such charge, together with a ten percent penalty surcharge,
26 shall, for purposes of collection, become a tax lien under RCW
27 84.60.010, as now or hereafter amended, and shall be promptly collected
28 as such by the county treasurer: PROVIDED, That where good cause is
29 shown the board may extend for an additional two months the time period
30 during which payment shall be made.

31 **Sec. 6021.** RCW 15.24.120 and 1961 c 11 s 15.24.120 are each
32 amended to read as follows:

33 Each dealer, handler, and processor shall keep a complete and
34 accurate record of all apples handled, shipped, or processed by him or
35 her. This record shall be in such form and contain such information as

1 the commission may by rule or regulation prescribe, and shall be
2 preserved for a period of two years, and be subject to inspection at
3 any time upon demand of the commission or its agents.

4 **Sec. 6022.** RCW 15.24.130 and 1961 c 11 s 15.24.130 are each
5 amended to read as follows:

6 Each dealer, handler, and processor shall at such times as the
7 commission may by rule or regulation require, file with the commission
8 a return under oath on forms to be furnished by the commission, stating
9 the quantity of apples handled, shipped, or processed by him or her
10 during the period prescribed by the commission. The return shall
11 contain such further information as the commission may require.

12 **Sec. 6023.** RCW 15.24.150 and 1961 c 11 s 15.24.150 are each
13 amended to read as follows:

14 The commission shall appoint a treasurer who shall file with it a
15 fidelity bond executed by a surety company authorized to do business in
16 this state, in favor of the commission and the state, in the penal sum
17 of fifty thousand dollars, conditioned upon the faithful performance of
18 his or her duties and strict accounting of all funds of the commission.

19 All money received by the commission, or any other state official
20 from the assessment herein levied, shall be paid to the treasurer,
21 deposited in such banks as the commission may designate, and disbursed
22 by order of the commission. None of the provisions of RCW 43.01.050
23 shall apply to money collected under this chapter.

24 **Sec. 6024.** RCW 15.24.210 and 1961 c 11 s 15.24.210 are each
25 amended to read as follows:

26 Any prosecution brought under this chapter may be instituted in any
27 county in which the defendant or any defendant resides, or in which the
28 violation was committed, or in which the defendant or any defendant has
29 his or her principal place of business.

30 The superior courts are hereby vested with jurisdiction to enforce
31 the provisions of this chapter and the rules and regulations of the
32 commission issued hereunder, and to prevent and restrain violations
33 thereof.

1 **Sec. 6025.** RCW 15.26.030 and 1983 c 281 s 2 are each amended to
2 read as follows:

3 As used in this chapter, unless a different meaning is plainly
4 required by the context:

5 (1) "Department" means the department of agriculture of the state
6 of Washington.

7 (2) "Director" means the director of the department of agriculture
8 or his or her duly authorized representative.

9 (3) "Person" means any natural persons, firm, partnership,
10 exchange, association, trustee, receiver, corporation, and any member,
11 officer, or employee thereof or assignee for the benefit of creditors.

12 (4) "Producer" means any person who owns or is engaged in the
13 business of commercially producing tree fruit or has orchard plantings
14 intended for commercial tree fruit production.

15 (5) "Sanitation program" means a program designed to eliminate
16 pests and/or plants or trees which serve as hosts to pests or diseases
17 of tree fruits.

18 **Sec. 6026.** RCW 15.26.040 and 1969 c 129 s 4 are each amended to
19 read as follows:

20 There is hereby created the Washington tree fruit research
21 commission, to be thus known and designated. The commission shall be
22 composed of nine members. Three members to be appointed by the
23 Washington state fruit commission, five members to be appointed by the
24 Washington apple (~~(advertising)~~) commission, and one member
25 representing the winter pear industry to be appointed by the director.
26 The director or his or her duly authorized representative shall be ex
27 officio member with a vote, to represent all assessed commodities. The
28 appointed members of the commission shall serve at the will of their
29 respective appointers even though appointed for specific terms as set
30 forth in RCW 15.26.070.

31 **Sec. 6027.** RCW 15.26.050 and 1969 c 129 s 5 are each amended to
32 read as follows:

33 Nine members of the commission shall be producers who are citizens
34 and residents of this state. Each producer member shall be over the
35 age of twenty-five years and have been actively engaged in growing tree
36 fruits in this state and deriving a substantial portion of his or her

1 income therefrom, or having a substantial amount of orchard acreage
2 devoted to tree fruit production or as an owner, lessee, partner or an
3 employee or officer of a firm engaged in the production of tree fruit
4 whose responsibility to such firm shall be primarily in the production
5 of tree fruit. Such employee or officer of such firm shall be actually
6 engaged in such duties relating to the production of tree fruit with
7 such firm or any other such firm for a period of at least five years.
8 The qualifications of the members of the commission set forth in this
9 section shall continue during their term of office.

10 **Sec. 6028.** RCW 15.26.060 and 1969 c 129 s 6 are each amended to
11 read as follows:

12 The Washington apple (~~(advertising)~~) commission shall appoint
13 producer members to positions one through five on the commission. The
14 Washington state fruit commission shall appoint producer members to
15 positions six through eight on the commission. The director shall
16 appoint a producer who derives a substantial portion of his or her
17 income from the production of winter pears.

18 **Sec. 6029.** RCW 15.26.080 and 1969 c 129 s 8 are each amended to
19 read as follows:

20 In the event a commission member resigns, is disqualified, or
21 vacates his or her position on the commission for any other reason, the
22 appointing agency that originally appointed such member shall within
23 sixty days appoint a new member to fill the term of the vacated member.

24 **Sec. 6030.** RCW 15.26.110 and 1969 c 129 s 11 are each amended to
25 read as follows:

26 The powers of the commission shall include the following:

27 (1) To elect a (~~(chairman)~~) chair, treasurer, and such other
28 officers as it deems advisable;

29 (2) To adopt any rules and regulations necessary to carry out the
30 purposes and provisions of this chapter, in conformance with the
31 provisions of the administrative procedure act, chapter 34.05 RCW, as
32 enacted or hereafter amended;

33 (3) To administer and carry out the provisions of this chapter and
34 do all those things necessary to carry out its purposes;

1 (4) To employ and at its pleasure discharge a manager, secretary,
2 agents, and employees as it deems necessary, and prescribe their duties
3 and fix their compensation;

4 (5) To own, lease, or contract for any real or personal property
5 necessary to carry out the purposes of this chapter, and transfer and
6 convey the same;

7 (6) To establish offices and incur expenses and enter into
8 contracts and to create such liabilities as may be reasonable for
9 administration and enforcement of this chapter;

10 (7) Make necessary disbursements for the operation of the
11 commission in carrying out the purposes and provisions of this chapter;

12 (8) To employ, subject to the approval of the attorney general,
13 attorneys necessary, and to maintain in its own name any and all legal
14 actions, including actions for injunction, mandatory injunctions, or
15 civil recovery, or proceedings before administrative tribunals or other
16 government authorities necessary to carry out the purpose of this
17 chapter;

18 (9) To carry on any research which will or may benefit the
19 planting, production, harvesting, handling, processing, or shipment of
20 any tree fruit subject to the provisions of this chapter. To contract
21 with any person, private or public, public agency, federal, state, or
22 local, or enter into agreements with other states or federal agencies,
23 to carry on such research jointly or enter into joint contracts with
24 such states or federal agencies or other recognized private or public
25 agencies, to carry on desired research provided for in this chapter;

26 (10) To appoint annually, ex officio commission members without a
27 vote who are experts in research whether public or private in any area
28 concerning or related to tree fruit to serve at the pleasure of the
29 commission;

30 (11) Such other powers and duties that are necessary to carry out
31 the purpose of this chapter.

32 **Sec. 6031.** RCW 15.26.170 and 1969 c 129 s 17 are each amended to
33 read as follows:

34 Such assessments will be due from the producers. No person shall
35 purchase, or receive for sale, or shipment out of state any tree fruits
36 subject to the provisions of this chapter until he or she has received
37 proof that the assessment due and payable the commission has been paid.

1 **Sec. 6032.** RCW 15.26.180 and 1969 c 129 s 18 are each amended to
2 read as follows:

3 Any person receiving commercial tree fruits from any producer
4 thereof or any producer of tree fruit who prepared or processed his or
5 her own tree fruit for sale, or shipment for sale shall keep complete
6 and accurate records of all such tree fruit. Such records shall meet
7 the requirements of rules or regulations prescribed by the commission
8 and shall be kept for two years subject to inspection by duly
9 authorized representatives of the commission.

10 **Sec. 6033.** RCW 15.26.190 and 1969 c 129 s 19 are each amended to
11 read as follows:

12 Every dealer, handler, and processor shall at such times as the
13 commission may by rule or regulation require, file with the commission
14 a return under oath on forms to be prescribed and furnished by the
15 commission, stating the quantity of tree fruit, subject to the
16 provisions of this chapter, handled, shipped, or processed by him or
17 her during the period or periods of time prescribed by the commission.
18 Such return shall contain such further information as may be necessary
19 to carry out the objects and purposes of this chapter.

20 **Sec. 6034.** RCW 15.26.210 and 1969 c 129 s 21 are each amended to
21 read as follows:

22 Any due and payable assessments herein levied shall constitute a
23 personal debt of every person so assessed or who otherwise owes the
24 same and shall be due and payable as provided for in RCW 15.26.200,
25 unless the commission by rules or regulations provides for payment to
26 be made not later than thirty days after the time set forth in RCW
27 15.26.200: PROVIDED, That such extension of time shall not apply to
28 any person who is in arrears in his or her payments to the commission.

29 **Sec. 6035.** RCW 15.26.230 and 1969 c 129 s 23 are each amended to
30 read as follows:

31 All money collected under the authority of this chapter shall be
32 paid to the treasurer of the commission, and be deposited by him or her
33 in banks designated by the commission, and disbursed on the order of
34 the commission. The treasurer shall file with the commission a
35 fidelity bond, executed by a surety company authorized to do business

1 in this state, in favor of the state and the commission, jointly and
2 severally, in a sum to be fixed by the commission, but not less than
3 twenty-five thousand dollars, and conditioned upon his or her faithful
4 performance of his or her duties and his or her strict accounting of
5 all funds of the commission. RCW 43.01.050 shall not apply to money
6 collected under this chapter.

7 **Sec. 6036.** RCW 15.26.240 and 1969 c 129 s 24 are each amended to
8 read as follows:

9 Obligations incurred by the commission shall be enforced only
10 against the assets of the commission in the same manner as if it were
11 a corporation and no liability for the debts or acts of the commission
12 shall exist against either the state of Washington, or against any
13 member, officer, employee, or agent of the commission in his or her
14 individual capacity. The members of the commission including employees
15 of the commission, shall not be held responsible individually in any
16 way whatsoever to any person for errors in judgment, mistakes or other
17 acts, either of commission or omission as principal, agent, person or
18 employee, except for their own individual acts of dishonesty or crime.
19 No such person or employee shall be held responsible individually for
20 any act or omission of any other member of the commission. The
21 liability of the members of the commission shall not be several and
22 joint and no member shall be liable for the default of any other
23 member.

24 **Sec. 6037.** RCW 15.28.030 and 1967 c 191 s 2 are each amended to
25 read as follows:

26 All voting members must be citizens and residents of this state.
27 Each producer member must be over the age of twenty-five years, and be,
28 and for five years have been, actively engaged in growing soft tree
29 fruits in this state, and deriving a substantial portion of his or her
30 income therefrom, or have a substantial amount of orchard acreage
31 devoted to soft tree fruit production as an owner, lessee, partner, or
32 a stockholder owning at least ten percent of the voting stock in a
33 corporation engaged in the production of soft tree fruit. He or she
34 cannot be engaged directly in business as a dealer. Each dealer member
35 must be actively engaged, either individually or as an executive
36 officer, employee or sales manager on a management level, or managing

1 agent of an organization, as a dealer. Each processor member must be
2 engaged, either individually or as an executive officer, employee on a
3 management level, sales manager, or managing agent of an organization,
4 as a processor. Only one dealer member may be in the employ of any one
5 person or organization engaged in business as a dealer. Only one
6 processor member may be in the employ of any one person or organization
7 engaged in business as a processor. Said qualifications must continue
8 throughout each member's term of office.

9 **Sec. 6038.** RCW 15.28.100 and 1961 c 11 s 15.28.100 are each
10 amended to read as follows:

11 The Washington state fruit commission is hereby declared and
12 created a corporate body. The commission has power:

13 (1) To exercise all of the powers of a corporation;

14 (2) To elect a (~~chairman~~) chair and such other officers as it may
15 deem advisable;

16 (3) To adopt, amend, or repeal, from time to time, necessary and
17 proper rules, regulations, and orders for the performance of its
18 duties, which rules, regulations, and orders shall have the force of
19 laws when not inconsistent with existing laws;

20 (4) To employ, and at its pleasure discharge, such attorneys,
21 advertising manager, agents or agencies, clerks and employees, as it
22 deems necessary and fix their compensation;

23 (5) To establish offices, and incur such expenses, enter into such
24 contracts, and create such liabilities, as it deems reasonably
25 necessary for the proper administration of this chapter;

26 (6) To accept contributions of, or match private, state, or federal
27 funds available for research, and make contributions to persons or
28 state or federal agencies conducting such research;

29 (7) To administer and enforce this chapter, and do and perform all
30 acts and exercise all powers deemed reasonably necessary, proper, or
31 advisable to effectuate the purposes of this chapter, and to perpetuate
32 and promote the general welfare of the soft tree fruit industry of this
33 state;

34 (8) To sue and be sued.

35 **Sec. 6039.** RCW 15.28.150 and 1961 c 11 s 15.28.150 are each
36 amended to read as follows:

1 Each district advisory committee and each state commodity committee
2 shall select one of its members as ((~~chairman~~)) chair. Meetings may be
3 called by the ((~~chairman~~)) chair or by any two members of any committee
4 by giving reasonable written notice of the meeting to each member of
5 such committee. A majority of the members shall be necessary to
6 constitute a quorum. The district advisory committees and state
7 commodity committees shall consult with and advise the commission on
8 matters pertaining to the soft tree fruits which they respectively
9 represent, and the commission shall give due consideration to their
10 recommendations. Any grower, dealer, or processor, if qualified, may
11 be a member of more than one committee.

12 **Sec. 6040.** RCW 15.28.190 and 1961 c 11 s 15.28.190 are each
13 amended to read as follows:

14 All money collected under the authority of this chapter shall be
15 paid to the treasurer of the commission, deposited by him or her in
16 banks designated by the commission, and disbursed on its order.

17 The treasurer shall file with the commission a fidelity bond,
18 executed by a surety company authorized to do business in this state,
19 in favor of the state and the commission, jointly and severally, in the
20 sum of fifty thousand dollars, and conditioned upon his or her faithful
21 performance of his or her duties and his or her strict accounting of
22 all funds of the commission.

23 None of the provisions of RCW 43.01.050 shall apply to money
24 collected under this chapter.

25 **Sec. 6041.** RCW 15.28.210 and 1961 c 11 s 15.28.210 are each
26 amended to read as follows:

27 Every dealer, handler, and processor shall keep a complete and
28 accurate record of all soft tree fruits handled, shipped, or processed
29 by him or her. Such record shall be in simple form and contain such
30 information as the commission shall by rule or regulation prescribe.
31 The records shall be preserved by such handler, dealer, and processor
32 for a period of two years and shall be offered and submitted for
33 inspection at any reasonable time upon written request of the
34 commission or its duly authorized agents.

1 The several superior courts of the state are hereby vested with
2 jurisdiction to enforce this chapter and to prevent and restrain
3 violations thereof, or of any rule or regulation promulgated by the
4 commission.

5 **Sec. 6046.** RCW 15.28.310 and 1961 c 11 s 15.28.310 are each
6 amended to read as follows:

7 Agents of the commission, upon specific written authorization
8 signed by the ((~~chairman~~)) chair or secretary-manager thereof, shall
9 have the right to inspect the premises, books, records, documents, and
10 all other instruments of any carrier, railroad, truck, boat, grower,
11 handler, dealer, and processor for the purpose of enforcing this
12 chapter and collecting the assessments levied hereunder.

13 **Sec. 6047.** RCW 15.30.010 and 1961 c 29 s 1 are each amended to
14 read as follows:

15 For the purpose of this chapter:

16 (1) "Department" means the department of agriculture of the state
17 of Washington.

18 (2) "Director" means the director of the department or his or her
19 duly appointed representative.

20 (3) "Person" means a natural person, individual, or firm,
21 partnership, corporation, company, society, and association and every
22 officer, agent, or employee thereof. This term shall import either the
23 singular or plural, as the case may be.

24 (4) "Controlled atmosphere storage" means any storage warehouse
25 consisting of one or more rooms, or one or more rooms in any one
26 facility in which atmospheric gases are controlled in their amount and
27 in degrees of temperature for the purpose of controlling the condition
28 and maturity of any fresh fruits or vegetables in order that, upon
29 removal, they may be designated as having been exposed to controlled
30 atmosphere.

31 **Sec. 6048.** RCW 15.30.030 and 1961 c 29 s 3 are each amended to
32 read as follows:

33 Application for a license to operate a controlled atmosphere
34 warehouse shall be on a form prescribed by the director and shall
35 include the following:

1 (1) The full name of the person applying for the license.

2 (2) If such applicant is an individual, receiver, trustee, firm,
3 partnership, association, or corporation, the full name of each member
4 of the firm or partnership or the names of the officers of the
5 association or corporation shall be given on the application.

6 (3) The principal business address of the applicant in the state
7 and elsewhere.

8 (4) The name of a person domiciled in this state authorized to
9 receive and accept service or legal notices of all kinds.

10 (5) The storage capacity of each controlled atmosphere storage
11 warehouse the applicant intends to operate by cubic capacity or volume.

12 (6) The kind of fruits or vegetables for which the applicant
13 intends to provide controlled atmosphere storage.

14 (7) Any other information prescribed by the director necessary to
15 carry out the purposes and provisions of this chapter.

16 The director shall issue a license to an applicant upon his or her
17 satisfaction that the applicant has satisfied the requirements of this
18 chapter and rules adopted hereunder and that such applicant has paid
19 the required license fee.

20 **Sec. 6049.** RCW 15.30.070 and 1961 c 29 s 7 are each amended to
21 read as follows:

22 If an application for renewal of the license provided for in RCW
23 15.30.020 is not filed prior to September 1st of any one year, a
24 penalty of two dollars and fifty cents shall be assessed and added to
25 the original fee and shall be paid by the applicant before the renewal
26 license shall be issued: PROVIDED, That such penalty shall not apply
27 if the applicant furnishes an affidavit that he or she has not engaged
28 in the business of operating a controlled atmosphere storage warehouse
29 subsequent to the expiration of his or her prior license.

30 **Sec. 6050.** RCW 15.30.080 and 1961 c 29 s 8 are each amended to
31 read as follows:

32 The director is authorized to deny, suspend, or revoke the license
33 provided for in RCW 15.30.020 subsequent to a hearing, in any case in
34 which he or she finds that there has been a failure or refusal to
35 comply with the provisions of this chapter or rules adopted hereunder.

1 **Sec. 6051.** RCW 15.35.240 and 1989 c 307 s 36 and 1989 c 175 s 47
2 are each reenacted and amended to read as follows:

3 The director may deny, suspend, or revoke a license upon due notice
4 and an opportunity for a hearing as provided in chapter 34.05 RCW
5 concerning adjudicative proceedings, or rules adopted thereunder by the
6 director, when he or she is satisfied by a preponderance of the
7 evidence of the existence of any of the following facts:

8 (1) A milk dealer has failed to account and make payments without
9 reasonable cause, for milk purchased from a producer subject to the
10 provisions of this chapter or rules adopted hereunder;

11 (2) A milk dealer has committed any act injurious to the public
12 health or welfare or to trade and commerce in milk;

13 (3) A milk dealer has continued in a course of dealing of such
14 nature as to satisfy the director of his or her inability or
15 unwillingness to properly conduct the business of handling or selling
16 milk, or to satisfy the director of his or her intent to deceive or
17 defraud producers subject to the provisions of this chapter or rules
18 adopted hereunder;

19 (4) A milk dealer has rejected without reasonable cause any milk
20 purchased or has rejected without reasonable cause or reasonable
21 advance notice milk delivered in ordinary continuance of a previous
22 course of dealing, except where the contract has been lawfully
23 terminated;

24 (5) Where the milk dealer is insolvent or has made a general
25 assignment for the benefit of creditors or has been adjudged bankrupt
26 or where a money judgment has been secured against him or her upon
27 which an execution has been returned wholly or partially satisfied;

28 (6) Where the milk dealer has been a party to a combination to fix
29 prices, contrary to law; a cooperative association organized under
30 chapter 23.86 RCW and making collective sales and marketing milk
31 pursuant to the provisions of such chapter, directly or through a
32 marketing agent, shall not be deemed or construed to be a conspiracy or
33 combination in restraint of trade or an illegal monopoly;

34 (7) Where there has been a failure either to keep records or to
35 furnish statements or information required by the director;

36 (8) Where it is shown that any material statement upon which the
37 license was issued is or was false or misleading or deceitful in any
38 particular;

1 (9) Where the applicant is a partnership or a corporation and any
2 individual holding any position or interest or power of control therein
3 has previously been responsible in whole or in part for any act for
4 which a license may be denied, suspended, or revoked, pursuant to the
5 provisions of this chapter or rules adopted hereunder;

6 (10) Where the milk dealer has violated any provisions of this
7 chapter or rules adopted hereunder;

8 (11) Where the milk dealer has ceased to operate the milk business
9 for which the license was issued.

10 **Sec. 6052.** RCW 15.37.010 and 1961 c 285 s 1 are each amended to
11 read as follows:

12 For the purpose of this chapter:

13 (1) "Department" means the department of agriculture of the state
14 of Washington.

15 (2) "Director" means the director of the department or his or her
16 duly appointed representative.

17 (3) "Person" means a natural person, individual, or firm,
18 partnership, corporation, company, society, and association, and every
19 officer, agent, or employee thereof. This term shall import either the
20 singular or plural, as the case may be.

21 **Sec. 6053.** RCW 15.37.040 and 1961 c 285 s 4 are each amended to
22 read as follows:

23 Application for a license shall be on a form prescribed by the
24 director and shall include the following:

25 (1) The full name of the person applying for the license.

26 (2) If such applicant is a receiver, trustee, firm, partnership,
27 association, or corporation, the full name of each member of the firm
28 or partnership or the names of the officers of the association or
29 corporation shall be given on the application.

30 (3) The principal business address of the applicant in the state
31 and elsewhere.

32 (4) The name of a person domiciled in this state authorized to
33 receive and accept service or legal notice of all kinds.

34 (5) Any other information prescribed by the director necessary to
35 carry out the purposes and provisions of this chapter.

1 The director shall issue a license to an applicant upon his or her
2 satisfaction that the applicant has satisfied the requirements of this
3 chapter and rules adopted hereunder and that such applicant has paid
4 the required fee.

5 **Sec. 6054.** RCW 15.37.060 and 1961 c 285 s 6 are each amended to
6 read as follows:

7 If an application for renewal of a license provided for in RCW
8 15.37.030 is not filed prior to July 1st of any one year, a penalty of
9 ten dollars shall be assessed and added to the original fee and shall
10 be paid by the applicant before the renewal license shall be issued:
11 PROVIDED, That such penalty shall not apply if the applicant furnishes
12 an affidavit that he or she has not sold, offered for sale, held for
13 sale, or advertised for sale, milk, cream, or skim milk for animal food
14 consumption subsequent to the expiration of his or her prior license.

15 **Sec. 6055.** RCW 15.37.070 and 1961 c 285 s 7 are each amended to
16 read as follows:

17 The director is authorized to deny, suspend, or revoke the license
18 provided for in RCW 15.37.030 subsequent to a hearing in any case in
19 which he or she finds that there has been a failure or refusal to
20 comply with the provisions of this chapter or rules adopted hereunder.

21 **Sec. 6056.** RCW 15.37.120 and 1961 c 285 s 12 are each amended to
22 read as follows:

23 The director or his or her duly authorized representative may
24 enter, during reasonable business hours, any (~~(premise[s])~~) premises
25 where milk, cream, or skim milk subject to the provisions of this
26 chapter is produced, handled, distributed, sold, offered for sale, held
27 for sale, or used for the inducement of the sale of another product to
28 determine if such milk, cream, or skim milk has been properly
29 decharacterized as provided in RCW 15.37.100 or rules adopted
30 hereunder. No person shall interfere with the director or his or her
31 duly authorized representative when he or she is performing or carrying
32 out the duties imposed on him or her by this chapter or rules adopted
33 hereunder.

1 **Sec. 6057.** RCW 15.44.027 and 1975 1st ex.s. c 136 s 7 are each
2 amended to read as follows:

3 The commission shall delete, combine, revise, amend, or modify in
4 any manner commission districts and boundaries by regulation as
5 required and in accordance with the intent and provisions of this
6 section. Commission districts established by statute prior to
7 September 8, 1975 shall remain in effect until superseded by such
8 regulations.

9 The boundaries of the commission districts shall be maintained in
10 a manner that assures each producer a representation in the commission
11 which is reasonably equal with the representation afforded all other
12 producers by their commission members.

13 The commission shall, when requested in accordance with the
14 provisions of the administrative procedure act, chapter 34.05 RCW as
15 enacted or hereafter amended, or on its own initiative, hold hearings
16 to determine if new boundaries for each commission district should be
17 established in order to afford each producer a reasonably equal
18 representation in the commission, and if the commission so finds it
19 shall change the boundaries of said commission districts to carry out
20 the proper reapportionment of producer representation on the
21 commission: PROVIDED, That the requirement of this section for
22 reasonable equal representation of each producer on the commission need
23 not require an equality of representation when the commission districts
24 east of the crest of the Cascade mountains are compared to the
25 commission districts west of the crest of the Cascade mountains:
26 PROVIDED FURTHER, That the area east of the crest of the Cascade
27 mountains shall comprise not less than two commission districts.

28 The commission may in carrying out this reapportionment directive
29 reduce the number of districts presently provided by prior law,
30 whenever it is in the best interest of the producers and if such change
31 would maintain reasonable apportionment for each historical production
32 or marketing area: PROVIDED, That each elected commission member whose
33 district may be consolidated with another district shall be allowed to
34 serve out his or her term of office.

35 If the commission fails to carry out its directive as set forth
36 herein for equal representation of each producer on the commission the
37 director of agriculture may upon request by ten producers institute a
38 hearing to determine if there is reasonably equal representation for

1 each producer on the commission. If the director of agriculture finds
2 that such reasonably equal representation is lacking, he or she then
3 shall realign the district boundaries in a manner which will provide
4 proper representation on the commission for each producer.

5 **Sec. 6058.** RCW 15.44.050 and 1979 ex.s. c 238 s 3 are each amended
6 to read as follows:

7 The commission shall elect a manager, who is not a member, and fix
8 his or her compensation; and shall appoint a secretary-treasurer, who
9 shall sign all vouchers and receipts for all moneys received by the
10 commission. The treasurer shall file with the commission a fidelity
11 bond in the sum of one hundred thousand dollars, executed by a surety
12 company authorized to do business in the state, in favor of the state
13 and the commission, conditioned for the faithful performance of his or
14 her duties and strict accounting of all funds to the commission.

15 **Sec. 6059.** RCW 15.44.060 and 2002 c 313 s 93 are each amended to
16 read as follows:

17 The commission shall have the power and duty to:

18 (1) Elect a (~~chairman~~) chair and such other officers as it deems
19 advisable, and adopt, rescind, and amend rules, regulations, and orders
20 for the exercise of its powers, which shall have the effect of law when
21 not inconsistent with existing laws;

22 (2) Administer and enforce the provisions of this chapter and
23 perform all acts and exercise all powers reasonably necessary to
24 effectuate the purpose hereof;

25 (3) Employ and discharge advertising counsel, advertising agents,
26 and such attorneys, agents, and employees as it deems necessary, and
27 prescribe their duties and powers and fix their compensation;

28 (4) Establish offices, incur expenses, enter into contracts, and
29 create such liabilities as are reasonable and proper for the proper
30 administration of this chapter;

31 (5) Investigate and prosecute violations of this chapter;

32 (6) Conduct scientific research designed to improve milk
33 production, quality, transportation, processing, and distribution and
34 to develop and discover uses for products of milk and its derivatives;

35 (7) Make in its name such contracts and other agreements as are

1 necessary to build demand and promote the sale of dairy products on
2 either a state, national, or foreign basis;

3 (8) Keep accurate records of all its dealings, which shall be open
4 to public inspection and audit by the regular agencies of the state;

5 (9) Conduct the necessary research to develop more efficient and
6 equitable methods of marketing dairy products, and enter upon, singly
7 or in participation with others, the promotion and development of
8 state, national, or foreign markets;

9 (10) Participate in federal and state agency hearings, meetings,
10 and other proceedings relating to the regulation of the production,
11 manufacture, distribution, sale, or use of dairy products, to provide
12 educational meetings and seminars for the dairy industry on such
13 matters, and to expend commission funds for such activities;

14 (11) Retain the services of private legal counsel to conduct legal
15 actions, on behalf of the commission. The retention of a private
16 attorney is subject to the review of the office of the attorney
17 general;

18 (12) Work cooperatively with other local, state, and federal
19 agencies, universities, and national organizations for the purposes of
20 this chapter;

21 (13) Accept and expend or retain any gifts, bequests,
22 contributions, or grants from private persons or private and public
23 agencies to carry out the purposes of this chapter;

24 (14) Engage in appropriate fund-raising activities for the purpose
25 of supporting activities of the commission authorized by this chapter;

26 (15) Expend funds for commodity-related education, training, and
27 leadership programs as the commission deems appropriate; and

28 (16) Work cooperatively with nonprofit and other organizations to
29 carry out the purposes of this chapter.

30 **Sec. 6060.** RCW 15.44.090 and 1979 ex.s. c 238 s 7 are each amended
31 to read as follows:

32 All assessments shall be collected by the first dealer and deducted
33 from the amount due the producer, and all moneys so collected shall be
34 paid to the treasurer of the commission on or before the twentieth day
35 of the succeeding month for the previous month's collections, and
36 deposited by him or her in banks designated by the commission to the
37 credit of the commission fund. If a dealer or a producer who acts as

1 a dealer fails to remit any assessments, or fails to make deductions
2 for assessments, such sum shall, in addition to penalties provided in
3 this chapter, be a lien on any property owned by him or her, and shall
4 be reported to the county auditor by the commission, supported by
5 proper and conclusive evidence, and collected in the manner and with
6 the same priority over other creditors as prescribed for the collection
7 of delinquent taxes.

8 **Sec. 6061.** RCW 15.44.100 and 1961 c 11 s 15.44.100 are each
9 amended to read as follows:

10 Each dealer or shipper shall keep a complete and accurate record of
11 all milk or cream handled by him or her. The record shall be in such
12 form and contain such information as the commission shall prescribe,
13 and shall be preserved for a period of two years, and be submitted for
14 inspection at any time upon request of the commission or its agent.

15 **Sec. 6062.** RCW 15.49.101 and 1989 c 354 s 80 are each amended to
16 read as follows:

17 (1) Upon referral of a complaint for investigation, the arbitration
18 committee shall make a prompt and full investigation of the matters
19 complained of and report its award to the director within sixty days of
20 such referral or such later date as parties may determine or as may be
21 required in subsection (3) of this section.

22 (2) The report of the arbitration committee shall include, in
23 addition to its award, recommendations as to costs, if any.

24 (3) In the course of its investigation, the arbitration committee
25 may examine the buyer and the dealer on all matters that the
26 arbitration committee may consider relevant; may grow a representative
27 sample of the seed referred to in the complaint if considered
28 necessary; and may hold informal hearings at such time and place as the
29 committee (~~(chairman)~~) chair may direct upon reasonable notice to all
30 parties. If the committee decides to grow a representative sample of
31 the seed, the sixty-day period identified in this section shall be
32 extended an additional thirty days.

33 (4) After the committee has made its award, the director shall
34 promptly transmit the report by certified mail to all parties.

1 **Sec. 6063.** RCW 15.49.111 and 1989 c 354 s 81 are each amended to
2 read as follows:

3 (1) The director shall create an arbitration committee composed of
4 five members, including the director, or a department employee
5 designated by the director, and four members appointed by the director.
6 The director shall make appointments so that the committee is balanced
7 and does not favor the interests of either buyers or dealers. The
8 director also shall appoint four alternates to the committee. In
9 making appointments the director, to the extent practical, shall seek
10 the recommendations of each of the following:

11 (a) The dean of the college of agriculture and home economics at
12 Washington State University;

13 (b) The chief officer of an organization in this state representing
14 the interests of seed dealers;

15 (c) The chief officer of an agriculture organization in this state
16 as the director may determine to be appropriate; and

17 (d) The president of an agricultural organization in this state
18 representing persons who purchase seed.

19 (2) Each alternate member shall serve only in the absence of the
20 member for whom the person is an alternate.

21 (3) The committee shall elect a ((~~chairman~~)) chair and a secretary
22 from its membership. The ((~~chairman~~)) chair shall conduct meetings and
23 deliberations of the committee and direct all of its other activities.
24 The secretary shall keep accurate records of all such meetings and
25 deliberations and perform such other duties for the commission as the
26 ((~~chairman~~)) chair may direct.

27 (4) The purpose of the committee is to conduct arbitration as
28 provided in this chapter. The committee may be called into session by
29 or at the direction of the director or upon direction of its
30 ((~~chairman~~)) chair to consider matters referred to it by the director
31 in accordance with this chapter.

32 (5) The members of the committee shall receive no compensation for
33 performing their duties but shall be reimbursed for travel expenses;
34 expense reimbursement shall be borne equally by the parties to the
35 arbitration.

36 (6) For purposes of this chapter, a quorum of four members or their
37 alternates is necessary to conduct an arbitration investigation or to
38 make an award. If a quorum is present, a simple majority of members

1 present shall be sufficient to make a decision. Any member disagreeing
2 with the award may prepare a dissenting opinion and such opinion also
3 will be included in the committee's report.

4 (7) The director shall make provisions for staff support, including
5 legal advice, as the committee finds necessary.

6 **Sec. 6064.** RCW 15.49.380 and 1982 c 182 s 24 are each amended to
7 read as follows:

8 (1) No person shall distribute seeds without having obtained a
9 dealer's license for each regular place of business: PROVIDED, That no
10 license shall be required of a person who distributes seeds only in
11 sealed packages of eight ounces or less, packed by a seed labeling
12 registrant and bearing the name and address of the registrant:
13 PROVIDED FURTHER, That a license shall not be required of any grower
14 selling seeds of his or her own production exclusively. Such seed sold
15 by such grower must be properly labeled as provided in this chapter.
16 Each dealer's license shall cost twenty-five dollars, shall be issued
17 through the master license system, shall bear the date of issue, shall
18 expire on the master license expiration date and shall be prominently
19 displayed in each place of business.

20 (2) Persons custom conditioning and/or custom treating seeds for
21 others for remuneration shall be considered dealers for the purpose of
22 this chapter.

23 (3) Application for a license to distribute seed shall be through
24 the master license system and shall include the name and address of the
25 person applying for the license, the name of a person domiciled in this
26 state authorized to receive and accept service or legal notices of all
27 kinds, and any other reasonable and practical information prescribed by
28 the department necessary to carry out the purposes and provisions of
29 this chapter.

30 **Sec. 6065.** RCW 15.49.400 and 1969 c 63 s 40 are each amended to
31 read as follows:

32 (1) No person shall label seed for distribution in this state
33 without having obtained a seed labeling permit. The seed labeling
34 registrant shall be responsible for the label and the seed contents.
35 The application for a seed labeling permit shall be submitted to the
36 department on forms furnished by the department, and shall be

1 accompanied by a fee of twenty dollars per applicant. The application
2 form shall include the name and address of the applicant, a label or
3 label facsimile, and any other reasonable and practical information
4 prescribed by the department. Upon approval, the department shall
5 issue said permit to the applicant. All permits expire on January 31st
6 of each year.

7 (2) If an application for renewal of the seed labeling permit
8 provided for in this section is not filed prior to February 1st of any
9 one year, an additional fee of ten dollars shall be assessed and added
10 to the original fee and shall be paid by the applicant before the
11 license shall be issued: PROVIDED, That such additional fee shall not
12 apply if the applicant furnishes an affidavit that he or she has not
13 labeled seed for distribution in this state subsequent to the
14 expiration of his or her prior permit.

15 **Sec. 6066.** RCW 15.58.100 and 1979 c 146 s 2 are each amended to
16 read as follows:

17 (1) The director shall require the information required under RCW
18 15.58.060 and shall register the label or labeling for such pesticide
19 if he or she determines that:

20 (a) Its composition is such as to warrant the proposed claims for
21 it;

22 (b) Its labeling and other material required to be submitted comply
23 with the requirements of this chapter;

24 (c) It will perform its intended function without unreasonable
25 adverse effects on the environment;

26 (d) When used in accordance with widespread and commonly recognized
27 practice it will not generally cause unreasonable adverse effects on
28 the environment;

29 (e) In the case of any pesticide subject to section 24(c) of FIFRA,
30 it meets ~~((+1))~~(a), (b), (c), and (d) of this ~~((section))~~ subsection
31 and the following criteria:

32 (i) The proposed classification for general use, for restricted
33 use, or for both is in conformity with section 3(d) of FIFRA;

34 (ii) A special local need exists.

35 (2) The director shall not make any lack of essentiality a
36 criterion for denying registration of any pesticide.

1 **Sec. 6067.** RCW 15.58.280 and 1989 c 380 s 24 are each amended to
2 read as follows:

3 The sampling and examination of pesticides or devices shall be made
4 under the direction of the director for the purpose of determining
5 whether or not they comply with the requirements of this chapter. The
6 director is authorized, upon presentation of proper identification, to
7 enter any distributor's premises, including any vehicle of transport,
8 at all reasonable times in order to have access to pesticides or
9 devices. If it appears from such examination that a pesticide or
10 device fails to comply with the provisions of this chapter or rules
11 adopted under this chapter, and the director contemplates instituting
12 criminal proceedings against any person, the director shall cause
13 notice to be given to such person. Any person so notified shall be
14 given an opportunity to present his or her views, either orally or in
15 writing, with regard to the contemplated proceedings. If thereafter in
16 the opinion of the director it appears that the provisions of this
17 chapter or rules adopted under this chapter have been violated by such
18 person, the director shall refer a copy of the results of the analysis
19 or the examination of such pesticide or device to the prosecuting
20 attorney for the county in which the violation occurred.

21 **Sec. 6068.** RCW 15.64.010 and 1961 c 11 s 15.64.010 are each
22 amended to read as follows:

23 The director shall investigate and promote the economical and
24 efficient distribution of farm products, and in so doing may cooperate
25 with federal agencies and agencies of this and other states engaged in
26 similar activities. For such purposes he or she may:

27 (1) Maintain a market news service by bulletins and through
28 newspapers, giving information as to prices, available supplies of
29 different farm products, demand in local and foreign markets, freight
30 rates, and any other data of interest to producers and consumers;

31 (2) Aid producers and consumers in establishing economical and
32 efficient methods of distribution, promoting more direct business
33 relations by organizing cooperative societies of buyers and sellers and
34 by other means reducing the cost and waste in the distribution of farm
35 products;

36 (3) Investigate the methods of (~~middlemen~~) intermediaries
37 handling farm products, and in so doing, he or she may hear complaints

1 and suggestions and may visit places of business of all such
2 (~~middlemen~~) intermediaries and may examine under oath, the officers
3 and employees thereof;

4 (4) If he or she finds further legislation on this subject
5 advisable, he or she shall make recommendations thereon to the governor
6 not later than the fifteenth of November of each even-numbered year;

7 (5) Investigate the possibilities of direct dealing between the
8 producer and consumer by parcel post and other mail order methods;

9 (6) Assist in the obtaining and employment of farm labor, and to
10 that end cooperate with federal, state, and municipal agencies engaged
11 in similar work;

12 (7) Investigate the methods, charges, and delays of transportation
13 of farm products and assist producers in relation thereto.

14 **Sec. 6069.** RCW 15.65.100 and 1961 c 256 s 10 are each amended to
15 read as follows:

16 The director shall make and publish findings based upon the facts,
17 testimony, and evidence received at the public hearings together with
18 any other relevant facts available to him or her from official
19 publications of the United States or any state thereof or any
20 institution of recognized standing and he or she is hereby expressly
21 empowered to take "official notice" of the same. Such findings shall
22 be made upon every material point controverted at the hearing and/or
23 required by this chapter and upon such other matters and things as the
24 director may deem fitting and proper. The director shall issue a
25 recommended decision based upon his or her findings and shall cause
26 copies of the findings and recommended decision to be delivered or
27 mailed to all parties of record appearing at the hearing, or their
28 attorneys of record.

29 **Sec. 6070.** RCW 15.65.110 and 1961 c 256 s 11 are each amended to
30 read as follows:

31 After the issuance of a recommended decision all interested parties
32 shall have a period of not less than ten days to file objections or
33 exceptions with the director. Thereafter the director shall take such
34 objections and exceptions as are filed into consideration and shall
35 issue and publish his or her final decision which may be the same as
36 the recommended decision or may be revised in the light of said

1 objections and exceptions. Upon written waiver executed by all parties
2 of record at any hearing or by their attorneys of record the director
3 may in his or her discretion omit compliance with the provisions of
4 this section.

5 **Sec. 6071.** RCW 15.65.130 and 1961 c 256 s 13 are each amended to
6 read as follows:

7 With respect to marketing agreements, the director shall after
8 publication of his or her final decision, invite all producers and
9 handlers affected thereby to assent or agree to the agreement or
10 amendment set out in such decision. Said marketing agreements or
11 amendments thereto shall be binding upon and only upon persons who have
12 agreed thereto in writing and whose written agreement has been filed
13 with the director: PROVIDED, That the filing of such written agreement
14 by a cooperative association shall be binding upon such cooperative and
15 all of its members, and PROVIDED, FURTHER, That the director shall
16 enter into and put into force a marketing agreement or amendment
17 thereto when and only when he or she shall find in addition to the
18 other findings specified in this chapter that said marketing agreement
19 or any amendment thereto has been assented to by a sufficient number of
20 signatories who handle or produce a sufficient volume of the commodity
21 affected to tend to effectuate the declared policies and purposes of
22 this chapter and to accomplish the purposes and objects of such
23 agreement or amendment thereto and provide sufficient moneys from
24 assessments levied to defray the necessary expenses of formulation,
25 issuance, administration, and enforcement. Such agreement shall be
26 deemed to be issued and put into force and effect when the director
27 shall have so notified all persons who have assented thereto.

28 **Sec. 6072.** RCW 15.65.160 and 1985 c 261 s 6 are each amended to
29 read as follows:

30 After publication of his or her final decision, the director shall
31 ascertain (either by written agreement in accordance with
32 (~~subdivision~~) subsection (1) of this section or by referendum in
33 accordance with (~~subdivision~~) subsection (2) of this section) whether
34 the above specified percentages of producers and/or handlers assent to
35 or approve any proposed order, amendment, or termination, and for such
36 purpose:

1 (1) The director may ascertain whether assent or approval by the
2 percentages specified in RCW 15.65.140, 15.65.150 or 15.65.190
3 (whichever is applicable) have been complied with by written agreement,
4 and the requirements of assent or approval shall, in such case, be held
5 to be complied with, if of the total number of affected producers or
6 affected handlers within the affected area and the total volume of
7 production of the affected commodity or product thereof, the
8 percentages evidencing assent or approval are equal to or in excess of
9 the percentages specified in said sections; or

10 (2) The director may conduct a referendum among producers within
11 the affected area and the requirements of assent or approval shall be
12 held to be complied with if of the total number of such producers and
13 the total volume of production represented in such referendum the
14 percentage assenting to or favoring is equal to or in excess of the
15 percentage specified in RCW 15.65.140, 15.65.150 or 15.65.190
16 (whichever is applicable) as now or hereafter amended: PROVIDED, That
17 thirty percent of the affected producers within the affected area
18 producing thirty percent by volume of the affected commodity have been
19 represented in a referendum to determine assent or approval of the
20 issuance of a marketing order: PROVIDED FURTHER, That a marketing
21 order shall not become effective when the provisions of (~~subdivision~~)
22 subsection (3) of this section are used unless sixty-five percent by
23 number of the affected producers within the affected area producing
24 fifty-one percent by volume of the affected commodity or fifty-one
25 percent by number of such affected producers producing sixty-five
26 percent by volume of the affected commodity approve such marketing
27 order;

28 (3) The director shall consider the assent or dissent or the
29 approval or disapproval of any cooperative marketing association
30 authorized by its producer members either by a majority vote of those
31 voting thereon or by its articles of incorporation or by its bylaws or
32 by any marketing or other agreement to market the affected commodity
33 for such members or to act for them in any such referendum as being the
34 assent or dissent or the approval or disapproval of the producers who
35 are members of or stockholders in or under contract with such
36 cooperative association of producers: PROVIDED, That the association
37 shall first determine that a majority of its affected producers
38 authorizes its action concerning the specific marketing order.

1 **Sec. 6073.** RCW 15.65.190 and 1985 c 261 s 7 are each amended to
2 read as follows:

3 Any marketing agreement or order shall be terminated if the
4 director finds that fifty-one percent by numbers and fifty-one percent
5 by volume of production of the affected producers within the affected
6 area favor or assent to such termination. The director may ascertain
7 without compliance with the provisions of RCW 15.65.050 through
8 15.65.130 whether such termination is so assented to or favored
9 whenever twenty percent by numbers or twenty percent by volume of
10 production of said producers file written application with him or her
11 for such termination. No such termination shall become effective until
12 the expiration of the marketing season then current.

13 **Sec. 6074.** RCW 15.65.210 and 1977 ex.s. c 26 s 4 are each amended
14 to read as follows:

15 The director shall administer, enforce, direct, and control every
16 marketing agreement and order in accordance with its provisions. For
17 such purposes he or she shall include in each order and he or she may
18 include in each agreement provisions for the employment of such
19 administrator and such additional personnel (including attorneys
20 engaged in the private practice of law, subject to the approval and
21 supervision of the attorney general) as he or she determines are
22 necessary and proper for such order or agreement to effectuate the
23 declared policies of this chapter. Such provisions may provide for the
24 qualifications, method of selection, term of office, grounds of
25 dismissal, and the detailed powers and duties to be exercised by such
26 administrator or board and by such additional personnel, including the
27 authority to borrow money and incur indebtedness, and may also provide
28 either that the said administrative board shall be the commodity board
29 or that the administrator or administrative board be designated by the
30 director or the governor.

31 **Sec. 6075.** RCW 15.65.280 and 2002 c 313 s 29 are each amended to
32 read as follows:

33 The powers and duties of the board shall be:

34 (1) To elect a (~~chairman~~) chair and such other officers as it
35 deems advisable;

- 1 (2) To advise and counsel the director with respect to the
2 administration and conduct of such marketing agreement or order;
- 3 (3) To recommend to the director administrative rules and orders
4 and amendments thereto for the exercise of his or her powers in
5 connection with such agreement or order;
- 6 (4) To advise the director upon any and all assessments provided
7 pursuant to the terms of such agreement or order and upon the
8 collection, deposit, withdrawal, disbursement and paying out of all
9 moneys;
- 10 (5) To assist the director in the collection of such necessary
11 information and data as the director may deem necessary in the proper
12 administration of this chapter;
- 13 (6) To administer the order or agreement as its administrative
14 board if the director designates it so to do in such order or
15 agreement;
- 16 (7) To work cooperatively with other local, state, and federal
17 agencies; universities; and national organizations for the purposes
18 provided in the board's marketing order or agreement;
- 19 (8) To enter into contracts or interagency agreements with any
20 private or public agency, whether federal, state, or local, to carry
21 out the purposes provided in the board's marketing order or agreement.
22 Personal service contracts must comply with chapter 39.29 RCW;
- 23 (9) To accept and expend or retain any gifts, bequests,
24 contributions, or grants from private persons or private and public
25 agencies to carry out the purposes provided in the board's marketing
26 order or agreement;
- 27 (10) To retain in emergent situations the services of private legal
28 counsel to conduct legal actions on behalf of a board. The retention
29 of a private attorney is subject to review by the office of the
30 attorney general;
- 31 (11) To engage in appropriate fund-raising activities for the
32 purpose of supporting activities of the board authorized by the
33 marketing order or agreement;
- 34 (12) To enter into contracts or agreements for research in the
35 production, irrigation, processing, transportation, marketing, use, or
36 distribution of an affected commodity;
- 37 (13) To participate in international, federal, state, and local
38 hearings, meetings, and other proceedings relating to the production,

1 irrigation, manufacture, regulation, transportation, distribution,
2 sale, or use of affected commodities including activities authorized
3 under RCW 42.17.190, including the reporting of those activities to the
4 public disclosure commission;

5 (14) To maintain a list of the names and addresses of affected
6 producers that may be compiled from information used to collect
7 assessments under the marketing order or agreement, and data on the
8 value of each producer's production for a minimum three-year period;

9 (15) To maintain a list of the names and addresses of persons who
10 handle the affected commodity within the affected area and data on the
11 amount and value of the commodity handled for a minimum three-year
12 period by each person; and

13 (16) To perform such other duties as the director may prescribe in
14 the marketing agreement or order.

15 Any agreement or order under which the commodity board administers
16 the order or agreement shall (if so requested by the affected producers
17 within the affected area in the proposal or promulgation hearing)
18 contain provisions whereby the director reserves the power to approve
19 or disapprove every order, rule or directive issued by the board, in
20 which event such approval or disapproval shall be based on whether or
21 not the director believes the board's action has been carried out in
22 conformance with the purposes of this chapter.

23 **Sec. 6076.** RCW 15.65.290 and 1961 c 256 s 29 are each amended to
24 read as follows:

25 Obligations incurred by any administrator or board or employee or
26 agent thereof pertaining to their performance or nonperformance or
27 misperformance of any matters or things authorized, required or
28 permitted them by this chapter or any marketing agreement or order
29 issued pursuant to this chapter, and any other liabilities or claims
30 against them or any of them shall be enforced in the same manner as if
31 the whole organization under such marketing agreement or order were a
32 corporation. No liability for the debts or actions of such
33 administrator, board, employee, or agent incurred in their official
34 capacity under the agreement or order shall exist either against its
35 administrator, board, officers, employees, and/or agents in his or her
36 or their individual capacity, nor against the state of Washington or
37 any subdivision or instrumentality thereof nor against any other

1 organization, administrator or board (or employee or agent thereof)
2 established pursuant to this chapter or the assets thereof. The
3 administrator of any order or agreement, the members of any such board,
4 and also his or her or their agents and employees, shall not be held
5 responsible individually in any way whatsoever to any person for errors
6 in judgment, mistakes, or other acts, either of commission or omission,
7 as principal, agent, person, or employee, except for their own
8 individual acts of dishonesty or crime. No such person or employee
9 shall be held responsible individually for any act or omission of any
10 other administrator, board, member of any such board, or other person.
11 The liability of the members of any such board shall be several and not
12 joint and no member shall be liable for the default of any other
13 member.

14 **Sec. 6077.** RCW 15.65.320 and 1961 c 256 s 32 are each amended to
15 read as follows:

16 Any marketing agreement or order may provide for research in the
17 production, processing, and/or distribution of the affected commodity
18 and for the expenditure of money for such purposes. Insofar as
19 practicable, such research shall be carried out by experiment stations
20 of Washington state university but if in the judgment of the director
21 or his or her designee said experiment stations do not have adequate
22 facilities for a particular project or if some other research agency
23 has better facilities therefor, the project may be carried out by other
24 research agencies selected by the director or his or her designee.

25 **Sec. 6078.** RCW 15.65.330 and 1961 c 256 s 33 are each amended to
26 read as follows:

27 Any marketing agreement or order may contain provisions which
28 directly provide for, or which authorize the director or his or her
29 designee to provide by rules and regulations for, any one or more, or
30 all, of the following: (1) Establishing uniform grades and standards
31 of quality, condition, maturity, size, weight, pack, packages, and/or
32 label for the affected commodity or any products thereof; (2) requiring
33 producers, handlers, and/or other persons to conform to such grades
34 and/or standards in packing, packaging, processing, labeling, selling,
35 or otherwise commercially disposing of the affected commodity and/or in
36 offering, advertising, and/or delivering it therefor; (3) providing for

1 inspection and enforcement to ascertain and effectuate compliance; (4)
2 establishing rules and regulations respecting the foregoing; (5)
3 providing that the director or his or her designee shall carry out
4 inspection and enforcement of, and may (within the general provisions
5 of the agreement or order) establish detailed provisions relating to,
6 such standards and grades and such rules and regulations: PROVIDED,
7 That any modification not of a substantial nature, such as the
8 modification of standards within a certain grade may be made without a
9 hearing, and shall not be considered an amendment for the purposes of
10 this chapter.

11 **Sec. 6079.** RCW 15.65.340 and 1961 c 256 s 34 are each amended to
12 read as follows:

13 Any marketing agreement or order may contain provisions prohibiting
14 and/or otherwise regulating any one or more or all of the practices
15 listed to the extent that such practices affect, directly or
16 indirectly, the commodity which forms the subject matter of such
17 agreement or order or any product thereof, but only with respect to
18 persons who engage in such practices with the intent of or with the
19 reasonably foreseeable effect of inducing any purchaser to become his
20 or her customer or his or her supplier or of otherwise dealing or
21 trading with him or her or of diverting trade from a competitor, to
22 wit:

23 (1) Paying rebates, commissions, or unearned discounts;

24 (2) Giving away or selling below the true cost (which includes all
25 direct and indirect costs incurred to the point of sale plus a
26 reasonable margin of mark-up for the seller) any of the affected
27 commodities or of any other commodity or product thereof;

28 (3) Unfairly extending privileges or benefits (pertaining to price,
29 to credit, to the loan, lease or giving away of facilities, equipment
30 or other property or to any other matter or thing) to any customer,
31 supplier, or other person;

32 (4) Discriminating between customers, or suppliers of like class;

33 (5) Using the affected or any other commodity or product thereof as
34 a loss leader or using any other device whereby for advertising,
35 promotional, come-on or other purposes such commodity or product is
36 sold below its fair value;

1 (6) Making or publishing false or misleading advertising. Such
2 regulation may authorize uniform trade practices applicable to all
3 similarly situated handlers and/or other persons. Such regulation
4 shall not prevent any person (a) from selling below cost to liquidate
5 excess inventory which cannot otherwise be moved, or (b) from meeting
6 the equally low legal price of any competitor within any one trading
7 area during any one trading period and the director may define in said
8 marketing agreement or order said trading area and said trading period
9 in accordance with generally accepted industry practices; but in any
10 event the burden of proving that such selling was to meet the equally
11 low legal price of a competitor or to liquidate said excess inventory
12 shall be upon the person who sells below cost as above defined. Any
13 marketing agreement or order may authorize use of any money received
14 and of any persons employed thereunder for legal proceedings, of any
15 type and in the name of any person, directed to enforcement of this or
16 any other law in force in the state of Washington relating to the
17 prevention of unfair trade practices.

18 **Sec. 6080.** RCW 15.65.390 and 1987 c 393 s 9 are each amended to
19 read as follows:

20 There is hereby levied, and the director or his or her designee
21 shall collect, upon each and every affected unit of any agricultural
22 commodity specified in any marketing agreement or order an annual
23 assessment which shall be paid by the producer thereof upon each and
24 every such affected unit stored in frozen condition or sold or marketed
25 or delivered for sale or marketed by him or her, and which shall be
26 paid by the handler thereof upon each and every such unit purchased or
27 received for sale, processing or distribution, or stored in frozen
28 condition, by him or her: PROVIDED, That such assessment shall be paid
29 by producers only, if only producers are regulated by such agreement or
30 order, and by handlers only, if only handlers are so regulated, and by
31 both producers and handlers if both are so regulated. Such assessments
32 shall be expressed as a stated amount of money per unit or as a
33 percentage of the receipt price at the first point of sale. The total
34 amount of such annual assessment to be paid by all producers of such
35 commodity, or by all handlers of such commodity shall not exceed four
36 percent of the total market value of all affected units stored in

1 frozen condition or sold or marketed or delivered for sale or marketing
2 by all producers of such units during the year to which the assessment
3 applies.

4 **Sec. 6081.** RCW 15.65.400 and 1987 c 393 s 10 are each amended to
5 read as follows:

6 In every marketing agreement and order the director shall prescribe
7 the rate of such assessment. Such assessment shall be expressed as a
8 stated amount of money per unit or as a percentage of the receipt price
9 at the first point of sale. Such rate may be at the full amount of, or
10 at any lesser amount than the amount hereinabove limited. Such rate
11 may be altered or amended from time to time, but only upon compliance
12 with the procedural requirements of this chapter. In every such
13 marketing agreement, order and amendment the director shall base his or
14 her determination of such rate upon the volume and price of sales of
15 affected units (or units which would have been affected units had the
16 agreement or order been in effect) during a period which the director
17 determines to be a representative period. The rate of assessment
18 prescribed in any such agreement, order or amendment shall for all
19 purposes and times be deemed to be within the limits of assessment
20 above provided until such time as such agreement or order is amended as
21 to such rate.

22 **Sec. 6082.** RCW 15.65.410 and 1985 c 261 s 14 are each amended to
23 read as follows:

24 The director shall prescribe in each marketing order and agreement
25 the time, place, and method for payment and collection of assessments
26 under such order or agreement upon any uniform basis applicable alike
27 to all producers subject to such assessment, and upon the same or any
28 other uniform basis applicable alike to all handlers subject to such
29 assessment. For such purpose the director may, by the terms of the
30 marketing order or agreement:

31 (1) Require stamps to be purchased from him or her or his or her
32 designee and attached to the containers, invoices, shipping documents,
33 inspection certificates, releases, or receiving receipts or tickets
34 (said stamps to be canceled immediately upon being attached and the
35 date of cancellation placed thereon); or

1 (2) Require handlers to collect producer assessments from producers
2 whose production they handle and remit the same to the director or his
3 or her designee; or

4 (3) Require the person subject to the assessment to give adequate
5 assurance or security for its payment; or

6 (4) Require in the case of assessments against affected units
7 stored in frozen condition:

8 (a) Cold storage facilities storing such commodity to file
9 information and reports with the department or affected commission
10 regarding the amount of commodity in storage, the date of receipt, and
11 the name and address of each such owner; and

12 (b) That such commodity not be shipped from a cold storage facility
13 until the facility has been notified by the commission that the
14 commodity owner has paid the commission for any assessments imposed by
15 the marketing order.

16 Unless the director has otherwise provided in any marketing order
17 or agreement, assessments payable by producers shall be paid prior to
18 the time when the affected unit is shipped off the farm, and
19 assessments payable to handlers shall be paid prior to the time when
20 the affected units are received by or for the account of the first
21 handler. No affected units shall be transported, carried, shipped,
22 sold, marketed, or otherwise handled or disposed of until every due and
23 payable assessment herein provided for has been paid by the producer or
24 first handler and the receipt issued.

25 **Sec. 6083.** RCW 15.65.420 and 1961 c 256 s 42 are each amended to
26 read as follows:

27 Moneys collected by the director or his or her designee pursuant to
28 any marketing order or agreement from any assessment or as an advance
29 deposit thereon, shall be used by the director or his or her designee
30 only for the purpose of paying for expenses and costs arising in
31 connection with the formulation, issuance, administration, and
32 enforcement of such order or agreement and carrying out its provisions
33 together with a proportionate share of the overhead expenses of the
34 department attributable to its performance of its duties under this
35 chapter with respect to such marketing order or agreement.

1 **Sec. 6084.** RCW 15.65.440 and 1985 c 261 s 15 are each amended to
2 read as follows:

3 Any due and payable assessment herein levied in such specified
4 amount as may be determined by the director or his or her designee
5 pursuant to the provisions of this chapter and such agreement or order,
6 shall constitute a personal debt of every person so assessed or who
7 otherwise owes the same, and the same shall be due and payable to the
8 director or his or her designee when payment is called for by him or
9 her. In the event any person fails to pay the director or his or her
10 designee the full amount of such assessment or such other sum on or
11 before the date due, the director or his or her designee may, and is
12 hereby authorized to, add to such unpaid assessment or sum an amount
13 not exceeding ten percent of the same to defray the cost of enforcing
14 the collecting of the same. In the event of failure of such person or
15 persons to pay any such due and payable assessment or other such sum,
16 the director or his or her designee may bring a civil action against
17 such person or persons in a court of competent jurisdiction for the
18 collection thereof, together with the above specified ten percent
19 thereon, and such action shall be tried and judgment rendered as in any
20 other cause of action for debt due and payable.

21 **Sec. 6085.** RCW 15.65.480 and 1961 c 256 s 48 are each amended to
22 read as follows:

23 The director and each of his or her designees shall deposit or
24 cause to be deposited all moneys which are collected or otherwise
25 received by them pursuant to the provisions of this chapter in a
26 separate account or accounts separately allocated to each marketing
27 order or agreement under which such moneys are collected or received,
28 and such deposits and accounts shall be in the name of and withdrawable
29 by the check or draft of the administrator or board or designated
30 employee thereof established by such order or agreement. All expenses
31 and disbursements incurred and made pursuant to the provisions of any
32 marketing agreement or order, including a pro rata share of the
33 administrative expenses of the department of agriculture incurred in
34 the general administration of this chapter and all orders and
35 agreements issued pursuant thereto, shall be paid from, and only from,
36 moneys collected and received pursuant to such order or agreement and
37 all moneys deposited for the account of any order or agreement in the

1 marketing act revolving fund shall be paid from said account of such
2 fund by check, draft or voucher in such form and in such manner and
3 upon the signature of such person as may be prescribed by the director
4 or his or her designee.

5 **Sec. 6086.** RCW 15.65.490 and 1982 c 81 s 1 are each amended to
6 read as follows:

7 The director and each of his or her designees shall keep or cause
8 to be kept separately for each agreement and order in accordance with
9 accepted standards of good accounting practice, accurate records of all
10 assessments, collections, receipts, deposits, withdrawals,
11 disbursements, paid outs, moneys, and other financial transactions made
12 and done pursuant to such order or agreement, and the same shall be
13 audited at least every five years subject to procedures and methods
14 lawfully prescribed by the state auditor. The books and accounts
15 maintained under every such agreement and order shall be closed as of
16 the last day of each fiscal year of the state of Washington or of a
17 fiscal year determined by the director. A copy of every such audit
18 shall be delivered within thirty days after the completion thereof to
19 the governor and the commodity board of the agreement or order
20 concerned.

21 **Sec. 6087.** RCW 15.65.500 and 1961 c 256 s 50 are each amended to
22 read as follows:

23 The director or his or her designee shall require that a bond be
24 given by every administrator, administrative board, and/or employee
25 occupying a position of trust under any marketing agreement or order,
26 in such amount as the director or his or her designee shall deem
27 necessary, the premium for which bond or bonds shall be paid from
28 assessments collected pursuant to such order or agreement: PROVIDED,
29 That such bond need not be given with respect to any person covered by
30 any blanket bond covering officials or employees of the state of
31 Washington.

32 **Sec. 6088.** RCW 15.65.520 and 1961 c 256 s 52 are each amended to
33 read as follows:

34 It shall be a misdemeanor:

1 (1) For any person to violate any provision of this chapter or any
2 provision of any marketing agreement or order duly issued by the
3 director pursuant to this chapter.

4 (2) For any person to wilfully render or furnish a false or
5 fraudulent report, statement, or record required by the director
6 pursuant to the provisions of this chapter or any provision of any
7 marketing agreement or order duly issued by the director pursuant to
8 this chapter or to wilfully fail or refuse to furnish or render any
9 such report, statement, or record so required.

10 (3) For any person engaged in the wholesale or retail trade to fail
11 or refuse to furnish to the director or his or her designee or his or
12 her duly authorized agents, upon request, information concerning the
13 name and address of the person from whom he or she has received an
14 agricultural commodity regulated by a marketing agreement or order in
15 effect and issued pursuant to the terms of this chapter and the grade,
16 standard, quality, or quantity of and the price paid for such commodity
17 so received.

18 Every person convicted of any such misdemeanor shall be punished by
19 a fine of not less than fifty dollars nor more than five hundred
20 dollars or by imprisonment of not less than ten days nor more than six
21 months or by both such fine and imprisonment. Each violation during
22 any day shall constitute a separate offense: PROVIDED, That if the
23 court finds that a petition pursuant to RCW 15.65.570 was filed and
24 prosecuted by the defendant in good faith and not for delay, no penalty
25 shall be imposed under ~~((clause))~~ subsection (1) of this section for
26 such violations as occurred between the date upon which the defendant's
27 petition was filed with the director and the date upon which notice of
28 the director's decision thereon was given to the defendant in
29 accordance with RCW 15.65.570 and regulations prescribed pursuant
30 thereto.

31 **Sec. 6089.** RCW 15.65.530 and 1961 c 256 s 53 are each amended to
32 read as follows:

33 Any person who violates any provisions of this chapter or any
34 marketing agreement or order duly issued and in effect pursuant to this
35 chapter or who violates any rule or regulation issued by the director
36 and/or his or her designee pursuant to the provisions of this chapter
37 or of any marketing agreement or order duly issued by the director and

1 in effect pursuant to this chapter, shall be liable civilly for a
2 penalty in an amount not to exceed the sum of five hundred dollars for
3 each and every violation thereof. Any moneys recovered pursuant to
4 this ((paragraph)) section shall be allocated to and used for the
5 purposes of the agreement or order concerned.

6 **Sec. 6090.** RCW 15.65.540 and 1961 c 256 s 54 are each amended to
7 read as follows:

8 The several superior courts of the state of Washington are hereby
9 vested with jurisdiction:

10 (1) Specifically to enforce this chapter and the provisions of each
11 and every marketing agreement and order issued pursuant to this chapter
12 and each and every term, condition and provision thereof;

13 (2) To prevent, restrain, and enjoin pending litigation and
14 thereafter permanently any person from violating this chapter or the
15 provisions of any such agreement or order and each and every term,
16 condition, and provision thereof, regardless of the existence of any
17 other remedy at law.

18 (3) To require pending litigation and thereafter permanently by
19 mandatory injunction each and every person subject to the provisions of
20 any such agreement or order to carry out and perform the provisions of
21 this chapter an each and every duty imposed upon him or her by such
22 marketing agreement or order.

23 The director or any administrator or board under any marketing
24 agreement or order, in the name of the state of Washington, or any
25 person affected or regulated by or subject to any marketing order or
26 agreement issued pursuant to this chapter upon joining the director as
27 a party may bring or cause to be brought actions or proceedings for
28 specific performance, restraint, injunction, or mandatory injunction
29 against any person who violates or refuses to perform the obligations
30 or duties imposed upon him or her by this chapter or by any marketing
31 agreement or order issued pursuant to this chapter and said courts
32 shall have jurisdiction of such cause and shall grant such relief upon
33 proof of such violation or threatened violation or refusal.

34 **Sec. 6091.** RCW 15.65.550 and 1961 c 256 s 55 are each amended to
35 read as follows:

36 Upon the request of the director or his or her designee, it shall

1 be the duty of the attorney general of the state of Washington and of
2 the several prosecuting attorneys in their respective counties to
3 institute proceedings to enforce the remedies and to collect the moneys
4 provided for or pursuant to this chapter. Whenever the director and/or
5 his or her designee has reason to believe that any person has violated
6 or is violating the provisions of any marketing agreement or order
7 issued pursuant to this chapter, the director and/or his or her
8 designee shall have and is hereby granted the power to institute an
9 investigation and, after due notice to such person, to conduct a
10 hearing in order to determine the facts for the purpose of referring
11 the matter to the attorney general or to the appropriate prosecuting
12 attorney for appropriate action. The provisions contained in RCW
13 15.65.080, 15.65.090, 15.65.100 and 15.65.110 shall apply with respect
14 to such hearings.

15 **Sec. 6092.** RCW 15.65.590 and 1961 c 256 s 59 are each amended to
16 read as follows:

17 The director and his or her designee are hereby authorized to
18 confer with and cooperate with the legally constituted authorities of
19 other states and of the United States, for the purpose of obtaining
20 uniformity in the administration of federal and state marketing
21 regulations, licenses, agreements, or orders, and the director is
22 authorized to conduct joint hearings, issue joint or concurrent
23 marketing agreements or orders, for the purposes and within the
24 standards set forth in this chapter, and may exercise any
25 administrative authority prescribed by this chapter to effect such
26 uniformity of administration and regulation.

27 **Sec. 6093.** RCW 15.66.200 and 1961 c 11 s 15.66.200 are each
28 amended to read as follows:

29 An affected producer subject to a marketing order may file a
30 written petition with the director stating that the order, agreement,
31 or program or any part thereof is not in accordance with the law, and
32 requesting a modification thereof or exemption therefrom. He or she
33 shall thereupon be given a hearing, which hearing shall be conducted in
34 the manner provided by RCW 15.66.070, and thereafter the director shall
35 make his or her ruling which shall be final.

1 Appeal from any ruling of the director may be taken to the superior
2 court of the county in which the petitioner resides or has his or her
3 principal place of business, by serving upon the director a copy of the
4 notice of appeal and complaint within twenty days from the date of
5 entry of the ruling. Upon such application the court may proceed in
6 accordance with RCW 7.16.010 through 7.16.140. If the court determines
7 that the ruling is not in accordance with law, it shall remand the
8 proceedings to the director with directions to make such ruling as the
9 court determines to be in accordance with law or to take such further
10 proceedings as in its opinion are required by this chapter.

11 **Sec. 6094.** RCW 15.66.210 and 1961 c 11 s 15.66.210 are each
12 amended to read as follows:

13 It shall be a misdemeanor for:

14 (1) Any person wilfully to violate any provision of this chapter or
15 any provision of any marketing order duly issued by the director
16 pursuant to this chapter.

17 (2) Any person wilfully to render or furnish a false or fraudulent
18 report, statement of record required by the director or any commission
19 pursuant to the provisions of this chapter or any provision of any
20 marketing order duly issued by the director pursuant to this chapter or
21 wilfully to fail or refuse to furnish or render any such report,
22 statement, or record so required.

23 In the event of violation or threatened violation of any provision
24 of this chapter or of any marketing order duly issued or entered into
25 pursuant to this chapter, the director, the affected commission, or any
26 affected producer on joining the affected commission, shall be entitled
27 to an injunction to prevent further violation and to a decree of
28 specific performance of such order, and to a temporary restraining
29 order and injunction pending litigation upon filing a verified
30 complaint and sufficient bond.

31 All persons subject to any order shall severally from time to time,
32 upon the request of the director, furnish him or her with such
33 information as he or she finds to be necessary to enable him or her to
34 effectuate the policies of this chapter and the purposes of such order
35 or to ascertain and determine the extent to which such order has been
36 carried out or has effectuated such policies and purposes, or to
37 determine whether or not there has been any abuse of the privilege of

1 exemptions from laws relating to trusts, monopolies, and restraints of
2 trade. Such information shall be furnished in accordance with forms
3 and reports to be prescribed by the director. For the purpose of
4 ascertaining the correctness of any report made to the director
5 pursuant to this section or for the purpose of obtaining the
6 information required in any such report where it has been requested and
7 has not been furnished, the director is authorized to examine such
8 books, papers, records, copies of tax reports, accounts,
9 correspondence, contracts, documents, or memoranda as he or she deems
10 relevant and which are within the control of any such person from whom
11 such report was requested, or of any person having, either directly or
12 indirectly, actual or legal control of or over such person or such
13 records, or of any subsidiary of any such person. To carry out the
14 purposes of this section the director, upon giving due notice, may hold
15 hearings, take testimony, administer oaths, subpoena witnesses, and
16 issue subpoenas for the production of books, records, documents, or
17 other writings of any kind, and RCW 15.66.070 shall apply with respect
18 to any such hearing, together with such other regulations consistent
19 therewith as the director may from time to time prescribe.

20 **Sec. 6095.** RCW 15.66.230 and 1961 c 11 s 15.66.230 are each
21 amended to read as follows:

22 Obligations incurred by any commission and any other liabilities or
23 claims against the commission shall be enforced only against the assets
24 of such commission in the same manner as if it were a corporation and
25 no liability for the debts or actions of the commission shall exist
26 against either the state of Washington or any subdivision or
27 instrumentality thereof or against any other commission established
28 pursuant to this chapter or the assets thereof or against any member
29 officer, employee, or agent of the board in his or her individual
30 capacity. The members of any such commission, including employees of
31 such board, shall not be held responsible individually in any way
32 whatsoever to any person for errors in judgment, mistakes, or other
33 acts, either of commission or omission, as principal, agent, person, or
34 employee, except for their own individual acts of dishonesty or crime.
35 No such person or employee shall be held responsible individually for
36 any act or omission of any other member of any such commission. The

1 liability of the members of such commission shall be several and not
2 joint and no member shall be liable for the default of any other
3 member.

4 **Sec. 6096.** RCW 15.66.240 and 1961 c 11 s 15.66.240 are each
5 amended to read as follows:

6 Marketing agreements shall be created upon written application
7 filed with the director by not less than five commercial producers of
8 an agricultural commodity and upon approval of the director. The
9 director shall hold a public hearing upon such application. Not less
10 than five days prior thereto he or she shall give written notice
11 thereof to all producers whom he or she determines may be proper
12 parties to such agreement and shall publish such notice at least once
13 in a newspaper of general circulation in the affected area. The
14 director shall approve an agreement so applied for only if he or she
15 shall find:

16 (1) That no other agreement or order is in force for the same
17 commodity in the same area or any part thereof;

18 (2) That such agreement will tend to effectuate its purpose and the
19 declared policies of this chapter and conforms to law;

20 (3) That enough persons who produce a sufficient amount of the
21 affected commodity to tend to effectuate said policies and purposes and
22 to provide sufficient moneys to defray the necessary expenses of
23 formulation, issuance, administration, and enforcement have agreed in
24 writing to said agreement.

25 Such agreement may be for any of the purposes and may contain any
26 of the provisions that a marketing order may contain under the
27 provisions of this chapter but no other purposes and provisions. A
28 commodity commission created by such agreement shall in all respects
29 have all powers and duties as a commodity commission created by a
30 marketing order. Such agreement shall be binding upon, and only upon,
31 persons who have signed the agreement: PROVIDED, That a cooperative
32 association may, in behalf of its members, execute any and all
33 marketing agreements authorized hereunder, and upon so doing, such
34 agreement so executed shall be binding upon said cooperative
35 association and its members. Such agreements shall go into force when
36 the director endorses his or her approval in writing upon the agreement
37 and so notifies all who have signed the agreement. Additional

1 signatories may be added at any time with the approval of the director.
2 Every agreement shall remain in force and be binding upon all persons
3 so agreeing for the period specified in such agreement but the
4 agreement shall provide a time at least once in every twelve months
5 when any or all such persons may withdraw upon giving notice as
6 provided in the agreement. Such an agreement may be amended or
7 terminated in the same manner as herein provided for its creation and
8 may also be terminated whenever after the withdrawal of any signatory
9 the director finds on the basis of evidence presented at such hearing
10 that not enough persons remain signatory to such agreement to
11 effectuate the purposes of the agreement or the policies of the act or
12 to provide sufficient moneys to defray necessary expenses. However, in
13 the event that a cooperative association is signatory to the marketing
14 agreement in behalf of its members, the action of the cooperative
15 association shall be considered the action of its members for the
16 purpose of determining withdrawal or termination.

17 **Sec. 6097.** RCW 15.70.020 and 1961 c 11 s 15.70.020 are each
18 amended to read as follows:

19 The director of agriculture is authorized, in his or her
20 discretion, to enter into agreements with the secretary of agriculture
21 of the United States pursuant to section 2(f) of the aforesaid act of
22 the congress of the United States, upon such terms and conditions and
23 for such periods of time as may be mutually agreeable, authorizing the
24 secretary of agriculture of the United States to accept, administer,
25 expend, and use in the state of Washington all or any part of such
26 trust assets or any other funds of the state of Washington which may be
27 appropriated for such uses for carrying out the purposes of titles I
28 and II of the Bankhead-Jones farm tenant act, in accordance with the
29 applicable provisions of title IV thereof, as now or hereafter amended,
30 and to do any and all things necessary to effectuate and carry out the
31 purposes of said agreements.

32 **Sec. 6098.** RCW 15.70.030 and 1961 c 11 s 15.70.030 are each
33 amended to read as follows:

34 Notwithstanding any other provisions of law, funds and the proceeds
35 of the trust assets which are not authorized to be administered by the
36 secretary of agriculture of the United States under the provisions of

1 RCW 15.70.020 shall be received by the director of agriculture and by
2 him or her deposited with the treasurer of the state. Such funds are
3 hereby appropriated and may be expended or obligated by the director of
4 agriculture for the purposes of RCW 15.70.020 or for use by the
5 director of agriculture for such of the rural rehabilitation purposes
6 permissible under the charter of the now dissolved Washington rural
7 rehabilitation corporation as may from time to time be agreed upon by
8 the director of agriculture and the secretary of agriculture of the
9 United States, subject to the applicable provisions of said public law
10 499.

11 **Sec. 6099.** RCW 15.70.040 and 1961 c 11 s 15.70.040 are each
12 amended to read as follows:

13 The director of agriculture is authorized and empowered to:

14 (1) Collect, compromise, adjust, or cancel claims and obligations
15 arising out of or administered under this chapter or under any
16 mortgage, lease, contract, or agreement entered into or administered
17 pursuant to this chapter and if, in his or her judgment, necessary and
18 advisable, pursue the same to final collection in any court having
19 jurisdiction.

20 (2) Bid for and purchase at any execution, foreclosure, or other
21 sale, or otherwise to acquire property upon which the director of
22 agriculture has a lien by reason of judgment or execution, or which is
23 pledged, mortgaged, conveyed, or which otherwise secures any loan or
24 other indebtedness owing to or acquired by the director of agriculture
25 under this chapter, and

26 (3) Accept title to any property so purchased or acquired; to
27 operate or lease such property for such period as may be deemed
28 necessary to protect the investment therein; and to sell or otherwise
29 dispose of such property in a manner consistent with the provisions of
30 this chapter.

31 The authority herein contained may be delegated to the secretary of
32 agriculture of the United States with respect to funds or assets
33 authorized to be administered and used by him or her under agreements
34 entered into pursuant to RCW 15.70.020.

35 **Sec. 6100.** RCW 15.76.170 and 1984 c 287 s 18 are each amended to
36 read as follows:

1 There is hereby created a fairs commission to consist of the
2 director of agriculture as ex officio member and ((~~chairman~~)) chair,
3 and seven members appointed by the director to be persons who are
4 interested in fair activities; at least three of whom shall be from the
5 east side of the Cascades and three from the west side of the Cascades
6 and one member at large. The first appointment shall be: Three for a
7 one year term, two for a two year term, and two for a three year term,
8 and thereafter the appointments shall be for three year terms.

9 Appointed members of the commission shall be compensated in
10 accordance with RCW 43.03.240 and shall be reimbursed for travel
11 expenses, in accordance with RCW 43.03.050 and 43.03.060 payable on
12 proper vouchers submitted to and approved by the director, and payable
13 from that portion of the state fair fund set aside for administrative
14 costs under this chapter. The commission shall meet at the call of the
15 ((~~chairman~~)) chair, but at least annually. It shall be the duty of the
16 commission to act as an advisory committee to the director, to assist
17 in the preparation of the merit rating used in determining allocations
18 to be made to fairs, and to perform such other duties as may be
19 required by the director from time to time.

20 **Sec. 6101.** RCW 15.80.320 and 1969 ex.s. c 100 s 3 are each amended
21 to read as follows:

22 "Director" means the director of the department or his or her duly
23 appointed representative.

24 **Sec. 6102.** RCW 15.80.460 and 1991 c 109 s 7 are each amended to
25 read as follows:

26 The director shall issue a license to an applicant upon his or her
27 satisfaction that the applicant has satisfied the requirements of this
28 chapter and the rules adopted hereunder and that such applicant is of
29 good moral character, not less than eighteen years of age, and has the
30 ability to weigh accurately and make correct certified weight tickets.
31 Any license issued under this chapter shall expire annually on a date
32 set by rule by the director. License fees shall be prorated where
33 necessary to accommodate staggering of expiration dates of a license or
34 licenses.

1 **Sec. 6103.** RCW 15.80.470 and 1991 c 109 s 8 are each amended to
2 read as follows:

3 If an application for renewal of any license provided for in this
4 chapter is not filed prior to the expiration date, there shall be
5 assessed and added to the renewal fee as a penalty therefor fifty
6 percent of said renewal fee which shall be paid by the applicant before
7 any renewal license shall be issued. The penalty shall not apply if
8 the applicant furnishes an affidavit that he or she has not acted as a
9 weighmaster or weigher subsequent to the expiration of his or her prior
10 license.

11 **Sec. 6104.** RCW 15.80.480 and 1969 ex.s. c 100 s 19 are each
12 amended to read as follows:

13 Any applicant for a weighmaster's license shall execute and deliver
14 to the director a surety bond executed by the applicant as principal
15 and by a surety company qualified and authorized to do business in this
16 state as surety. Such bond shall be in the sum of one thousand
17 dollars. The bond shall be of standard form and approved by the
18 director as to terms and conditions. Said bond shall be conditioned
19 that the principal will not commit any fraudulent act and will comply
20 with the provisions of this chapter and the rules adopted hereunder.
21 Said bond shall be to the state for the benefit of every person
22 availing himself or herself of the services and certifications issued
23 by a weighmaster, or weigher subject to his or her control. The total
24 and aggregate liability of the surety for all claims upon the bond
25 shall be limited to the face value of such bond. Every bond filed with
26 and approved by the director shall, without the necessity of periodic
27 renewal, remain in force and effect until such time as the license of
28 the licensee is revoked for cause or otherwise canceled. All such
29 sureties on a bond, as provided herein, shall only be released and
30 discharged from all liability to the state accruing on such bond upon
31 compliance with the provisions of RCW 19.72.110, as enacted or
32 hereafter amended, concerning notice and proof of service, but this
33 shall not operate to relieve, release, or discharge the surety from any
34 liability already accrued or which shall accrue (due and to become due
35 hereunder) before the expiration period provided for in RCW 19.72.110,
36 as enacted or hereafter amended, concerning notice and proof of

1 service, and unless the principal shall before the expiration of such
2 period, file a new bond, the director shall forthwith cancel the
3 principal's license.

4 **Sec. 6105.** RCW 15.80.490 and 2006 c 358 s 4 are each amended to
5 read as follows:

6 Any weighmaster may file an application with the director for a
7 license for any employee or agent to operate and issue certified weight
8 tickets from a scale which such weighmaster is licensed to operate
9 under the provisions of this chapter. Such application shall be
10 submitted on a form prescribed by the director and shall contain the
11 following:

- 12 (1) Name of the weighmaster;
- 13 (2) The full name of the employee or agent and his or her resident
14 address;
- 15 (3) The position held by such person with the weighmaster;
- 16 (4) The scale or scales from which such employee or agent will
17 issue certified weights; and
- 18 (5) Signature of the weigher and the weighmaster.

19 Such annual application shall be accompanied by a license fee of
20 ten dollars.

21 **Sec. 6106.** RCW 15.80.500 and 1991 c 109 s 9 are each amended to
22 read as follows:

23 Upon the director's satisfaction that the applicant is of good
24 moral character, has the ability to weigh accurately and make correct
25 certified weight tickets and that he or she is an employee or agent of
26 the weighmaster, the director shall issue a weigher's license which
27 will expire annually on a date set by rule by the director. License
28 fees shall be prorated where necessary to accommodate staggering of
29 expiration dates of a license or licenses.

30 **Sec. 6107.** RCW 15.80.510 and 1969 ex.s. c 100 s 22 are each
31 amended to read as follows:

32 A licensed public weighmaster shall: (1) Keep the scale or scales
33 upon which he or she weighs any commodity or thing, in conformity with
34 the standards of weights and measures; (2) carefully and correctly
35 weigh and certify the gross, tare, and net weights of any load of any

1 commodity or thing required to be weighed; and (3) without charge,
2 weigh any commodity or thing brought to his or her scale by an
3 inspector authorized by the director, and issue a certificate of the
4 weights thereof.

5 **Sec. 6108.** RCW 15.80.550 and 1969 ex.s. c 100 s 26 are each
6 amended to read as follows:

7 No weighmaster or weigher shall enter a weight value on a certified
8 weight ticket that he or she has not determined and he or she shall not
9 make a weight entry on a weight ticket issued at any other location:
10 PROVIDED, HOWEVER, That if the director determines that an automatic
11 weighing or measuring device can accurately and safely issue weights in
12 conformance with the purpose of this chapter, he or she may adopt a
13 regulation to provide for the use of such a device for the issuance of
14 certified weight tickets. The certified weight ticket shall be so
15 prepared that it will show the weight or weights actually determined by
16 the weighmaster. In any case in which only the gross, the tare or the
17 net weight is determined by the weighmaster he or she shall strike
18 through or otherwise cancel the printed entries for the weights not
19 determined or computed by him or her.

20 **Sec. 6109.** RCW 15.80.590 and 1989 c 175 s 52 are each amended to
21 read as follows:

22 The director is hereby authorized to deny, suspend, or revoke a
23 license subsequent to a hearing, if a hearing is requested, in any case
24 in which he or she finds that there has been a failure to comply with
25 the requirements of this chapter or rules adopted hereunder. Such
26 hearings shall be subject to chapter 34.05 RCW (administrative
27 procedure act) concerning adjudicative proceedings.

28 **Sec. 6110.** RCW 15.80.610 and 1969 ex.s. c 100 s 32 are each
29 amended to read as follows:

30 The director, for the purposes of this chapter, may issue subpoenas
31 to compel the attendance of witnesses, and/or the production of books
32 and/or documents anywhere in the state. The party shall have
33 opportunity to make his or her defense, and may have such subpoenas
34 issued as he or she desires. Subpoenas shall be served in the same

1 manner as in civil cases in the superior court. Witnesses shall
2 testify under oath which may be administered by the director.

3 **Sec. 6111.** RCW 15.80.620 and 1969 ex.s. c 100 s 33 are each
4 amended to read as follows:

5 It shall be unlawful for any person not licensed pursuant to the
6 provisions of this chapter to:

7 (1) Hold himself or herself out, in any manner, as a weighmaster or
8 weigher; or

9 (2) Issue any ticket as a certified weight ticket.

10 **Sec. 6112.** RCW 15.80.630 and 1969 ex.s. c 100 s 34 are each
11 amended to read as follows:

12 It shall be unlawful for a weighmaster or weigher to falsify a
13 certified weight ticket, or to cause an incorrect weight, measure, or
14 count to be determined, or delegate his or her authority to any person
15 not licensed as a weigher, or to pre seal a weight ticket with his or her
16 official seal before performing the act of weighing.

17 **Sec. 6113.** RCW 15.80.640 and 1969 ex.s. c 100 s 35 are each
18 amended to read as follows:

19 Any person who shall mark, stamp, or write any false weight ticket,
20 scale ticket, or weight certificate, knowing it to be false, and any
21 person who influences, or attempts to wrongfully influence any licensed
22 public weighmaster or weigher in the performance of his or her official
23 duties shall be guilty of a gross misdemeanor and upon conviction
24 thereof shall be punished by a fine of not less than one hundred
25 dollars nor more than one thousand dollars, or by imprisonment of not
26 less than thirty days nor more than one year in the county jail, or by
27 both such fine and imprisonment.

28 **Sec. 6114.** RCW 15.88.070 and 1987 c 452 s 7 are each amended to
29 read as follows:

30 The powers and duties of the commission include:

31 (1) To elect a (~~chairman~~) chair and such officers as the
32 commission deems advisable. The officers shall include a treasurer who
33 is responsible for all receipts and disbursements by the commission and
34 the faithful discharge of whose duties shall be guaranteed by a bond at

1 the sole expense of the commission. The commission shall adopt rules
2 for its own governance, which shall provide for the holding of an
3 annual meeting for the election of officers and transaction of other
4 business and for such other meetings as the commission may direct;

5 (2) To do all things reasonably necessary to effect the purposes of
6 this chapter. However, the commission shall have no legislative power;

7 (3) At the pleasure of the commission, to employ and discharge
8 managers, secretaries, agents, attorneys, and employees and to engage
9 the services of independent contractors as the commission deems
10 necessary, to prescribe their duties, and to fix their compensation;

11 (4) To receive donations of wine from wineries for promotional
12 purposes;

13 (5) To engage directly or indirectly in the promotion of Washington
14 wine, including without limitation the acquisition in any lawful manner
15 and the dissemination without charge of wine, which dissemination shall
16 not be deemed a sale for any purpose and in which dissemination the
17 commission shall not be deemed a wine producer, supplier, or
18 manufacturer of any kind or the clerk, servant, or agent of a producer,
19 supplier, or manufacturer of any kind. Such dissemination shall be for
20 agricultural development or trade promotion, which may include
21 promotional hosting and shall in the good faith judgment of the
22 commission be in aid of the marketing, advertising, or sale of wine, or
23 of research related to such marketing, advertising, or sale;

24 (6) To acquire and transfer personal and real property, establish
25 offices, incur expense, enter into contracts (including contracts for
26 creation and printing of promotional literature, which contracts shall
27 not be subject to chapter 43.78 RCW, but which shall be cancelable by
28 the commission unless performed under conditions of employment which
29 substantially conform to the laws of this state and the rules of the
30 department of labor and industries). The commission may create such
31 debt and other liabilities as may be reasonable for proper discharge of
32 its duties under this chapter;

33 (7) To maintain such account or accounts with one or more qualified
34 public depositaries as the commission may direct, to cause moneys to be
35 deposited therein, and to expend moneys for purposes authorized by this
36 chapter by drafts made by the commission upon such institutions or by
37 other means;

1 (8) To cause to be kept and annually closed, in accordance with
2 generally accepted accounting principles, accurate records of all
3 receipts, disbursements, and other financial transactions, available
4 for audit by the state auditor;

5 (9) To create and maintain a list of producers and to disseminate
6 information among and solicit the opinions of producers with respect to
7 the discharge of the duties of the commission, directly or by
8 arrangement with trade associations or other instrumentalities;

9 (10) To employ, designate as agent, act in concert with, and enter
10 into contracts with any person, council, commission or other entity for
11 the purpose of promoting the general welfare of the vinifera grape
12 industry and particularly for the purpose of assisting in the sale and
13 distribution of Washington wine in domestic and foreign commerce,
14 expending moneys as it may deem necessary or advisable for such purpose
15 and for the purpose of paying its proportionate share of the cost of
16 any program providing direct or indirect assistance to the sale and
17 distribution of Washington wine in domestic or foreign commerce,
18 employing and paying for vendors of professional services of all kinds;
19 and

20 (11) To sue and be sued as a commission, without individual
21 liability for acts of the commission within the scope of the powers
22 conferred upon it by this chapter.

23 **Sec. 6115.** RCW 15.100.080 and 2001 c 314 s 8 are each amended to
24 read as follows:

25 The powers and duties of the commission include:

26 (1) To elect a (~~chairman~~) chair and such officers as the
27 commission deems advisable. The commission shall adopt rules for its
28 own governance, which provide for the holding of an annual meeting for
29 the election of officers and transaction of other business and for such
30 other meetings as the commission may direct;

31 (2) To adopt any rules necessary to carry out the purposes of this
32 chapter, in conformance with chapter 34.05 RCW;

33 (3) To administer and do all things reasonably necessary to carry
34 out the purposes of this chapter;

35 (4) At the pleasure of the commission, to employ a treasurer who is
36 responsible for all receipts and disbursements by the commission and

1 the faithful discharge of whose duties shall be guaranteed by a bond at
2 the sole expense of the commission;

3 (5) At the pleasure of the commission, to employ and discharge
4 managers, secretaries, agents, attorneys, and employees and to engage
5 the services of independent contractors as the commission deems
6 necessary, to prescribe their duties, and to fix their compensation;

7 (6) To engage directly or indirectly in the promotion of Washington
8 forest products and managed forests, and shall in the good faith
9 judgment of the commission be in aid of the marketing, advertising, or
10 sale of forest products, or of research related to such marketing,
11 advertising, or sale of forest products, or of research related to
12 managed forests;

13 (7) To enforce the provisions of this chapter, including
14 investigating and prosecuting violations of this chapter;

15 (8) To acquire and transfer personal and real property, establish
16 offices, incur expense, and enter into contracts. Contracts for
17 creation and printing of promotional literature are not subject to
18 chapter 43.78 RCW, but such contracts may be canceled by the commission
19 unless performed under conditions of employment which substantially
20 conform to the laws of this state and the rules of the department of
21 labor and industries. The commission may create such debt and other
22 liabilities as may be reasonable for proper discharge of its duties
23 under this chapter;

24 (9) To maintain such account or accounts with one or more qualified
25 public depositaries as the commission may direct, to cause moneys to be
26 deposited therein, and to expend moneys for purposes authorized by this
27 chapter by drafts made by the commission upon such institutions or by
28 other means;

29 (10) To cause to be kept and annually closed, in accordance with
30 generally accepted accounting principles, accurate records of all
31 receipts, disbursements, and other financial transactions, available
32 for audit by the state auditor;

33 (11) To create and maintain a list of producers and to disseminate
34 information among and solicit the opinions of producers with respect to
35 the discharge of the duties of the commission, directly or by
36 arrangement with trade associations or other instrumentalities;

37 (12) To employ, designate as agent, act in concert with, and enter
38 into contracts with any person, council, commission, or other entity

1 for the purpose of promoting the general welfare of the forest products
2 industry and particularly for the purpose of assisting in the sale and
3 distribution of Washington forest products in domestic and foreign
4 commerce, expending moneys as it may deem necessary or advisable for
5 such purpose and for the purpose of paying its proportionate share of
6 the cost of any program providing direct or indirect assistance to the
7 sale and distribution of Washington forest products in domestic or
8 foreign commerce, and employing and paying for vendors of professional
9 services of all kinds;

10 (13) To sue and be sued as a commission, without individual
11 liability for acts of the commission within the scope of the powers
12 conferred upon it by this chapter;

13 (14) To propose assessment levels for producers subject to
14 referendum approval under RCW 15.100.110; and

15 (15) To participate in federal and state agency hearings, meetings,
16 and other proceedings relating to the regulation, production,
17 manufacture, distribution, sale, or use of forest products.

18 **PART VII**

19 **Sec. 7001.** RCW 43.21A.405 and 1973 2nd ex.s. c 30 s 1 are each
20 amended to read as follows:

21 The legislature recognizes that there exists a great risk of
22 potential damage from oil pollution of the waters of the state of
23 Washington and further declares that immediate steps must be undertaken
24 to reduce this risk. The legislature also is aware that such danger is
25 expected to increase in future years in proportion to the increase in
26 the size and cargo capacity of ships, barges, and other waterborne
27 carriers, the construction and operational characteristics of these
28 carriers, the density of waterborne traffic, and the need for a greater
29 supply of petroleum products.

30 A program of systematic baseline studies to be conducted by the
31 department of ecology has been recognized as a vital part of the
32 efforts to reduce the risk of oil pollution of marine waters, and the
33 legislature recognizes that many factors combine to make this effort
34 one of considerable magnitude and difficulty. The marine shoreline of
35 the state is about two thousand seven hundred miles long, a greater
36 length than the combined coastlines of Oregon and California. There

1 are some three million acres of submerged land and more than three
2 hundred islands in these marine waters. The average depth of Puget
3 Sound is two hundred twenty feet. There is a great diversity of animal
4 life in the waters of the state. These waters have a multitude of uses
5 by both humans and nonhumans, and the interaction between ((~~man's~~))
6 human activities and natural processes in these waters varies greatly
7 with locale.

8 **Sec. 7002.** RCW 43.21C.030 and 1971 ex.s. c 109 s 3 are each
9 amended to read as follows:

10 The legislature authorizes and directs that, to the fullest extent
11 possible: (1) The policies, regulations, and laws of the state of
12 Washington shall be interpreted and administered in accordance with the
13 policies set forth in this chapter, and (2) all branches of government
14 of this state, including state agencies, municipal and public
15 corporations, and counties shall:

16 (a) Utilize a systematic, interdisciplinary approach which will
17 insure the integrated use of the natural and social sciences and the
18 environmental design arts in planning and in decision making which may
19 have an impact on ((~~man's~~)) the environment;

20 (b) Identify and develop methods and procedures, in consultation
21 with the department of ecology and the ecological commission, which
22 will insure that presently unquantified environmental amenities and
23 values will be given appropriate consideration in decision making along
24 with economic and technical considerations;

25 (c) Include in every recommendation or report on proposals for
26 legislation and other major actions significantly affecting the quality
27 of the environment, a detailed statement by the responsible official
28 on:

29 (i) the environmental impact of the proposed action;

30 (ii) any adverse environmental effects which cannot be avoided
31 should the proposal be implemented;

32 (iii) alternatives to the proposed action;

33 (iv) the relationship between local short-term uses of ((~~man's~~))
34 the environment and the maintenance and enhancement of long-term
35 productivity; and

36 (v) any irreversible and irretrievable commitments of resources

1 which would be involved in the proposed action should it be
2 implemented;

3 (d) Prior to making any detailed statement, the responsible
4 official shall consult with and obtain the comments of any public
5 agency which has jurisdiction by law or special expertise with respect
6 to any environmental impact involved. Copies of such statement and the
7 comments and views of the appropriate federal, province, state, and
8 local agencies, which are authorized to develop and enforce
9 environmental standards, shall be made available to the governor, the
10 department of ecology, the ecological commission, and the public, and
11 shall accompany the proposal through the existing agency review
12 processes;

13 (e) Study, develop, and describe appropriate alternatives to
14 recommended courses of action in any proposal which involves unresolved
15 conflicts concerning alternative uses of available resources;

16 (f) Recognize the worldwide and long-range character of
17 environmental problems and, where consistent with state policy, lend
18 appropriate support to initiatives, resolutions, and programs designed
19 to maximize international cooperation in anticipating and preventing a
20 decline in the quality of (~~man-kind's~~) the world environment;

21 (g) Make available to the federal government, other states,
22 provinces of Canada, municipalities, institutions, and individuals,
23 advice and information useful in restoring, maintaining, and enhancing
24 the quality of the environment;

25 (h) Initiate and utilize ecological information in the planning and
26 development of natural resource-oriented projects.

27 **PART VIII**

28 **Sec. 8001.** RCW 44.39.060 and 2009 c 549 s 6016 are each amended to
29 read as follows:

30 In the discharge of any duty imposed by this chapter, the committee
31 or any personnel acting under its direction shall have the authority to
32 examine and inspect all properties, equipment, facilities, files,
33 records, and accounts of any state office, department, institution,
34 board, committee, commission, or agency; to administer oaths; and to
35 issue subpoenas, upon approval of a majority of the members of the
36 house or senate rules committee, to compel the attendance of witnesses

1 and the production of any papers, books, accounts, documents, and
2 testimony, and to cause the deposition of witnesses, either residing
3 within or without the state, to be taken in the manner prescribed by
4 law for taking depositions in civil actions in the superior courts.

5 In case of the failure of any person to comply with any subpoena
6 issued in behalf of the committee, or on the refusal of any witness to
7 testify to any matters regarding which he or she may be lawfully
8 interrogated, it shall be the duty of the superior court of any county,
9 or of the judge thereof, on application of the committee, to compel
10 obedience by proceedings for contempt, as in the case of disobedience
11 of the requirements of a subpoena issued from such court or a refusal
12 to testify therein.

13 Each witness who appears before the committee by its order, other
14 than a state official or employee, shall receive for his or her
15 attendance the fees and mileage provided for witnesses in civil cases
16 in courts of record, which shall be audited and paid upon the
17 presentation of proper vouchers signed by such witness and approved by
18 the chair of the committee.

19 **PART IX**

20 **Sec. 9001.** RCW 46.01.250 and 1979 c 158 s 125 are each amended to
21 read as follows:

22 The director shall have the power and it shall be his or her duty
23 upon request and payment of the fee as provided herein to furnish under
24 seal of the director certified copies of any records of the department,
25 except those for confidential use only. The director shall charge and
26 collect therefor the actual cost to the department. Any funds accruing
27 to the director of licensing under this section shall be certified and
28 sent to the state treasurer and by him or her deposited to the credit
29 of the highway safety fund.

30 **Sec. 9002.** RCW 46.09.080 and 1990 c 250 s 24 are each amended to
31 read as follows:

32 (1) Each dealer of off-road vehicles in this state who does not
33 have a current "dealer's plate" for vehicle use pursuant to chapter
34 46.70 RCW shall obtain an ORV dealer permit from the department in such
35 manner and upon such forms as the department shall prescribe. Upon

1 receipt of an application for an ORV dealer permit and the fee under
2 subsection (2) of this section, the dealer shall be registered and an
3 ORV dealer permit number assigned.

4 (2) The fee for ORV dealer permits shall be twenty-five dollars per
5 year, which covers all of the off-road vehicles owned by a dealer and
6 not rented. Off-road vehicles rented on a regular, commercial basis by
7 a dealer shall have separate use permits.

8 (3) Upon the issuance of an ORV dealer permit each dealer may
9 purchase, at a cost to be determined by the department, ORV dealer
10 number plates of a size and color to be determined by the department,
11 that contain the dealer ORV permit number assigned to the dealer. Each
12 off-road vehicle operated by a dealer, dealer representative, or
13 prospective customer for the purposes of testing or demonstration shall
14 display such number plates assigned pursuant to the dealer permit
15 provisions in chapter 46.70 RCW or this section, in a manner prescribed
16 by the department.

17 (4) No dealer, dealer representative, or prospective customer shall
18 use such number plates for any purpose other than the purpose
19 prescribed in subsection (3) of this section.

20 (5) ORV dealer permit numbers shall be nontransferable.

21 (6) It is unlawful for any dealer to sell any off-road vehicle at
22 wholesale or retail or to test or demonstrate any off-road vehicle
23 within the state unless he or she has a motor vehicle dealers' license
24 pursuant to chapter 46.70 RCW or an ORV dealer permit number in
25 accordance with this section.

26 (7) When an ORV is sold by a dealer, the dealer shall apply for
27 title in the purchaser's name within fifteen days following the sale.

28 **Sec. 9003.** RCW 46.10.120 and 1972 ex.s. c 153 s 24 are each
29 amended to read as follows:

30 No person under twelve years of age shall operate a snowmobile on
31 or across a public roadway or highway in this state, and no person
32 between the ages of twelve and sixteen years of age shall operate a
33 snowmobile on or across a public road or highway in this state unless
34 he or she has taken a snowmobile safety education course and been
35 certified as qualified to operate a snowmobile by an instructor
36 designated by the commission as qualified to conduct such a course and
37 issue such a certificate, and he or she has on his or her person at the

1 time he or she is operating a snowmobile evidence of such
2 certification: PROVIDED, That persons under sixteen years of age who
3 have not been certified as qualified snowmobile operators may operate
4 a snowmobile under the direct supervision of a qualified snowmobile
5 operator.

6 **Sec. 9004.** RCW 46.10.220 and 1994 c 264 s 38 are each amended to
7 read as follows:

8 (1) There is created in the Washington state parks and recreation
9 commission a snowmobile advisory committee to advise the commission
10 regarding the administration of this chapter.

11 (2) The purpose of the committee is to assist and advise the
12 commission in the planned development of snowmobile facilities and
13 programs.

14 (3) The committee shall consist of:

15 (a) Six interested snowmobilers, appointed by the commission; each
16 such member shall be a resident of one of the six geographical areas
17 throughout this state where snowmobile activity occurs, as defined by
18 the commission;

19 (b) Three representatives of the nonsnowmobiling public, appointed
20 by the commission; and

21 (c) One representative of the department of natural resources, one
22 representative of the department of fish and wildlife, and one
23 representative of the Washington state association of counties; each of
24 whom shall be appointed by the director of such department or
25 association.

26 (4) Terms of the members appointed under subsection (3)(a) and (b)
27 of this section shall commence on October 1st of the year of
28 appointment and shall be for three years or until a successor is
29 appointed, except in the case of appointments to fill vacancies which
30 shall be for the remainder of the unexpired term: PROVIDED, That the
31 first such members shall be appointed for terms as follows: Three
32 members shall be appointed for one year, three members shall be
33 appointed for two years, and three members shall be appointed for three
34 years.

35 (5) Members of the committee shall be reimbursed for travel
36 expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures

1 under this subsection shall be from the snowmobile account created by
2 RCW 46.10.075.

3 (6) The committee may meet at times and places fixed by the
4 committee. The committee shall meet not less than twice each year and
5 additionally as required by the committee (~~(chairman)~~) chair or by
6 majority vote of the committee. One of the meetings shall be
7 coincident with a meeting of the commission at which the committee
8 shall provide a report to the commission. The (~~(chairman)~~) chair of
9 the committee shall be chosen under procedures adopted by the committee
10 from those members appointed under subsection (3)(a) and (b) of this
11 section.

12 (7) The Washington state parks and recreation commission shall
13 serve as recording secretary to the committee. A representative of the
14 department of licensing shall serve as an ex officio member of the
15 committee and shall be notified of all meetings of the committee. The
16 recording secretary and the ex officio member shall be nonvoting
17 members.

18 (8) The committee shall adopt procedures to govern its proceedings.

19 **Sec. 9005.** RCW 46.12.130 and 1967 c 140 s 3 are each amended to
20 read as follows:

21 Certificates of ownership when assigned and returned to the
22 department, together with subsequently assigned reissues thereof, shall
23 be retained by the department and appropriately filed and indexed so
24 that at all times it will be possible to trace ownership to the vehicle
25 designated therein:

26 (1) If the interest of an owner in a vehicle passes to another,
27 other than by voluntary transfer, the transferee shall, except as
28 provided in subsection (3) of this section, promptly mail or deliver to
29 the department the last certificate of ownership if available, proof of
30 transfer, and his or her application for a new certificate in the form
31 the department prescribes.

32 (2) If the interest of the owner is terminated or the vehicle is
33 sold under a security agreement by a secured party named in the
34 certificate of ownership, the transferee shall promptly mail or deliver
35 to the department the last certificate of ownership, his or her
36 application for a new certificate in the form the department
37 prescribes, and an affidavit made by or on the behalf of the secured

1 party that the vehicle was repossessed and that the interest of the
2 owner was lawfully terminated or sold pursuant to the terms of the
3 security agreement.

4 (3) If the secured party succeeds to the interest of the owner and
5 holds the vehicle for resale, he or she need not secure a new
6 certificate of ownership but, upon transfer to another person, shall
7 promptly mail or deliver to the transferee or to the department the
8 certificate, affidavit and other documents (and articles) required to
9 be sent to the department by the transferee.

10 **Sec. 9006.** RCW 46.12.240 and 1987 c 388 s 8 are each amended to
11 read as follows:

12 (1) The suspension, revocation, cancellation, or refusal by the
13 director of any license or certificate provided for in chapters 46.12
14 and 46.16 RCW is conclusive unless the person whose license or
15 certificate is suspended, revoked, canceled, or refused appeals to the
16 superior court of Thurston county, or at his or her option to the
17 superior court of the county of his or her residence, for the purpose
18 of having the suspension, revocation, cancellation, or refusal of the
19 license or certificate set aside. Notice of appeal must be filed
20 within ten days after receipt of the notice of suspension, revocation,
21 cancellation, or refusal. Upon the filing of the notice of appeal the
22 court shall issue an order to the director to show cause why the
23 license should not be granted or reinstated, which order shall be
24 returnable not less than ten days after the date of service thereof
25 upon the director. Service shall be in the manner prescribed for
26 service of summons and complaint in other civil actions. Upon the
27 hearing on the order to show cause, the court shall hear evidence
28 concerning matters with reference to the suspension, revocation,
29 cancellation, or refusal of the license or certificate and shall enter
30 judgment either affirming or setting aside the suspension, revocation,
31 cancellation, or refusal.

32 (2) This section does not apply to vehicle registration
33 cancellations under RCW 46.16.710 through 46.16.760.

34 **Sec. 9007.** RCW 46.12.280 and 1979 c 158 s 136 are each amended to
35 read as follows:

36 The provisions of chapter 46.12 RCW concerning the registration and

1 titling of vehicles, and the perfection of security interests therein
2 shall apply to campers, as defined in RCW 46.04.085. In addition, the
3 director of licensing shall have the power to adopt such rules and
4 regulations he or she deems necessary to implement the registration and
5 titling of campers and the perfection of security interests therein.

6 **Sec. 9008.** RCW 46.12.300 and 1975-'76 2nd ex.s. c 91 s 1 are each
7 amended to read as follows:

8 Whoever knowingly buys, sells, receives, disposes of, conceals, or
9 has knowingly in his or her possession any vehicle, watercraft, camper,
10 or component part thereof, from which the manufacturer's serial number
11 or any other distinguishing number or identification mark has been
12 removed, defaced, covered, altered, or destroyed for the purpose of
13 concealment or misrepresenting the identity of the said vehicle,
14 watercraft, camper, or component part thereof shall be guilty of a
15 gross misdemeanor.

16 **Sec. 9009.** RCW 46.12.320 and 1975-'76 2nd ex.s. c 91 s 3 are each
17 amended to read as follows:

18 Unless a claim of ownership to the article or articles is
19 established pursuant to RCW 46.12.330, the law enforcement agency
20 seizing the vehicle, watercraft, camper, or component part thereof may
21 dispose of them by destruction, by selling at public auction to the
22 highest bidder, or by holding the article or articles for the official
23 use of the agency, when:

24 (1) The true identity of the article or articles cannot be
25 established by restoring the original manufacturer's serial number or
26 other distinguishing numbers or identification marks or by any other
27 means;

28 (2) After the true identity of the article or articles has been
29 established, the seizing law enforcement agency cannot locate the
30 person who is the lawful owner or if such lawful owner or his or her
31 successor in interest fails to claim the article or articles within
32 forty-five days after receiving notice from the seizing law enforcement
33 agency that the article or articles is in its possession.

34 No disposition of the article or articles pursuant to this section
35 shall be undertaken until at least sixty days have elapsed from the
36 date of seizure and written notice of the right to a hearing to

1 establish a claim of ownership pursuant to RCW 46.12.330 and of the
2 potential disposition of the article or articles shall have first been
3 served upon the person who held possession or custody of the article
4 when it was impounded and upon any other person who, prior to the final
5 disposition of the article, has notified the seizing law enforcement
6 agency in writing of a claim to ownership or lawful right to possession
7 thereof.

8 **Sec. 9010.** RCW 46.16.025 and 1979 c 158 s 139 are each amended to
9 read as follows:

10 Before any "farm vehicle", as defined in RCW 46.04.181, shall
11 operate on or move along a public highway, there shall be displayed
12 upon it in a conspicuous manner a decal or other device, as may be
13 prescribed by the director of licensing and issued by the department of
14 licensing, which shall describe in some manner the vehicle and identify
15 it as a vehicle exempt from the licensing requirements of this chapter.
16 Application for such identifying devices shall be made to the
17 department on a form furnished for that purpose by the director. Such
18 application shall be made by the owner or lessee of the vehicle, or his
19 or her duly authorized agent over the signature of such owner or agent,
20 and he or she shall certify that the statements therein are true to the
21 best of his or her knowledge. The application must show:

- 22 (1) The name and address of the owner of the vehicle;
23 (2) The trade name of the vehicle, model, year, type of body, the
24 motor number or the identification number thereof if such vehicle be a
25 motor vehicle, or the serial number thereof if such vehicle be a
26 trailer;
27 (3) The purpose for which said vehicle is to be principally used;
28 (4) Such other information as shall be required upon such
29 application by the director; and
30 (5) Place where farm vehicle is principally used or garaged.

31 A fee of five dollars shall be charged for and submitted with such
32 application for an identification decal as in this section provided as
33 to each farm vehicle which fee shall be deposited in the motor vehicle
34 fund and distributed proportionately as otherwise provided for vehicle
35 license fees under RCW 46.68.030. Only one application need be made as
36 to each such vehicle, and the status as an exempt vehicle shall

1 continue until suspended or revoked for misuse, or when such vehicle no
2 longer is used as a farm vehicle.

3 **Sec. 9011.** RCW 46.16.047 and 1961 c 12 s 46.16.047 are each
4 amended to read as follows:

5 Forms for such temporary permits shall be prescribed and furnished
6 by the department. Temporary permits shall bear consecutive numbers,
7 shall show the name and address of the applicant, trade name of the
8 vehicle, model, year, type of body, identification number and date of
9 application, and shall be such as may be affixed to the vehicle at the
10 time of issuance, and remain on such vehicle only during the period of
11 such registration and until the receipt of permanent license plates.
12 The application shall be registered in the office of the person issuing
13 the permit and shall be forwarded by him or her to the department each
14 day together with the fee accompanying it.

15 A fee of fifty cents shall be charged by the person authorized to
16 issue such permit which shall be accounted for in the same manner as
17 the other fees collected by such officers, provided that such fees
18 collected by county auditors or their agents shall be paid to the
19 county treasurer in the same manner as other fees collected by the
20 county auditor and credited to the county current expense fund.

21 **Sec. 9012.** RCW 46.16.210 and 2001 c 206 s 1 are each amended to
22 read as follows:

23 (1) Upon receipt of the application and proper fee for original
24 vehicle license, the director shall make a recheck of the application
25 and in the event that there is any error in the application it may be
26 returned to the county auditor or other agent to effectively secure the
27 correction of such error, who shall return the same corrected to the
28 director.

29 (2) Application for the renewal of a vehicle license shall be made
30 to the director or his or her agents, including county auditors, by the
31 registered owner on a form prescribed by the director. The application
32 must be accompanied by the payment of such license fees and excise tax
33 as may be required by law. Such application shall be handled in the
34 same manner and the fees transmitted to the state treasurer in the same
35 manner as in the case of an original application. Any such application

1 which upon validation becomes a renewal certificate need not have
2 entered upon it the name of the lien holder, if any, of the vehicle
3 concerned.

4 (3) Persons expecting to be out of the state during the normal
5 renewal period of a vehicle license may secure renewal of such vehicle
6 license and have license plates or tabs preissued by making application
7 to the director or his or her agents upon forms prescribed by the
8 director. The application must be accompanied by such license fees,
9 and excise tax as may be required by law.

10 (4) Application for the annual renewal of a vehicle license number
11 plate to the director or the director's agents shall not be required
12 for those vehicles owned, rented, or leased by the state of Washington,
13 or by any county, city, town, school district, or other political
14 subdivision of the state of Washington or a governing body of an Indian
15 tribe located within this state and recognized as a governmental entity
16 by the United States department of the interior.

17 **Sec. 9013.** RCW 46.16.230 and 1992 c 7 s 41 are each amended to
18 read as follows:

19 The director shall furnish to all persons making satisfactory
20 application for vehicle license as provided by law, two identical
21 vehicle license number plates each containing the vehicle license
22 number to be displayed on such vehicle as by law required: PROVIDED,
23 That if the vehicle to be licensed is a trailer, semitrailer, or
24 motorcycle only one vehicle license number plate shall be issued for
25 each thereof. The number and plate shall be of such size and color and
26 shall contain such symbols indicative of the registration period for
27 which the same is issued and of the state of Washington, as shall be
28 determined and prescribed by the director. Any vehicle license number
29 plate or plates issued to a dealer shall contain thereon a sufficient
30 and satisfactory indication that such plates have been issued to a
31 dealer in vehicles. All vehicle license number plates may be obtained
32 by the director from the metal working plant of a state correctional
33 facility or from any source in accordance with existing state of
34 Washington purchasing procedures.

35 Notwithstanding the foregoing provisions of this section, the
36 director may, in his or her discretion and under such rules and
37 regulations as he or she may prescribe, adopt a type of vehicle license

1 number plates whereby the same shall be used as long as legible on the
2 vehicle for which issued, with provision for tabs or emblems to be
3 attached thereto or elsewhere on the vehicle to signify renewals, in
4 which event the term "vehicle license number plate" as used in any
5 enactment shall be deemed to include in addition to such plate the tab
6 or emblem signifying renewal except when such plate contains the
7 designation of the current year without reference to any tab or emblem.
8 Renewals shall be effected by the issuance and display of such tab or
9 emblem.

10 **Sec. 9014.** RCW 46.16.260 and 1986 c 18 s 16 are each amended to
11 read as follows:

12 A certificate of license registration to be valid must have
13 endorsed thereon the signature of the registered owner (if a firm or
14 corporation, the signature of one of its officers or other duly
15 authorized agent) and must be carried in the vehicle for which it is
16 issued, at all times in the manner prescribed by the department. It
17 shall be unlawful for any person to operate or have in his or her
18 possession a vehicle without carrying thereon such certificate of
19 license registration. Any person in charge of such vehicle shall, upon
20 demand of any of the local authorities or of any police officer or of
21 any representative of the department, permit an inspection of such
22 certificate of license registration. This section does not apply to a
23 vehicle for which annual renewal of its license plates is not required
24 and which is marked in accordance with the provisions of RCW 46.08.065.

25 **Sec. 9015.** RCW 46.16.371 and 1987 c 237 s 1 are each amended to
26 read as follows:

27 (1) Every honorary consul or official representative of any foreign
28 government who is a citizen or resident of the United States of
29 America, duly licensed and holding an exequatur issued by the
30 department of state of the United States of America is entitled to
31 apply to the director for, and upon satisfactory showing, and upon
32 payment of regular license fees and excise tax, to receive, in lieu of
33 the regular motor vehicle license plates, such special plates of a
34 distinguishing color and running in a separate numerical series, as the
35 director shall prescribe. Application for renewal of the license

1 plates shall be as prescribed for the license renewal of other
2 vehicles.

3 (2) Whenever the owner or lessee as provided in subsection (1) of
4 this section transfers or assigns his or her interest or title in the
5 motor vehicle to which the special plates were attached, the plates
6 shall be removed from the motor vehicle, and if another vehicle is
7 acquired, attached thereto, and the director shall be immediately
8 notified of the transfer of the plates; otherwise the removed plates
9 shall be immediately forwarded to the director to be destroyed.
10 Whenever the owner or lessee as provided in subsection (1) of this
11 section is for any reason relieved of his or her duties as an honorary
12 consul or official representative of a foreign government, he or she
13 shall immediately forward the special plates to the director, who shall
14 upon receipt thereof provide such plates as are otherwise provided by
15 law.

16 **Sec. 9016.** RCW 46.16.505 and 1975 1st ex.s. c 118 s 11 are each
17 amended to read as follows:

18 It shall be unlawful for a person to operate any vehicle equipped
19 with a camper over and along a public highway of this state without
20 first having obtained and having in full force and effect a current and
21 proper camper license and displaying a camper license number plate
22 therefor as required by law: PROVIDED, HOWEVER, That if a camper is
23 part of the inventory of a manufacturer or dealer and is unoccupied at
24 all times, and a dated demonstration permit, valid for no more than
25 seventy-two hours is carried in the motor vehicle at all times it is
26 operated by any such individual, such camper may be demonstrated if
27 carried upon an appropriately licensed vehicle.

28 Application for an original camper license shall be made on a form
29 furnished for the purpose by the director. Such application shall be
30 made by the owner of the camper or his or her duly authorized agent
31 over the signature of such owner or agent, and he or she shall certify
32 that the statements therein are true and to the best of his or her
33 knowledge. The application must show:

34 (1) Name and address of the owner of the camper;

35 (2) Trade name of the camper, model, year, and the serial number
36 thereof;

37 (3) Such other information as the director requires.

1 There shall be paid and collected annually for each registration
2 year or fractional part thereof and upon each camper a license fee or,
3 if the camper was previously licensed in this state and has not been
4 registered in another jurisdiction in the intervening period, a renewal
5 license fee. Such license fee shall be in the sum of four dollars and
6 ninety cents, and such renewal license fee shall be in the sum of three
7 dollars and fifty cents.

8 Except as otherwise provided for in this section, the provisions of
9 chapter 46.16 RCW shall apply to campers in the same manner as they
10 apply to vehicles.

11 **Sec. 9017.** RCW 46.16.595 and 1979 ex.s. c 136 s 52 are each
12 amended to read as follows:

13 When any person who has been issued personalized license plates
14 sells, trades, or otherwise releases ownership of the vehicle upon
15 which the personalized license plates have been displayed, he or she
16 shall immediately report the transfer of such plates to an acquired
17 vehicle or camper eligible for personalized license plates, pursuant to
18 RCW 46.16.590, or he or she shall surrender such plates to the
19 department forthwith and release his or her priority to the letters or
20 numbers, or combination thereof, displayed on the personalized license
21 plates. Failure to surrender such plates is a traffic infraction.

22 **Sec. 9018.** RCW 46.20.017 and 1979 ex.s. c 136 s 56 are each
23 amended to read as follows:

24 Every licensee shall have his or her driver's license in his or her
25 immediate possession at all times when operating a motor vehicle and
26 shall display the same upon demand to any police officer or to any
27 other person when and if required by law to do so. The offense
28 described in this section is a nonmoving offense.

29 **Sec. 9019.** RCW 46.20.024 and 1965 ex.s. c 121 s 44 are each
30 amended to read as follows:

31 No person shall cause or knowingly permit his or her child or ward
32 under the age of eighteen years to drive a motor vehicle upon any
33 highway when such minor is not authorized hereunder or in violation of
34 any of the provisions of this chapter.

1 **Sec. 9020.** RCW 46.20.220 and 1969 c 27 s 1 are each amended to
2 read as follows:

3 (1) It shall be unlawful for any person to rent a motor vehicle of
4 any kind including a motorcycle to any other person unless the latter
5 person is then duly licensed as a vehicle driver for the kind of motor
6 vehicle being rented in this state or, in case of a nonresident, then
7 that he or she is duly licensed as a driver under the laws of the state
8 or country of his or her residence except a nonresident whose home
9 state or country does not require that a motor vehicle driver be
10 licensed;

11 (2) It shall be unlawful for any person to rent a motor vehicle to
12 another person until he or she has inspected the vehicle driver's
13 license of such other person and compared and verified the signature
14 thereon with the signature of such other person written in his or her
15 presence;

16 (3) Every person renting a motor vehicle to another person shall
17 keep a record of the vehicle license number of the motor vehicle so
18 rented, the name and address of the person to whom the motor vehicle is
19 rented, the number of the vehicle driver's license of the person
20 renting the vehicle and the date and place when and where such vehicle
21 driver's license was issued. Such record shall be open to inspection
22 by any police officer or anyone acting for the director.

23 **Sec. 9021.** RCW 46.20.325 and 1965 ex.s. c 121 s 32 are each
24 amended to read as follows:

25 In the alternative to the procedure set forth in RCW 46.20.322 and
26 46.20.323 the department, whenever it determines from its records or
27 other sufficient evidence that the safety of persons upon the highways
28 requires such action, shall forthwith and without a driver improvement
29 interview suspend the privilege of a person to operate a motor vehicle
30 or impose reasonable terms and conditions of probation consistent with
31 the safe operation of a motor vehicle. The department shall in such
32 case, immediately notify such licensee in writing and upon his or her
33 request shall afford him or her an opportunity for a driver improvement
34 interview as early as practical within not to exceed seven days after
35 receipt of such request, or the department, at the time it gives notice
36 may set the date of a driver improvement interview, giving not less
37 than ten days' notice thereof.

1 **Sec. 9022.** RCW 46.20.327 and 1965 ex.s. c 121 s 34 are each
2 amended to read as follows:

3 A driver improvement interview shall be conducted in a completely
4 informal manner before a driver improvement analyst sitting as a
5 referee. The applicant or licensee shall have the right to make or
6 file a written answer or statement in which he or she may controvert
7 any point at issue, and present any evidence or arguments for the
8 consideration of the department pertinent to the action taken or
9 proposed to be taken or the grounds therefor. The department may
10 consider its records relating to the applicant or licensee. The driver
11 improvement interview shall not be deemed an agency hearing.

12 **Sec. 9023.** RCW 46.20.332 and 1972 ex.s. c 29 s 2 are each amended
13 to read as follows:

14 At a formal hearing the department shall consider its records and
15 may receive sworn testimony and may issue subpoenas for the attendance
16 of witnesses and the production of relevant books and papers in the
17 manner and subject to the conditions provided in chapter 5.56 RCW
18 relating to the issuance of subpoenas. In addition the department may
19 require a reexamination of the licensee or applicant. Proceedings at
20 a formal hearing shall be recorded stenographically or by mechanical
21 device. Upon the conclusion of a formal hearing, if not heard by the
22 director or a person authorized by him or her to make final decisions
23 regarding the issuance, denial, suspension, or revocation of licenses,
24 the referee or board shall make findings on the matters under
25 consideration and may prepare and submit recommendations to the
26 director or such person designated by the director who is authorized to
27 make final decisions regarding the issuance, denial, suspension, or
28 revocation of licenses.

29 **Sec. 9024.** RCW 46.20.333 and 1972 ex.s. c 29 s 3 are each amended
30 to read as follows:

31 In all cases not heard by the director or a person authorized by
32 him or her to make final decisions regarding the issuance, denial,
33 suspension, or revocation of licenses the director, or a person so
34 authorized shall review the records, evidence, and the findings after
35 a formal hearing, and shall render a decision sustaining, modifying, or
36 reversing the order of suspension or revocation or the refusal to

1 grant, or renew a license or the order imposing terms or conditions of
2 probation, or may set aside the prior action of the department and may
3 direct that probation be granted to the applicant or licensee and in
4 such case may fix the terms and conditions of the probation.

5 **Sec. 9025.** RCW 46.20.334 and 2005 c 288 s 7 are each amended to
6 read as follows:

7 Unless otherwise provided by law, any person denied a license or a
8 renewal of a license or whose license has been suspended or revoked by
9 the department shall have the right within thirty days, after receiving
10 notice of the decision following a formal hearing to file a notice of
11 appeal in the superior court in the county of his or her residence.
12 The hearing on the appeal hereunder shall be de novo.

13 **Sec. 9026.** RCW 46.20.349 and 1979 c 158 s 152 are each amended to
14 read as follows:

15 Any police officer who has received notice of the suspension or
16 revocation of a driver's license from the department of licensing((τ))
17 may, during the reported period of such suspension or revocation, stop
18 any motor vehicle identified by its vehicle license number as being
19 registered to the person whose driver's license has been suspended or
20 revoked. The driver of such vehicle shall display his or her driver's
21 license upon request of the police officer.

22 **Sec. 9027.** RCW 46.29.040 and 1998 c 41 s 7 are each amended to
23 read as follows:

24 Any order of the director under the provisions of this chapter
25 shall be subject to review, at the instance of any party in interest,
26 by appeal to the superior court of Thurston county, or at his or her
27 option to the superior court of the county of his or her residence.
28 The scope of such review shall be limited to that prescribed by RCW
29 7.16.120 governing review by certiorari. Notice of appeal must be
30 filed within thirty days after service of the notice of such order.
31 The court shall determine whether the filing of the appeal shall
32 operate as a stay of any such order of the director. Upon the filing
33 the notice of appeal the court shall issue an order to the director to
34 show cause why the order should not be reversed or modified. The order
35 to show cause shall be returnable not less than ten nor more than

1 thirty days after the date of service thereof upon the director. The
2 court after hearing the matter may modify, affirm, or reverse the order
3 of the director in whole or in part.

4 **Sec. 9028.** RCW 46.29.050 and 2007 c 424 s 2 are each amended to
5 read as follows:

6 (1) The department shall upon request furnish any person or his or
7 her attorney a certified abstract of his or her driving record, which
8 abstract shall include enumeration of any motor vehicle accidents in
9 which such person has been involved. Such abstract shall (a) indicate
10 the total number of vehicles involved, whether the vehicles were
11 legally parked or moving, and whether the vehicles were occupied at the
12 time of the accident; and (b) contain reference to any convictions of
13 the person for violation of the motor vehicle laws as reported to the
14 department, reference to any findings that the person has committed a
15 traffic infraction which have been reported to the department, and a
16 record of any vehicles registered in the name of the person. The
17 department shall collect for each abstract the sum of ten dollars,
18 fifty percent of which shall be deposited in the highway safety fund
19 and fifty percent of which must be deposited according to RCW
20 46.68.038.

21 (2) The department shall upon request furnish any person who may
22 have been injured in person or property by any motor vehicle, with an
23 abstract of all information of record in the department pertaining to
24 the evidence of the ability of any driver or owner of any motor vehicle
25 to respond in damages. The department shall collect for each abstract
26 the sum of ten dollars, fifty percent of which shall be deposited in
27 the highway safety fund and fifty percent of which must be deposited
28 according to RCW 46.68.038.

29 **Sec. 9029.** RCW 46.29.070 and 1981 c 309 s 1 are each amended to
30 read as follows:

31 (1) The department, not less than twenty days after receipt of a
32 report of an accident as described in the preceding section, shall
33 determine the amount of security which shall be sufficient in its
34 judgment to satisfy any judgment or judgments for damages resulting
35 from such accident as may be recovered against each driver or owner.

1 Such determination shall not be made with respect to drivers or owners
2 who are exempt under succeeding sections of this chapter from the
3 requirements as to security and suspension.

4 (2) The department shall determine the amount of security deposit
5 required of any person upon the basis of the reports or other
6 information submitted. In the event a person involved in an accident
7 as described in this chapter fails to make a report or submit
8 information indicating the extent of his or her injuries or the damage
9 to his or her property within one hundred eighty days after the
10 accident and the department does not have sufficient information on
11 which to base an evaluation of such injuries or damage, then the
12 department after reasonable notice to such person, if it is possible to
13 give such notice, otherwise without such notice, shall not require any
14 deposit of security for the benefit or protection of such person.

15 (3) The department after receipt of report of any accident referred
16 to herein and upon determining the amount of security to be required of
17 any person involved in such accident or to be required of the owner of
18 any vehicle involved in such accident shall give written notice to
19 every such person of the amount of security required to be deposited by
20 him or her and that an order of suspension will be made as hereinafter
21 provided not less than twenty days and not more than sixty days after
22 the sending of such notice unless within said time security be
23 deposited as required by said notice.

24 **Sec. 9030.** RCW 46.29.080 and 1965 c 124 s 1 are each amended to
25 read as follows:

26 The requirements as to security and suspension in this chapter
27 shall not apply:

28 (1) To the driver or owner if the owner had in effect at the time
29 of the accident an automobile liability policy or bond with respect to
30 the vehicle involved in the accident, except that a driver shall not be
31 exempt under this subsection if at the time of the accident the vehicle
32 was being operated without the owner's permission, express or implied;

33 (2) To the driver, if not the owner of the vehicle involved in the
34 accident, if there was in effect at the time of the accident an
35 automobile liability policy or bond with respect to his or her driving
36 of vehicles not owned by him or her;

1 (3) To the driver, if not the owner of the vehicle involved in the
2 accident, if there was in effect at the time of the accident an
3 automobile liability policy or bond as to which there is a bona fide
4 dispute concerning coverage of such driver as evidenced by the pendency
5 of litigation seeking a declaration of said driver's coverage under
6 such policy or bond;

7 (4) To the driver, whether or not the owner, if there is a bona
8 fide claim on the part of the driver that there was in effect at the
9 time of the accident, an automobile liability policy or bond insuring
10 or covering such driver;

11 (5) To any person qualifying as a self-insurer under RCW 46.29.630
12 or to any person operating a vehicle for such self-insurer;

13 (6) To the driver or the owner of a vehicle involved in an accident
14 wherein no injury or damage was caused to the person or property of
15 anyone other than such driver or owner;

16 (7) To the driver or owner of a vehicle which at the time of the
17 accident was parked, unless such vehicle was parked at a place where
18 parking was at the time of the accident prohibited under any applicable
19 law or ordinance;

20 (8) To the owner of a vehicle if at the time of the accident the
21 vehicle was being operated without his or her permission, express or
22 implied, or was parked by a person who had been operating such vehicle
23 without such permission, except if the vehicle was operated by his or
24 her minor child or spouse;

25 (9) To the owner of a vehicle involved in an accident if at the
26 time of the accident such vehicle was owned by or leased to the United
27 States, this state or any political subdivision of this state or a
28 municipality thereof, or to the driver of such vehicle if operating
29 such vehicle with permission; or

30 (10) To the driver or the owner of a vehicle in the event at the
31 time of the accident the vehicle was being operated by or under the
32 direction of a police officer who, in the performance of his or her
33 duties, shall have assumed custody of such vehicle.

34 **Sec. 9031.** RCW 46.29.120 and 1965 c 124 s 2 are each amended to
35 read as follows:

36 (1) A person shall be relieved from the requirement for deposit of

1 security for the benefit or protection of another person injured or
2 damaged in the accident in the event he or she is released from
3 liability by such other person.

4 (2) In the event the department has evaluated the injuries or
5 damage to any minor the department may accept, for the purposes of this
6 chapter only, evidence of a release from liability executed by a
7 natural guardian or a legal guardian on behalf of such minor without
8 the approval of any court or judge.

9 **Sec. 9032.** RCW 46.29.140 and 1981 c 309 s 2 are each amended to
10 read as follows:

11 (1) Any two or more of the persons involved in or affected by an
12 accident as described in RCW 46.29.060 may at any time enter into a
13 written agreement for the payment of an agreed amount with respect to
14 all claims of any of such persons because of bodily injury to or death
15 or property damage arising from such accident, which agreement may
16 provide for payment in installments, and may file a signed copy thereof
17 with the department.

18 (2) The department, to the extent provided by any such written
19 agreement filed with it, shall not require the deposit of security and
20 shall terminate any prior order of suspension, or, if security has
21 previously been deposited, the department shall immediately return such
22 security to the depositor or his or her personal representative.

23 (3) In the event of a default in any payment under such agreement
24 and upon notice of such default the department shall take action
25 suspending the license of such person in default as would be
26 appropriate in the event of failure of such person to deposit security
27 when required under this chapter.

28 (4) Such suspension shall remain in effect and such license shall
29 not be restored unless and until:

30 (a) Security is deposited as required under this chapter in such
31 amount as the department may then determine,

32 (b) When, following any such default and suspension, the person in
33 default has paid the balance of the agreed amount,

34 (c) When, following any such default and suspension, the person in
35 default has resumed installment payments under an agreement acceptable
36 to the creditor, or

1 (d) Three years have elapsed following the accident and evidence
2 satisfactory to the department has been filed with it that during such
3 period no action at law upon such agreement has been instituted and is
4 pending.

5 **Sec. 9033.** RCW 46.29.160 and 1963 c 169 s 16 are each amended to
6 read as follows:

7 The department, if satisfied as to the existence of any fact which
8 under RCW 46.29.120, 46.29.130, 46.29.140 or 46.29.150 would entitle a
9 person to be relieved from the security requirements of this chapter,
10 shall not require the deposit of security by the person so relieved
11 from such requirement, or if security has previously been deposited by
12 such person, the department shall immediately return such deposit to
13 such person or to his or her personal representative.

14 **Sec. 9034.** RCW 46.29.170 and 1981 c 309 s 3 are each amended to
15 read as follows:

16 Unless a suspension is terminated under other provisions of this
17 chapter, any order of suspension by the department under this chapter
18 shall remain in effect and no license shall be renewed for or issued to
19 any person whose license is so suspended until:

20 (1) Such person shall deposit or there shall be deposited on his or
21 her behalf the security required under this chapter, or

22 (2) Three years have elapsed following the date of the accident
23 resulting in such suspension and evidence satisfactory to the
24 department has been filed with it that during such period no action for
25 damages arising out of the accident resulting in such suspension has
26 been instituted.

27 An affidavit of the applicant that no action at law for damages
28 arising out of the accident has been filed against him or her or, if
29 filed, that it is not still pending shall be prima facie evidence of
30 that fact. The department may take whatever steps are necessary to
31 verify the statement set forth in any said affidavit.

32 **Sec. 9035.** RCW 46.29.180 and 1967 c 32 s 38 are each amended to
33 read as follows:

34 (1) In case the driver or the owner of a vehicle of a type subject
35 to registration under the laws of this state involved in an accident

1 within this state has no driver's license in this state, then such
2 driver shall not be allowed a driver's license until he or she has
3 complied with the requirements of this chapter to the same extent that
4 would be necessary if, at the time of the accident, he or she had held
5 a license or been the owner of a vehicle registered in this state.

6 (2) When a nonresident's driving privilege is suspended pursuant to
7 RCW 46.29.110, the department shall transmit a certified copy of the
8 record or abstract of such action to the official in charge of the
9 issuance of licenses and registration certificates in the state in
10 which such nonresident resides, if the law of such other state provided
11 for action in relation thereto similar to that provided for in
12 subsection (3) of this section.

13 (3) Upon receipt of such certification that the driving privilege
14 of a resident of this state has been suspended or revoked in any such
15 other state pursuant to a law providing for its suspension or
16 revocation for failure to deposit security for the payment of judgments
17 arising out of a motor vehicle accident, under circumstances which
18 would require the department to suspend a nonresident's driving
19 privilege had the accident occurred in this state, the department shall
20 suspend the license of such resident. Such suspension shall continue
21 until such resident furnishes evidence of his or her compliance with
22 the law of such other state relating to the deposit of such security.

23 **Sec. 9036.** RCW 46.29.190 and 1965 c 124 s 3 are each amended to
24 read as follows:

25 The department may reduce the amount of security ordered in any
26 case if in its judgment the amount ordered is excessive. In case the
27 security originally ordered has been deposited, the excess deposit over
28 the reduced amount ordered shall be returned to the depositor or his or
29 her personal representative forthwith.

30 **Sec. 9037.** RCW 46.29.230 and 1981 c 309 s 5 are each amended to
31 read as follows:

32 Upon the expiration of three years from the date of the accident
33 resulting in the security requirement, any security remaining on
34 deposit shall be returned to the person who made such deposit or to his
35 or her personal representative if an affidavit or other evidence
36 satisfactory to the department has been filed with it:

1 (1) That no action for damages arising out of the accident for
2 which deposit was made is pending against any person on whose behalf
3 the deposit was made, and

4 (2) That there does not exist any unpaid judgment rendered against
5 any such person in such an action.

6 The foregoing provisions of this section shall not be construed to
7 limit the return of any deposit of security under any other provision
8 of this chapter authorizing such return.

9 **Sec. 9038.** RCW 46.29.290 and 1965 c 124 s 5 are each amended to
10 read as follows:

11 If a person has no license, but by final order or judgment is
12 convicted of or forfeits any bail or collateral deposited to secure an
13 appearance for trial for any offense requiring the suspension or
14 revocation of license, no license shall be thereafter issued to such
15 person unless he or she shall give and thereafter maintain proof of
16 financial responsibility for the future.

17 **Sec. 9039.** RCW 46.29.310 and 1969 ex.s. c 44 s 1 are each amended
18 to read as follows:

19 Whenever any person fails within thirty days to satisfy any
20 judgment, then it shall be the duty of the clerk of the court, or of
21 the judge of a court which has no clerk, in which any such judgment is
22 rendered within this state to forward immediately to the department the
23 following:

24 (1) A certified copy or abstract of such judgment;

25 (2) A certificate of facts relative to such judgment;

26 (3) Where the judgment is by default, a certified copy or abstract
27 of that portion of the record which indicates the manner in which
28 service of summons was effectuated and all the measures taken to
29 provide the defendant with timely and actual notice of the suit against
30 him or her.

31 **Sec. 9040.** RCW 46.29.360 and 1967 c 32 s 42 are each amended to
32 read as follows:

33 No license or nonresident's driving privilege of any person shall
34 be suspended under the provisions of this chapter if the department
35 shall find that an insurer was obligated to pay the judgment upon which

1 suspension is based, at least to the extent and for the amounts
2 required in this chapter, but has not paid such judgment for any
3 reason. A finding by the department that an insurer is obligated to
4 pay a judgment shall not be binding upon such insurer and shall have no
5 legal effect whatever except for the purpose of administering this
6 section. If the department finds that no insurer is obligated to pay
7 such a judgment, the judgment debtor may file with the department a
8 written notice of his or her intention to contest such finding by an
9 action in the superior court. In such a case the license or the
10 nonresident's driving privilege of such judgment debtor shall not be
11 suspended by the department under the provisions of this chapter for
12 thirty days from the receipt of such notice nor during the pendency of
13 any judicial proceedings brought in good faith to determine the
14 liability of an insurer so long as the proceedings are being diligently
15 prosecuted to final judgment by such judgment debtor. Whenever in any
16 judicial proceedings it shall be determined by any final judgment,
17 decree, or order that an insurer is not obligated to pay any such
18 judgment, the department, notwithstanding any contrary finding
19 theretofore made by it, shall forthwith suspend the license and any
20 nonresident's driving privilege of any person against whom such
21 judgment was rendered, as provided in RCW 46.29.330.

22 **Sec. 9041.** RCW 46.29.450 and 1963 c 169 s 45 are each amended to
23 read as follows:

24 Proof of financial responsibility when required under this chapter,
25 with respect to such a vehicle or with respect to a person who is not
26 the owner of such a vehicle, may be given by filing:

27 (1) A certificate of insurance as provided in RCW 46.29.460 or
28 46.29.470;

29 (2) A bond as provided in RCW 46.29.520;

30 (3) A certificate of deposit of money or securities as provided in
31 RCW 46.29.550; or

32 (4) A certificate of self-insurance, as provided in RCW 46.29.630,
33 supplemented by an agreement by the self-insurer that, with respect to
34 accidents occurring while the certificate is in force, he or she will
35 pay the same amounts that an insurer would have been obliged to pay
36 under an owner's motor vehicle liability policy if it had issued such
37 a policy to said self-insurer.

1 **Sec. 9042.** RCW 46.29.470 and 1963 c 169 s 47 are each amended to
2 read as follows:

3 A nonresident may give proof of financial responsibility by filing
4 with the department a written certificate or certificates of an
5 insurance carrier authorized to transact business in the state in which
6 the vehicle, or vehicles, owned by such nonresident is registered, or
7 in the state in which such nonresident resides, if he or she does not
8 own a vehicle, provided such certificate otherwise conforms with the
9 provisions of this chapter, and the department shall accept the same
10 upon condition that said insurance carrier complies with the following
11 provisions with respect to the policies so certified:

12 (1) Said insurance carrier shall execute a power of attorney
13 authorizing the director to accept service on its behalf of notice or
14 process in any action arising out of a motor vehicle accident in this
15 state;

16 (2) Said insurance carrier shall agree in writing that such
17 policies shall be deemed to conform with the laws of this state
18 relating to the terms of motor vehicle liability policies issued
19 therein.

20 **Sec. 9043.** RCW 46.29.490 and 1980 c 117 s 6 are each amended to
21 read as follows:

22 (1) Certification. A "motor vehicle liability policy" as said term
23 is used in this chapter means an "owner's policy" or an "operator's
24 policy" of liability insurance, certified as provided in RCW 46.29.460
25 or 46.29.470 as proof of financial responsibility for the future, and
26 issued, except as otherwise provided in RCW 46.29.470, by an insurance
27 carrier duly authorized to transact business in this state, to or for
28 the benefit of the person named in the policy as insured.

29 (2) Owner's policy. Such owner's policy of liability insurance:

30 (a) Shall designate by explicit description or by appropriate
31 reference all vehicles with respect to which coverage is to be granted
32 by the policy; and

33 (b) Shall insure the person named therein and any other person, as
34 insured, using any such vehicle or vehicles with the express or implied
35 permission of such named insured, against loss from the liability
36 imposed by law for damages arising out of the ownership, maintenance,
37 or use of such vehicle or vehicles within the United States of America

1 or the Dominion of Canada, subject to limits exclusive of interest and
2 costs, with respect to each such vehicle as follows: Twenty-five
3 thousand dollars because of bodily injury to or death of one person in
4 any one accident and, subject to said limit for one person, fifty
5 thousand dollars because of bodily injury to or death of two or more
6 persons in any one accident, and ten thousand dollars because of injury
7 to or destruction of property of others in any one accident.

8 (3) Operator's policy. Such operator's policy of liability
9 insurance shall insure the person named as insured therein against loss
10 from the liability imposed upon him or her by law for damages arising
11 out of the use by him or her of any motor vehicle not owned by him or
12 her, within the same territorial limits and subject to the same limits
13 of liability as are set forth above with respect to an owner's policy
14 of liability insurance.

15 (4) Required statements in policies. Such motor vehicle liability
16 policy shall state the name and address of the named insured, the
17 coverage afforded by the policy, the premium charged therefor, the
18 policy period, and the limits of liability, and shall contain an
19 agreement or be endorsed that insurance is provided under the policy in
20 accordance with the coverage defined in this chapter as respects bodily
21 injury and death or property damage, or both, and is subject to all the
22 provisions of this chapter.

23 (5) Policy need not insure workers' compensation, etc. Such motor
24 vehicle liability policy need not insure any liability under any
25 workers' compensation law nor any liability on account of bodily injury
26 or death of an employee of the insured while engaged in the employment,
27 other than domestic, of the insured, or while engaged in the operation,
28 maintenance, or repair of any such vehicle nor any liability for damage
29 to property owned by, rented to, in charge of, or transported by the
30 insured.

31 (6) Provisions incorporated in policy. Every motor vehicle
32 liability policy is subject to the following provisions which need not
33 be contained therein:

34 (a) The liability of the insurance carrier with respect to the
35 insurance required by this chapter becomes absolute whenever injury or
36 damage covered by said motor vehicle liability policy occurs; said
37 policy may not be canceled or annulled as to such liability by any
38 agreement between the insurance carrier and the insured after the

1 occurrence of the injury or damage; no statement made by the insured or
2 on his or her behalf and no violation of said policy defeats or voids
3 said policy.

4 (b) The satisfaction by the insured of a judgment for such injury
5 or damage shall not be a condition precedent to the right or duty of
6 the insurance carrier to make payment on account of such injury or
7 damage.

8 (c) The insurance carrier may settle any claim covered by the
9 policy, and if such settlement is made in good faith, the amount
10 thereof is deductible from the limits of liability specified in
11 (~~(subdivision (b) of)~~) subsection (2)(b) of this section.

12 (d) The policy, the written application therefor, if any, and any
13 rider or endorsement which does not conflict with the provisions of
14 this chapter constitutes the entire contract between the parties.

15 (7) Excess or additional coverage. Any policy which grants the
16 coverage required for a motor vehicle liability policy may also grant
17 any lawful coverage in excess of or in addition to the coverage
18 specified for a motor vehicle liability policy, and such excess or
19 additional coverage is not subject to the provisions of this chapter.
20 With respect to a policy which grants such excess or additional
21 coverage the term "motor vehicle liability policy" applies only to that
22 part of the coverage which is required by this section.

23 (8) Reimbursement provision permitted. Any motor vehicle liability
24 policy may provide that the insured shall reimburse the insurance
25 carrier for any payment the insurance carrier would not have been
26 obligated to make under the terms of the policy except for the
27 provisions of this chapter.

28 (9) Proration of insurance permitted. Any motor vehicle liability
29 policy may provide for the prorating of the insurance thereunder with
30 other valid and collectible insurance.

31 (10) Multiple policies. The requirements for a motor vehicle
32 liability policy may be fulfilled by the policies of one or more
33 insurance carrier which policies together meet such requirements.

34 (11) Binders. Any binder issued pending the issuance of a motor
35 vehicle liability policy is deemed to fulfill the requirements for such
36 a policy.

1 **Sec. 9044.** RCW 46.29.510 and 1963 c 169 s 51 are each amended to
2 read as follows:

3 (1) This chapter shall not be held to apply to or affect policies
4 of automobile insurance against liability which may now or hereafter be
5 required by any other law of this state, and such policies, if they
6 contain an agreement or are endorsed to conform with the requirements
7 of this chapter, may be certified as proof of financial responsibility
8 under this chapter.

9 (2) This chapter shall not be held to apply to or affect policies
10 insuring solely the insured named in the policy against liability
11 resulting from the maintenance or use by persons in the insured's
12 employ or on his or her behalf of vehicles not owned by the insured.

13 **Sec. 9045.** RCW 46.29.540 and 1963 c 169 s 54 are each amended to
14 read as follows:

15 If a judgment, rendered against the principal on any bond described
16 in RCW 46.29.520, shall not be satisfied within thirty days after it
17 has become final, the judgment creditor may, for his or her own use and
18 benefit and at his or her sole expense, bring an action or actions in
19 the name of the state against the company or persons executing such
20 bond, including an action or proceeding to foreclose any lien that may
21 exist upon the real estate of a person who has executed such bond.
22 Such an action to foreclose a lien shall be prosecuted in the same
23 manner as an action to foreclose a mortgage on real estate.

24 **Sec. 9046.** RCW 46.29.550 and 1980 c 117 s 7 are each amended to
25 read as follows:

26 Proof of financial responsibility may be evidenced by the
27 certificate of the state treasurer that the person named therein has
28 deposited with him or her sixty thousand dollars in cash, or securities
29 such as may legally be purchased by savings banks or for trust funds of
30 a market value of sixty thousand dollars. The state treasurer shall
31 not accept any such deposit and issue a certificate therefor and the
32 department shall not accept such certificate unless accompanied by
33 evidence that there are no unsatisfied judgments of any character
34 against the depositor in the county where the depositor resides.

1 **Sec. 9047.** RCW 46.29.560 and 1963 c 169 s 56 are each amended to
2 read as follows:

3 Such deposit shall be held by the state treasurer to satisfy, in
4 accordance with the provisions of this chapter, any execution on a
5 judgment issued against such person making the deposit, for damages,
6 including damages for care and loss of services, because of bodily
7 injury to or death of any person, or for damages because of injury to
8 or destruction of property, including the loss of use thereof,
9 resulting from the ownership, maintenance, use, or operation of a
10 vehicle of a type subject to registration under the laws of this state
11 after such deposit was made. Money or securities so deposited shall
12 not be subject to attachment or execution unless such attachment or
13 execution shall arise out of a suit for damages as aforesaid. Any
14 interest or other income accruing to such money or securities, so
15 deposited, shall be paid by the state treasurer to the depositor, or
16 his or her order, as received.

17 **Sec. 9048.** RCW 46.29.570 and 1963 c 169 s 57 are each amended to
18 read as follows:

19 The owner of a motor vehicle may give proof of financial
20 responsibility on behalf of his or her employee or a member of his or
21 her immediate family or household in lieu of the furnishing of proof by
22 any said person. The furnishing of such proof shall permit such person
23 to operate only a motor vehicle covered by such proof. The department
24 shall endorse appropriate restrictions on the license held by such
25 person, or may issue a new license containing such restrictions.

26 **Sec. 9049.** RCW 46.29.600 and 1979 ex.s. c 136 s 66 are each
27 amended to read as follows:

28 (1) The department shall upon request consent to the immediate
29 cancellation of any bond or certificate of insurance, or the department
30 shall direct and the state treasurer shall return to the person
31 entitled thereto any money or securities deposited pursuant to this
32 chapter as proof of financial responsibility, or the department shall
33 waive the requirement of filing proof, in any of the following events:

34 (a) At any time after three years from the date such proof was
35 required when, during the three-year period preceding the request, the
36 department has not received record of a conviction, forfeiture of bail,

1 or finding that a traffic infraction has been committed which would
2 require or permit the suspension or revocation of the license of the
3 person by or for whom such proof was furnished; or

4 (b) In the event of the death of the person on whose behalf such
5 proof was filed or the permanent incapacity of such person to operate
6 a motor vehicle; or

7 (c) In the event the person who has given proof surrenders his or
8 her license to the department;

9 (2) Provided, however, that the department shall not consent to the
10 cancellation of any bond or the return of any money or securities in
11 the event any action for damages upon a liability covered by such proof
12 is then pending or any judgment upon any such liability is then
13 unsatisfied, or in the event the person who has filed such bond or
14 deposited such money or securities has within one year immediately
15 preceding such request been involved as a driver or owner in any motor
16 vehicle accident resulting in injury or damage to the person or
17 property of others. An affidavit of the applicant as to the
18 nonexistence of such facts, or that he or she has been released from
19 all of his or her liability, or has been finally adjudicated not to be
20 liable, for such injury or damage, shall be sufficient evidence thereof
21 in the absence of evidence to the contrary in the records of the
22 department.

23 (3) Whenever any person whose proof has been canceled or returned
24 under (~~subdivision~~) subsection (1)(c) of this section applies for a
25 license within a period of three years from the date proof was
26 originally required, any such application shall be refused unless the
27 applicant shall reestablish such proof for the remainder of such three-
28 year period.

29 **Sec. 9050.** RCW 46.32.010 and 2007 c 419 s 7 are each amended to
30 read as follows:

31 (1) The chief of the Washington state patrol may operate, maintain,
32 or designate, throughout the state of Washington, stations for the
33 inspection of commercial motor vehicles, school buses, and private
34 carrier buses, with respect to vehicle equipment, drivers'
35 qualifications, and hours of service and to set reasonable times when
36 inspection of vehicles shall be performed.

1 (2) The state patrol may inspect a commercial motor vehicle while
2 the vehicle is operating on the public highways of this state with
3 respect to vehicle equipment, hours of service, and driver
4 qualifications.

5 (3) It is unlawful for any vehicle required to be inspected to be
6 operated over the public highways of this state unless and until it has
7 been approved periodically as to equipment.

8 (4) Inspections shall be performed by a responsible employee of the
9 chief of the Washington state patrol, who shall be duly authorized and
10 who shall have authority to secure and withhold, with written notice to
11 the director of licensing, the certificate of license registration and
12 license plates of any vehicle found to be defective in equipment so as
13 to be unsafe or unfit to be operated upon the highways of this state,
14 and it shall be unlawful for any person to operate a vehicle placed out
15 of service by an officer unless and until it has been placed in a
16 condition satisfactory to pass a subsequent equipment inspection. The
17 officer in charge of such vehicle equipment inspection shall grant to
18 the operator of such defective vehicle the privilege to move such
19 vehicle to a place for repair under such restrictions as may be
20 reasonably necessary.

21 (5) In the event any insignia, sticker, or other marker is adopted
22 to be displayed upon vehicles in connection with the inspection of
23 vehicle equipment, it shall be displayed as required by the rules of
24 the chief of the Washington state patrol, and it is a traffic
25 infraction for any person to mutilate, destroy, remove, or otherwise
26 interfere with the display thereof.

27 (6) It is a traffic infraction for any person to refuse to have his
28 or her motor vehicle examined as required by the chief of the
29 Washington state patrol, or, after having had it examined, to refuse to
30 place an insignia, sticker, or other marker, if issued, upon the
31 vehicle, or fraudulently to obtain any such insignia, sticker, or other
32 marker, or to refuse to place his or her motor vehicle in proper
33 condition after having had it examined, or in any manner, to fail to
34 conform to the provisions of this chapter.

35 (7) It is a traffic infraction for any person to perform false or
36 improvised repairs, or repairs in any manner not in accordance with
37 acceptable and customary repair practices, upon a motor vehicle.

1 **Sec. 9051.** RCW 46.32.020 and 2007 c 419 s 8 are each amended to
2 read as follows:

3 (1)(a) The chief of the Washington state patrol may adopt
4 reasonable rules regarding types of vehicles to be inspected,
5 inspection criteria, times for the inspection of vehicle equipment,
6 drivers' qualifications, hours of service, and all other matters with
7 respect to the conduct of vehicle equipment and driver inspections.

8 (b) The chief of the Washington state patrol shall prepare and
9 furnish such stickers, tags, record and report forms, stationery, and
10 other supplies as shall be deemed necessary. The chief of the
11 Washington state patrol is empowered to appoint and employ such
12 assistants as he or she may consider necessary and to fix hours of
13 employment and compensation.

14 (2) The chief of the Washington state patrol shall use data-driven
15 analysis to prioritize for inspections and compliance reviews those
16 motor carriers whose relative safety fitness identify them as higher
17 risk motor carriers.

18 **Sec. 9052.** RCW 46.37.380 and 1987 c 330 s 720 are each amended to
19 read as follows:

20 (1) Every motor vehicle when operated upon a highway shall be
21 equipped with a horn in good working order and capable of emitting
22 sound audible under normal conditions from a distance of not less than
23 two hundred feet, but no horn or other warning device may emit an
24 unreasonably loud or harsh sound or a whistle. The driver of a motor
25 vehicle shall when reasonably necessary to insure safe operation give
26 audible warning with his or her horn but shall not otherwise use such
27 horn when upon a highway.

28 (2) No vehicle may be equipped with nor may any person use upon a
29 vehicle any siren, whistle, or bell, except as otherwise permitted in
30 this section.

31 (3) It is permissible for any vehicle to be equipped with a theft
32 alarm signal device so long as it is so arranged that it cannot be used
33 by the driver as an ordinary warning signal. Such a theft alarm signal
34 device may use a whistle, bell, horn, or other audible signal but shall
35 not use a siren.

36 (4) Any authorized emergency vehicle may be equipped with a siren,
37 whistle, or bell capable of emitting sound audible under normal

1 conditions from a distance of not less than five hundred feet and of a
2 type conforming to rules adopted by the state patrol, but the siren
3 shall not be used except when the vehicle is operated in response to an
4 emergency call or in the immediate pursuit of an actual or suspected
5 violator of the law, in which latter events the driver of the vehicle
6 shall sound the siren when reasonably necessary to warn pedestrians and
7 other drivers of its approach.

8 **Sec. 9053.** RCW 46.37.423 and 1979 ex.s. c 136 s 71 are each
9 amended to read as follows:

10 No person, firm, or corporation shall sell or offer for sale for
11 use on the public highways of this state any new pneumatic passenger
12 car tire which does not meet the standards established by federal motor
13 vehicle safety standard No. 109, as promulgated by the United States
14 department of transportation under authority of the National Traffic
15 and Motor Vehicle Safety Act of 1966 (80 Stat. 719, 728; 15 U.S.C.
16 1392, 1407).

17 The applicable standard shall be the version of standard No. 109 in
18 effect at the time of manufacture of the tire.

19 It is a traffic infraction for any person, firm, or corporation to
20 sell or offer for sale any new pneumatic passenger car tire which does
21 not meet the standards prescribed in this section unless such tires are
22 sold for off-highway use, as evidenced by a statement signed by the
23 purchaser at the time of sale certifying that he or she is not
24 purchasing such tires for use on the public highways of this state.

25 **Sec. 9054.** RCW 46.37.424 and 1979 ex.s. c 136 s 72 are each
26 amended to read as follows:

27 No person, firm, or corporation shall sell or offer for sale any
28 regrooved tire or shall regroove any tire for use on the public
29 highways of this state which does not meet the standard established by
30 federal motor vehicle standard part 569--regrooved tires, as
31 promulgated by the United States department of transportation under
32 authority of the National Traffic and Motor Vehicle Safety Act of 1966
33 (80 Stat. 719, 728; 15 U.S.C. 1392, 1407).

34 The applicable standard shall be the version of the federal
35 regrooved tire standard in effect at the time of regrooving.

1 It is a traffic infraction for any person, firm, or corporation to
2 sell or offer for sale any regrooved tire or shall regroove any tire
3 which does not meet the standards prescribed in this section unless
4 such tires are sold or regrooved for off-highway use, as evidenced by
5 a statement signed by the purchaser or regroover at the time of sale or
6 regrooving certifying that he or she is not purchasing or regrooving
7 such tires for use on the public highways of this state.

8 **Sec. 9055.** RCW 46.37.550 and 1969 c 112 s 3 are each amended to
9 read as follows:

10 It shall be unlawful for any person to sell a motor vehicle in this
11 state if such person has knowledge that the odometer on such motor
12 vehicle has been turned back and if such person fails to notify the
13 buyer, prior to the time of sale, that the odometer has been turned
14 back or that he or she had reason to believe that the odometer has been
15 turned back.

16 **Sec. 9056.** RCW 46.37.560 and 1969 c 112 s 4 are each amended to
17 read as follows:

18 It shall be unlawful for any person to sell a motor vehicle in this
19 state if such person has knowledge that the odometer on such motor
20 vehicle has been replaced with another odometer and if such person
21 fails to notify the buyer, prior to the time of sale, that the odometer
22 has been replaced or that he or she believes the odometer to have been
23 replaced.

24 **Sec. 9057.** RCW 46.37.590 and 1975 c 24 s 1 are each amended to
25 read as follows:

26 In any suit brought by the purchaser of a motor vehicle against the
27 seller of such vehicle, the purchaser shall be entitled to recover his
28 or her court costs and a reasonable attorney's fee fixed by the court,
29 if: (1) The suit or claim is based substantially upon the purchaser's
30 allegation that the odometer on such vehicle has been tampered with
31 contrary to RCW 46.37.540 and 46.37.550 or replaced contrary to RCW
32 46.37.560; and (2) it is found in such suit that the seller of such
33 vehicle or any of his or her employees or agents knew or had reason to
34 know that the odometer on such vehicle had been so tampered with or

1 replaced and failed to disclose such knowledge to the purchaser prior
2 to the time of sale.

3 **Sec. 9058.** RCW 46.44.047 and 1994 c 172 s 1 are each amended to
4 read as follows:

5 A three axle truck tractor and a two axle pole trailer combination
6 engaged in the operation of hauling logs may exceed by not more than
7 six thousand eight hundred pounds the legal gross weight of the
8 combination of vehicles when licensed, as permitted by law, for sixty-
9 eight thousand pounds: PROVIDED, That the distance between the first
10 and last axle of the vehicles in combination shall have a total
11 wheelbase of not less than thirty-seven feet, and the weight upon two
12 axles spaced less than seven feet apart shall not exceed thirty-three
13 thousand six hundred pounds.

14 Such additional allowances shall be permitted by a special permit
15 to be issued by the department of transportation valid only on state
16 primary or secondary highways authorized by the department and under
17 such rules, regulations, terms, and conditions prescribed by the
18 department. The fee for such special permit shall be fifty dollars for
19 a twelve-month period beginning and ending on April 1st of each
20 calendar year. Permits may be issued at any time, but if issued after
21 July 1st of any year the fee shall be thirty-seven dollars and fifty
22 cents. If issued on or after October 1st the fee shall be twenty-five
23 dollars, and if issued on or after January 1st the fee shall be twelve
24 dollars and fifty cents. A copy of such special permit covering the
25 vehicle involved shall be carried in the cab of the vehicle at all
26 times. Upon the third offense within the duration of the permit for
27 violation of the terms and conditions of the special permit, the
28 special permit shall be canceled. The vehicle covered by such canceled
29 special permit shall not be eligible for a new special permit until
30 thirty days after the cancellation of the special permit issued to said
31 vehicle. The fee for such renewal shall be at the same rate as set
32 forth in this section which covers the original issuance of such
33 special permit. Each special permit shall be assigned to a three-axle
34 truck tractor in combination with a two-axle pole trailer. When the
35 department issues a duplicate permit to replace a lost or destroyed
36 permit and where the department transfers a permit, a fee of fourteen

1 dollars shall be charged for each such duplicate issued or each such
2 transfer.

3 All fees collected hereinabove shall be deposited with the state
4 treasurer and credited to the motor vehicle fund.

5 Permits involving city streets or county roads or using city
6 streets or county roads to reach or leave state highways, authorized
7 for permit by the department may be issued by the city or county or
8 counties involved. A fee of five dollars for such city or county
9 permit may be assessed by the city or by the county legislative
10 authority which shall be deposited in the city or county road fund.
11 The special permit provided for herein shall be known as a "log
12 tolerance permit" and shall designate the route or routes to be used,
13 which shall first be approved by the city or county engineer involved.
14 Authorization of additional route or routes may be made at the
15 discretion of the city or county by amending the original permit or by
16 issuing a new permit. Said permits shall be issued on a yearly basis
17 expiring on March 31st of each calendar year. Any person, firm, or
18 corporation who uses any city street or county road for the purpose of
19 transporting logs with weights authorized by state highway log
20 tolerance permits, to reach or leave a state highway route, without
21 first obtaining a city or county permit when required by the city or
22 the county legislative authority shall be subject to the penalties
23 prescribed by RCW 46.44.105. For the purpose of determining gross
24 weight the actual scale weight taken by the officer shall be prima
25 facie evidence of such total gross weight. In the event the gross
26 weight is in excess of the weight permitted by law, the officer may,
27 within his or her discretion, permit the operator to proceed with his
28 or her vehicles in combination.

29 The chief of the state patrol, with the advice of the department,
30 may make reasonable rules and regulations to aid in the enforcement of
31 the provisions of this section.

32 **Sec. 9059.** RCW 46.52.050 and 1961 c 12 s 46.52.050 are each
33 amended to read as follows:

34 Every coroner or other official performing like functions shall on
35 or before the tenth day of each month, report in writing to the sheriff
36 of the county in which he or she holds office and to the chief of the
37 Washington state patrol the death of any person within his or her

1 jurisdiction during the preceding calendar month as a result of an
2 accident involving any vehicle, together with the circumstances of such
3 accident.

4 **Sec. 9060.** RCW 46.52.070 and 1999 c 351 s 2 are each amended to
5 read as follows:

6 (1) Any police officer of the state of Washington or of any county,
7 city, town, or other political subdivision, present at the scene of any
8 accident or in possession of any facts concerning any accident whether
9 by way of official investigation or otherwise shall make report thereof
10 in the same manner as required of the parties to such accident and as
11 fully as the facts in his or her possession concerning such accident
12 will permit.

13 (2) The police officer shall report to the department, on a form
14 prescribed by the director: (a) When a collision has occurred that
15 results in a fatality; and (b) the identity of the operator of a
16 vehicle involved in the collision when the officer has reasonable
17 grounds to believe the operator caused the collision.

18 (3) The police officer shall report to the department, on a form
19 prescribed by the director: (a) When a collision has occurred that
20 results in a serious injury; (b) the identity of the operator of a
21 vehicle involved in the collision when the officer has reasonable
22 grounds to believe the operator who caused the serious injury may not
23 be competent to operate a motor vehicle; and (c) the reason or reasons
24 for the officer's belief.

25 **Sec. 9061.** RCW 46.55.030 and 1989 c 111 s 3 are each amended to
26 read as follows:

27 (1) Application for licensing as a registered tow truck operator
28 shall be made on forms furnished by the department, shall be
29 accompanied by an inspection certification from the Washington state
30 patrol, shall be signed by the applicant or an agent, and shall include
31 the following information:

32 (a) The name and address of the person, firm, partnership,
33 association, or corporation under whose name the business is to be
34 conducted;

35 (b) The names and addresses of all persons having an interest in

1 the business, or if the owner is a corporation, the names and addresses
2 of the officers of the corporation;

3 (c) The names and addresses of all employees who serve as tow truck
4 drivers;

5 (d) Proof of minimum insurance required by subsection (3) of this
6 section;

7 (e) The vehicle license and vehicle identification numbers of all
8 tow trucks of which the applicant is the registered owner;

9 (f) Any other information the department may require; and

10 (g) A certificate of approval from the Washington state patrol
11 certifying that:

12 (i) The applicant has an established place of business and that
13 mail is received at the address shown on the application;

14 (ii) The address of any storage locations where vehicles may be
15 stored is correctly stated on the application;

16 (iii) The place of business has an office area that is accessible
17 to the public without entering the storage area; and

18 (iv) The place of business has adequate and secure storage
19 facilities, as defined in this chapter and the rules of the department,
20 where vehicles and their contents can be properly stored and protected.

21 (2) Before issuing a registration certificate to an applicant the
22 department shall require the applicant to file with the department a
23 surety bond in the amount of five thousand dollars running to the state
24 and executed by a surety company authorized to do business in this
25 state. The bond shall be approved as to form by the attorney general
26 and conditioned that the operator shall conduct his or her business in
27 conformity with the provisions of this chapter pertaining to abandoned
28 or unauthorized vehicles, and to compensate any person, company, or the
29 state for failure to comply with this chapter or the rules adopted
30 hereunder, or for fraud, negligence, or misrepresentation in the
31 handling of these vehicles. Any person injured by the tow truck
32 operator's failure to fully perform duties imposed by this chapter and
33 the rules adopted hereunder, or an ordinance or resolution adopted by
34 a city, town, or county is entitled to recover actual damages,
35 including reasonable attorney's fees against the surety and the tow
36 truck operator. Successive recoveries against the bond shall be
37 permitted, but the aggregate liability of the surety to all persons
38 shall not exceed the amount of the bond. As a condition of authority

1 to do business, the operator shall keep the bond in full force and
2 effect. Failure to maintain the penalty value of the bond or
3 cancellation of the bond by the surety automatically cancels the
4 operator's registration.

5 (3) Before the department may issue a registration certificate to
6 an applicant, the applicant shall provide proof of minimum insurance
7 requirements of:

8 (a) One hundred thousand dollars for liability for bodily injury or
9 property damage per occurrence; and

10 (b) Fifty thousand dollars of legal liability per occurrence, to
11 protect against vehicle damage, including but not limited to fire and
12 theft, from the time a vehicle comes into the custody of an operator
13 until it is redeemed or sold.

14 Cancellation of or failure to maintain the insurance required by
15 (a) and (b) of this subsection automatically cancels the operator's
16 registration.

17 (4) The fee for each original registration and annual renewal is
18 one hundred dollars per company, plus fifty dollars per truck. The
19 department shall forward the registration fee to the state treasurer
20 for deposit in the motor vehicle fund.

21 (5) The applicant must submit an inspection certificate from the
22 state patrol before the department may issue or renew an operator's
23 registration certificate or tow truck permits.

24 (6) Upon approval of the application, the department shall issue a
25 registration certificate to the registered operator to be displayed
26 prominently at the operator's place of business.

27 **Sec. 9062.** RCW 46.55.085 and 2002 c 279 s 6 are each amended to
28 read as follows:

29 (1) A law enforcement officer discovering an unauthorized vehicle
30 left within a highway right-of-way shall attach to the vehicle a
31 readily visible notification sticker. The sticker shall contain the
32 following information:

33 (a) The date and time the sticker was attached;

34 (b) The identity of the officer;

35 (c) A statement that if the vehicle is not removed within twenty-
36 four hours from the time the sticker is attached, the vehicle may be
37 taken into custody and stored at the owner's expense;

1 (d) A statement that if the vehicle is not redeemed as provided in
2 RCW 46.55.120, the registered owner will have committed the traffic
3 infraction of littering--abandoned vehicle; and

4 (e) The address and telephone number where additional information
5 may be obtained.

6 (2) If the vehicle has current Washington registration plates, the
7 officer shall check the records to learn the identity of the last owner
8 of record. The officer or his or her department shall make a
9 reasonable effort to contact the owner by telephone in order to give
10 the owner the information on the notification sticker.

11 (3) If the vehicle is not removed within twenty-four hours from the
12 time the notification sticker is attached, the law enforcement officer
13 may take custody of the vehicle and provide for the vehicle's removal
14 to a place of safety. A vehicle that does not pose a safety hazard may
15 remain on the roadside for more than twenty-four hours if the owner or
16 operator is unable to remove it from the place where it is located and
17 so notifies law enforcement officials and requests assistance.

18 (4) For the purposes of this section a place of safety includes the
19 business location of a registered tow truck operator.

20 **Sec. 9063.** RCW 46.55.200 and 1989 c 111 s 16 are each amended to
21 read as follows:

22 A registered tow truck operator's license may be denied, suspended,
23 or revoked, or the licensee may be ordered to pay a monetary penalty of
24 a civil nature, not to exceed one thousand dollars per violation, or
25 the licensee may be subjected to any combination of license and
26 monetary penalty, whenever the director has reason to believe the
27 licensee has committed, or is at the time committing, a violation of
28 this chapter or rules adopted under it or any other statute or rule
29 relating to the title or disposition of vehicles or vehicle hulks,
30 including but not limited to:

31 (1) Towing any abandoned vehicle without first obtaining and having
32 in the operator's possession at all times while transporting it,
33 appropriate evidence of ownership or an impound authorization properly
34 executed by the private person or public official having control over
35 the property on which the unauthorized vehicle was found;

36 (2) Forging the signature of the registered or legal owner on a

1 certificate of title, or forging the signature of any authorized person
2 on documents pertaining to unauthorized or abandoned vehicles or
3 automobile hulks;

4 (3) Failing to comply with the statutes and rules relating to the
5 processing and sale of abandoned vehicles;

6 (4) Failing to accept bids on any abandoned vehicle offered at
7 public sale;

8 (5) Failing to transmit to the state surplus funds derived from the
9 sale of an abandoned vehicle;

10 (6) Selling, disposing of, or having in his or her possession,
11 without notifying law enforcement officials, a vehicle that he or she
12 knows or has reason to know has been stolen or illegally appropriated
13 without the consent of the owner;

14 (7) Failing to comply with the statutes and rules relating to the
15 transfer of ownership of vehicles or other procedures after public
16 sale; or

17 (8) Failing to pay any civil monetary penalty assessed by the
18 director pursuant to this section within ten days after the assessment
19 becomes final.

20 All orders by the director made under this chapter are subject to
21 the Administrative Procedure Act, chapter 34.05 RCW.

22 **Sec. 9064.** RCW 46.55.240 and 1994 c 176 s 2 are each amended to
23 read as follows:

24 (1) A city, town, or county that adopts an ordinance or resolution
25 concerning unauthorized, abandoned, or impounded vehicles shall include
26 the applicable provisions of this chapter.

27 (a) A city, town, or county may, by ordinance, authorize other
28 impound situations that may arise locally upon the public right-of-way
29 or other publicly owned or controlled property.

30 (b) A city, town, or county ordinance shall contain language that
31 establishes a written form of authorization to impound, which may
32 include a law enforcement notice of infraction or citation, clearly
33 denoting the agency's authorization to impound.

34 (c) A city, town, or county may, by ordinance, provide for release
35 of an impounded vehicle by means of a promissory note in lieu of
36 immediate payment, if at the time of redemption the legal or registered
37 owner requests a hearing on the validity of the impoundment. If the

1 municipal ordinance directs the release of an impounded vehicle before
2 the payment of the impoundment charges, the municipality is responsible
3 for the payment of those charges to the registered tow truck operator
4 within thirty days of the hearing date.

5 (d) The hearing specified in RCW 46.55.120(2) and in this section
6 may be conducted by an administrative hearings officer instead of in
7 the district court. A decision made by an administrative hearing
8 officer may be appealed to the district court for final judgment.

9 (2) A city, town, or county may adopt an ordinance establishing
10 procedures for the abatement and removal as public nuisances of junk
11 vehicles or parts thereof from private property. Costs of removal may
12 be assessed against the registered owner of the vehicle if the identity
13 of the owner can be determined, unless the owner in the transfer of
14 ownership of the vehicle has complied with RCW 46.12.101, or the costs
15 may be assessed against the owner of the property on which the vehicle
16 is stored. A city, town, or county may also provide for the payment to
17 the tow truck operator or wrecker as a part of a neighborhood
18 revitalization program.

19 (3) Ordinances pertaining to public nuisances shall contain:

20 (a) A provision requiring notice to the last registered owner of
21 record and the property owner of record that a hearing may be requested
22 and that if no hearing is requested, the vehicle will be removed;

23 (b) A provision requiring that if a request for a hearing is
24 received, a notice giving the time, location, and date of the hearing
25 on the question of abatement and removal of the vehicle or part thereof
26 as a public nuisance shall be mailed, by certified mail, with a five-
27 day return receipt requested, to the owner of the land as shown on the
28 last equalized assessment roll and to the last registered and legal
29 owner of record unless the vehicle is in such condition that
30 identification numbers are not available to determine ownership;

31 (c) A provision that the ordinance shall not apply to (i) a vehicle
32 or part thereof that is completely enclosed within a building in a
33 lawful manner where it is not visible from the street or other public
34 or private property or (ii) a vehicle or part thereof that is stored or
35 parked in a lawful manner on private property in connection with the
36 business of a licensed dismantler or licensed vehicle dealer and is
37 fenced according to RCW 46.80.130;

1 (d) A provision that the owner of the land on which the vehicle is
2 located may appear in person at the hearing or present a written
3 statement in time for consideration at the hearing, and deny
4 responsibility for the presence of the vehicle on the land, with his or
5 her reasons for the denial. If it is determined at the hearing that
6 the vehicle was placed on the land without the consent of the landowner
7 and that he or she has not subsequently acquiesced in its presence,
8 then the local agency shall not assess costs of administration or
9 removal of the vehicle against the property upon which the vehicle is
10 located or otherwise attempt to collect the cost from the owner;

11 (e) A provision that after notice has been given of the intent of
12 the city, town, or county to dispose of the vehicle and after a
13 hearing, if requested, has been held, the vehicle or part thereof shall
14 be removed at the request of a law enforcement officer with notice to
15 the Washington state patrol and the department of licensing that the
16 vehicle has been wrecked. The city, town, or county may operate such
17 a disposal site when its governing body determines that commercial
18 channels of disposition are not available or are inadequate, and it may
19 make final disposition of such vehicles or parts, or may transfer such
20 vehicle or parts to another governmental body provided such disposal
21 shall be only as scrap.

22 (4) A registered disposer under contract to a city or county for
23 the impounding of vehicles shall comply with any administrative
24 regulations adopted by the city or county on the handling and disposing
25 of vehicles.

26 **Sec. 9065.** RCW 46.61.024 and 2003 c 101 s 1 are each amended to
27 read as follows:

28 (1) Any driver of a motor vehicle who willfully fails or refuses to
29 immediately bring his or her vehicle to a stop and who drives his or
30 her vehicle in a reckless manner while attempting to elude a pursuing
31 police vehicle, after being given a visual or audible signal to bring
32 the vehicle to a stop, shall be guilty of a class C felony. The signal
33 given by the police officer may be by hand, voice, emergency light, or
34 siren. The officer giving such a signal shall be in uniform and the
35 vehicle shall be equipped with lights and sirens.

36 (2) It is an affirmative defense to this section which must be
37 established by a preponderance of the evidence that: (a) A reasonable

1 person would not believe that the signal to stop was given by a police
2 officer; and (b) driving after the signal to stop was reasonable under
3 the circumstances.

4 (3) The license or permit to drive or any nonresident driving
5 privilege of a person convicted of a violation of this section shall be
6 revoked by the department of licensing.

7 **Sec. 9066.** RCW 46.61.035 and 1969 c 23 s 1 are each amended to
8 read as follows:

9 (1) The driver of an authorized emergency vehicle, when responding
10 to an emergency call or when in the pursuit of an actual or suspected
11 violator of the law or when responding to but not upon returning from
12 a fire alarm, may exercise the privileges set forth in this section,
13 but subject to the conditions herein stated.

14 (2) The driver of an authorized emergency vehicle may:

15 (a) Park or stand, irrespective of the provisions of this chapter;

16 (b) Proceed past a red or stop signal or stop sign, but only after
17 slowing down as may be necessary for safe operation;

18 (c) Exceed the maximum speed limits so long as he or she does not
19 endanger life or property;

20 (d) Disregard regulations governing direction of movement or
21 turning in specified directions.

22 (3) The exemptions herein granted to an authorized emergency
23 vehicle shall apply only when such vehicle is making use of visual
24 signals meeting the requirements of RCW 46.37.190, except that: (a) An
25 authorized emergency vehicle operated as a police vehicle need not be
26 equipped with or display a red light visible from in front of the
27 vehicle; (b) authorized emergency vehicles shall use audible signals
28 when necessary to warn others of the emergency nature of the situation
29 but in no case shall they be required to use audible signals while
30 parked or standing.

31 (4) The foregoing provisions shall not relieve the driver of an
32 authorized emergency vehicle from the duty to drive with due regard for
33 the safety of all persons, nor shall such provisions protect the driver
34 from the consequences of his or her reckless disregard for the safety
35 of others.

1 **Sec. 9067.** RCW 46.61.202 and 1975 c 62 s 48 are each amended to
2 read as follows:

3 No driver shall enter an intersection or a marked crosswalk or
4 drive onto any railroad grade crossing unless there is sufficient space
5 on the other side of the intersection, crosswalk, or railroad grade
6 crossing to accommodate the vehicle he or she is operating without
7 obstructing the passage of other vehicles, pedestrians, or railroad
8 trains notwithstanding any traffic control signal indications to
9 proceed.

10 **Sec. 9068.** RCW 46.61.255 and 1989 c 288 s 1 are each amended to
11 read as follows:

12 (1) No person shall stand in or on a public roadway or alongside
13 thereof at any place where a motor vehicle cannot safely stop off the
14 main traveled portion thereof for the purpose of soliciting a ride for
15 himself or herself or for another from the occupant of any vehicle.

16 (2) It shall be unlawful for any person to solicit a ride for
17 himself or herself or another from within the right-of-way of any
18 limited access facility except in such areas where permission to do so
19 is given and posted by the highway authority of the state, county,
20 city, or town having jurisdiction over the highway.

21 (3) The provisions of subsections (1) and (2) above shall not be
22 construed to prevent a person upon a public highway from soliciting, or
23 a driver of a vehicle from giving a ride where an emergency actually
24 exists, nor to prevent a person from signaling or requesting
25 transportation from a passenger carrier for the purpose of becoming a
26 passenger thereon for hire.

27 (4) No person shall stand in a roadway for the purpose of
28 soliciting employment or business from the occupant of any vehicle.

29 (5) No person shall stand on or in proximity to a street or highway
30 for the purpose of soliciting the watching or guarding of any vehicle
31 while parked or about to be parked on a street or highway.

32 (6)(a) Except as provided in (b) of this subsection, the state
33 preempts the field of the regulation of hitchhiking in any form, and no
34 county, city, or town shall take any action in conflict with the
35 provisions of this section.

36 (b) A county, city, or town may regulate or prohibit hitchhiking in

1 an area in which it has determined that prostitution is occurring and
2 that regulating or prohibiting hitchhiking will help to reduce
3 prostitution in the area.

4 **Sec. 9069.** RCW 46.61.350 and 1977 c 78 s 1 are each amended to
5 read as follows:

6 (1) The driver of any motor vehicle carrying passengers for hire,
7 other than a passenger car, or of any school bus or private carrier bus
8 carrying any school child or other passenger, or of any vehicle
9 carrying explosive substances or flammable liquids as a cargo or part
10 of a cargo, before crossing at grade any track or tracks of a railroad,
11 shall stop such vehicle within fifty feet but not less than fifteen
12 feet from the nearest rail of such railroad and while so stopped shall
13 listen and look in both directions along such track for any approaching
14 train, and for signals indicating the approach of a train, except as
15 hereinafter provided, and shall not proceed until he or she can do so
16 safely. After stopping as required herein and upon proceeding when it
17 is safe to do so the driver of any said vehicle shall cross only in
18 such gear of the vehicle that there will be no necessity for changing
19 gears while traversing such crossing, and the driver shall not shift
20 gears while crossing the track or tracks.

21 (2) This section shall not apply at:

22 (a) Any railroad grade crossing at which traffic is controlled by
23 a police officer or a duly authorized (~~flagman~~) flagger;

24 (b) Any railroad grade crossing at which traffic is regulated by a
25 traffic control signal;

26 (c) Any railroad grade crossing protected by crossing gates or an
27 alternately flashing light signal intended to give warning of the
28 approach of a railroad train;

29 (d) Any railroad grade crossing at which an official traffic
30 control device as designated by the utilities and transportation
31 commission pursuant to RCW 81.53.060 gives notice that the stopping
32 requirement imposed by this section does not apply.

33 **Sec. 9070.** RCW 46.61.385 and 1990 c 33 s 585 are each amended to
34 read as follows:

35 The superintendent of public instruction, through the
36 superintendent of schools of any school district, or other officer or

1 board performing like functions with respect to the schools of any
2 other educational administrative district, may cause to be appointed
3 voluntary adult recruits as supervisors and, from the student body of
4 any public or private school or institution of learning, students, who
5 shall be known as members of the "school patrol" and who shall serve
6 without compensation and at the pleasure of the authority making the
7 appointment.

8 The members of such school patrol shall wear an appropriate
9 designation or insignia identifying them as members of the school
10 patrol when in performance of their duties, and they may display "stop"
11 or other proper traffic directional signs or signals at school
12 crossings or other points where school children are crossing or about
13 to cross a public highway, but members of the school patrol and their
14 supervisors shall be subordinate to and obey the orders of any peace
15 officer present and having jurisdiction.

16 School districts, at their discretion, may hire sufficient numbers
17 of adults to serve as supervisors. Such adults shall be subordinate to
18 and obey the orders of any peace officer present and having
19 jurisdiction.

20 Any school district having a school patrol may purchase uniforms
21 and other appropriate insignia, traffic signs and other appropriate
22 materials, all to be used by members of such school patrol while in
23 performance of their duties, and may pay for the same out of the
24 general fund of the district.

25 It shall be unlawful for the operator of any vehicle to fail to
26 stop his or her vehicle when directed to do so by a school patrol sign
27 or signal displayed by a member of the school patrol engaged in the
28 performance of his or her duty and wearing or displaying appropriate
29 insignia, and it shall further be unlawful for the operator of a
30 vehicle to disregard any other reasonable directions of a member of the
31 school patrol when acting in performance of his or her duties as such.

32 School districts may expend funds from the general fund of the
33 district to pay premiums for life and accident policies covering the
34 members of the school patrol in their district while engaged in the
35 performance of their school patrol duties.

36 Members of the school patrol shall be considered as employees for
37 the purposes of RCW 28A.400.370.

1 **Sec. 9071.** RCW 46.61.519 and 1989 c 178 s 26 are each amended to
2 read as follows:

3 (1) It is a traffic infraction to drink any alcoholic beverage in
4 a motor vehicle when the vehicle is upon a highway.

5 (2) It is a traffic infraction for a person to have in his or her
6 possession while in a motor vehicle upon a highway, a bottle, can, or
7 other receptacle containing an alcoholic beverage if the container has
8 been opened or a seal broken or the contents partially removed.

9 (3) It is a traffic infraction for the registered owner of a motor
10 vehicle, or the driver if the registered owner is not then present in
11 the vehicle, to keep in a motor vehicle when the vehicle is upon a
12 highway, a bottle, can, or other receptacle containing an alcoholic
13 beverage which has been opened or a seal broken or the contents
14 partially removed, unless the container is kept in the trunk of the
15 vehicle or in some other area of the vehicle not normally occupied by
16 the driver or passengers if the vehicle does not have a trunk. A
17 utility compartment or glove compartment is deemed to be within the
18 area occupied by the driver and passengers.

19 (4) This section does not apply to a public conveyance that has
20 been commercially chartered for group use or to the living quarters of
21 a motor home or camper or, except as otherwise provided by RCW
22 66.44.250 or local law, to any passenger for compensation in a for-hire
23 vehicle licensed under city, county, or state law, or to a privately-
24 owned vehicle operated by a person possessing a valid operator's
25 license endorsed for the appropriate classification under chapter 46.25
26 RCW in the course of his or her usual employment transporting
27 passengers at the employer's direction: PROVIDED, That nothing in this
28 subsection shall be construed to authorize possession or consumption of
29 an alcoholic beverage by the operator of any vehicle while upon a
30 highway.

31 **Sec. 9072.** RCW 46.61.600 and 1980 c 97 s 2 are each amended to
32 read as follows:

33 (1) No person driving or in charge of a motor vehicle shall permit
34 it to stand unattended without first stopping the engine, locking the
35 ignition, removing the key and effectively setting the brake thereon
36 and, when standing upon any perceptible grade, turning the front wheels
37 to the curb or side of the highway.

1 (2) The most recent driver of a motor vehicle which the driver has
2 left standing unattended, who learns that the vehicle has become set in
3 motion and has struck another vehicle or property, or has caused injury
4 to any person, shall comply with the requirements of:

5 (a) RCW 46.52.010 if his or her vehicle strikes an unattended
6 vehicle or property adjacent to a public highway; or

7 (b) RCW 46.52.020 if his or her vehicle causes damage to an
8 attended vehicle or other property or injury to any person.

9 (3) Any person failing to comply with subsection (2)(b) of this
10 section shall be subject to the sanctions set forth in RCW 46.52.020.

11 **Sec. 9073.** RCW 46.61.613 and 1967 c 232 s 8 are each amended to
12 read as follows:

13 The provisions of RCW 46.37.530 and 46.61.610 through 46.61.612 may
14 be temporarily suspended by the chief of the Washington state patrol,
15 or his or her designee, with respect to the operation of motorcycles
16 within their respective jurisdictions in connection with a parade or
17 public demonstration.

18 **Sec. 9074.** RCW 46.61.614 and 1975 c 62 s 47 are each amended to
19 read as follows:

20 No person riding upon a motorcycle shall attach himself or herself
21 or the motorcycle to any other vehicle on a roadway.

22 **Sec. 9075.** RCW 46.61.615 and 1965 ex.s. c 155 s 71 are each
23 amended to read as follows:

24 (1) No person shall drive a vehicle when it is so loaded, or when
25 there are in the front seat such a number of persons, exceeding three,
26 as to obstruct the view of the driver to the front or sides of the
27 vehicle or as to interfere with the driver's control over the driving
28 mechanism of the vehicle.

29 (2) No passenger in a vehicle shall ride in such position as to
30 interfere with the driver's view ahead or to the sides, or to interfere
31 with his or her control over the driving mechanism of the vehicle.

32 **Sec. 9076.** RCW 46.61.765 and 1965 ex.s. c 155 s 82 are each
33 amended to read as follows:

1 No person riding upon any bicycle, coaster, roller skates, sled, or
2 toy vehicle shall attach the same or himself or herself to any vehicle
3 upon a roadway.

4 **Sec. 9077.** RCW 46.63.020 and 2009 c 485 s 6 are each amended to
5 read as follows:

6 Failure to perform any act required or the performance of any act
7 prohibited by this title or an equivalent administrative regulation or
8 local law, ordinance, regulation, or resolution relating to traffic
9 including parking, standing, stopping, and pedestrian offenses, is
10 designated as a traffic infraction and may not be classified as a
11 criminal offense, except for an offense contained in the following
12 provisions of this title or a violation of an equivalent administrative
13 regulation or local law, ordinance, regulation, or resolution:

14 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
15 vehicle while under the influence of intoxicating liquor or a
16 controlled substance;

17 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

18 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
19 while under the influence of intoxicating liquor or narcotics or habit-
20 forming drugs or in a manner endangering the person of another;

21 (4) RCW 46.10.130 relating to the operation of snowmobiles;

22 (5) Chapter 46.12 RCW relating to certificates of ownership and
23 registration and markings indicating that a vehicle has been destroyed
24 or declared a total loss;

25 (6) RCW 46.16.010 relating to the nonpayment of taxes and fees by
26 failure to register a vehicle and falsifying residency when registering
27 a motor vehicle;

28 (7) RCW 46.16.011 relating to permitting unauthorized persons to
29 drive;

30 (8) RCW 46.16.160 relating to vehicle trip permits;

31 (9) RCW 46.16.381(2) relating to knowingly providing false
32 information in conjunction with an application for a special placard or
33 license plate for disabled persons' parking;

34 (10) RCW 46.20.005 relating to driving without a valid driver's
35 license;

36 (11) RCW 46.20.091 relating to false statements regarding a
37 driver's license or instruction permit;

1 (12) RCW 46.20.0921 relating to the unlawful possession and use of
2 a driver's license;

3 (13) RCW 46.20.342 relating to driving with a suspended or revoked
4 license or status;

5 (14) RCW 46.20.345 relating to the operation of a motor vehicle
6 with a suspended or revoked license;

7 (15) RCW 46.20.410 relating to the violation of restrictions of an
8 occupational driver's license, temporary restricted driver's license,
9 or ignition interlock driver's license;

10 (16) RCW 46.20.740 relating to operation of a motor vehicle without
11 an ignition interlock device in violation of a license notation that
12 the device is required;

13 (17) RCW 46.20.750 relating to circumventing an ignition interlock
14 device;

15 (18) RCW 46.25.170 relating to commercial driver's licenses;

16 (19) Chapter 46.29 RCW relating to financial responsibility;

17 (20) RCW 46.30.040 relating to providing false evidence of
18 financial responsibility;

19 (21) RCW 46.37.435 relating to wrongful installation of
20 sunscreening material;

21 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
22 installation of a previously deployed air bag;

23 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption
24 devices;

25 (24) RCW 46.44.180 relating to operation of mobile home pilot
26 vehicles;

27 (25) RCW 46.48.175 relating to the transportation of dangerous
28 articles;

29 (26) RCW 46.52.010 relating to duty on striking an unattended car
30 or other property;

31 (27) RCW 46.52.020 relating to duty in case of injury to or death
32 of a person or damage to an attended vehicle;

33 (28) RCW 46.52.090 relating to reports by (~~repairmen, storagemen~~)
34 repairers, storage persons, and appraisers;

35 (29) RCW 46.52.130 relating to confidentiality of the driving
36 record to be furnished to an insurance company, an employer, and an
37 alcohol/drug assessment or treatment agency;

1 (30) RCW 46.55.020 relating to engaging in the activities of a
2 registered tow truck operator without a registration certificate;
3 (31) RCW 46.55.035 relating to prohibited practices by tow truck
4 operators;
5 (32) RCW 46.55.300 relating to vehicle immobilization;
6 (33) RCW 46.61.015 relating to obedience to police officers,
7 flaggers, or firefighters;
8 (34) RCW 46.61.020 relating to refusal to give information to or
9 cooperate with an officer;
10 (35) RCW 46.61.022 relating to failure to stop and give
11 identification to an officer;
12 (36) RCW 46.61.024 relating to attempting to elude pursuing police
13 vehicles;
14 (37) RCW 46.61.500 relating to reckless driving;
15 (38) RCW 46.61.502 and 46.61.504 relating to persons under the
16 influence of intoxicating liquor or drugs;
17 (39) RCW 46.61.503 relating to a person under age twenty-one
18 driving a motor vehicle after consuming alcohol;
19 (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
20 (41) RCW 46.61.522 relating to vehicular assault;
21 (42) RCW 46.61.5249 relating to first degree negligent driving;
22 (43) RCW 46.61.527(4) relating to reckless endangerment of roadway
23 workers;
24 (44) RCW 46.61.530 relating to racing of vehicles on highways;
25 (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a
26 load;
27 (46) RCW 46.61.685 relating to leaving children in an unattended
28 vehicle with the motor running;
29 (47) RCW 46.61.740 relating to theft of motor vehicle fuel;
30 (48) RCW 46.64.010 relating to unlawful cancellation of or attempt
31 to cancel a traffic citation;
32 (49) RCW 46.64.048 relating to attempting, aiding, abetting,
33 coercing, and committing crimes;
34 (50) Chapter 46.65 RCW relating to habitual traffic offenders;
35 (51) RCW 46.68.010 relating to false statements made to obtain a
36 refund;
37 (52) RCW 46.35.030 relating to recording device information;

1 (53) Chapter 46.70 RCW relating to unfair motor vehicle business
2 practices, except where that chapter provides for the assessment of
3 monetary penalties of a civil nature;

4 (54) Chapter 46.72 RCW relating to the transportation of passengers
5 in for hire vehicles;

6 (55) RCW 46.72A.060 relating to limousine carrier insurance;

7 (56) RCW 46.72A.070 relating to operation of a limousine without a
8 vehicle certificate;

9 (57) RCW 46.72A.080 relating to false advertising by a limousine
10 carrier;

11 (58) Chapter 46.80 RCW relating to motor vehicle wreckers;

12 (59) Chapter 46.82 RCW relating to driver's training schools;

13 (60) RCW 46.87.260 relating to alteration or forgery of a cab card,
14 letter of authority, or other temporary authority issued under chapter
15 46.87 RCW;

16 (61) RCW 46.87.290 relating to operation of an unregistered or
17 unlicensed vehicle under chapter 46.87 RCW.

18 **Sec. 9078.** RCW 46.65.020 and 1991 c 293 s 7 are each amended to
19 read as follows:

20 As used in this chapter, unless a different meaning is plainly
21 required by the context, an habitual offender means any person,
22 resident or nonresident, who has accumulated convictions or findings
23 that the person committed a traffic infraction as defined in RCW
24 46.20.270, or, if a minor, has violations recorded with the department
25 of licensing, for separate and distinct offenses as described in either
26 subsection (1) or (2) below committed within a five-year period, as
27 evidenced by the records maintained in the department of licensing:
28 PROVIDED, That where more than one described offense is committed
29 within a six-hour period such multiple offenses shall, on the first
30 such occasion, be treated as one offense for the purposes of this
31 chapter:

32 (1) Three or more convictions, singularly or in combination, of the
33 following offenses:

34 (a) Vehicular homicide as defined in RCW 46.61.520;

35 (b) Vehicular assault as defined in RCW 46.61.522;

36 (c) Driving or operating a motor vehicle while under the influence
37 of intoxicants or drugs;

1 (d) Driving a motor vehicle while his or her license, permit, or
2 privilege to drive has been suspended or revoked as defined in RCW
3 46.20.342(1)(b);

4 (e) Failure of the driver of any vehicle involved in an accident
5 resulting in the injury or death of any person or damage to any vehicle
6 which is driven or attended by any person to immediately stop such
7 vehicle at the scene of such accident or as close thereto as possible
8 and to forthwith return to and in every event remain at, the scene of
9 such accident until he or she has fulfilled the requirements of RCW
10 46.52.020;

11 (f) Reckless driving as defined in RCW 46.61.500;

12 (g) Being in physical control of a motor vehicle while under the
13 influence of intoxicating liquor or any drug as defined in RCW
14 46.61.504; or

15 (h) Attempting to elude a pursuing police vehicle as defined in RCW
16 46.61.024;

17 (2) Twenty or more convictions or findings that the person
18 committed a traffic infraction for separate and distinct offenses,
19 singularly or in combination, in the operation of a motor vehicle that
20 are required to be reported to the department of licensing other than
21 the offenses of driving with an expired driver's license and not having
22 a driver's license in the operator's immediate possession. Such
23 convictions or findings shall include those for offenses enumerated in
24 subsection (1) of this section when taken with and added to those
25 offenses described herein but shall not include convictions or findings
26 for any nonmoving violation. No person may be considered an habitual
27 offender under this subsection unless at least three convictions have
28 occurred within the three hundred sixty-five days immediately preceding
29 the last conviction.

30 The offenses included in subsections (1) and (2) of this section
31 are deemed to include offenses under any valid town, city, or county
32 ordinance substantially conforming to the provisions cited in
33 subsections (1) and (2) or amendments thereto, and any federal law, or
34 any law of another state, including subdivisions thereof, substantially
35 conforming to the aforesaid state statutory provisions.

36 **Sec. 9079.** RCW 46.65.080 and 1998 c 214 s 3 are each amended to
37 read as follows:

1 At the end of four years, the habitual offender may petition the
2 department of licensing for the return of his or her operator's license
3 and upon good and sufficient showing, the department of licensing may,
4 wholly or conditionally, reinstate the privilege of such person to
5 operate a motor vehicle in this state.

6 **Sec. 9080.** RCW 46.65.100 and 1998 c 214 s 4 are each amended to
7 read as follows:

8 At the expiration of seven years from the date of any final order
9 finding a person to be an habitual offender and directing him or her
10 not to operate a motor vehicle in this state, such person may petition
11 the department of licensing for restoration of his or her privilege to
12 operate a motor vehicle in this state. Upon receipt of such petition,
13 and for good cause shown, the department of licensing shall restore to
14 such person the privilege to operate a motor vehicle in this state upon
15 such terms and conditions as the department of licensing may prescribe,
16 subject to the provisions of chapter 46.29 RCW and such other
17 provisions of law relating to the issuance or revocation of operators'
18 licenses.

19 **Sec. 9081.** RCW 46.68.080 and 2006 c 337 s 12 are each amended to
20 read as follows:

21 (1) Motor vehicle license fees collected under RCW 46.16.0621 and
22 46.16.070 and fuel taxes collected under RCW 82.36.025(1) and
23 82.38.030(1) and directly or indirectly paid by the residents of those
24 counties composed entirely of islands and which have neither a fixed
25 physical connection with the mainland nor any state highways on any of
26 the islands of which they are composed, shall be paid into the motor
27 vehicle fund of the state of Washington and shall monthly, as they
28 accrue, and after deducting therefrom the expenses of issuing such
29 licenses and the cost of collecting such vehicle fuel tax, be paid to
30 the county treasurer of each such county to be by him or her disbursed
31 as hereinafter provided.

32 (2) One-half of the motor vehicle license fees collected under RCW
33 46.16.0621 and 46.16.070 and one-half of the fuel taxes collected under
34 RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by
35 the residents of those counties composed entirely of islands and which
36 have either a fixed physical connection with the mainland or state

1 highways on any of the islands of which they are composed, shall be
2 paid into the motor vehicle fund of the state of Washington and shall
3 monthly, as they accrue, and after deducting therefrom the expenses of
4 issuing such licenses and the cost of collecting such motor vehicle
5 fuel tax, be paid to the county treasurer of each such county to be by
6 him or her disbursed as hereinafter provided.

7 (3) All funds paid to the county treasurer of the counties of
8 either class referred to in subsections (1) and (2) of this section,
9 shall be by such county treasurer distributed and credited to the
10 several road districts of each such county and paid to the city
11 treasurer of each incorporated city and town within each such county,
12 in the direct proportion that the assessed valuation of each such road
13 district and incorporated city and town shall bear to the total
14 assessed valuation of each such county.

15 (4) The amount of motor vehicle fuel tax paid by the residents of
16 those counties composed entirely of islands shall, for the purposes of
17 this section, be that percentage of the total amount of motor vehicle
18 fuel tax collected in the state that the motor vehicle license fees
19 paid by the residents of counties composed entirely of islands bears to
20 the total motor vehicle license fees paid by the residents of the
21 state.

22 (5)(a) An amount of fuel taxes shall be deposited into the Puget
23 Sound ferry operations account. This amount shall equal the difference
24 between the total amount of fuel taxes collected in the state under RCW
25 82.36.020 and 82.38.030 less the total amount of fuel taxes collected
26 in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied
27 by a fraction. The fraction shall equal the amount of motor vehicle
28 license fees collected under RCW 46.16.0621 and 46.16.070 from counties
29 described in subsection (1) of this section divided by the total amount
30 of motor vehicle license fees collected in the state under RCW
31 46.16.0621 and 46.16.070.

32 (b) An additional amount of fuel taxes shall be deposited into the
33 Puget Sound ferry operations account. This amount shall equal the
34 difference between the total amount of fuel taxes collected in the
35 state under RCW 82.36.020 and 82.38.030 less the total amount of fuel
36 taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1)
37 and be multiplied by a fraction. The fraction shall equal the amount
38 of motor vehicle license fees collected under RCW 46.16.0621 and

1 46.16.070 from counties described in subsection (2) of this section
2 divided by the total amount of motor vehicle license fees collected in
3 the state under RCW 46.16.0621 and 46.16.070, and this shall be
4 multiplied by one-half.

5 **Sec. 9082.** RCW 46.70.075 and 1981 c 152 s 3 are each amended to
6 read as follows:

7 Before issuing a manufacturer license to a manufacturer of mobile
8 homes or travel trailers, the department shall require the applicant to
9 file with the department a surety bond in the amount of forty thousand
10 dollars in the case of a mobile home manufacturer and twenty thousand
11 dollars in the case of a travel trailer manufacturer, running to the
12 state and executed by a surety company authorized to do business in the
13 state. Such bond shall be approved by the attorney general as to form
14 and conditioned that the manufacturer shall conduct his or her business
15 in conformity with the provisions of this chapter and with all
16 standards set by the state of Washington or the federal government
17 pertaining to the construction or safety of such vehicles. Any retail
18 purchaser or vehicle dealer who has suffered any loss or damage by
19 reason of breach of warranty or by any act by a manufacturer which
20 constitutes a violation of this chapter or a violation of any standards
21 set by the state of Washington or the federal government pertaining to
22 construction or safety of such vehicles has the right to institute an
23 action for recovery against such manufacturer and the surety upon such
24 bond. Successive recoveries against the bond shall be permitted, but
25 the aggregate liability of the surety to all persons shall in no event
26 exceed the amount of the bond. Upon exhaustion of the penalty of the
27 bond or cancellation of the bond by the surety the manufacturer license
28 is automatically deemed canceled.

29 **Sec. 9083.** RCW 46.70.102 and 1986 c 241 s 14 are each amended to
30 read as follows:

31 Upon the entry of the order under RCW 46.70.101 the director shall
32 promptly notify the applicant or licensee that the order has been
33 entered and of the reasons therefor and that if requested by the
34 applicant or licensee within fifteen days after the receipt of the
35 director's notification, the matter will be promptly set down for
36 hearing pursuant to chapter 34.05 RCW. If no hearing is requested and

1 none is ordered by the director, the order will remain in effect until
2 it is modified or vacated by the director. If a hearing is requested
3 or ordered, the director, or his or her personal representative, after
4 notice of and opportunity for hearing, may modify or vacate the order,
5 or extend it until final determination. No final order may be entered
6 under RCW 46.70.101 denying or revoking a license without appropriate
7 prior notice to the applicant or licensee, opportunity for hearing, and
8 written findings of fact and conclusions of law.

9 **Sec. 9084.** RCW 46.70.111 and 1967 ex.s. c 74 s 15 are each amended
10 to read as follows:

11 For the purpose of any investigation or proceeding under this
12 chapter, the director or any officer designated by him or her may
13 administer oaths and affirmations, subpoena witnesses, compel their
14 attendance, take evidence, and require the production of any books,
15 papers, correspondence, memoranda, agreements, or other documents or
16 records which the director deems relevant or material to the inquiry.

17 (1) In case of contumacy by, or refusal to obey a subpoena issued
18 to, any person, any court of competent jurisdiction, upon application
19 by the director, may issue to that person an order requiring him or her
20 to appear before the director, or the officer designated by him or her,
21 to produce documentary or other evidence touching the matter under
22 investigation or in question. The failure to obey an order of the
23 court may be punishable by contempt.

24 **Sec. 9085.** RCW 46.70.190 and 1989 c 415 s 21 are each amended to
25 read as follows:

26 Any person who is injured in his or her business or property by a
27 violation of this chapter, or any person so injured because he or she
28 refuses to accede to a proposal for an arrangement which, if
29 consummated, would be in violation of this chapter, may bring a civil
30 action in the superior court to enjoin further violations, to recover
31 the actual damages sustained by him or her together with the costs of
32 the suit, including a reasonable attorney's fee.

33 If a new motor vehicle dealer recovers a judgment or has a claim
34 dismissed with prejudice against a manufacturer under RCW 46.96.040 or
35 46.96.050(3) or this section, the new motor vehicle dealer is precluded
36 from pursuing that same claim or recovering judgment for that same

1 claim against the same manufacturer under the federal Automobile Dealer
2 Franchise Act, 15 U.S.C. Sections 1221 through 1225, but only to the
3 extent that the damages recovered by or denied to the new motor vehicle
4 dealer are the same as the damages being sought under the federal
5 Automobile Dealer Franchise Act. Likewise, if a new motor vehicle
6 dealer recovers a judgment or has a claim dismissed with prejudice
7 against a manufacturer under the federal Automobile Dealer Franchise
8 Act, the dealer is precluded from pursuing that same claim or
9 recovering judgment for that same claim against the same manufacturer
10 under this chapter, but only to the extent that the damages recovered
11 by or denied to the dealer are the same as the damages being sought
12 under this chapter.

13 A civil action brought in the superior court pursuant to the
14 provisions of this section must be filed no later than one year
15 following the alleged violation of this chapter.

16 **Sec. 9086.** RCW 46.70.220 and 1967 ex.s. c 74 s 19 are each amended
17 to read as follows:

18 The director may refer such evidence as may be available concerning
19 violations of this chapter or of any rule or order hereunder to the
20 attorney general or the proper prosecuting attorney, who may in his or
21 her discretion, with or without such a reference, in addition to any
22 other action they might commence, bring an action in the name of the
23 state against any person to restrain and prevent the doing of any act
24 or practice herein prohibited or declared unlawful: PROVIDED, That
25 this chapter shall be considered in conjunction with chapters 9.04
26 ((RCW)), 19.86 ((RCW)), and 63.14 RCW and the powers and duties of the
27 attorney general and the prosecuting attorney as they may appear in the
28 aforementioned chapters, shall apply against all persons subject to
29 this chapter: PROVIDED FURTHER, That any action to enforce a claim for
30 civil damages under chapter 19.86 RCW shall be forever barred unless
31 commenced within six years after the cause of action accrues.

32 **Sec. 9087.** RCW 46.70.230 and 1967 ex.s. c 74 s 20 are each amended
33 to read as follows:

34 In the enforcement of this chapter, the attorney general and/or any
35 said prosecuting attorney may accept an assurance of compliance with
36 the provisions of this chapter from any person deemed in violation

1 hereof. Any such assurance shall be in writing and be filed with and
2 subject to the approval of the superior court of the county in which
3 the alleged violator resides or has his or her principal place of
4 business, or in Thurston county.

5 **Sec. 9088.** RCW 46.70.250 and 1967 ex.s. c 74 s 23 are each amended
6 to read as follows:

7 Personal service of any process in an action under this chapter may
8 be made upon any person outside the state if such person has engaged in
9 conduct in violation of this chapter which has had the impact in this
10 state which this chapter reprehends. Such person shall be deemed to
11 have thereby submitted himself or herself to the jurisdiction of the
12 courts of this state within the meaning of RCW 4.28.180 and 4.28.185.

13 **Sec. 9089.** RCW 46.72.040 and 1973 c 15 s 1 are each amended to
14 read as follows:

15 Before a permit is issued every for hire operator shall be required
16 to deposit and thereafter keep on file with the director a surety bond
17 running to the state of Washington covering each and every for hire
18 vehicle as may be owned or leased by him or her and used in the conduct
19 of his or her business as a for hire operator. Such bond shall be in
20 the sum of one hundred thousand dollars for any recovery for death or
21 personal injury by one person, and three hundred thousand dollars for
22 all persons killed or receiving personal injury by reason of one act of
23 negligence, and twenty-five thousand dollars for damage to property of
24 any person other than the assured, with a good and sufficient surety
25 company licensed to do business in this state as surety and to be
26 approved by the director, conditioned for the faithful compliance by
27 the principal of said bond with the provisions of this chapter, and to
28 pay all damages which may be sustained by any person injured by reason
29 of any careless negligence or unlawful act on the part of said
30 principal, his or her agents or employees in the conduct of said
31 business or in the operation of any motor propelled vehicle used in
32 transporting passengers for compensation on any public highway of this
33 state.

34 **Sec. 9090.** RCW 46.72.060 and 1961 c 12 s 46.72.060 are each
35 amended to read as follows:

1 Every person having a cause of action for damages against any
2 person, firm, or corporation receiving a permit under the provisions of
3 this chapter, for injury, damages, or wrongful death caused by any
4 careless, negligent, or unlawful act of any such person, firm, or
5 corporation or his(~~, their,~~) or her or its agents or employees in
6 conducting or carrying on said business or in operating any motor
7 propelled vehicle for the carrying and transporting of passengers over
8 and along any public street, road, or highway shall have a cause of
9 action against the principal and surety upon the bond or the insurance
10 company and the insured for all damages sustained, and in any such
11 action the full amount of damages sustained may be recovered against
12 the principal, but the recovery against the surety shall be limited to
13 the amount of the bond.

14 **Sec. 9091.** RCW 46.72.110 and 1967 c 32 s 87 are each amended to
15 read as follows:

16 All fees received by the director under the provisions of this
17 chapter shall be transmitted by him or her, together with a proper
18 identifying report, to the state treasurer to be deposited by the state
19 treasurer in the highway safety fund.

20 **Sec. 9092.** RCW 46.76.010 and 1961 c 12 s 46.76.010 are each
21 amended to read as follows:

22 It shall be unlawful for any person, firm, partnership,
23 association, or corporation to engage in the business of delivering by
24 the driveaway or towaway methods vehicles not his or her own and of a
25 type required to be registered under the laws of this state, without
26 procuring a transporter's license in accordance with the provisions of
27 this chapter.

28 This shall not apply to motor freight carriers or operations
29 regularly licensed under the provisions of chapter 81.80 RCW to haul
30 such vehicles on trailers or semitrailers.

31 Driveaway or towaway methods means the delivery service rendered by
32 a motor vehicle transporter wherein motor vehicles are driven singly or
33 in combinations by the towbar, saddlemount or fullmount methods or any
34 lawful combinations thereof, or where a truck or truck-tractor draws or
35 tows a semitrailer or trailer.

1 **Sec. 9093.** RCW 46.76.060 and 1961 c 12 s 46.76.060 are each
2 amended to read as follows:

3 Transporter's license plates shall be conspicuously displayed on
4 all vehicles being delivered by the driveaway or towaway methods.
5 These plates shall not be loaned to or used by any person other than
6 the holder of the license or his or her employees.

7 **Sec. 9094.** RCW 46.79.030 and 1971 ex.s. c 110 s 3 are each amended
8 to read as follows:

9 Application for a hulk hauler's license or a scrap processor's
10 license or renewal of a hulk hauler's license or a scrap processor's
11 license shall be made on a form for this purpose, furnished by the
12 director, and shall be signed by the applicant or his or her authorized
13 agent and shall include the following information:

14 (1) Name and address of the person, firm, partnership, association,
15 or corporation under which name the business is to be conducted;

16 (2) Names and residence address of all persons having an interest
17 in the business or, if the owner is a corporation, the names and
18 addresses of the officers thereof;

19 (3) Certificate of approval of the chief of police of any city or
20 town, wherever located, having a population of over five thousand
21 persons and in all other instances a member of the state patrol
22 certifying that the applicant can be found at the address shown on the
23 application, and;

24 (4) Any other information that the director may require.

25 **Sec. 9095.** RCW 46.79.040 and 1971 ex.s. c 110 s 4 are each amended
26 to read as follows:

27 Application for a hulk hauler's license, together with a fee of ten
28 dollars, or application for a scrap processor's license, together with
29 a fee of twenty-five dollars, shall be forwarded to the director. Upon
30 receipt of the application the director shall, if the application be in
31 order, issue the license applied for authorizing him or her to do
32 business as such and forward the fee, together with an itemized and
33 detailed report, to the state treasurer, to be deposited in the motor
34 vehicle fund. Upon receiving the certificate the owner shall cause it
35 to be prominently displayed at the address shown in his or her

1 application, where it may be inspected by an investigating officer at
2 any time.

3 **Sec. 9096.** RCW 46.79.060 and 1971 ex.s. c 110 s 6 are each amended
4 to read as follows:

5 The hulk hauler or scrap processor shall obtain a special set of
6 license plates in addition to the regular licenses and plates required
7 for the operation of vehicles owned and/or operated by him or her and
8 used in the conduct of his or her business. Such special license shall
9 be displayed on the operational vehicles and shall be in lieu of a trip
10 permit or current license on any vehicle being transported. The fee
11 for these plates shall be five dollars for the original plates and two
12 dollars for each additional set of plates bearing the same license
13 number.

14 **Sec. 9097.** RCW 46.80.010 and 1999 c 278 s 1 are each amended to
15 read as follows:

16 The definitions set forth in this section apply throughout this
17 chapter.

18 (1) "Vehicle wrecker" means every person, firm, partnership,
19 association, or corporation engaged in the business of buying, selling,
20 or dealing in vehicles of a type required to be licensed under the laws
21 of this state, for the purpose of wrecking, dismantling, disassembling,
22 or substantially changing the form of a vehicle, or who buys or sells
23 integral secondhand parts of component material thereof, in whole or in
24 part, or who deals in secondhand vehicle parts.

25 (2) "Core" means a major component part received by a vehicle
26 wrecker in exchange for a like part sold by the wrecker, is not resold
27 as a major component part except for scrap metal value or for
28 remanufacture, and the wrecker maintains records for three years from
29 the date of acquisition to identify the name of the person from whom
30 the core was received.

31 (3) "Established place of business" means a building or enclosure
32 which the vehicle wrecker occupies either continuously or at regular
33 periods and where his or her books and records are kept and business is
34 transacted and which must conform with zoning regulations.

35 (4) "Interim owner" means the owner of a vehicle who has the

1 original certificate of ownership for the vehicle, which certificate
2 has been released by the person named on the certificate and assigned
3 to the person offering to sell the vehicle to the wrecker.

4 (5) "Major component part" includes at least each of the following
5 vehicle parts: (a) Engines and short blocks; (b) frame; (c)
6 transmission and/or transfer case; (d) cab; (e) door; (f) front or rear
7 differential; (g) front or rear clip; (h) quarter panel; (i) truck bed
8 or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag.
9 The director may supplement this list by rule.

10 (6) "Wrecked vehicle" means a vehicle which is disassembled or
11 dismantled or a vehicle which is acquired with the intent to dismantle
12 or disassemble and never again to operate as a vehicle, or a vehicle
13 which has sustained such damage that its cost to repair exceeds the
14 fair market value of a like vehicle which has not sustained such
15 damage, or a damaged vehicle whose salvage value plus cost to repair
16 equals or exceeds its fair market value, if repaired, or a vehicle
17 which has sustained such damage or deterioration that it may not
18 lawfully operate upon the highways of this state for which the salvage
19 value plus cost to repair exceeds its fair market value, if repaired;
20 further, it is presumed that a vehicle is a wreck if it has sustained
21 such damage or deterioration that it may not lawfully operate upon the
22 highways of this state.

23 **Sec. 9098.** RCW 46.80.030 and 2001 c 64 s 13 are each amended to
24 read as follows:

25 Application for a vehicle wrecker's license or renewal of a vehicle
26 wrecker's license shall be made on a form for this purpose, furnished
27 by the department of licensing, and shall be signed by the vehicle
28 wrecker or his or her authorized agent and shall include the following
29 information:

30 (1) Name and address of the person, firm, partnership, association,
31 or corporation under which name the business is to be conducted;

32 (2) Names and residence address of all persons having an interest
33 in the business or, if the owner is a corporation, the names and
34 addresses of the officers thereof;

35 (3) Certificate of approval of the chief of police of any city or
36 town having a population of over five thousand persons and in all other
37 instances a member of the Washington state patrol certifying that:

1 (a) The applicant has an established place of business at the
2 address shown on the application, and;

3 (b) In the case of a renewal of a vehicle wrecker's license, the
4 applicant is in compliance with this chapter and the provisions of
5 Title 46 RCW, relating to registration and certificates of title:
6 PROVIDED, That the above certifications in any instance can be made by
7 an authorized representative of the department of licensing;

8 (4) Any other information that the department may require.

9 **Sec. 9099.** RCW 46.82.300 and 2009 c 101 s 2 are each amended to
10 read as follows:

11 (1) The director shall be assisted in the duties and
12 responsibilities of this chapter by the driver instructors' advisory
13 committee, consisting of seven members, two of which, when possible,
14 must reside east of the crest of the Cascade mountains. Members of the
15 advisory committee shall be appointed by the director for two-year
16 terms and shall consist of two representatives of the driver training
17 schools, two representatives of the driving instructors (who shall not
18 be from the same school as the school member), a representative of the
19 superintendent of public instruction, a representative of the
20 department of licensing, and a representative from the Washington state
21 traffic safety commission.

22 (2) The advisory committee shall meet at least semiannually and
23 shall have additional meetings as may be called by the director. The
24 director or the director's representative shall attend all meetings of
25 the advisory committee and shall serve as (~~chairman~~) chair.

26 (3) Duties of the advisory committee shall be to:

27 (a) Advise and confer on department proposed policy and rule with
28 the director or the director's representative on matters pertaining to
29 the establishment of rules necessary to carry out this chapter;

30 (b) Review and update when necessary a curriculum consisting of a
31 list of items of knowledge and the processes of driving a motor vehicle
32 specifying the minimum requirements adjudged necessary in teaching a
33 proper and adequate course of driver education;

34 (c) Review and update instructor certification standards to be
35 consistent with RCW 46.82.330 and take into consideration those
36 standards required to be met by traffic safety education teachers under
37 RCW 28A.220.020(3); and

1 (d) Prepare the examination for a driver instructor's certificate
2 and review examination results at least once each calendar year for the
3 purpose of updating and revising examination standards.

4 **Sec. 9100.** RCW 46.85.020 and 1987 c 244 s 9 are each amended to
5 read as follows:

6 The definitions set forth in this section apply throughout this
7 chapter unless the context clearly requires otherwise.

8 (1) "Jurisdiction" means and includes a state, territory, or
9 possession of the United States, the District of Columbia, the
10 Commonwealth of Puerto Rico, a foreign country, and a state or province
11 of a foreign country.

12 (2) "Owner" means a person, business firm, or corporation who holds
13 the legal title to a vehicle, or in the event a vehicle is the subject
14 of an agreement for the conditional sale thereof with the right of
15 purchase upon performance of the conditions stated in the agreement and
16 with an immediate right of possession vested in the conditional vendee,
17 or in the event a vehicle is subject to a lease, contract, or other
18 legal arrangement vesting right of possession or control, for security
19 or otherwise, or in the event a mortgagor of a vehicle is entitled to
20 possession, then the owner shall be deemed to be such person in whom is
21 vested right of possession or control.

22 (3) "Properly registered," as applied to place of registration,
23 means:

24 (a) The jurisdiction where the person registering the vehicle has
25 his or her legal residence; or

26 (b) In the case of a commercial vehicle, the jurisdiction in which
27 it is registered if the commercial enterprise in which such vehicle is
28 used has a place of business therein, and, if the vehicle is most
29 frequently dispatched, garaged, serviced, maintained, operated, or
30 otherwise controlled in or from such place of business, and, the
31 vehicle has been assigned to such place of business; or

32 (c) In the case of a commercial vehicle, the jurisdiction where,
33 because of an agreement or arrangement between two or more
34 jurisdictions, or pursuant to a declaration, the vehicle has been
35 registered as required by said jurisdiction.

36 In case of doubt or dispute as to the proper place of registration

1 of a vehicle, the department shall make the final determination, but in
2 making such determination, may confer with departments of the other
3 jurisdictions affected.

4 **Sec. 9101.** RCW 46.87.360 and 1987 c 244 s 49 are each amended to
5 read as follows:

6 Whenever the owner of proportionally registered vehicles is
7 delinquent in the payment of an obligation imposed under this chapter,
8 and the delinquency continues after notice and demand for payment by
9 the department, the department may proceed to collect the amount due
10 from the owner in the following manner: The department shall seize any
11 property subject to the lien of the fees, taxes, penalties, and
12 interest and sell it at public auction to pay the obligation and any
13 and all costs that may have been incurred because of the seizure and
14 sale. Notice of the intended sale and its time and place shall be
15 given to the delinquent owner and to all persons appearing of record to
16 have an interest in the property. The notice shall be given in writing
17 at least ten days before the date set for the sale by registered or
18 certified mail addressed to the owner as appearing in the proportional
19 registration records of the department and, in the case of any person
20 appearing of record to have an interest in such property, addressed to
21 that person at (~~their~~) his or her last known residence or place of
22 business. In addition, the notice shall be published at least ten days
23 before the date set for the sale in a newspaper of general circulation
24 published in the county in which the property seized is to be sold. If
25 there is no newspaper in the county, the notice shall be posted in
26 three public places in the county for a period of ten days. The notice
27 shall contain a description of the property to be sold, a statement of
28 the amount due under this chapter, the name of the owner of the
29 proportionally registered vehicles, and the further statement that
30 unless the amount due is paid on or before the time fixed in the notice
31 the property will be sold in accordance with law.

32 The department shall then proceed to sell the property in
33 accordance with law and the notice, and shall deliver to the purchaser
34 a bill of sale or deed that vests title in the purchaser. If upon any
35 such sale the moneys received exceed the amount due to the state under
36 this chapter from the delinquent owner, the excess shall be returned to
37 the delinquent owner and his or her receipt obtained for it. The

1 department may withhold payment of the excess to the delinquent owner
2 if a person having an interest in or lien upon the property has filed
3 with the department (~~their~~) his or her notice of the lien or interest
4 before the sale, pending determination of the rights of the respective
5 parties thereto by a court of competent jurisdiction. If for any
6 reason the receipt of the delinquent owner is not available, the
7 department shall deposit the excess with the state treasurer as trustee
8 for the delinquent owner.

9 **Sec. 9102.** RCW 46.96.150 and 2005 c 433 s 43 are each amended to
10 read as follows:

11 (1) Within thirty days after receipt of the notice under RCW
12 46.96.140, or within thirty days after the end of an appeal procedure
13 provided by the manufacturer, whichever is greater, a new motor vehicle
14 dealer so notified or entitled to notice may file a petition with the
15 department protesting the proposed establishment or relocation. The
16 petition shall contain a short statement setting forth the reasons for
17 the dealer's objection to the proposed establishment or relocation.
18 Upon the filing of a protest and the receipt of the filing fee, the
19 department shall promptly notify the manufacturer that a timely protest
20 has been filed and shall request the appointment of an administrative
21 law judge under chapter 34.12 RCW to conduct a hearing. The
22 manufacturer shall not establish or relocate the new motor vehicle
23 dealer until the administrative law judge has held a hearing and has
24 determined that there is good cause for permitting the proposed
25 establishment or relocation. When more than one protest is filed
26 against the establishment or relocation of the same dealer, the
27 administrative law judge shall consolidate the hearings to expedite
28 disposition of the matter.

29 (2) If a manufacturer provides in the franchise agreement or by
30 written statement distributed and provided to its dealers for
31 arbitration under the Uniform Arbitration Act, chapter 7.04A RCW, as a
32 mechanism for resolving disputes relating to the establishment of an
33 additional new motor vehicle dealer or the relocation of a new motor
34 vehicle dealer, then the provisions of this section and RCW 46.96.170
35 relating to hearings by an administrative law judge do not apply, and
36 a dispute regarding the establishment of an additional new motor
37 vehicle dealer or the relocation of an existing new motor vehicle

1 dealer shall be determined in an arbitration proceeding conducted in
2 accordance with the Uniform Arbitration Act, chapter 7.04A RCW. The
3 thirty-day period for filing a protest under this section still applies
4 except that the protesting dealer shall file his or her protest with
5 the manufacturer within thirty days after receipt of the notice under
6 RCW 46.96.140.

7 (3) The dispute shall be referred for arbitration to such
8 arbitrator as may be agreed upon by the parties to the dispute. If the
9 parties cannot agree upon a single arbitrator within thirty days from
10 the date the protest is filed, the protesting dealer will select an
11 arbitrator, the manufacturer will select an arbitrator, and the two
12 arbitrators will then select a third. If a third arbitrator is not
13 agreed upon within thirty days, any party may apply to the superior
14 court, and the judge of the superior court having jurisdiction will
15 appoint the third arbitrator. The protesting dealer will pay the
16 arbitrator selected by him or her, and the manufacturer will pay the
17 arbitrator it selected. The expense of the third arbitrator and all
18 other expenses of arbitration will be shared equally by the parties.
19 Attorneys' fees and fees paid to expert witnesses are not expenses of
20 arbitration and will be paid by the person incurring them.

21 (4) Notwithstanding the terms of a franchise or written statement
22 of the manufacturer and notwithstanding the terms of a waiver, the
23 arbitration will take place in the state of Washington in the county
24 where the protesting dealer has his or her principal place of business.
25 RCW 46.96.160 applies to a determination made by the arbitrator or
26 arbitrators in determining whether good cause exists for permitting the
27 proposed establishment or relocation of a new motor vehicle dealer, and
28 the manufacturer has the burden of proof to establish that good cause
29 exists for permitting the proposed establishment or relocation. After
30 a hearing has been held, the arbitrator or arbitrators shall render a
31 decision as expeditiously as possible, but in any event not later than
32 one hundred twenty days from the date the arbitrator or arbitrators are
33 selected or appointed. The manufacturer shall not establish or
34 relocate the new motor vehicle dealer until the arbitration hearing has
35 been held and the arbitrator or arbitrators have determined that there
36 is good cause for permitting the proposed establishment or relocation.
37 The written decision of the arbitrator is binding upon the parties

1 unless modified, corrected, or vacated under the Washington Arbitration
2 Act. Any party may appeal the decision of the arbitrator under the
3 Uniform Arbitration Act, chapter 7.04A RCW.

4 (5) If the franchise agreement or the manufacturer's written
5 statement distributed and provided to its dealers does not provide for
6 arbitration under the Uniform Arbitration Act as a mechanism for
7 resolving disputes relating to the establishment of an additional new
8 motor vehicle dealer or the relocation of a new motor vehicle dealer,
9 then the hearing provisions of this section and RCW 46.96.170 apply.
10 Nothing in this section is intended to preclude a new motor vehicle
11 dealer from electing to use any other dispute resolution mechanism
12 offered by a manufacturer.

13 **PART X**

14 **Sec. 10001.** RCW 47.01.070 and 1977 ex.s. c 151 s 27 are each
15 amended to read as follows:

16 In all situations wherein the director of highways, the director of
17 aeronautics, or any one of their designees, or any member of the
18 highway commission, the toll bridge authority, the aeronautics
19 commission, or the canal commission, or any one of their designees was
20 on September 21, 1977, designated or serving as a member of any board,
21 commission, committee, or authority, the ((~~chairman~~)) chair of the
22 transportation commission or the ((~~chairman~~)) chair's designee who
23 shall be an employee of the department of transportation, shall
24 hereafter determine who shall serve as such member.

25 **Sec. 10002.** RCW 47.10.150 and 1961 c 13 s 47.10.150 are each
26 amended to read as follows:

27 Increased construction costs for highway and bridge construction
28 since the enactment of a highway bond issue by the 1951 legislature
29 makes necessary additional money with which to complete the sections of
30 primary state highway No. 1 planned from funds allocated under RCW
31 47.10.010 through 47.10.140 and it is vital to the economy of the state
32 and the safety of the traffic that these sections shall be completed to
33 relieve traffic congestions, to add capacity in event of war, and to
34 presently insure greater safety to highway users; the rapid increase of
35 traffic across Snoqualmie Pass necessitates continued improvement of

1 primary state highway No. 2 to provide four-lane paving contiguous to
2 Snoqualmie Pass as the funds will permit; the rapid increase of traffic
3 and the facilitation of movement of military forces and equipment from
4 the military centers of the state makes imperative the construction of
5 a highway from primary state highway No. 2 beginning approximately four
6 miles west of North Bend thence southwesterly by the most feasible
7 route by the way of Auburn to a junction with primary state highway No.
8 1 in the vicinity of Milton; said highway to follow approximately the
9 route surveyed by the director of highways and covered in the report
10 filed by him or her with the 1951 legislature commonly known as the
11 "Echo Lake Route," as the funds provided for herein will permit; the
12 construction of secondary state highways in to the Columbia Basin area
13 is immediately necessary to provide needed state arterial highways for
14 the irrigated lands of the Columbia Basin areas to market centers and
15 thereby encourage the full development of the basin project. The
16 construction of such projects is required in the interest of the public
17 safety and for the orderly development of the state. The threat of war
18 makes acceleration of construction a vital necessity at this time.

19 **Sec. 10003.** RCW 47.12.023 and 1984 c 7 s 115 are each amended to
20 read as follows:

21 (1) Except as provided in RCW 47.12.026 and 47.12.029, whenever it
22 is necessary to secure any lands or interests in lands for any highway
23 purpose mentioned in RCW 47.12.010, or for the construction of any toll
24 facility or ferry terminal or docking facility, the title to which is
25 in the state of Washington and under the jurisdiction of the department
26 of natural resources, the department of transportation may acquire
27 jurisdiction over the lands or interests in lands, or acquire rights to
28 remove materials from the lands in the manner set forth in this
29 section.

30 (2) At any time after the final adoption of a right-of-way plan or
31 other plan requiring the acquisition of lands or interests in lands for
32 any purpose as authorized in subsection (1) of this section, the
33 department of transportation may file with the department of natural
34 resources a notice setting forth its intent to acquire jurisdiction of
35 the lands or interests in lands under the jurisdiction of the
36 department of natural resources required for right-of-way or other

1 highway purposes related to the construction or improvement of such
2 state highway, toll facility, or ferry terminal or docking facility.

3 (3) The department of transportation at the time of filing its
4 notice of intent as provided in subsection (2) of this section shall
5 file therewith a written statement showing the total amount of just
6 compensation to be paid for the property in the event of settlement.
7 The offer shall be based upon the department of transportation approved
8 appraisal of the fair market value of the property to be acquired. In
9 no event may the offer of settlement be referred to or used during any
10 arbitration proceeding or trial conducted for the purpose of
11 determining the amount of just compensation.

12 (4) Just compensation and/or fair market value for the purposes of
13 this section shall be determined in accordance with applicable federal
14 and state constitutional, statutory, and case law relating to the
15 condemnation of private and public property for public purposes.

16 (5) If the department of natural resources does not accept the
17 offer of the department of transportation, the department of
18 transportation may nonetheless pay to the department of natural
19 resources the amount of its offer and obtain immediate possession and
20 use of the property pending the determination of just compensation in
21 the manner hereinafter provided.

22 (6) If the amount of just compensation is not agreed to, either the
23 department of natural resources or the department of transportation may
24 request in writing the appointment of an arbitrator for the purpose of
25 determining the amount of compensation to be paid by the department of
26 transportation for the acquisition of jurisdiction over the lands or
27 interests in lands or rights therein. In that event the department of
28 natural resources and the department of transportation may jointly
29 agree on an arbitrator to determine the compensation, and his or her
30 determination shall be final and conclusive upon both departments. The
31 costs of the arbitrator shall be borne equally by the parties. If the
32 department of natural resources and the department of transportation
33 are unable to agree on the selection of an arbitrator within thirty
34 days after a request therefor is made, either the department of
35 transportation or the department of natural resources may file a
36 petition with the superior court for Thurston county for the purpose of
37 determining the amount of just compensation to be paid. The matter

1 shall be tried by the court pursuant to the procedures set forth in RCW
2 8.04.080.

3 (7) Whenever the department of transportation has acquired
4 immediate possession and use of property by payment of the amount of
5 its offer to the department of natural resources, and the arbitration
6 award or judgment of the court for the acquisition exceeds the payment
7 for immediate possession and use, the department of transportation
8 shall forthwith pay the amount of such excess to the department of
9 natural resources with interest thereon from the date it obtained
10 immediate possession. If the arbitration or court award is less than
11 the amount previously paid by the department of transportation for
12 immediate possession and use, the department of natural resources shall
13 forthwith pay the amount of the difference to the department of
14 transportation.

15 (8) Upon the payment of just compensation, as agreed to by the
16 department of transportation and the department of natural resources,
17 or as determined by arbitration or by judgment of the court, and other
18 costs or fees as provided by statute, the department of natural
19 resources shall cause to be executed and delivered to the department of
20 transportation an instrument transferring jurisdiction over the lands
21 or interests in lands, or rights to remove material from the lands, to
22 the department of transportation.

23 (9) Except as provided in RCW 47.12.026, whenever the department of
24 transportation ceases to use any lands or interests in lands acquired
25 in the manner set forth in this section for the purposes mentioned
26 herein, the department of natural resources may reacquire jurisdiction
27 over the lands or interests in land by paying the fair market value
28 thereof to the department of transportation. If the two departments
29 are unable to agree on the fair market value of the lands or interests
30 in lands, the market value shall be determined and the interests
31 therein shall be transferred in accordance with the provisions and
32 procedures set forth in subsections (4) through (8) of this section.

33 **Sec. 10004.** RCW 47.12.160 and 1984 c 7 s 122 are each amended to
34 read as follows:

35 Whenever a part of a parcel of land is to be acquired for state
36 highway purposes and the remainder lying outside of the right-of-way is
37 to be left in such shape or condition as to be of little value to its

1 owner or to give rise to claims or litigation concerning severance or
2 other damage, and its value does not exceed the probable amount of the
3 severance claims or damages, the department may acquire by gift,
4 purchase, or condemnation the whole parcel and may sell that portion
5 lying outside of the highway right-of-way or may exchange the same for
6 other property needed for highway purposes. The provisions of this
7 section do not apply if the taking of that portion of the land lying
8 outside of the highway right-of-way would deprive any adjacent owner of
9 an existing right of ingress and egress to his or her property.

10 **Sec. 10005.** RCW 47.12.230 and 1969 ex.s. c 197 s 5 are each
11 amended to read as follows:

12 Warrants issued for payment of property and engineering costs as
13 provided herein shall be of a distinctive design and shall contain the
14 words "for purchase by the state finance committee from . . . fund"
15 (indicating the proper investing fund as provided by the agreement).
16 Such warrants shall be approved by the secretary of the state finance
17 committee prior to their issuance by the state treasurer. Upon
18 presentation of such warrants to the state treasurer for payment, he or
19 she shall pay the par value thereof from the fund for which the state
20 finance committee agreed to purchase such warrants whether or not there
21 are then funds in the motor vehicle fund. The state treasurer shall
22 deposit such warrants in the treasury for the investing fund.

23 **Sec. 10006.** RCW 47.12.283 and 1979 ex.s. c 189 s 1 are each
24 amended to read as follows:

25 (1) Whenever the department of transportation determines that any
26 real property owned by the state of Washington and under the
27 jurisdiction of the department is no longer required for highway
28 purposes and that it is in the public interest to do so, the department
29 may, in its discretion, sell the property under RCW 47.12.063 or under
30 subsections (2) through (6) of this section.

31 (2) Whenever the department determines to sell real property under
32 its jurisdiction at public auction, the department shall first give
33 notice thereof by publication on the same day of the week for two
34 consecutive weeks, with the first publication at least two weeks prior
35 to the date of the auction, in a legal newspaper of general circulation
36 in the area where the property to be sold is located. The notice shall

1 be placed in both the legal notices section and the real estate
2 classified section of the newspaper. The notice shall contain a
3 description of the property, the time and place of the auction, and the
4 terms of the sale. The sale may be for cash or by real estate
5 contract.

6 (3) The department shall sell the property at the public auction,
7 in accordance with the terms set forth in the notice, to the highest
8 and best bidder providing the bid is equal to or higher than the
9 appraised fair market value of the property.

10 (4) If no bids are received at the auction or if all bids are
11 rejected, the department may, in its discretion, enter into
12 negotiations for the sale of the property or may list the property with
13 a licensed real estate broker. No property shall be sold by
14 negotiations or through a broker for less than the property's appraised
15 fair market value. Any offer to purchase real property pursuant to
16 this subsection shall be in writing and may be rejected at any time
17 prior to written acceptance by the department.

18 (5) Before the department shall approve any offer for the purchase
19 of real property having an appraised value of more than ten thousand
20 dollars, pursuant to subsection (4) of this section, the department
21 shall first publish a notice of the proposed sale in a local newspaper
22 of general circulation in the area where the property is located. The
23 notice shall include a description of the property, the selling price,
24 the terms of the sale, including the price and interest rate if sold by
25 real estate contract, and the name and address of the department
26 employee or the real estate broker handling the transaction. The
27 notice shall further state that any person may, within ten days after
28 the publication of the notice, deliver to the designated state employee
29 or real estate broker a written offer to purchase the property for not
30 less than ten percent more than the negotiated sale price, subject to
31 the same terms and conditions. A subsequent offer shall not be
32 considered unless it is accompanied by a deposit of twenty percent of
33 the offer in the form of cash, money order, cashiers check, or
34 certified check payable to the Washington state treasurer, to be
35 forfeited to the state (for deposit in the motor vehicle fund) if the
36 offeror fails to complete the sale if the offeror's offer is accepted.
37 If a subsequent offer is received, the first offeror shall be informed
38 by registered or certified mail sent to the address stated in his or

1 her offer. The first offeror shall then have ten days, from the date
2 of mailing the notice of the increased offer, in which to file with the
3 designated state employee or real estate broker a higher offer than
4 that of the subsequent offeror. After the expiration of the ten-day
5 period, the department shall approve in writing the highest and best
6 offer which the department then has on file.

7 (6) All moneys received pursuant to this section, less any real
8 estate broker's commissions paid pursuant to RCW 47.12.320, shall be
9 deposited in the motor vehicle fund.

10 **Sec. 10007.** RCW 47.26.150 and 1988 c 167 s 17 are each amended to
11 read as follows:

12 The transportation improvement board shall meet at least once
13 quarterly and upon the call of its (~~chairman~~) chair and shall from
14 time to time adopt rules and regulations for its own government and as
15 may be necessary for it to discharge its duties and exercise its powers
16 under this chapter.

17 **Sec. 10008.** RCW 47.26.4254 and 1999 sp.s. c 1 s 611 are each
18 amended to read as follows:

19 (1) Any funds required to repay series III bonds authorized by RCW
20 47.26.420, or the interest thereon, when due shall first be taken from
21 that portion of the motor vehicle fund that results from the imposition
22 of excise taxes on motor vehicle and special fuels imposed by chapters
23 82.36 and 82.38 RCW and that is distributed to the urban arterial trust
24 account in the motor vehicle fund pursuant to RCW 46.68.090(~~(1)(g)~~)
25 (2)(e), subject, however, to the prior lien of the first authorization
26 of bonds authorized by RCW 47.26.420. If the moneys so distributed to
27 the urban arterial trust account, after first being applied to
28 administrative expenses of the transportation improvement board and to
29 the requirements of bond retirement and payment of interest on first
30 authorization bonds and series II bonds as provided in RCW 47.26.425
31 and 47.26.4252, are insufficient to meet the requirements for bond
32 retirement or interest on any series III bonds, the amount required to
33 make such payments on series III bonds or interest thereon shall next
34 be taken from that portion of the motor vehicle fund that results from
35 the imposition of excise taxes on motor vehicle and special fuels and

1 that is distributed to the state, counties, cities, and towns pursuant
2 to RCW 46.68.090, subject, however, to subsection (2) of this section.

3 (2) To the extent that moneys so distributed to the urban arterial
4 trust account are insufficient to meet the requirements for bond
5 retirement or interest on any series III bonds, sixty percent of the
6 amount required to make such payments when due shall first be taken
7 from that portion of the motor vehicle fund that results from the
8 imposition of excise taxes on motor vehicle and special fuels and that
9 is distributed to the state. The remaining forty percent shall first
10 be taken from that portion of the motor vehicle fund that results from
11 the imposition of excise taxes on motor vehicle and special fuels and
12 that is distributed to the cities and towns pursuant to RCW
13 46.68.090(~~((1)(i))~~) (2)(g) and to the counties pursuant to RCW
14 46.68.090(~~((1)(j))~~) (2)(h). Of the counties', cities', and towns'
15 share of any additional amounts required in each fiscal year, the
16 percentage thereof to be taken from the counties' distributive share
17 and from the cities' and towns' distributive share shall correspond to
18 the percentage of funds authorized for specific county projects and for
19 specific city and town projects, respectively, from the proceeds of
20 series III bonds, for the period through the first eleven months of the
21 prior fiscal year as determined by the (~~(chairman)~~) chair of the
22 transportation improvement board and reported to the state finance
23 committee and the state treasurer not later than the first working day
24 of June.

25 (3) Any payments on such bonds or interest thereon taken from motor
26 vehicle or special fuel tax revenues that are distributable to the
27 state, counties, cities, and towns shall be repaid from the first
28 moneys distributed to the urban arterial trust account not required for
29 redemption of the first authorization bonds, series II bonds, or series
30 III bonds or interest on these bonds.

31 **Sec. 10009.** RCW 47.28.080 and 1985 c 242 s 2 are each amended to
32 read as follows:

33 Any person, firm, or corporation proposing a bid for the
34 construction or improvement of any state highway in response to a call
35 for bids published therefor may withdraw the bid proposal without
36 forfeiture and without prejudice to the right of the bidder to file a
37 new bid proposal before the time fixed for the opening of the bid

1 proposals. The request for the withdrawal shall be made in writing,
2 signed by the person proposing the bid or his or her duly authorized
3 agent, and filed at the place and before the time fixed in the call for
4 bids for receipt of the bid proposals. No bid proposal may be
5 considered that has not been filed with the department before the time
6 fixed for the receipt of bid proposals. In any provisions regarding
7 the filing or withdrawing of bid proposals the time fixed for the
8 receipt of bid proposals in the call for bid proposals as published
9 shall control without regard for the time when the bid proposals are
10 actually opened.

11 **Sec. 10010.** RCW 47.32.060 and 1988 c 202 s 45 are each amended to
12 read as follows:

13 At the time and place appointed for hearing upon the complaint,
14 which hearing shall be by summary proceedings, if the court or judge
15 thereof finds that due notice has been given by posting and publication
16 and that the order of the department was duly made, and is further
17 satisfied and finds that the state highway or portion thereof described
18 is legally a state highway having the width of right-of-way specified
19 in the order and that the structure, buildings, improvements, or other
20 means of occupancy of the state highway or portion thereof as stated in
21 the certificate of the department do in fact encroach, or that any
22 portion thereof encroach, upon the state highway right-of-way, the
23 court or judge thereof shall thereupon make and enter an order
24 establishing that each of the structures, buildings, improvements, and
25 other means of occupancy specified in the order is unlawfully
26 maintained within the right-of-way and is subject to confiscation and
27 sale and that they be forthwith confiscated, removed from the right-of-
28 way, and sold, and providing that six days after the entry of the
29 order, a writ shall issue from the court directed to the sheriff of the
30 county, commanding the sheriff to seize and remove from the right-of-
31 way of the state highway each such structure, building, improvement, or
32 other means of occupancy specified in the order forthwith on receipt of
33 a writ based on the order and to take and hold the property in his or
34 her custody for a period of ten days, unless redelivered earlier as
35 provided for by law, and if not then so redelivered to sell the
36 property at public or private sale and to pay the proceeds thereof into
37 the registry of the court within sixty days after the issuance of the

1 writ, and further in such action, including costs of posting original
2 notices of the department, the costs of posting and publishing notices
3 of hearing as part thereof and any cost of removal, be paid by the
4 clerk to the state treasurer and credited to the motor vehicle fund.
5 The order shall be filed with the clerk of the court and recorded in
6 the minutes of the court, and is final unless appellate review thereof
7 is sought within five days after filing of the order.

8 **Sec. 10011.** RCW 47.32.070 and 1971 c 81 s 115 are each amended to
9 read as follows:

10 Six days after filing of the order above provided for, if no review
11 thereof be taken to the supreme court or the court of appeals of the
12 state, the clerk of the court shall issue under seal of such court a
13 writ directed to the sheriff of the county in which such court is held
14 commanding him or her to remove, take into custody and dispose of the
15 property described in such order and make returns thereof as provided
16 for such writ by said order. On receipt of such writ it shall be the
17 duty of such sheriff to obey the command thereof, proceed as therein
18 directed and make return within the time fixed by such writ; and said
19 sheriff shall be liable upon his or her official bond for the faithful
20 discharge of such duties. Upon filing of such return the clerk of
21 court shall make payments as provided for in the order of court. If by
22 the sheriff's return any of the property seized and removed pursuant to
23 such writ is returned as unsold and as of no sale value, and if the
24 court or judge thereof be satisfied that such is the fact, the court or
25 judge thereof may make further order directing the destruction of such
26 property, otherwise directing the sheriff to give new notice and again
27 offer the same for sale, when, if not sold, the same may on order of
28 court be destroyed.

29 **Sec. 10012.** RCW 47.32.090 and 1961 c 13 s 47.32.090 are each
30 amended to read as follows:

31 The sureties on such bond shall justify as in other cases if the
32 sheriff requires it and in case they do not so justify when required,
33 the sheriff shall retain and sell or dispose of the property; and if
34 the sheriff does not require the sureties to justify, he or she shall
35 stand good for their sufficiency. He or she shall date and indorse his
36 or her acceptance upon the bond, and shall return the affidavit, bond

1 and justification, if any, to the office of the clerk of such superior
2 court, whereupon such clerk shall set the hearing thereof as a separate
3 case for trial, in which such claimant shall be the plaintiff and the
4 sheriff and the state of Washington defendants: PROVIDED, That no
5 costs shall, in such case, be assessed against the sheriff or the state
6 of Washington in the event the plaintiff should prevail.

7 **Sec. 10013.** RCW 47.36.110 and 1984 c 7 s 199 are each amended to
8 read as follows:

9 In order to provide safety at intersections on the state highway
10 system, the department may require persons traveling upon any portion
11 of such highway to stop before entering the intersection. For this
12 purpose there may be erected a standard stop sign as prescribed in the
13 state department of transportation's "Manual on Uniform Traffic Control
14 Devices for Streets and Highways." All persons traveling upon the
15 highway shall come to a complete stop at such a sign, and the
16 appearance of any sign so located is sufficient warning to a person
17 that he or she is required to stop. A person stopping at such a sign
18 shall proceed through that portion of the highway in a careful manner
19 and at a reasonable rate of speed not to exceed twenty miles per hour.
20 It is unlawful to fail to comply with the directions of any such stop
21 sign. When the findings of a traffic engineering study show that the
22 condition of an intersection is such that vehicles may safely enter the
23 major artery without stopping, the department or local authorities in
24 their respective jurisdictions shall install and maintain a "Yield"
25 sign.

26 **Sec. 10014.** RCW 47.36.200 and 2006 c 331 s 1 are each amended to
27 read as follows:

28 (1) When construction, repair, or maintenance work is conducted on
29 or adjacent to a public highway, county road, street, bridge, or other
30 thoroughfare commonly traveled and when the work interferes with the
31 normal and established mode of travel on the highway, county road,
32 street, bridge, or thoroughfare, the location shall be properly posted
33 by prominently displayed signs or (~~flagmen~~) flaggers or both. Signs
34 used for posting in such an area shall be consistent with the
35 provisions found in the state of Washington "Manual on Uniform Traffic

1 Control Devices for Streets and Highways" obtainable from the
2 department of transportation.

3 (2) If the construction, repair, or maintenance work includes or
4 uses grooved pavement, abrupt lane edges, steel plates, or gravel or
5 earth surfaces, the construction, repair, or maintenance zone must be
6 posted with signs stating the condition, as required by current law,
7 and in addition, must warn motorcyclists of the potential hazard only
8 if the hazard or condition exists on a paved public highway, county
9 road, street, bridge, or other thoroughfare commonly traveled. For the
10 purposes of this subsection, the department shall adopt by rule a
11 uniform sign or signs for this purpose, including at least the
12 following language, "MOTORCYCLES USE EXTREME CAUTION."

13 (3) Any contractor, firm, corporation, political subdivision, or
14 other agency performing such work shall comply with this section.

15 (4) Each driver of a motor vehicle used in connection with such
16 construction, repair, or maintenance work shall obey traffic signs
17 posted for, and flaggers stationed at such location in the same manner
18 and under the same restrictions as is required for the driver of any
19 other vehicle.

20 (5) A violation of or a failure to comply with this section is a
21 misdemeanor. Each day upon which there is a violation, or there is a
22 failure to comply, constitutes a separate violation.

23 **Sec. 10015.** RCW 47.41.040 and 1984 c 7 s 218 are each amended to
24 read as follows:

25 Before July 1, 1971, the department shall determine whether or not
26 the topography of the land adjoining the highway will permit adequate
27 screening of any junkyard lawfully in existence located outside of a
28 zoned industrial area or an unzoned industrial area as defined under
29 RCW 47.41.030 on August 9, 1971, that is within one thousand feet of
30 the nearest edge of the right-of-way and visible from the main traveled
31 way of any highway on the interstate and primary system and whether
32 screening of the junkyard would be economically feasible. Within
33 thirty days thereafter the department shall notify by certified mail
34 the record owner of the land upon which the junkyard is located, or the
35 operator thereof, of its determination.

36 If it is economically feasible to screen the junkyard, the
37 department shall screen the junkyard so that it will not be visible

1 from the main-traveled way of the highway. The department is
2 authorized to acquire by gift, purchase, exchange, or condemnation such
3 lands or interest in lands as may be required for these purposes.

4 If it is not economically feasible to screen the junkyard, the
5 department shall acquire by purchase, gift, or condemnation an interest
6 in the real property used for junkyard purposes that is visible from
7 the main traveled way of the highway, restricting any owner of the
8 remaining interest to use of the real estate for purposes other than a
9 junkyard. In addition to compensation for the real property interest,
10 the operator of a junkyard shall receive the actual reasonable expenses
11 in moving his or her business personal property to a location within
12 the same general area where a junkyard may be lawfully established,
13 operated, and maintained. This section shall be interpreted as being
14 in addition to all other rights and remedies of a junkyard owner or
15 operator and shall not be interpreted as a limitation on or alteration
16 of the law of compensation in eminent domain.

17 **Sec. 10016.** RCW 47.42.080 and 1985 c 376 s 6 are each amended to
18 read as follows:

19 (1) Any sign erected or maintained contrary to the provisions of
20 this chapter or rules adopted hereunder that is designed to be viewed
21 from the interstate system, the primary system, or the scenic system is
22 a public nuisance, and the department, the chief of the Washington
23 state patrol, the county sheriff, or the chief of police of any city or
24 town shall notify the permittee or, if there is no permittee, the owner
25 of the property on which the sign is located, by certified mail at his
26 or her last known address, that it constitutes a public nuisance and
27 must comply with the chapter or be removed.

28 (2) If the permittee or owner, as the case may be, fails to comply
29 with the chapter or remove any such sign within fifteen days after
30 being notified to remove the sign he or she is guilty of a misdemeanor.
31 In addition to the penalties imposed by law upon conviction, an order
32 may be entered compelling removal of the sign. Each day the sign is
33 maintained constitutes a separate offense.

34 (3) If the permittee or the owner of the property upon which it is
35 located, as the case may be, is not found or refuses receipt of the
36 notice, the department, the chief of the Washington state patrol, the
37 county sheriff, or the chief of police of any city or town shall post

1 the sign and property upon which it is located with a notice that the
2 sign constitutes a public nuisance and must be removed. If the sign is
3 not removed within fifteen days after such posting, the department, the
4 chief of the Washington state patrol, the county sheriff, or the chief
5 of police of any city or town shall abate the nuisance and destroy the
6 sign, and for that purpose may enter upon private property without
7 incurring liability for doing so.

8 (4) Nothing in this section may be construed to affect the
9 provisions contained in RCW 47.42.102 requiring the payment of
10 compensation upon the removal of any signs compensable under state law.

11 (5) Any sign erected or maintained on state highway right-of-way
12 contrary to this chapter or rules adopted under it is a public
13 nuisance, and the department is authorized to remove any such sign
14 without notice.

15 **Sec. 10017.** RCW 47.42.103 and 1984 c 7 s 229 are each amended to
16 read as follows:

17 (1) Compensation as required by RCW 47.42.102 shall be paid to the
18 person or persons entitled thereto for the removal of such signs. If
19 no agreement is reached on the amount of compensation to be paid, the
20 department may institute an action by summons and complaint in the
21 superior court for the county in which the sign is located to obtain a
22 determination of the compensation to be paid. If the owner of the sign
23 is unknown and cannot be ascertained after diligent efforts to do so,
24 the department may remove the sign upon the payment of compensation
25 only to the owner of the real property on which the sign is located.
26 Thereafter the owner of the sign may file an action at any time within
27 one year after the removal of the sign to obtain a determination of the
28 amount of compensation he or she should receive for the loss of the
29 sign. If either the owner of the sign or the owner of the real
30 property on which the sign is located cannot be found within the state,
31 service of the summons and complaint on such person for the purpose of
32 obtaining a determination of the amount of compensation to be paid may
33 be by publication in the manner provided by RCW 4.28.100.

34 (2) If compensation is determined by judicial proceedings, the sum
35 so determined shall be paid into the registry of the court to be
36 disbursed upon removal of the sign by its owner or by the owner of the
37 real property on which the sign is located. If the amount of

1 compensation is agreed upon, the department may pay the agreed sum into
2 escrow to be released upon the removal of the sign by its owner or the
3 owner of the real property on which the sign is located.

4 (3) The state's share of compensation shall be paid from the motor
5 vehicle fund, or if a court having jurisdiction enters a final judgment
6 declaring that motor vehicle funds may not be used, then from the
7 general fund.

8 **Sec. 10018.** RCW 47.52.150 and 1977 ex.s. c 151 s 64 are each
9 amended to read as follows:

10 Upon request for a hearing before the board by any county, city, or
11 town, a board consisting of five members shall be appointed as follows:
12 The mayor or the county commissioners, as the case may be shall appoint
13 two members of the board, of which one shall be a duly elected official
14 of the city, county, or legislative district, except that of the
15 legislative body of the county, city, or town requesting the hearing,
16 subject to confirmation by the legislative body of the city or town;
17 the secretary of transportation shall appoint two members of the board;
18 and one member shall be selected by the four members thus appointed.
19 Such fifth member shall be a licensed civil engineer or a recognized
20 professional city or town planner, who shall be ((~~chairman~~)) chair of
21 the board. In the case both the county and an included city or town
22 request a hearing, the board shall consist of nine members appointed as
23 follows: The mayor and the county commission shall each appoint two
24 members from the elective officials of their respective jurisdictions,
25 and of the four thus selected no more than two thereof may be members
26 of a legislative body of the county, city, or town. The secretary of
27 transportation shall appoint four members of the board. One member
28 shall be selected by the members thus selected, and such ninth member
29 shall be a licensed civil engineer or a recognized city or town
30 planner, who shall be ((~~chairman~~)) chair of the board. Such boards as
31 are provided by this section shall be appointed within thirty days
32 after the receipt of such a request by the secretary. In the event the
33 secretary or a county, city, or town shall not appoint members of the
34 board or members thus appointed fail to appoint a fifth or ninth member
35 of the board, as the case may be, either the secretary or the county,
36 city, or town may apply to the superior court of the county in which

1 the county, city, or town is situated to appoint the member or members
2 of the board in accordance with the provisions of this chapter.

3 **Sec. 10019.** RCW 47.52.170 and 1961 c 13 s 47.52.170 are each
4 amended to read as follows:

5 No witness's testimony shall be received unless he or she shall
6 have been duly sworn, and the board may cause all oral testimony to be
7 stenographically reported. Members of the board, its duly authorized
8 representatives, and all persons duly commissioned by it for the
9 purpose of taking depositions, shall have power to administer oaths; to
10 preserve and enforce order during such hearings; to issue subpoenas
11 for, and to compel the attendance and testimony of witnesses, or the
12 production of books, papers, documents and other evidence, or the
13 taking of depositions before any designated individual competent to
14 administer oaths, and it shall be their duty so to do; to examine
15 witnesses; and to do all things conformable to law which may be
16 necessary to enable them, or any of them, effectively to discharge the
17 duties of their office.

18 **Sec. 10020.** RCW 47.60.310 and 1988 c 100 s 1 are each amended to
19 read as follows:

20 (1) The department is further directed to conduct such review by
21 soliciting and obtaining expressions from local community groups in
22 order to be properly informed as to problems being experienced within
23 the area served by the Washington state ferries. In order that local
24 representation may be established, the department shall give prior
25 notice of the review to the ferry advisory committees.

26 (2) The legislative authorities of San Juan, Skagit, Clallam, and
27 Jefferson counties shall each appoint a committee to consist of five
28 members to serve as an advisory committee to the department or its
29 designated representative in such review. The legislative authorities
30 of other counties that contain ferry terminals shall appoint ferry
31 advisory committees consisting of three members for each terminal area
32 in each county, except for Vashon Island, which shall have one
33 committee, and its members shall be appointed by the Vashon/Maury
34 Island community council. At least one person appointed to each ferry
35 advisory committee shall be representative of an established ferry user

1 group or of frequent users of the ferry system. Each member shall
2 reside in the vicinity of the terminal that the advisory committee
3 represents.

4 (3) The members of the San Juan, Clallam, and Jefferson county
5 ferry advisory committees shall be appointed for four-year terms. The
6 initial terms shall commence on July 1, 1982, and end on June 30, 1986.
7 Any vacancy shall be filled for the remainder of the unexpired term by
8 the appointing authority. At least one person appointed to the
9 advisory committee shall be representative of an established ferry-user
10 group or of frequent users of the ferry system, at least one shall be
11 representative of persons or firms using or depending upon the ferry
12 system for commerce, and one member shall be representative of a local
13 government planning body or its staff. Every member shall be a
14 resident of the county upon whose advisory committee he or she sits,
15 and not more than three members shall at the time of their appointment
16 be members of the same major political party.

17 (4) The members of each terminal area committee shall be appointed
18 for four-year terms. The initial terms of the members of each terminal
19 area committee shall be staggered as follows: All terms shall commence
20 September 1, 1988, with one member's term expiring August 31, 1990, one
21 member's term expiring August 31, 1991, and the remaining member's term
22 expiring August 31, 1992. Any vacancy shall be filled for the
23 remainder of the unexpired term by the appointing authority. Not more
24 than two members of any terminal-area committee may be from the same
25 political party at the time of their appointment, and in a county
26 having more than one committee, the overall party representation shall
27 be as nearly equal as possible.

28 (5) The (~~chairmen~~) chair of the several committees constitute an
29 executive committee of the Washington state ferry users. The executive
30 committee shall meet twice each year with representatives of the marine
31 division of the department to review ferry system issues.

32 (6) The committees to be appointed by the county legislative
33 authorities shall serve without fee or compensation.

34 **Sec. 10021.** RCW 47.64.130 and 2006 c 164 s 4 are each amended to
35 read as follows:

36 (1) It is an unfair labor practice for the employer or its
37 representatives:

1 (a) To interfere with, restrain, or coerce employees in the
2 exercise of the rights guaranteed by this chapter;

3 (b) To dominate or interfere with the formation or administration
4 of any employee organization or contribute financial or other support
5 to it. However, subject to rules made by the commission pursuant to
6 RCW 47.64.280, an employer shall not be prohibited from permitting
7 employees to confer with it or its representatives or agents during
8 working hours without loss of time or pay;

9 (c) To encourage or discourage membership in any employee
10 organization by discrimination in regard to hiring, tenure of
11 employment, or any term or condition of employment, but nothing
12 contained in this subsection prevents an employer from requiring, as a
13 condition of continued employment, payment of periodic dues and fees
14 uniformly required to an exclusive bargaining representative pursuant
15 to RCW 47.64.160. However, nothing prohibits the employer from
16 agreeing to obtain employees by referral from a lawful hiring hall
17 operated by or participated in by a labor organization;

18 (d) To discharge or otherwise discriminate against an employee
19 because he or she has filed charges or given testimony under this
20 chapter;

21 (e) To refuse to bargain collectively with the representatives of
22 its employees.

23 (2) It is an unfair labor practice for an employee organization:

24 (a) To restrain or coerce (i) employees in the exercise of the
25 rights guaranteed by this chapter. However, this subsection does not
26 impair the right of an employee organization to prescribe its own rules
27 with respect to the acquisition or retention of membership therein, or
28 (ii) an employer in the selection of his or her representatives for the
29 purposes of collective bargaining or the adjustment of grievances;

30 (b) To cause or attempt to cause an employer to discriminate
31 against an employee in violation of subsection (1)(c) of this section;

32 (c) To refuse to bargain collectively with an employer.

33 (3) The expression of any view, argument, or opinion, or the
34 dissemination thereof to the public, whether in written, printed,
35 graphic, or visual form, shall not constitute or be evidence of an
36 unfair labor practice under any of the provisions of this chapter, if
37 the expression contains no threat of reprisal or force or promise of
38 benefit.

1 **Sec. 10022.** RCW 47.64.250 and 1983 c 15 s 16 are each amended to
2 read as follows:

3 (1) Any ferry employee organization and the department of
4 transportation may sue or be sued as an entity under this chapter.
5 Service upon any party shall be in accordance with law or the rules of
6 civil procedure. Nothing in this chapter may be construed to make any
7 individual or his or her assets liable for any judgment against the
8 department of transportation or a ferry employee organization if the
9 individual was acting in his or her official capacity.

10 (2) Any legal action by any ferry employee organization or the
11 department of transportation under this chapter shall be filed in
12 Thurston county superior court within ten days of when the cause of
13 action arose. The court shall consider those actions on a priority
14 basis and determine the merits of the actions within thirty days of
15 filing.

16 **Sec. 10023.** RCW 47.68.330 and 1983 c 3 s 146 are each amended to
17 read as follows:

18 The department is authorized to report to the appropriate federal
19 agencies and agencies of other states all proceedings instituted
20 charging violation of RCW 47.68.220 and 47.68.230 and all penalties, of
21 which it has knowledge, imposed upon airmen or airwomen or the owners
22 or operators of aircraft for violations of the law of this state
23 relating to aeronautics or for violations of the rules, regulations, or
24 orders of the department. The department is authorized to receive
25 reports of penalties and other data from agencies of the federal
26 government and other states and, when necessary, to enter into
27 agreements with federal agencies and the agencies of other states
28 governing the delivery, receipt, exchange, and use of reports and data.
29 The department may make the reports and data of the federal agencies,
30 the agencies of other states, and the courts of this state available,
31 with or without request therefor, to any and all courts of this state.

32 **Sec. 10024.** RCW 47.68.340 and 1995 c 153 s 2 are each amended to
33 read as follows:

34 A structure or obstacle that obstructs the air space above ground
35 or water level, when determined by the department after a hearing to be
36 a hazard or potential hazard to the safe flight of aircraft, shall be

1 plainly marked, illuminated, painted, lighted, or designated in a
2 manner to be approved in accordance with the general rules of the
3 department so that the structure or obstacle will be clearly visible to
4 airmen or airwomen. In determining which structures or obstacles
5 constitute a safety hazard, or a hazard to flight, the department shall
6 take into account those obstacles located at a river, lake, or canyon
7 crossing, and in other low-altitude flight paths usually traveled by
8 aircraft including, but not limited to, airport areas and runway
9 departure and approach areas as defined by federal air regulations.

10 **PART XI**

11 **Sec. 11001.** RCW 48.08.090 and 2009 c 549 s 7029 are each amended
12 to read as follows:

13 (1) This section shall apply to all domestic stock insurers except:

14 (a) A domestic stock insurer having less than one hundred
15 stockholders; except, that if ninety-five percent or more of the
16 insurer's stock is owned or controlled by a parent or affiliated
17 insurer, this section shall not apply to such insurer unless its
18 remaining shares are held by five hundred or more stockholders.

19 (b) Domestic stock insurers which file with the Securities and
20 Exchange Commission forms of proxies, consents and authorizations
21 pursuant to the Securities and Exchange Act of 1934, as amended.

22 (2) Every such insurer shall seasonably furnish its stockholders in
23 advance of stockholder meetings, information in writing reasonably
24 adequate to inform them relative to all matters to be presented by the
25 insurer's management for consideration of stockholders at such meeting.

26 (3) No person shall solicit a proxy, consent, or authorization in
27 respect of any stock of such an insurer unless he or she furnishes the
28 person so solicited with written information reasonably adequate as to

29 (a) The material matters in regard to which the powers so solicited
30 are proposed to be used, and

31 (b) The person or persons on whose behalf the solicitation is made,
32 and the interest of such person or persons in relation to such matters.

33 (4) No person shall so furnish to another, information which the
34 informer knows or has reason to believe, is false or misleading as to
35 any material fact, or which fails to state any material fact reasonably
36 necessary to prevent any other statement made from being misleading.

1 (5) The form of all such proxies shall:

2 (a) Conspicuously state on whose behalf the proxy is solicited;

3 (b) Provide for dating the proxy;

4 (c) Impartially identify each matter or group of related matters
5 intended to be acted upon;

6 (d) Provide means for the principal to instruct the vote of his or
7 her shares as to approval or disapproval of each matter or group, other
8 than election to office; and

9 (e) Be legibly printed, with context suitably organized.

10 Except, that a proxy may confer discretionary authority as to
11 matters as to which choice is not specified pursuant to ((~~item~~)) (d)((~~r~~
12 ~~above~~)) of this subsection, if the form conspicuously states how it is
13 intended to vote the proxy or authorization in each such case; and may
14 confer discretionary authority as to other matters which may come
15 before the meeting but unknown for a reasonable time prior to the
16 solicitation by the persons on whose behalf the solicitation is made.

17 (6) No proxy shall confer authority (a) to vote for election of any
18 person to any office for which a bona fide nominee is not named in the
19 proxy statement, or (b) to vote at any annual meeting (or adjournment
20 thereof) other than the annual meeting next following the date on which
21 the proxy statement and form were furnished stockholders.

22 (7) The commissioner shall have authority to make and promulgate
23 reasonable rules and regulations for the effectuation of this section,
24 and in so doing shall give due consideration to rules and regulations
25 promulgated for similar purposes by the insurance supervisory officials
26 of other states.

27 **Sec. 11002.** RCW 48.08.130 and 2009 c 549 s 7033 are each amended
28 to read as follows:

29 It shall be unlawful for any such beneficial owner, director or
30 officer, directly or indirectly, to sell any equity security of such
31 insurer if the person selling the security or his or her principal (1)
32 does not own the security sold, or (2) if owning the security, does not
33 deliver it against such sale within twenty days thereafter, or does not
34 within five days after such sale deposit it in the mails or other usual
35 channels of transportation: PROVIDED, That no person shall be deemed
36 to have violated this section if he or she proves that notwithstanding

1 the exercise of good faith he or she was unable to make such delivery
2 or deposit within such time, or that to do so would cause undue
3 inconvenience or expense.

4 **Sec. 11003.** RCW 48.18A.060 and 2008 c 217 s 20 are each amended to
5 read as follows:

6 No person shall be or act as an insurance producer for the
7 solicitation or sale of variable contracts except while duly appointed
8 and licensed under the insurance code as a variable life and variable
9 annuity products insurance producer with respect to the insurer, and
10 while duly licensed as a security (~~(salesman)~~) salesperson or
11 securities broker under a license issued by the director of financial
12 institutions pursuant to the securities act of this state; except that
13 any person who participates only in the sale or offering for sale of
14 variable contracts which fund corporate plans meeting the requirements
15 for qualification under sections 401 or 403 of the United States
16 internal revenue code need not be licensed pursuant to the securities
17 act of this state.

18 **Sec. 11004.** RCW 48.30.120 and 2009 c 549 s 7119 are each amended
19 to read as follows:

20 No director, officer, agent, attorney-in-fact, or employee of an
21 insurer shall:

22 (1) Knowingly receive or possess himself or herself of any of its
23 property, otherwise than in payment for a just demand, and with intent
24 to defraud, omit to make or to cause or direct to be made, a full and
25 true entry thereof in its books and accounts; nor

26 (2) Make or concur in making any false entry, or concur in omitting
27 to make any material entry, in its books or accounts; nor

28 (3) Knowingly concur in making or publishing any written report,
29 exhibit or statement of its affairs or pecuniary condition containing
30 any material statement which is false, or omit or concur in omitting
31 any statement required by law to be contained therein; nor

32 (4) Having the custody or control of its books, willfully fail to
33 make any proper entry in the books of the insurer as required by law,
34 or to exhibit or allow the same to be inspected and extracts to be
35 taken therefrom by any person entitled by law to inspect the same, or
36 take extracts therefrom; nor

1 (5) If a notice of an application for an injunction or other legal
2 process affecting or involving the property or business of the insurer
3 is served upon him or her, fail to disclose the fact of such service
4 and the time and place of such application to the other directors,
5 officers, and managers thereof; nor

6 (6) Fail to make any report or statement lawfully required by a
7 public officer.

8 **Sec. 11005.** RCW 48.34.100 and 2009 c 549 s 7143 are each amended
9 to read as follows:

10 (1) All policies, certificates of insurance, notices of proposed
11 insurance, applications for insurance, endorsements, and riders
12 delivered or issued for delivery in this state and the schedules of
13 premium rates pertaining thereto shall be filed with the commissioner.

14 (2) No such policies, certificates of insurance, notices of
15 proposed insurance, applications for insurance, endorsements, or riders
16 shall be used in this state until approved by the commissioner pursuant
17 to RCW 48.18.100 and 48.18.110. In addition to any grounds for
18 disapproval provided therein, the form shall be disapproved both as to
19 credit life and credit accident and health insurance if the benefits
20 provided therein are not reasonable in relation to the premium charged.

21 (3) If a group policy of credit life insurance or credit accident
22 and health insurance has been delivered in this state before midnight,
23 June 7, 1961, on the first anniversary date following such time the
24 terms of the policy as they apply to persons newly insured thereafter
25 shall be rewritten to conform with the provisions of this chapter.

26 (4) If a group policy has been or is delivered in another state
27 before or after August 11, 1969, the forms to be filed by the insurer
28 with the commissioner are the group certificates and notices of
29 proposed insurance delivered or issued for delivery in this state. He
30 or she shall approve them if:

31 (a) They provide the information that would be required if the
32 group policy was delivered in this state; and

33 (b) The applicable premium rates or charges do not exceed those
34 established by his or her rules or regulations.

35 **Sec. 11006.** RCW 48.56.110 and 2009 c 549 s 7158 are each amended
36 to read as follows:

1 (1) When a premium finance agreement contains a power of attorney
2 enabling the premium finance company to cancel any insurance contract
3 or contracts listed in the agreement, the insurance contract or
4 contracts shall not be canceled by the premium finance company unless
5 such cancellation is effectuated in accordance with this section.

6 (2) Not less than ten days' written notice shall be mailed to the
7 insured of the intent of the premium finance company to cancel the
8 insurance contract unless the default is cured within such ten-day
9 period.

10 (3) After expiration of such ten-day period, the premium finance
11 company may thereafter request in the name of the insured, cancellation
12 of such insurance contract or contracts by mailing to the insurer a
13 notice of cancellation, and the insurance contract shall be canceled as
14 if such notice of cancellation had been submitted by the insured
15 himself or herself, but without requiring the return of the insurance
16 contract or contracts. The premium finance company shall also mail a
17 notice of cancellation to the insured at his or her last known address.

18 (4) All statutory, regulatory, and contractual restrictions
19 providing that the insurance contract may not be canceled unless notice
20 is given to a governmental agency, mortgagee, or other third party
21 shall apply where cancellation is effected under the provisions of this
22 section. The insurer shall give the prescribed notice in behalf of
23 itself or the insured to any governmental agency, mortgagee, or other
24 third party on or before the second business day after the day it
25 receives the notice of cancellation from the premium finance company
26 and shall determine the effective date of cancellation taking into
27 consideration the number of days notice required to complete the
28 cancellation.

29 **Sec. 11007.** RCW 48.64.130 and 2009 c 314 s 14 are each amended to
30 read as follows:

31 (1) Any person who files reports or furnishes other information
32 required under this title, required by the state risk manager under the
33 authority granted under this title, or which is useful to the state
34 risk manager in the administration of this title, is immune from
35 liability in any civil action or suit arising from the filing of any
36 such report or furnishing such information to the state risk manager,
37 unless actual malice, fraud, or bad faith is shown.

1 (2) The state risk manager and his or her agents and employees are
2 immune from liability in any civil action or suit arising from the
3 publication of any report or bulletins or arising from dissemination of
4 information related to the official activities of the state risk
5 manager unless actual malice, fraud, or bad faith is shown.

6 (3) The immunity granted under this section is in addition to any
7 common law or statutory privilege or immunity enjoyed by such person.
8 This section is not intended to abrogate or modify in any way such
9 common law or statutory privilege or immunity.

10 **PART XII**

11 **Sec. 12001.** RCW 49.08.010 and 1975 1st ex.s. c 296 s 36 are each
12 amended to read as follows:

13 It shall be the duty of the ((~~chairman~~)) chair of the public
14 employment relations commission upon application of any employer or
15 employee having differences, as soon as practicable, to visit the
16 location of such differences and to make a careful inquiry into the
17 cause thereof and to advise the respective parties, what, if anything,
18 ought to be done or submitted to by both to adjust said dispute and
19 should said parties then still fail to agree to a settlement through
20 said ((~~chairman~~)) chair, then said ((~~chairman~~)) chair shall endeavor to
21 have said parties consent in writing to submit their differences to a
22 board of arbitrations to be chosen from citizens of the state as
23 follows, to wit: Said employer shall appoint one and said employees
24 acting through a majority, one, and these two shall select a third,
25 these three to constitute the board of arbitration and the findings of
26 said board of arbitration to be final.

27 **Sec. 12002.** RCW 49.08.020 and 1975 1st ex.s. c 296 s 37 are each
28 amended to read as follows:

29 The proceedings of said board of arbitration shall be held before
30 the ((~~chairman~~)) chair of the public employment relations commission
31 who shall act as moderator or ((~~chairman~~)) chair, without the privilege
32 of voting, and who shall keep a record of the proceedings, issue
33 subpoenas and administer oaths to the members of said board, and any
34 witness said board may deem necessary to summon.

1 **Sec. 12003.** RCW 49.08.050 and 1903 c 58 s 5 are each amended to
2 read as follows:

3 Upon the failure of the director of labor and industries, in any
4 case, to secure the creation of a board of arbitration, it shall become
5 his or her duty to request a sworn statement from each party to the
6 dispute of the facts upon which their dispute and their reasons for not
7 submitting the same to arbitration are based. Any sworn statement made
8 to the director of labor and industries under this provision shall be
9 for public use and shall be given publicly in such newspapers as desire
10 to use it.

11 **Sec. 12004.** RCW 49.12.050 and 1994 c 164 s 15 are each amended to
12 read as follows:

13 Every employer shall keep a record of the names of all employees
14 employed by him or her, and shall on request permit the director to
15 inspect such record.

16 **Sec. 12005.** RCW 49.17.020 and 1997 c 362 s 2 are each amended to
17 read as follows:

18 For the purposes of this chapter:

19 (1) The term "agriculture" means farming and includes, but is not
20 limited to:

- 21 (a) The cultivation and tillage of the soil;
- 22 (b) Dairying;
- 23 (c) The production, cultivation, growing, and harvesting of any
24 agricultural or horticultural commodity;
- 25 (d) The raising of livestock, bees, fur-bearing animals, or
26 poultry; and
- 27 (e) Any practices performed by a farmer or on a farm, incident to
28 or in connection with such farming operations, including but not
29 limited to preparation for market and delivery to:
 - 30 (i) Storage;
 - 31 (ii) Market; or
 - 32 (iii) Carriers for transportation to market.

33 The term "agriculture" does not mean a farmer's processing for sale
34 or handling for sale a commodity or product grown or produced by a
35 person other than the farmer or the farmer's employees.

1 (2) The term "director" means the director of the department of
2 labor and industries, or his or her designated representative.

3 (3) The term "department" means the department of labor and
4 industries.

5 (4) The term "employer" means any person, firm, corporation,
6 partnership, business trust, legal representative, or other business
7 entity which engages in any business, industry, profession, or activity
8 in this state and employs one or more employees or who contracts with
9 one or more persons, the essence of which is the personal labor of such
10 person or persons and includes the state, counties, cities, and all
11 municipal corporations, public corporations, political subdivisions of
12 the state, and charitable organizations: PROVIDED, That any person,
13 partnership, or business entity not having employees, and who is
14 covered by the industrial insurance act shall be considered both an
15 employer and an employee.

16 (5) The term "employee" means an employee of an employer who is
17 employed in the business of his or her employer whether by way of
18 manual labor or otherwise and every person in this state who is engaged
19 in the employment of or who is working under an independent contract
20 the essence of which is his or her personal labor for an employer under
21 this chapter whether by way of manual labor or otherwise.

22 (6) The term "person" means one or more individuals, partnerships,
23 associations, corporations, business trusts, legal representatives, or
24 any organized group of persons.

25 (7) The term "safety and health standard" means a standard which
26 requires the adoption or use of one or more practices, means, methods,
27 operations, or processes reasonably necessary or appropriate to provide
28 safe or healthful employment and places of employment.

29 (8) The term "work place" means any plant, yard, premises, room, or
30 other place where an employee or employees are employed for the
31 performance of labor or service over which the employer has the right
32 of access or control, and includes, but is not limited to, all work
33 places covered by industrial insurance under Title 51 RCW, as now or
34 hereafter amended.

35 (9) The term "working day" means a calendar day, except Saturdays,
36 Sundays, and all legal holidays as set forth in RCW 1.16.050, as now or
37 hereafter amended, and for the purposes of the computation of time

1 within which an act is to be done under the provisions of this chapter,
2 shall be computed by excluding the first working day and including the
3 last working day.

4 **Sec. 12006.** RCW 49.17.050 and 1998 c 224 s 1 are each amended to
5 read as follows:

6 In the adoption of rules and regulations under the authority of
7 this chapter, the director shall:

8 (1) Provide for the preparation, adoption, amendment, or repeal of
9 rules and regulations of safety and health standards governing the
10 conditions of employment of general and special application in all work
11 places;

12 (2) Provide for the adoption of occupational health and safety
13 standards which are at least as effective as those adopted or
14 recognized by the United States secretary of labor under the authority
15 of the Occupational Safety and Health Act of 1970 (Public Law 91-596;
16 84 Stat. 1590);

17 (3) Provide a method of encouraging employers and employees in
18 their efforts to reduce the number of safety and health hazards at
19 their work places and to stimulate employers and employees to institute
20 new and to perfect existing programs for providing safe and healthful
21 working conditions;

22 (4) Provide for the promulgation of health and safety standards and
23 the control of conditions in all work places concerning gases, vapors,
24 dust, or other airborne particles, toxic materials, or harmful physical
25 agents which shall set a standard which most adequately assures, to the
26 extent feasible, on the basis of the best available evidence, that no
27 employee will suffer material impairment of health or functional
28 capacity even if such employee has regular exposure to the hazard dealt
29 with by such standard for the period of his or her working life; any
30 such standards shall require where appropriate the use of protective
31 devices or equipment and for monitoring or measuring any such gases,
32 vapors, dust, or other airborne particles, toxic materials, or harmful
33 physical agents;

34 (5) Provide for appropriate reporting procedures by employers with
35 respect to such information relating to conditions of employment which
36 will assist in achieving the objectives of this chapter;

1 (6) Provide for the frequency, method, and manner of the making of
2 inspections of work places without advance notice; (~~and~~)

3 (7) Provide for the publication and dissemination to employers,
4 employees, and labor organizations and the posting where appropriate by
5 employers of informational, education, or training materials calculated
6 to aid and assist in achieving the objectives of this chapter;

7 (8) Provide for the establishment of new and the perfection and
8 expansion of existing programs for occupational safety and health
9 education for employers and employees, and, in addition institute
10 methods and procedures for the establishment of a program for voluntary
11 compliance solely through the use of advice and consultation with
12 employers and employees with recommendations including recommendations
13 of methods to abate violations relating to the requirements of this
14 chapter and all applicable safety and health standards and rules and
15 regulations promulgated pursuant to the authority of this chapter;

16 (9) Provide for the adoption of safety and health standards
17 requiring the use of safeguards in trenches and excavations and around
18 openings of hoistways, hatchways, elevators, stairways, and similar
19 openings;

20 (10) Provide for the promulgation of health and safety standards
21 requiring the use of safeguards for all vats, pans, trimmers, cut off,
22 gang edger, and other saws, planers, presses, formers, cogs, gearing,
23 belting, shafting, coupling, set screws, live rollers, conveyors,
24 mangles in laundries, and machinery of similar description, which can
25 be effectively guarded with due regard to the ordinary use of such
26 machinery and appliances and the danger to employees therefrom, and
27 with which the employees of any such work place may come in contact
28 while in the performance of their duties and prescribe methods,
29 practices, or processes to be followed by employers which will enhance
30 the health and safety of employees in the performance of their duties
31 when in proximity to machinery or appliances mentioned in this
32 subsection;

33 (11) Certify that no later than twenty business days prior to the
34 effective date of any significant legislative rule, as defined by RCW
35 34.05.328, a meeting of impacted parties is convened to: (a) Identify
36 ambiguities and problem areas in the rule; (b) coordinate education and
37 public relations efforts by all parties; (c) provide comments regarding
38 internal department training and enforcement plans; and (d) provide

1 comments regarding appropriate evaluation mechanisms to determine the
2 effectiveness of the new rule. The meeting shall include a balanced
3 representation of both business and labor from impacted industries,
4 department personnel responsible for the above subject areas, and other
5 agencies or key stakeholder groups as determined by the department. An
6 existing advisory committee may be utilized if appropriate.

7 **Sec. 12007.** RCW 49.17.060 and 1973 c 80 s 6 are each amended to
8 read as follows:

9 Each employer:

10 (1) Shall furnish to each of his or her employees a place of
11 employment free from recognized hazards that are causing or likely to
12 cause serious injury or death to his or her employees: PROVIDED, That
13 no citation or order assessing a penalty shall be issued to any
14 employer solely under the authority of this subsection except where no
15 applicable rule or regulation has been adopted by the department
16 covering the unsafe or unhealthful condition of employment at the work
17 place; and

18 (2) Shall comply with the rules, regulations, and orders
19 promulgated under this chapter.

20 **Sec. 12008.** RCW 49.17.080 and 1973 c 80 s 8 are each amended to
21 read as follows:

22 (1) Any employer may apply to the director for a temporary order
23 granting a variance from any safety and health standard promulgated by
24 rule or regulation under the authority of this chapter. Such temporary
25 order shall be granted only if the employer files an application which
26 meets the requirements of subsection (2) of this section and
27 establishes that the employer is unable to comply with a safety or
28 health standard because of the unavailability of professional or
29 technical personnel or of materials and equipment needed to come into
30 compliance with the safety and health standard or because necessary
31 construction or alteration of facilities cannot be completed by the
32 effective date of such safety and health standard, that he or she is
33 taking all available steps to safeguard his or her employees against
34 the hazards covered by the safety and health standard, and he or she
35 has an effective program for coming into compliance with such safety
36 and health standard as quickly as practicable. Any temporary order

1 issued under the authority of this subsection shall prescribe the
2 practices, means, methods, operations, and processes which the employer
3 must adopt and use while the order is in effect and state in detail his
4 or her program for coming into compliance with the safety and health
5 standard. Such a temporary order may be granted only after notice to
6 employees and an opportunity for a hearing upon request of the employer
7 or any affected employee. The name of any affected employee requesting
8 a hearing under the provisions of this subsection shall be confidential
9 and shall not be disclosed without the consent of such employee. The
10 director may issue one interim order to be effective until a
11 determination is made or a decision rendered if a hearing is demanded.
12 No temporary order may be in effect for longer than the period needed
13 by the employer to achieve compliance with the standard, or one year,
14 whichever is shorter, except that such an order may be renewed not more
15 than twice, so long as the requirements of this subsection are met and
16 if an application for renewal is filed at least ninety days prior to
17 the expiration date of the order. No renewal of a temporary order may
18 remain in effect for longer than one hundred eighty days.

19 (2) An application for a temporary order under this section shall
20 contain:

21 (a) A specification of the safety and health standard or portion
22 thereof from which the employer seeks a variance;

23 (b) A representation by the employer, supported by representations
24 from qualified persons having first hand knowledge of the facts
25 represented, that he or she is unable to comply with the safety and
26 health standard or portion thereof and a detailed statement of the
27 reasons therefor;

28 (c) A statement of the steps the employer has taken and will take,
29 with specific dates, to protect employees against the hazard covered by
30 the standard;

31 (d) A statement as to when the employer expects to be able to
32 comply with the standard or portion thereof and what steps he or she
33 has taken and will take, with dates specified, to come into compliance
34 with the standard; and

35 (e) A certification that the employer, by the date of mailing or
36 delivery of the application to the director, has informed his or her
37 employees of the application by providing a copy thereof to his or her
38 employees or their authorized representative by posting a copy of such

1 application in a place or places reasonably accessible to all employees
2 or by other appropriate means of notification and by mailing a copy to
3 the authorized representative of such employees; the application shall
4 set forth the manner in which the employees have been so informed. The
5 application shall also advise employees and their employee
6 representatives of their right to apply to the director to conduct a
7 hearing upon the application for a variance.

8 **Sec. 12009.** RCW 49.17.090 and 1973 c 80 s 9 are each amended to
9 read as follows:

10 Any employer may apply to the director for an order for a variance
11 from any rule or regulation establishing a safety and health standard
12 promulgated under this chapter. Affected employees shall be given
13 notice of each such application and in the manner prescribed by RCW
14 49.17.080 shall be informed of their right to request a hearing on any
15 such application. The director shall issue such order granting a
16 variance, after opportunity for an inspection, if he or she determines
17 or decides after a hearing has been held, if request for hearing has
18 been made, that the applicant for the variance has demonstrated by a
19 preponderance of the evidence that the conditions, practices, means,
20 methods, operations, or processes used or proposed to be used by such
21 applicant employer will provide employment and places of employment to
22 his or her employees which are as safe and healthful as those which
23 would prevail if he or she complied with the safety and health standard
24 or standards from which the variance is sought. The order so issued
25 shall prescribe the conditions the employer must maintain, and the
26 practices, means, methods, operations, and processes which he or she
27 must adopt and utilize to the extent they differ from the standard in
28 question. At any time after six months has elapsed from the date of
29 the issuance of the order granting a variance upon application of an
30 employer, employee, or the director on his or her own motion, after
31 notice has been given in the manner prescribed for the issuance of such
32 order may modify or revoke the order granting the variance from any
33 standard promulgated under the authority of this chapter.

34 **Sec. 12010.** RCW 49.17.100 and 1986 c 192 s 1 are each amended to
35 read as follows:

36 A representative of the employer and an employee representative

1 authorized by the employees of such employer shall be given an
2 opportunity to accompany the director, or his or her authorized
3 representative, during the physical inspection of any work place for
4 the purpose of aiding such inspection. Where there is no authorized
5 employee representative, the director or his or her authorized
6 representative shall consult with a reasonable number of employees
7 concerning matters of health and safety in the work place. The
8 director may adopt procedural rules and regulations to implement the
9 provisions of this section: PROVIDED, That neither this section, nor
10 any other provision of this chapter, shall be construed to interfere
11 with, impede, or in any way diminish the right of employees to bargain
12 collectively with their employers through representatives of their own
13 choosing concerning wages or standards or conditions of employment
14 which equal or exceed those established under the authority of this
15 chapter.

16 **Sec. 12011.** RCW 49.17.110 and 1973 c 80 s 11 are each amended to
17 read as follows:

18 Each employee shall comply with the provisions of this chapter and
19 all rules, regulations, and orders issued pursuant to the authority of
20 this chapter which are applicable to his or her own actions and conduct
21 in the course of his or her employment. Any employee or representative
22 of employees who in good faith believes that a violation of a safety or
23 health standard, promulgated by rule under the authority of this
24 chapter exists that threatens physical harm to employees, or that an
25 imminent danger to such employees exists, may request an inspection of
26 the work place by giving notice to the director or his or her
27 authorized representative of such violation or danger. Any such notice
28 shall be reduced to writing, shall set forth with reasonable
29 particularity the grounds for the notice, and shall be signed by the
30 employee or representative of employees. A copy of the notice shall be
31 provided the employer or his or her agent no later than at the time of
32 inspection, except that, upon the request of the person giving such
33 notice, his or her name and the names of individual employees referred
34 to therein shall not appear in such copy or on any record published,
35 released, or made available pursuant to any provision of this chapter.
36 If upon receipt of such notification the director determines that there
37 are reasonable grounds to believe that such violation or danger exists,

1 he or she shall make a special inspection as soon as practicable, to
2 determine if such violation or danger exists. If the director
3 determines there are no reasonable grounds to believe that a violation
4 or danger exists, he or she shall notify the employer and the employee
5 or representative of the employees in writing of such determination.

6 Prior to or during any inspection of a work place, any employee or
7 representative of employees employed in such work place may notify the
8 director or any representative of the director responsible for
9 conducting the inspection, in writing, of any violation of this chapter
10 which he or she has reason to believe exists in such work place. The
11 director shall, by rule, establish procedures for informal review of
12 any refusal by a representative of the director to issue a citation
13 with respect to any such alleged violation, and shall furnish the
14 employee or representative of employees requesting such review a
15 written statement of the reasons for the director's final disposition
16 of the case.

17 **Sec. 12012.** RCW 49.17.130 and 1973 c 80 s 13 are each amended to
18 read as follows:

19 (1) If upon inspection or investigation, the director, or his or
20 her authorized representative, believes that an employer has violated
21 a requirement of RCW 49.17.060, or any safety or health standard
22 promulgated by rules of the department, or any conditions of an order
23 granting a variance, which violation is such that a danger exists from
24 which there is a substantial probability that death or serious physical
25 harm could result to any employee, the director or his or her
26 authorized representative shall issue a citation and may issue an order
27 immediately restraining any such condition, practice, method, process,
28 or means in the work place. Any order issued under this section may
29 require such steps to be taken as may be necessary to avoid, correct,
30 or remove such danger and prohibit the employment or presence of any
31 individual in locations or under conditions where such danger exists,
32 except individuals whose presence is necessary to avoid, correct, or
33 remove such danger or to maintain the capacity of a continuous process
34 operation in order that the resumption of normal operations may be had
35 without a complete cessation of operations, or where a cessation of
36 operations is necessary, to permit such to be accomplished in a safe
37 and orderly manner. In addition, if any machine or equipment, or any

1 part thereof, is in violation of a requirement of RCW 49.17.060 or any
2 safety or health standard promulgated by rules of the department, and
3 the operation of such machine or equipment gives rise to a substantial
4 probability that death or serious physical harm could result to any
5 employee, and an order of immediate restraint of the use of such
6 machine or equipment has been issued under this subsection, the use of
7 such machine or equipment is prohibited, and a notice to that effect
8 shall be attached thereto by the director or his or her authorized
9 representative.

10 (2) Whenever the director, or his or her authorized representative,
11 concludes that a condition of employment described in subsection (1) of
12 this section exists in any work place, he or she shall promptly inform
13 the affected employees and employers of the danger.

14 (3) At any time that a citation or a citation and order restraining
15 any condition of employment or practice described in subsection (1) of
16 this section is issued by the director, or his or her authorized
17 representative, he or she may in addition request the attorney general
18 to make an application to the superior court of the county wherein such
19 condition of employment or practice exists for a temporary restraining
20 order or such other relief as appears to be appropriate under the
21 circumstances.

22 **Sec. 12013.** RCW 49.17.160 and 1973 c 80 s 16 are each amended to
23 read as follows:

24 (1) No person shall discharge or in any manner discriminate against
25 any employee because such employee has filed any complaint or
26 instituted or caused to be instituted any proceeding under or related
27 to this chapter, or has testified or is about to testify in any such
28 proceeding or because of the exercise by such employee on behalf of
29 himself or herself or others of any right afforded by this chapter.

30 (2) Any employee who believes that he or she has been discharged or
31 otherwise discriminated against by any person in violation of this
32 section may, within thirty days after such violation occurs, file a
33 complaint with the director alleging such discrimination. Upon receipt
34 of such complaint, the director shall cause such investigation to be
35 made as he or she deems appropriate. If upon such investigation, the
36 director determines that the provisions of this section have been
37 violated, he or she shall bring an action in the superior court of the

1 county wherein the violation is alleged to have occurred against the
2 person or persons who is alleged to have violated the provisions of
3 this section. If the director determines that the provisions of this
4 section have not been violated, the employee may institute the action
5 on his or her own behalf within thirty days of such determination. In
6 any such action the superior court shall have jurisdiction, for cause
7 shown, to restrain violations of subsection (1) of this section and
8 order all appropriate relief including rehiring or reinstatement of the
9 employee to his or her former position with back pay.

10 (3) Within ninety days of the receipt of the complaint filed under
11 this section, the director shall notify the complainant of his or her
12 determination under subsection (2) of this section.

13 **Sec. 12014.** RCW 49.17.170 and 1973 c 80 s 17 are each amended to
14 read as follows:

15 (1) In addition to and after having invoked the powers of restraint
16 vested in the director as provided in RCW 49.17.130 the superior courts
17 of the state of Washington shall have jurisdiction upon petition of the
18 director, through the attorney general, to enjoin any condition or
19 practice in any work place from which there is a substantial
20 probability that death or serious physical harm could result to any
21 employee immediately or before the imminence of such danger can be
22 eliminated through the enforcement procedures otherwise provided by
23 this chapter. Any order issued under this section may require such
24 steps to be taken as may be necessary to avoid, correct, or remove such
25 danger and prohibit the employment or presence of any individual in
26 locations or under conditions where such danger exists, except
27 individuals whose presence is necessary to avoid, correct, or remove
28 such danger or to maintain the capacity of a continuous process
29 operation to resume normal operation without a complete cessation of
30 operations, or where a cessation of operations is necessary, to permit
31 such to be accomplished in a safe and orderly manner.

32 (2) Upon the filing of any such petition the superior courts of the
33 state of Washington shall have jurisdiction to grant such injunctive
34 relief or temporary restraining order pending the outcome of
35 enforcement proceedings pursuant to this chapter, except that no
36 temporary restraining order issued without notice shall be effective
37 for a period longer than five working days.

1 (3) Whenever and as soon as any authorized representative of the
2 director concludes that a condition or practice described in subsection
3 (1) exists in any work place, he or she shall inform the affected
4 employees and employers of the danger and may recommend to the director
5 that relief be sought under this section.

6 (4) If the director arbitrarily or capriciously fails to invoke his
7 or her restraining authority under RCW 49.17.130 or fails to seek
8 relief under this section, any employee who may be injured by reason of
9 such failure, or the representative of such employees, may bring an
10 action against the director in the superior court for the county in
11 which the danger is alleged to exist for a writ of mandamus to compel
12 the director to seek such an order and for such further relief as may
13 be appropriate or seek the director to exercise his or her restraining
14 authority under RCW 49.17.130.

15 **Sec. 12015.** RCW 49.17.180 and 1995 c 403 s 629 are each amended to
16 read as follows:

17 (1) Except as provided in RCW 43.05.090, any employer who willfully
18 or repeatedly violates the requirements of RCW 49.17.060, of any safety
19 or health standard promulgated under the authority of this chapter, of
20 any existing rule or regulation governing the conditions of employment
21 promulgated by the department, or of any order issued granting a
22 variance under RCW 49.17.080 or 49.17.090 may be assessed a civil
23 penalty not to exceed seventy thousand dollars for each violation. A
24 minimum penalty of five thousand dollars shall be assessed for a
25 willful violation.

26 (2) Any employer who has received a citation for a serious
27 violation of the requirements of RCW 49.17.060, of any safety or health
28 standard promulgated under the authority of this chapter, of any
29 existing rule or regulation governing the conditions of employment
30 promulgated by the department, or of any order issued granting a
31 variance under RCW 49.17.080 or 49.17.090 as determined in accordance
32 with subsection (6) of this section, shall be assessed a civil penalty
33 not to exceed seven thousand dollars for each such violation.

34 (3) Any employer who has received a citation for a violation of the
35 requirements of RCW 49.17.060, of any safety or health standard
36 promulgated under this chapter, of any existing rule or regulation
37 governing the conditions of employment promulgated by the department,

1 or of any order issued granting a variance under RCW 49.17.080 or
2 49.17.090, where such violation is specifically determined not to be of
3 a serious nature as provided in subsection (6) of this section, may be
4 assessed a civil penalty not to exceed seven thousand dollars for each
5 such violation, unless such violation is determined to be de minimis.

6 (4) Any employer who fails to correct a violation for which a
7 citation has been issued under RCW 49.17.120 or 49.17.130 within the
8 period permitted for its correction, which period shall not begin to
9 run until the date of the final order of the board of industrial
10 insurance appeals in the case of any review proceedings under this
11 chapter initiated by the employer in good faith and not solely for
12 delay or avoidance of penalties, may be assessed a civil penalty of not
13 more than seven thousand dollars for each day during which such failure
14 or violation continues.

15 (5) Any employer who violates any of the posting requirements of
16 this chapter, or any of the posting requirements of rules promulgated
17 by the department pursuant to this chapter related to employee or
18 employee representative's rights to notice, including but not limited
19 to those employee rights to notice set forth in RCW 49.17.080,
20 49.17.090, 49.17.120, 49.17.130, 49.17.220(1), and 49.17.240(2), shall
21 be assessed a penalty not to exceed seven thousand dollars for each
22 such violation. Any employer who violates any of the posting
23 requirements for the posting of informational, educational, or training
24 materials under the authority of RCW 49.17.050(7), may be assessed a
25 penalty not to exceed seven thousand dollars for each such violation.

26 (6) For the purposes of this section, a serious violation shall be
27 deemed to exist in a work place if there is a substantial probability
28 that death or serious physical harm could result from a condition which
29 exists, or from one or more practices, means, methods, operations, or
30 processes which have been adopted or are in use in such work place,
31 unless the employer did not, and could not with the exercise of
32 reasonable diligence, know of the presence of the violation.

33 (7) The director, or his or her authorized representatives, shall
34 have authority to assess all civil penalties provided in this section,
35 giving due consideration to the appropriateness of the penalty with
36 respect to the number of affected employees of the employer being
37 charged, the gravity of the violation, the size of the employer's

1 business, the good faith of the employer, and the history of previous
2 violations.

3 (8) Civil penalties imposed under this chapter shall be paid to the
4 director for deposit in the supplemental pension fund established by
5 RCW 51.44.033. Civil penalties may be recovered in a civil action in
6 the name of the department brought in the superior court of the county
7 where the violation is alleged to have occurred, or the department may
8 utilize the procedures for collection of civil penalties as set forth
9 in RCW 51.48.120 through 51.48.150.

10 **Sec. 12016.** RCW 49.17.190 and 1986 c 20 s 3 are each amended to
11 read as follows:

12 (1) Any person who gives advance notice of any inspection to be
13 conducted under the authority of this chapter, without the consent of
14 the director or his or her authorized representative, shall, upon
15 conviction be guilty of a gross misdemeanor and be punished by a fine
16 of not more than one thousand dollars or by imprisonment for not more
17 than six months, or by both.

18 (2) Whoever knowingly makes any false statement, representation, or
19 certification in any application, record, report, plan, or other
20 document filed or required to be maintained pursuant to this chapter
21 shall, upon conviction be guilty of a gross misdemeanor and be punished
22 by a fine of not more than ten thousand dollars, or by imprisonment for
23 not more than six months or by both.

24 (3) Any employer who wilfully and knowingly violates the
25 requirements of RCW 49.17.060, any safety or health standard
26 promulgated under this chapter, any existing rule or regulation
27 governing the safety or health conditions of employment and adopted by
28 the director, or any order issued granting a variance under RCW
29 49.17.080 or 49.17.090 and that violation caused death to any employee
30 shall, upon conviction be guilty of a gross misdemeanor and be punished
31 by a fine of not more than one hundred thousand dollars or by
32 imprisonment for not more than six months or by both; except, that if
33 the conviction is for a violation committed after a first conviction of
34 such person, punishment shall be a fine of not more than two hundred
35 thousand dollars or by imprisonment for not more than one year, or by
36 both.

1 (4) Any employer who has been issued an order immediately
2 restraining a condition, practice, method, process, or means in the
3 work place, pursuant to RCW 49.17.130 or 49.17.170, and who
4 nevertheless continues such condition, practice, method, process, or
5 means, or who continues to use a machine or equipment or part thereof
6 to which a notice prohibiting such use has been attached, shall be
7 guilty of a gross misdemeanor, and upon conviction shall be punished by
8 a fine of not more than ten thousand dollars or by imprisonment for not
9 more than six months, or by both.

10 (5) Any employer who shall knowingly remove, displace, damage, or
11 destroy, or cause to be removed, displaced, damaged, or destroyed any
12 safety device or safeguard required to be present and maintained by any
13 safety or health standard, rule, or order promulgated pursuant to this
14 chapter, or pursuant to the authority vested in the director under RCW
15 43.22.050 shall, upon conviction, be guilty of a misdemeanor and be
16 punished by a fine of not more than one thousand dollars or by
17 imprisonment for not more than ninety days, or by both.

18 (6) Whenever the director has reasonable cause to believe that any
19 provision of this section defining a crime has been violated by an
20 employer, the director shall cause a record of such alleged violation
21 to be prepared, a copy of which shall be referred to the prosecuting
22 attorney of the county wherein such alleged violation occurred, and the
23 prosecuting attorney of such county shall in writing advise the
24 director of the disposition he or she shall make of the alleged
25 violation.

26 **Sec. 12017.** RCW 49.17.200 and 1973 c 80 s 20 are each amended to
27 read as follows:

28 All information reported to or otherwise obtained by the director,
29 or his or her authorized representative, in connection with any
30 inspection or proceeding under the authority of this chapter, which
31 contains or which might reveal a trade secret shall be considered
32 confidential, except that such information may be disclosed to other
33 officers or employees concerned with carrying out this chapter, or when
34 relevant in any proceeding under this chapter. In any such proceeding
35 the director, the board of industrial insurance appeals, or the court
36 shall issue such orders as may be appropriate to protect the
37 confidentiality of trade secrets.

1 **Sec. 12018.** RCW 49.17.220 and 1973 c 80 s 22 are each amended to
2 read as follows:

3 (1) Each employer shall make, keep, and preserve, and make
4 available to the director such records regarding his or her activities
5 relating to this chapter as the director may prescribe by regulation as
6 necessary or appropriate for the enforcement of this chapter or for
7 developing information regarding the causes and prevention of
8 occupational accidents and illnesses. In order to carry out the
9 provisions of this section such regulations may include provisions
10 requiring employers to conduct periodic inspections. The director
11 shall also issue regulations requiring that employers, through posting
12 of notices or other appropriate means, keep their employees informed of
13 their protections and obligations under this chapter, including the
14 provisions of applicable safety and health standards.

15 (2) The director shall prescribe regulations requiring employers to
16 maintain accurate records, and to make periodic reports of work-related
17 deaths, and of injuries and illnesses other than minor injuries
18 requiring only first aid treatment and which do not involve medical
19 treatment, loss of consciousness, restriction of work or motion, or
20 transfer to another job.

21 (3) The director shall issue regulations requiring employers to
22 maintain accurate records of employee exposures to potentially toxic
23 materials or harmful physical agents which are required to be monitored
24 or measured. Such regulations shall provide employees or their
25 representatives with an opportunity to observe such monitoring or
26 measuring, and to have access to the records thereof. Such regulations
27 shall also make appropriate provisions for each employee or former
28 employee to have access to such records as will indicate his or her own
29 exposure to toxic materials or harmful physical agents. Each employer
30 shall promptly notify any employee who has been or is being exposed to
31 toxic materials or harmful physical agents in concentrations or at
32 levels which exceed those prescribed by any applicable safety and
33 health standard promulgated under this chapter and shall inform any
34 employee who is being thus exposed of the corrective action being
35 taken.

36 **Sec. 12019.** RCW 49.17.240 and 1973 c 80 s 24 are each amended to
37 read as follows:

1 (1) The director in the promulgation of rules under the authority
2 of this chapter shall establish safety and health standards for
3 conditions of employment of general and/or specific applicability for
4 all industries, businesses, occupations, crafts, trades, and
5 employments subject to the provisions of this chapter, or those that
6 are a national or accepted federal standard. In adopting safety and
7 health standards for conditions of employment, the director shall
8 solicit and give due regard to all recommendations by any employer,
9 employee, or labor representative of employees.

10 (2) Any safety and health standard adopted by rule of the director
11 shall, where appropriate, prescribe the use of labels or other forms of
12 warning to insure that employees are apprised of all hazards to which
13 they may be exposed, relevant symptoms, and appropriate emergency
14 treatment, and proper conditions and precautions of safe use or
15 exposure. Where appropriate, such rules shall so prescribe suitable
16 protective equipment and control or technological procedures to be used
17 in connection with such hazards and shall provide for monitoring or
18 measuring employee exposure at such locations and intervals, and in
19 such manner as may be reasonably necessary for the protection of
20 employees. In addition, where appropriate, any such rule shall
21 prescribe the type and frequency of medical examinations or other tests
22 which shall be made available, by the employer or at his or her cost,
23 to employees exposed to such hazards in order to most effectively
24 determine whether the health of such employees is adversely affected by
25 such exposure. In the event that such medical examinations are in the
26 nature of research, as determined by the director, such examinations
27 may be furnished at the expense of the department. The results of such
28 examinations or tests shall be furnished only to the director, other
29 appropriate agencies of government, and at the request of the employee
30 to his or her physician.

31 (3) Whenever the director adopts by rule any safety and health
32 standard he or she may at the same time provide by rule the effective
33 date of such standard which shall not be less than thirty days,
34 excepting emergency rules, but may be made effective at such time in
35 excess of thirty days from the date of adoption as specified in any
36 rule adopting a safety and health standard. Any rule not made
37 effective thirty days after adoption, having a delayed effectiveness in
38 excess of thirty days, may only be made upon a finding made by the

1 director that such delayed effectiveness of the rule is reasonably
2 necessary to afford the affected employers a reasonable opportunity to
3 make changes in methods, means, or practices to meet the requirements
4 of the adopted rule. Temporary orders granting a variance may be
5 utilized by the director in lieu of the delayed effectiveness in the
6 adoption of any rule.

7 **Sec. 12020.** RCW 49.17.260 and 1973 c 80 s 26 are each amended to
8 read as follows:

9 In furtherance of the objects and purposes of this chapter, the
10 director shall develop and maintain an effective program of collection,
11 compilation, and analysis of industrial safety and health statistics.
12 The director, or his or her authorized representative, shall
13 investigate and analyze industrial catastrophes, serious injuries, and
14 fatalities occurring in any work place subject to this chapter, in an
15 effort to ascertain whether such injury or fatality occurred as the
16 result of a violation of this chapter, or any safety and health
17 standard, rule, or order promulgated pursuant to this chapter, or if
18 not, whether a safety and health standard or rule should be promulgated
19 for application to such circumstances. The director shall adopt rules
20 relating to the conducting and reporting of such investigations. Such
21 investigative report shall be deemed confidential and only available
22 upon order of the superior court after notice to the director and an
23 opportunity for hearing: PROVIDED, That such investigative reports
24 shall be made available without the necessity of obtaining a court
25 order, to employees of governmental agencies in the performance of
26 their official duties, to the injured (~~(workman)~~) worker or his or her
27 legal representative or his or her labor organization representative,
28 or to the legal representative or labor organization representative of
29 a deceased (~~(workman)~~) worker who was the subject of an investigation,
30 or to the employer of the injured or deceased (~~(workman)~~) worker or any
31 other employer or person whose actions or business operation is the
32 subject of the report of investigation, or any attorney representing a
33 party in any pending legal action in which an investigative report
34 constitutes relevant and material evidence in such legal action.

35 **Sec. 12021.** RCW 49.24.020 and 1937 c 131 s 2 are each amended to
36 read as follows:

1 Every employer of persons for work in compressed air shall:

2 (1) Connect at least two air pipes with the working chamber and
3 keep such pipes in perfect working condition;

4 (2) Attach to the working chamber in accessible positions all
5 instruments necessary to show its pressure and keep such instruments in
6 charge of competent persons, with a period of duty for each such person
7 not exceeding six hours in any twenty-four;

8 (3) Place in each shaft a safe ladder extending its entire length;

9 (4) Light properly and keep clear such passageway;

10 (5) Provide independent lighting systems for the working chamber
11 and shaft leading to it, when electricity is used for lighting;

12 (6) Guard lights other than electric lights;

13 (7) Protect ((~~workmen~~)) workers by a shield erected in the working
14 chamber when such chamber is less than ten feet long and is suspended
15 with more than nine feet space between its deck and the bottom of the
16 excavation;

17 (8) Provide for and keep accessible to employees working in
18 compressed air a dressing room heated, lighted and ventilated properly
19 and supplied with benches, lockers, sanitary waterclosets, bathing
20 facilities, and hot and cold water;

21 (9) Establish and maintain a medical lock properly heated, lighted,
22 ventilated, and supplied with medicines and surgical implements, when
23 the maximum air pressure exceeds seventeen pounds.

24 **Sec. 12022.** RCW 49.24.040 and 1937 c 131 s 4 are each amended to
25 read as follows:

26 If an employee is a new employee, an absentee for ten or more
27 successive days, an employee who has worked in compressed air
28 continuously for three months or a beginner in compressed air who has
29 worked but a single ((~~shaft~~—[~~shift~~])) shift as required by RCW
30 49.24.050, the officer required by RCW 49.24.030(1) shall examine him
31 or her and declare him or her physically fit to work in compressed air
32 before permitting him or her to enter or reenter the working chamber.
33 Excessive users of intoxicants shall not be permitted to work in
34 compressed air.

35 **Sec. 12023.** RCW 49.24.180 and 1941 c 194 s 11 are each amended to
36 read as follows:

1 While work is in progress, the employer shall employ a competent
2 person who shall make a regular inspection at least once every working
3 day of all engines, boilers, steam pipes, drills, air pipes, air
4 gauges, air locks, dynamos, electric wiring, signaling apparatus,
5 brakes, cages, buckets, hoists, cables, ropes, timbers, supports, and
6 all other apparatus and appliances; and he or she shall immediately
7 upon discovery of any defect, report same in writing to the employer,
8 or his or her agent in charge.

9 **Sec. 12024.** RCW 49.24.190 and 1941 c 194 s 12 are each amended to
10 read as follows:

11 No employee shall ride on any loaded car, cage, or bucket, nor walk
12 up or down any incline or shaft while any car, cage, or bucket is above
13 him or her.

14 **Sec. 12025.** RCW 49.24.230 and 1941 c 194 s 16 are each amended to
15 read as follows:

16 When firing by electricity from power or lighting wires, a proper
17 switch shall be furnished with lever down when "off".

18 The switch shall be fixed in a locked box to which no person shall
19 have access except the blaster. There shall be provided flexible leads
20 or connecting wires not less than five feet in length with one end
21 attached to the incoming lines and the other end provided with plugs
22 that can be connected to an effective ground. After blasting, the
23 switch lever shall be pulled out, the wires disconnected and the box
24 locked before any person shall be allowed to return, and shall remain
25 so locked until again ready to blast.

26 In the working chamber all electric light wires shall be provided
27 with a disconnecting switch, which must be thrown to disconnect all
28 current from the wires in the working chamber before electric light
29 wires are removed or the charge exploded.

30 Before blasting, the blaster shall cause a sufficient warning to be
31 sounded and shall compel all persons to retreat to a safe shelter,
32 before he or she sets off the blast, and shall permit no one to return
33 until conditions are safe.

34 **Sec. 12026.** RCW 49.24.370 and 1941 c 194 s 32 are each amended to
35 read as follows:

1 The director of labor and industries shall establish such rules and
2 regulations as he or she deems primarily necessary for the safety of
3 the employees employed in tunnels, quarries, caissons, and subways and
4 shall be guided by the most modern published studies and researches
5 made by persons or institutions into the correction of the evils
6 chargeable to improper safeguards and inspection of the tools,
7 machinery, equipment, and places of work obtaining in the industries
8 covered by RCW 49.24.080 through 49.24.380.

9 **Sec. 12027.** RCW 49.26.010 and 1973 c 30 s 1 are each amended to
10 read as follows:

11 Airborne asbestos dust and particles, such as those from sprayed
12 asbestos slurry, asbestos-coated ventilating ducts, and certain other
13 applications of asbestos are known to produce irreversible lung damage
14 and bronchogenic carcinoma. One American of every four dying in urban
15 areas of the United States has asbestos particles or dust in his or her
16 lungs. The nature of this problem is such as to constitute a hazard to
17 the public health and safety, and should be brought under appropriate
18 regulation.

19 **Sec. 12028.** RCW 49.32.020 and 1933 ex.s. c 7 s 2 are each amended
20 to read as follows:

21 In the interpretation of this chapter and in determining the
22 jurisdiction and authority of the courts of the state of Washington, as
23 such jurisdiction and authority are herein defined and limited, the
24 public policy of the state of Washington is hereby declared as follows:

25 WHEREAS, Under prevailing economic conditions, developed with the
26 aid of governmental authority for owners of property to organize in the
27 corporate and other forms of ownership association, the individual
28 unorganized worker is commonly helpless to exercise actual liberty of
29 contract and to protect his or her freedom of labor, and thereby to
30 obtain acceptable terms and conditions of employment, wherefore, though
31 he or she should be free to decline to associate with his or her
32 fellows, it is necessary that he or she have full freedom of
33 association, self-organization, and designation of representatives of
34 his or her own choosing, to negotiate the terms and conditions of his
35 or her employment, and that he or she shall be free from interference,
36 restraint, or coercion of employers of labor, or their agents, in the

1 designation of such representatives or in self-organization or in other
2 concerted activities for the purpose of collective bargaining or other
3 mutual aid or protections; therefore, the following definitions of, and
4 limitations upon, the jurisdiction and authority of the courts of the
5 state of Washington are hereby enacted.

6 **Sec. 12029.** RCW 49.32.030 and 1933 ex.s. c 7 s 3 are each amended
7 to read as follows:

8 Any undertaking or promise, such as is described in this section,
9 or any other undertaking or promise in conflict with the public policy
10 declared in RCW 49.32.020, is hereby declared to be contrary to the
11 public policy of the state of Washington, shall not be enforceable in
12 any court of the state of Washington, and shall not afford any basis
13 for the granting of legal or equitable relief by any such court,
14 including specifically the following:

15 Every undertaking or promise hereafter made, whether written or
16 oral, express or implied, constituting or contained in any contract or
17 agreement of hiring or employment between any individual, firm,
18 company, association, or corporation and any employee or prospective
19 employee of the same, whereby(~~(—)~~):

20 (1) Either party to such contract or agreement undertakes or
21 promises not to join, become, or remain a member of any labor
22 organization or of any employer organization; or

23 (2) Either party to such contract or agreement undertakes or
24 promises that he or she will withdraw from an employment relation in
25 the event that he or she joins, becomes, or remains a member of any
26 labor organization or of any employer organization.

27 **Sec. 12030.** RCW 49.32.080 and 1971 c 81 s 116 are each amended to
28 read as follows:

29 Whenever any court of the state of Washington shall issue or deny
30 any temporary injunction in a case involving or growing out of a labor
31 dispute, the court shall, upon the request of any party to the
32 proceedings, and on his or her filing the usual bond for costs,
33 forthwith certify the entire record of the case, including a transcript
34 of the evidence taken, to the supreme court or the court of appeals for
35 its review. Upon the filing of such record in the supreme court or the
36 court of appeals, the appeal shall be heard and the temporary

1 injunctive order affirmed, modified, or set aside with the greatest
2 possible expedition, giving the proceedings precedence over all other
3 matters except older matters of the same character.

4 **Sec. 12031.** RCW 49.32.110 and 1933 ex.s. c 7 s 13 are each amended
5 to read as follows:

6 When used in this chapter, and for the purpose of this chapter((—
7))):

8 (1) A case shall be held to involve or to grow out of a labor
9 dispute when the case involves persons who are engaged in the same
10 industry, trade, or occupation; or have direct or indirect interests
11 therein; or who are employees of the same employer; or who are members
12 of the same or an affiliated organization of employers or employees;
13 whether such dispute is (a) between one or more employers or
14 associations of employers and one or more employees or associations of
15 employees; (b) between one or more employers or associations of
16 employers and one or more employers or association of employers; or (c)
17 between one or more employees or association of employees and one or
18 more employees or association of employees; or when the case involves
19 any conflicting or competing interests in a "labor dispute" (as
20 hereinafter defined) of "persons participating or interested" therein
21 (as hereinafter defined).

22 (2) A person or association shall be held to be a person
23 participating or interested in a labor dispute if relief is sought
24 against him or her or it, and if he or she or it is engaged in the same
25 industry, trade, craft, or occupation in which dispute occurs, or has
26 a direct or indirect interest therein or is a member, officer, or agent
27 of any association composed in whole or in part of employers or
28 employees engaged in such industry, trade, craft, or occupation.

29 (3) The term "labor dispute" includes any controversy concerning
30 terms or conditions of employment, or concerning the association or
31 representation of persons in negotiating, fixing, maintaining,
32 changing, or seeking to arrange terms or conditions of employment,
33 regardless of whether or not the disputants stand in the proximate
34 relation of employer and employee.

35 **Sec. 12032.** RCW 49.36.015 and 1919 c 185 s 2 are each amended to
36 read as follows:

1 No restraining order or injunction shall be granted by any court of
2 this state, or any judge or judges thereof in any case between an
3 employer and employee or between employer and employees or between
4 employees or between persons employed and persons seeking employment
5 involving or growing out of a dispute concerning terms or conditions of
6 employment, unless necessary to prevent irreparable damage to property
7 or to a personal right or to a property right of the party making the
8 application, for which injury there is no adequate remedy at law, and
9 such petition must be in writing describing such damage or injury
10 feared by the applicant, and sworn to by the applicant or his or her
11 agent or attorney. No such restraining order or injunction shall
12 prohibit any such person or persons, whether singly or in concert, from
13 terminating any relation of employment or from ceasing to perform any
14 work or labor; or from paying or giving to, or withholding from any
15 person engaged in such dispute, any strike benefits or other moneys or
16 things of value; or from doing any act or thing which might lawfully be
17 done in the absence of such dispute by any party thereto; nor shall any
18 of the acts specified in this section be considered or held to be
19 illegal or unlawful in any court of the state.

20 **Sec. 12033.** RCW 49.40.040 and 1919 c 191 s 4 are each amended to
21 read as follows:

22 Upon the written petition of either the employer or the employee
23 setting forth in ordinary and concise language the facts and questions
24 in dispute, the director of labor and industries shall, in person or by
25 his or her duly authorized deputy, and is hereby authorized to hear and
26 determine all disputes concerning wages earned at seasonal labor, and
27 allow or reject deductions made from such wages for moneys advanced or
28 supplies furnished before the wages are earned for money paid or
29 supplies furnished during the season or for money paid to third persons
30 upon the written order of the employee.

31 **Sec. 12034.** RCW 49.40.050 and 1919 c 191 s 5 are each amended to
32 read as follows:

33 Upon the filing of any such petition, the director of labor and
34 industries shall notify the other party to the dispute of the time and
35 place when and where such petition will be heard, and may set said
36 petition for a hearing before a regularly appointed deputy at such

1 place in the state as he or she shall determine is most convenient for
2 the parties, and the director or his or her deputy shall have power and
3 authority to issue subpoenas to compel the attendance of witnesses and
4 the production of books, papers, and records at such hearing, and to
5 administer oaths. Obedience to such subpoenas shall be enforced by the
6 courts of the county where such hearing is held.

7 **Sec. 12035.** RCW 49.40.060 and 1919 c 191 s 6 are each amended to
8 read as follows:

9 The director of labor and industries, or his or her deputy holding
10 the hearing shall, after such hearing, determine the amount due from
11 the employer to the employee, and shall make findings of fact and an
12 award in accordance therewith, which findings and award shall be filed
13 in the office of the director and a copy thereof served upon the
14 employer and upon the employee by registered mail directed to their
15 last known post office address.

16 **Sec. 12036.** RCW 49.44.020 and 1909 c 249 s 424 are each amended to
17 read as follows:

18 Every person who shall give, offer, or promise, directly or
19 indirectly, any compensation, gratuity, or reward to any duly
20 constituted representative of a labor organization, with intent to
21 influence him or her in respect to any of his or her acts, decisions or
22 other duties as such representative, or to induce him or her to prevent
23 or cause a strike by the employees of any person or corporation, shall
24 be guilty of a gross misdemeanor.

25 **Sec. 12037.** RCW 49.44.030 and 1909 c 249 s 425 are each amended to
26 read as follows:

27 Every person who, being the duly constituted representative of a
28 labor organization, shall ask or receive, directly or indirectly, any
29 compensation, gratuity, or reward, or any promise thereof, upon any
30 agreement or understanding that any of his or her acts, decisions, or
31 other duties as such representative, or any act to prevent or cause a
32 strike of the employees of any person or corporation shall be
33 influenced thereby, shall be guilty of a gross misdemeanor.

1 **Sec. 12038.** RCW 49.44.060 and 1909 c 249 s 426 are each amended to
2 read as follows:

3 Every person who shall give, offer, or promise, directly or
4 indirectly, any compensation, gratuity, or reward to any agent,
5 employee, or servant of any person or corporation, with intent to
6 influence his or her action in relation to his or her principal's,
7 employer's, or master's business, shall be guilty of a gross
8 misdemeanor.

9 **Sec. 12039.** RCW 49.44.080 and 1909 c 249 s 281 are each amended to
10 read as follows:

11 Every person who shall wilfully and maliciously, either alone or in
12 combination with others, break a contract of service or employment,
13 knowing or having reasonable cause to believe that the consequence of
14 his or her so doing will be to endanger human life or to cause grievous
15 bodily injury, or to expose valuable property to destruction or serious
16 injury, shall be guilty of a misdemeanor.

17 **Sec. 12040.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to
18 read as follows:

19 As used in this chapter:

20 (1) "Director" means the director of labor and industries;

21 (2) "Wage" means compensation due to an employee by reason of
22 employment, payable in legal tender of the United States or checks on
23 banks convertible into cash on demand at full face value, subject to
24 such deductions, charges, or allowances as may be permitted by rules of
25 the director;

26 (3) "Employ" includes to permit to work;

27 (4) "Employer" includes any individual, partnership, association,
28 corporation, business trust, or any person or group of persons acting
29 directly or indirectly in the interest of an employer in relation to an
30 employee;

31 (5) "Employee" includes any individual employed by an employer but
32 shall not include:

33 (a) Any individual (i) employed as a hand harvest laborer and paid
34 on a piece rate basis in an operation which has been, and is generally
35 and customarily recognized as having been, paid on a piece rate basis
36 in the region of employment; (ii) who commutes daily from his or her

1 permanent residence to the farm on which he or she is employed; and
2 (iii) who has been employed in agriculture less than thirteen weeks
3 during the preceding calendar year;

4 (b) Any individual employed in casual labor in or about a private
5 home, unless performed in the course of the employer's trade, business,
6 or profession;

7 (c) Any individual employed in a bona fide executive,
8 administrative, or professional capacity or in the capacity of outside
9 (~~salesman~~) salesperson as those terms are defined and delimited by
10 rules of the director. However, those terms shall be defined and
11 delimited by the director of personnel pursuant to chapter 41.06 RCW
12 for employees employed under the director of personnel's jurisdiction;

13 (d) Any individual engaged in the activities of an educational,
14 charitable, religious, state or local governmental body or agency, or
15 nonprofit organization where the employer-employee relationship does
16 not in fact exist or where the services are rendered to such
17 organizations gratuitously. If the individual receives reimbursement
18 in lieu of compensation for normally incurred out-of-pocket expenses or
19 receives a nominal amount of compensation per unit of voluntary service
20 rendered, an employer-employee relationship is deemed not to exist for
21 the purpose of this section or for purposes of membership or
22 qualification in any state, local government, or publicly supported
23 retirement system other than that provided under chapter 41.24 RCW;

24 (e) Any individual employed full time by any state or local
25 governmental body or agency who provides voluntary services but only
26 with regard to the provision of the voluntary services. The voluntary
27 services and any compensation therefor shall not affect or add to
28 qualification, entitlement, or benefit rights under any state, local
29 government, or publicly supported retirement system other than that
30 provided under chapter 41.24 RCW;

31 (f) Any newspaper vendor or carrier;

32 (g) Any carrier subject to regulation by Part 1 of the Interstate
33 Commerce Act;

34 (h) Any individual engaged in forest protection and fire prevention
35 activities;

36 (i) Any individual employed by any charitable institution charged
37 with child care responsibilities engaged primarily in the development

1 of character or citizenship or promoting health or physical fitness or
2 providing or sponsoring recreational opportunities or facilities for
3 young people or members of the armed forces of the United States;

4 (j) Any individual whose duties require that he or she reside or
5 sleep at the place of his or her employment or who otherwise spends a
6 substantial portion of his or her work time subject to call, and not
7 engaged in the performance of active duties;

8 (k) Any resident, inmate, or patient of a state, county, or
9 municipal correctional, detention, treatment or rehabilitative
10 institution;

11 (l) Any individual who holds a public elective or appointive office
12 of the state, any county, city, town, municipal corporation or quasi
13 municipal corporation, political subdivision, or any instrumentality
14 thereof, or any employee of the state legislature;

15 (m) All vessel operating crews of the Washington state ferries
16 operated by the department of transportation;

17 (n) Any individual employed as a seaman on a vessel other than an
18 American vessel;

19 (6) "Occupation" means any occupation, service, trade, business,
20 industry, or branch or group of industries or employment or class of
21 employment in which employees are gainfully employed;

22 (7) "Retail or service establishment" means an establishment
23 seventy-five percent of whose annual dollar volume of sales of goods or
24 services, or both, is not for resale and is recognized as retail sales
25 or services in the particular industry.

26 **Sec. 12041.** RCW 49.46.040 and 1959 c 294 s 4 are each amended to
27 read as follows:

28 (1) The director or his or her designated representatives may
29 investigate and gather data regarding the wages, hours, and other
30 conditions and practices of employment in any industry subject to this
31 chapter, and may enter and inspect such places and such records (and
32 make such transcriptions thereof), question such employees, and
33 investigate such facts, conditions, practices, or matters as he or she
34 may deem necessary or appropriate to determine whether any person has
35 violated any provision of this chapter, or which may aid in the
36 enforcement of the provisions of this chapter.

1 (2) With the consent and cooperation of federal agencies charged
2 with the administration of federal labor laws, the director may, for
3 the purpose of carrying out his or her functions and duties under this
4 chapter, utilize the services of federal agencies and their employees
5 and, notwithstanding any other provision of law, may reimburse such
6 federal agencies and their employees for services rendered for such
7 purposes.

8 (3) Every employer subject to any provision of this chapter or of
9 any order issued under this chapter shall make, keep, and preserve such
10 records of the persons employed by him or her and of the wages, hours,
11 and other conditions and practices of employment maintained by him or
12 her, and shall preserve such records for such periods of time, and
13 shall make reports therefrom to the director as he or she shall
14 prescribe by regulation as necessary or appropriate for the enforcement
15 of the provisions of this chapter or the regulations thereunder.

16 (4) The director is authorized to make such regulations regulating,
17 restricting, or prohibiting industrial homework as are necessary or
18 appropriate to prevent the circumvention or evasion of and to safeguard
19 the minimum wage rate prescribed in this chapter, and all existing
20 regulations of the director relating to industrial homework are hereby
21 continued in full force and effect.

22 **Sec. 12042.** RCW 49.46.070 and 1959 c 294 s 7 are each amended to
23 read as follows:

24 Every employer subject to any provision of this chapter or of any
25 regulation issued under this chapter shall make, and keep in or about
26 the premises wherein any employee is employed, a record of the name,
27 address, and occupation of each of his or her employees, the rate of
28 pay, and the amount paid each pay period to each such employee, the
29 hours worked each day and each work week by such employee, and such
30 other information as the director shall prescribe by regulation as
31 necessary or appropriate for the enforcement of the provisions of this
32 chapter or of the regulations thereunder. Such records shall be open
33 for inspection or transcription by the director or his or her
34 authorized representative at any reasonable time. Every such employer
35 shall furnish to the director or to his or her authorized
36 representative on demand a sworn statement of such records and
37 information upon forms prescribed or approved by the director.

1 **Sec. 12043.** RCW 49.46.090 and 1959 c 294 s 9 are each amended to
2 read as follows:

3 (1) Any employer who pays any employee less than wages to which
4 such employee is entitled under or by virtue of this chapter, shall be
5 liable to such employee affected for the full amount of such wage rate,
6 less any amount actually paid to such employee by the employer, and for
7 costs and such reasonable attorney's fees as may be allowed by the
8 court. Any agreement between such employee and the employer to work
9 for less than such wage rate shall be no defense to such action.

10 (2) At the written request of any employee paid less than the wages
11 to which he or she is entitled under or by virtue of this chapter, the
12 director may take an assignment under this chapter or as provided in
13 RCW 49.48.040 of such wage claim in trust for the assigning employee
14 and may bring any legal action necessary to collect such claim, and the
15 employer shall be required to pay the costs and such reasonable
16 attorney's fees as may be allowed by the court.

17 **Sec. 12044.** RCW 49.46.100 and 1959 c 294 s 10 are each amended to
18 read as follows:

19 (1) Any employer who hinders or delays the director or his or her
20 authorized representatives in the performance of his or her duties in
21 the enforcement of this chapter, or refuses to admit the director or
22 his or her authorized representatives to any place of employment, or
23 fails to make, keep, and preserve any records as required under the
24 provisions of this chapter, or falsifies any such record, or refuses to
25 make any record accessible to the director or his or her authorized
26 representatives upon demand, or refuses to furnish a sworn statement of
27 such record or any other information required for the proper
28 enforcement of this chapter to the director or his or her authorized
29 representatives upon demand, or pays or agrees to pay wages at a rate
30 less than the rate applicable under this chapter, or otherwise violates
31 any provision of this chapter or of any regulation issued under this
32 chapter shall be deemed in violation of this chapter and shall, upon
33 conviction therefor, be guilty of a gross misdemeanor.

34 (2) Any employer who discharges or in any other manner
35 discriminates against any employee because such employee has made any
36 complaint to his or her employer, to the director, or his or her
37 authorized representatives that he or she has not been paid wages in

1 accordance with the provisions of this chapter, or that the employer
2 has violated any provision of this chapter, or because such employee
3 has caused to be instituted or is about to cause to be instituted any
4 proceeding under or related to this chapter, or because such employee
5 has testified or is about to testify in any such proceeding shall be
6 deemed in violation of this chapter and shall, upon conviction
7 therefor, be guilty of a gross misdemeanor.

8 **Sec. 12045.** RCW 49.46.130 and 1998 c 239 s 2 are each amended to
9 read as follows:

10 (1) Except as otherwise provided in this section, no employer shall
11 employ any of his or her employees for a work week longer than forty
12 hours unless such employee receives compensation for his or her
13 employment in excess of the hours above specified at a rate not less
14 than one and one-half times the regular rate at which he or she is
15 employed.

16 (2) This section does not apply to:

17 (a) Any person exempted pursuant to RCW 49.46.010(5). The payment
18 of compensation or provision of compensatory time off in addition to a
19 salary shall not be a factor in determining whether a person is
20 exempted under RCW 49.46.010(5)(c);

21 (b) Employees who request compensating time off in lieu of overtime
22 pay;

23 (c) Any individual employed as a seaman whether or not the seaman
24 is employed on a vessel other than an American vessel;

25 (d) Seasonal employees who are employed at concessions and
26 recreational establishments at agricultural fairs, including those
27 seasonal employees employed by agricultural fairs, within the state
28 provided that the period of employment for any seasonal employee at any
29 or all agricultural fairs does not exceed fourteen working days a year;

30 (e) Any individual employed as a motion picture projectionist if
31 that employee is covered by a contract or collective bargaining
32 agreement which regulates hours of work and overtime pay;

33 (f) An individual employed as a truck or bus driver who is subject
34 to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101
35 et seq. and 49 U.S.C. Sec. 10101 et seq.), if the compensation system
36 under which the truck or bus driver is paid includes overtime pay,

1 reasonably equivalent to that required by this subsection, for working
2 longer than forty hours per week;

3 (g) Any individual employed (i) on a farm, in the employ of any
4 person, in connection with the cultivation of the soil, or in
5 connection with raising or harvesting any agricultural or horticultural
6 commodity, including raising, shearing, feeding, caring for, training,
7 and management of livestock, bees, poultry, and furbearing animals and
8 wildlife, or in the employ of the owner or tenant or other operator of
9 a farm in connection with the operation, management, conservation,
10 improvement, or maintenance of such farm and its tools and equipment;
11 or (ii) in packing, packaging, grading, storing or delivering to
12 storage, or to market or to a carrier for transportation to market, any
13 agricultural or horticultural commodity; or (iii) commercial canning,
14 commercial freezing, or any other commercial processing, or with
15 respect to services performed in connection with the cultivation,
16 raising, harvesting, and processing of oysters or in connection with
17 any agricultural or horticultural commodity after its delivery to a
18 terminal market for distribution for consumption;

19 (h) Any industry in which federal law provides for an overtime
20 payment based on a work week other than forty hours. However, the
21 provisions of the federal law regarding overtime payment based on a
22 work week other than forty hours shall nevertheless apply to employees
23 covered by this section without regard to the existence of actual
24 federal jurisdiction over the industrial activity of the particular
25 employer within this state. For the purposes of this subsection,
26 "industry" means a trade, business, industry, or other activity, or
27 branch, or group thereof, in which individuals are gainfully employed
28 (section 3(h) of the Fair Labor Standards Act of 1938, as amended
29 (Public Law 93-259));

30 (i) Any hours worked by an employee of a carrier by air subject to
31 the provisions of subchapter II of the Railway Labor Act (45 U.S.C.
32 Sec. 181 et seq.), when such hours are voluntarily worked by the
33 employee pursuant to a shift-trading practice under which the employee
34 has the opportunity in the same or in other work weeks to reduce hours
35 worked by voluntarily offering a shift for trade or reassignment.

36 (3) No employer shall be deemed to have violated subsection (1) of
37 this section by employing any employee of a retail or service

1 establishment for a work week in excess of the applicable work week
2 specified in subsection (1) of this section if:

3 (a) The regular rate of pay of the employee is in excess of one and
4 one-half times the minimum hourly rate required under RCW 49.46.020;
5 and

6 (b) More than half of the employee's compensation for a
7 representative period, of not less than one month, represents
8 commissions on goods or services.

9 In determining the proportion of compensation representing
10 commissions, all earnings resulting from the application of a bona fide
11 commission rate is to be deemed commissions on goods or services
12 without regard to whether the computed commissions exceed the draw or
13 guarantee.

14 (4) No employer of commissioned salespeople primarily engaged in
15 the business of selling automobiles, trucks, recreational vessels,
16 recreational vessel trailers, recreational vehicle trailers,
17 recreational campers, manufactured housing, or farm implements to
18 ultimate purchasers shall violate subsection (1) of this section with
19 respect to such commissioned salespeople if the commissioned
20 salespeople are paid the greater of:

21 (a) Compensation at the hourly rate, which may not be less than the
22 rate required under RCW 49.46.020, for each hour worked up to forty
23 hours per week, and compensation of one and one-half times that hourly
24 rate for all hours worked over forty hours in one week; or

25 (b) A straight commission, a salary plus commission, or a salary
26 plus bonus applied to gross salary.

27 (5) No public agency shall be deemed to have violated subsection
28 (1) of this section with respect to the employment of any employee in
29 fire protection activities or any employee in law enforcement
30 activities (including security personnel in correctional institutions)
31 if: (a) In a work period of twenty-eight consecutive days the employee
32 receives for tours of duty which in the aggregate exceed two hundred
33 forty hours; or (b) in the case of such an employee to whom a work
34 period of at least seven but less than twenty-eight days applies, in
35 his or her work period the employee receives for tours of duty which in
36 the aggregate exceed a number of hours which bears the same ratio to
37 the number of consecutive days in his or her work period as two hundred

1 forty hours bears to twenty-eight days; compensation at a rate not less
2 than one and one-half times the regular rate at which he or she is
3 employed.

4 **Sec. 12046.** RCW 49.46.160 and 2007 c 390 s 1 are each amended to
5 read as follows:

6 (1) An employer that imposes an automatic service charge related to
7 food, beverages, entertainment, or portorage provided to a customer
8 must disclose in an itemized receipt and in any menu provided to the
9 customer the percentage of the automatic service charge that is paid or
10 is payable directly to the employee or employees serving the customer.

11 (2) For purposes of this section:

12 (a) "Employee" means nonmanagerial, nonsupervisory workers,
13 including but not limited to servers, busers, banquet ((houseman))
14 attendant, banquet captains, bartenders, barbacks, and porters.

15 (b) "Employer" means employers as defined in RCW 49.46.010 that
16 provide food, beverages, entertainment, or portorage, including but not
17 limited to restaurants, catering houses, convention centers, and
18 overnight accommodations.

19 (c) "Service charge" means a separately designated amount collected
20 by employers from customers that is for services provided by employees,
21 or is described in such a way that customers might reasonably believe
22 that the amounts are for such services. Service charges include but
23 are not limited to charges designated on receipts as a "service
24 charge," "gratuity," "delivery charge," or "portorage charge." Service
25 charges are in addition to hourly wages paid or payable to the employee
26 or employees serving the customer.

27 **Sec. 12047.** RCW 49.48.010 and 1971 ex.s. c 55 s 1 are each amended
28 to read as follows:

29 When any employee shall cease to work for an employer, whether by
30 discharge or by voluntary withdrawal, the wages due him or her on
31 account of his or her employment shall be paid to him or her at the end
32 of the established pay period: PROVIDED, HOWEVER, That this paragraph
33 shall not apply when workers are engaged in an employment that normally
34 involves working for several employers in the same industry
35 interchangeably, and the several employers or some of them cooperate to
36 establish a plan for the weekly payment of wages at a central place or

1 places and in accordance with a unified schedule of paydays providing
2 for at least one payday each week; but this subsection shall not apply
3 to any such plan until ten days after notice of their intention to set
4 up such a plan shall have been given to the director of labor and
5 industries by the employers who cooperate to establish the plan; and
6 having once been established, no such plan can be abandoned except
7 after notice of their intention to abandon such plan has been given to
8 the director of labor and industries by the employers intending to
9 abandon the plan: PROVIDED FURTHER, That the duty to pay an employee
10 forthwith shall not apply if the labor-management agreement under which
11 the employee has been employed provides otherwise.

12 It shall be unlawful for any employer to withhold or divert any
13 portion of an employee's wages unless the deduction is:

14 (1) Required by state or federal law; or

15 (2) Specifically agreed upon orally or in writing by the employee
16 and employer; or

17 (3) For medical, surgical, or hospital care or service, pursuant to
18 any rule or regulation: PROVIDED, HOWEVER, That the deduction is
19 openly, clearly, and in due course recorded in the employer's books and
20 records.

21 Paragraph three of this section shall not be construed to affect
22 the right of any employer or former employer to sue upon or collect any
23 debt owed to said employer or former employer by his or her employees
24 or former employees.

25 **Sec. 12048.** RCW 49.48.030 and 1971 ex.s. c 55 s 3 are each amended
26 to read as follows:

27 In any action in which any person is successful in recovering
28 judgment for wages or salary owed to him or her, reasonable attorney's
29 fees, in an amount to be determined by the court, shall be assessed
30 against said employer or former employer: PROVIDED, HOWEVER, That this
31 section shall not apply if the amount of recovery is less than or equal
32 to the amount admitted by the employer to be owing for said wages or
33 salary.

34 **Sec. 12049.** RCW 49.48.050 and 1935 c 96 s 2 are each amended to
35 read as follows:

36 Nothing herein contained shall be construed to limit the authority

1 of the prosecuting attorney of any county to prosecute actions, both
2 civil and criminal, for such violations of RCW 49.48.040 through
3 49.48.080 as may come to his or her knowledge, or to enforce the
4 provisions hereof independently and without specific direction of the
5 director of labor and industries.

6 **Sec. 12050.** RCW 49.48.060 and 1971 ex.s. c 55 s 4 are each amended
7 to read as follows:

8 (1) If upon investigation by the director, after taking assignments
9 of any wage claim under RCW 49.48.040, it appears to the director that
10 the employer is representing to his or her employees that he or she is
11 able to pay wages for their services and that the employees are not
12 being paid for their services, the director may require the employer to
13 give a bond in such sum as the director deems reasonable and adequate
14 in the circumstances, with sufficient surety, conditioned that the
15 employer will for a definite future period not exceeding six months
16 conduct his or her business and pay his or her employees in accordance
17 with the laws of the state of Washington.

18 (2) If within ten days after demand for such bond the employer
19 fails to provide the same, the director may commence a suit against the
20 employer in the superior court of appropriate jurisdiction to compel
21 him or her to furnish such bond or cease doing business until he or she
22 has done so. The employer shall have the burden of proving the amount
23 thereof to be excessive.

24 (3) If the court finds that there is just cause for requiring such
25 bond and that the same is reasonable, necessary, or appropriate to
26 secure the prompt payment of the wages of the employees of such
27 employer and his or her compliance with RCW 49.48.010 through
28 49.48.080, the court shall enjoin such employer from doing business in
29 this state until the requirement is met, or shall make other, and may
30 make further, orders appropriate to compel compliance with the
31 requirement.

32 Upon being informed of a wage claim against an employer or former
33 employer, the director shall, if such claim appears to be just,
34 immediately notify the employer or former employer, of such claim by
35 mail. If the employer or former employer fails to pay the claim or
36 make satisfactory explanation to the director of his or her failure to
37 do so, within thirty days thereafter, the employer or former employer

1 shall be liable to a penalty of ten percent of that portion of the
2 claim found to be justly due. The director shall have a cause of
3 action against the employer or former employer for the recovery of such
4 penalty, and the same may be included in any subsequent action by the
5 director on said wage claim, or may be exercised separately after
6 adjustment of such wage claim without court action.

7 **Sec. 12051.** RCW 49.48.090 and 1909 c 32 s 1 are each amended to
8 read as follows:

9 No assignment of, or order for, wages to be earned in the future to
10 secure a loan of less than three hundred dollars, shall be valid
11 against an employer of the person making said assignment or order
12 unless said assignment or order is accepted in writing by the employer,
13 and said assignment or order, and the acceptance of the same, have been
14 filed and recorded with the county auditor of the county where the
15 party making said assignment or order resides, if a resident of the
16 state, or in which he or she is employed, if not a resident of the
17 state.

18 **Sec. 12052.** RCW 49.48.150 and 1992 c 177 s 1 are each amended to
19 read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout RCW 49.48.160 through 49.48.190.

22 (1) "Commission" means compensation paid a sales representative by
23 a principal in an amount based on a percentage of the dollar amount of
24 certain orders for or sales of the principal's product.

25 (2) "Principal" means a person, whether or not the person has a
26 permanent or fixed place of business in this state, who:

27 (a) Manufactures, produces, imports, or distributes a product for
28 sale to customers who purchase the product for resale;

29 (b) Uses a sales representative to solicit orders for the product;
30 and

31 (c) Compensates the sales representative in whole or in part by
32 commission.

33 (3) "Sales representative" means a person who solicits, on behalf
34 of a principal, orders for the purchase at wholesale of the principal's
35 product, but does not include a person who places orders for his or her

1 own account for resale, or purchases for his or her own account for
2 resale, or sells or takes orders for the direct sale of products to the
3 ultimate consumer.

4 **Sec. 12053.** RCW 49.52.010 and 1975 c 34 s 1 are each amended to
5 read as follows:

6 All moneys collected by any employer from his or her or its
7 employees and all money to be paid by any employer as his or her
8 contribution for furnishing, either directly, or through contract, or
9 arrangement with a hospital association, corporation, firm, or
10 individual, of medicine, medical or surgical treatment, nursing,
11 hospital service, ambulance service, dental service, burial service, or
12 any or all of the above enumerated services, or any other necessary
13 service, contingent upon sickness, accident, or death, are hereby
14 declared to be a trust fund for the purposes for which the same are
15 collected. The trustees (or their administrator, representative, or
16 agent under direction of the trustees) of such fund are authorized to
17 take such action as is deemed necessary to ensure that the employer
18 contributions are made including, but not limited to filing actions at
19 law, and filing liens against moneys due to the employer from the
20 performance of labor or furnishing of materials to which the employees
21 contributed their services. Such trust fund is subject to the
22 provisions of chapter 48.52 RCW.

23 **Sec. 12054.** RCW 49.52.020 and 1975 c 34 s 2 are each amended to
24 read as follows:

25 In case any employer collecting moneys from his or her employees or
26 making contributions to any type of benefit plan for any or all of the
27 purposes specified in RCW 49.52.010, shall enter into a contract or
28 arrangement with any hospital association, corporation, firm, or
29 individual, to furnish any such service to its employees, the
30 association, corporation, firm, or individual contracting to furnish
31 such services, shall have a lien upon such trust fund prior to all
32 other liens except taxes. The lien hereby created shall attach from
33 the date of the arrangement or contract to furnish such services and
34 may be foreclosed in the manner provided by law for the foreclosure of
35 other liens on personal property.

1 **Sec. 12055.** RCW 49.52.050 and 1941 c 72 s 1 are each amended to
2 read as follows:

3 Any employer or officer, vice principal or agent of any employer,
4 whether said employer be in private business or an elected public
5 official, who

6 (1) Shall collect or receive from any employee a rebate of any part
7 of wages theretofore paid by such employer to such employee; or

8 (2) Wilfully and with intent to deprive the employee of any part of
9 his or her wages, shall pay any employee a lower wage than the wage
10 such employer is obligated to pay such employee by any statute,
11 ordinance, or contract; or

12 (3) Shall wilfully make or cause another to make any false entry in
13 any employer's books or records purporting to show the payment of more
14 wages to an employee than such employee received; or

15 (4) Being an employer or a person charged with the duty of keeping
16 any employer's books or records shall wilfully fail or cause another to
17 fail to show openly and clearly in due course in such employer's books
18 and records any rebate of or deduction from any employee's wages; or

19 (5) Shall wilfully receive or accept from any employee any false
20 receipt for wages;

21 Shall be guilty of a misdemeanor.

22 **Sec. 12056.** RCW 49.52.070 and 1939 c 195 s 3 are each amended to
23 read as follows:

24 Any employer and any officer, vice principal or agent of any
25 employer who shall violate any of the provisions of (~~subdivisions (1)~~
26 ~~and (2) of~~) RCW 49.52.050 (1) and (2) shall be liable in a civil
27 action by the aggrieved employee or his or her assignee to judgment for
28 twice the amount of the wages unlawfully rebated or withheld by way of
29 exemplary damages, together with costs of suit and a reasonable sum for
30 attorney's fees: PROVIDED, HOWEVER, That the benefits of this section
31 shall not be available to any employee who has knowingly submitted to
32 such violations.

33 **Sec. 12057.** RCW 49.52.090 and 1935 c 29 s 1 are each amended to
34 read as follows:

35 Every person, whether as a representative of an awarding or public
36 body or officer, or as a contractor or subcontractor doing public work,

1 or agent or officer thereof, who takes or receives, or conspires with
2 another to take or receive, for his or her own use or the use of any
3 other person acting with him or her any part or portion of the wages
4 paid to any laborer, (~~workman~~) worker, or mechanic, including a piece
5 worker and working subcontractor, in connection with services rendered
6 upon any public work within this state, whether such work is done
7 directly for the state, or public body or officer thereof, or county,
8 city and county, city, town, township, district or other political
9 subdivision of the said state or for any contractor or subcontractor
10 engaged in such public work for such an awarding or public body or
11 officer, shall be guilty of a gross misdemeanor.

12 **Sec. 12058.** RCW 49.56.010 and Code 1881 s 1972 are each amended to
13 read as follows:

14 In all assignments of property made by any person to trustees or
15 assignees on account of the inability of the person at the time of the
16 assignment to pay his or her debts, or in proceedings in insolvency,
17 the wages of the miners, mechanics, (~~salesmen~~) salespersons,
18 servants, clerks, or laborers employed by such persons to the amount of
19 one hundred dollars, each, and for services rendered within sixty days
20 previously, are preferred claims, and must be paid by such trustees or
21 assignees before any other creditor or creditors of the assignor.

22 **Sec. 12059.** RCW 49.56.020 and Code 1881 s 1973 are each amended to
23 read as follows:

24 In case of the death of any employer, the wages of each miner,
25 mechanic, (~~salesman~~) salesperson, clerk, servant, and laborer for
26 services rendered within sixty days next preceding the death of the
27 employer, not exceeding one hundred dollars, rank in priority next
28 after the funeral expenses, expenses of the last sickness, the charges
29 and expenses of administering upon the estate and the allowance to the
30 widow and infant children, and must be paid before other claims against
31 the estate of the deceased person.

32 **Sec. 12060.** RCW 49.56.030 and Code 1881 s 1974 are each amended to
33 read as follows:

34 In cases of executions, attachments, and writs of similar nature
35 issued against any person, except for claims for labor done, any

1 miners, mechanics, (~~salesmen~~) salespersons, servants, clerks, and
2 laborers who have claims against the defendant for labor done, may give
3 notice of their claims and the amount thereof, sworn to by the person
4 making the claim to the creditor and the officer executing either of
5 such writs at any time before the actual sale of property levied on,
6 and unless such claim is disputed by the debtor or a creditor, such
7 officer must pay to such person out of the proceeds of the sale, the
8 amount each is entitled to receive for services rendered within sixty
9 days next preceding the levy of the writ, not exceeding one hundred
10 dollars. If any or all the claims so presented and claiming preference
11 under this chapter, are disputed by either the debtor or a creditor,
12 the person presenting the same must commence an action within ten days
13 from the recovery thereof, and must prosecute his or her action with
14 due diligence, or be forever barred from any claim of priority of
15 payment thereof; and the officer shall retain possession of so much of
16 the proceeds of the sale as may be necessary to satisfy such claim,
17 until the determination of such action; and in case judgment be had for
18 the claim or any part thereof, carrying costs, the costs taxable
19 therein shall likewise be a preferred claim with the same rank as the
20 original claim.

21 **Sec. 12061.** RCW 49.64.030 and 1953 c 45 s 1 are each amended to
22 read as follows:

23 Notwithstanding the provisions of RCW 26.16.030, whenever payment
24 or refund is made to an employee, former employee, or his or her
25 beneficiary or estate pursuant to and in full compliance with a written
26 retirement, death, or other employee benefit plan or savings plan, such
27 payment or refund shall fully discharge the employer and any trustee or
28 insurance company making such payment or refund from all adverse claims
29 thereto unless, before such payment or refund is made, the employer or
30 former employer, where the payment is made by the employer or former
31 employer, has received at its principal place of business within this
32 state, written notice by or on behalf of some other person that such
33 other person claims to be entitled to such payment or refund or some
34 part thereof, or where a trustee or insurance company is making the
35 payment, such notice has been received by the trustee or insurance
36 company at its home office or its principal place of business within
37 this state, and if none, such notice may be made on the secretary of

1 state: PROVIDED, HOWEVER, That nothing contained in this section shall
2 affect any claim or right to any such payment or refund or part thereof
3 as between all persons other than employer and the trustee or insurance
4 company making such payment or refund.

5 **Sec. 12062.** RCW 49.66.030 and 1973 2nd ex.s. c 3 s 3 are each
6 amended to read as follows:

7 An employee association shall be deemed the properly designated
8 representative of a bargaining unit when it can show evidence that
9 bargaining rights have been assigned to it by a majority of the
10 employees in the bargaining unit. Should questions arise concerning
11 the representative status of any employee organization claiming to
12 represent a bargaining unit of employees, upon petition by such an
13 organization, it shall be the duty of the director, acting by himself
14 or herself or through a designee to investigate and determine the
15 composition of the organization. Any organization found authorized by
16 not less than thirty percent of the employees of a bargaining unit
17 shall be eligible to apply for an election to determine its rights to
18 represent the unit. If more than one organization shall claim to
19 represent any unit, the director, or his or her designee, may conduct
20 an election by secret ballot to determine which organization shall be
21 authorized to represent the unit. In order to be certified as a
22 bargaining representative, an employee organization must receive, in a
23 secret ballot election, votes from a majority of the employees who vote
24 in the election, except that nothing in this section shall prohibit the
25 voluntary recognition of a labor organization as a bargaining
26 representative by an employer upon a showing of reasonable proof of
27 majority. In any election held pursuant to this section, there shall
28 be a choice on the ballot for employees to designate that they do not
29 wish to be represented by any bargaining representative. No
30 representation election shall be directed in any bargaining unit or any
31 subdivision thereof within which, in the preceding twelve-month period,
32 a valid election has been held. Thirty percent of the employees of an
33 employer may file a petition for a secret ballot election to ascertain
34 whether the employee organization which has been certified or is
35 currently recognized by their employer as their bargaining
36 representative is no longer their bargaining representative.

1 No employee organization shall be certified as the representative
2 of employees in a bargaining unit of guards, if such organization
3 admits to membership, or is affiliated directly or indirectly with an
4 organization which admits to membership, employees other than guards.
5 The determination shall be based upon a plurality of votes cast in such
6 election, and shall remain in effect for a period of not less than one
7 year. In determining appropriate bargaining units, the director shall
8 limit such units to groups consisting of registered nurses, licensed
9 practical nurses or service personnel: PROVIDED, HOWEVER, That if a
10 majority of each such classification desires inclusion within a single
11 bargaining unit, they may combine into a single unit.

12 **Sec. 12063.** RCW 49.66.050 and 1973 2nd ex.s. c 3 s 4 are each
13 amended to read as follows:

14 It shall be an unfair labor practice and unlawful, for any employee
15 organization or its agent to:

16 (1) Restrain or coerce (a) employees in the exercise of their right
17 to refrain from self-organization, or (b) an employer in the selection
18 of its representatives for purposes of collective bargaining or the
19 adjustment of grievances;

20 (2) Cause or attempt to cause an employer to discriminate against
21 an employee in violation of (~~subsection (3) of~~) RCW 49.66.040(3) or
22 to discriminate against an employee with respect to whom membership in
23 such organization has been denied or terminated on some ground other
24 than his or her failure to tender the periodic dues and initiation fees
25 uniformly required as a condition of acquiring or retaining membership;

26 (3) Refuse to meet and bargain in good faith with an employer,
27 provided it is the duly designated representative of the employer's
28 employees for purposes of collective bargaining;

29 (4) Require of employees covered by a union security agreement the
30 payment, as a condition precedent to becoming a member of such
31 organization, of a fee in an amount which the director finds excessive
32 or discriminatory under all the circumstances. In making such a
33 finding, the director shall consider, among other relevant factors, the
34 practices and customs of labor organizations in the particular
35 industry, and the wages currently paid to the employees affected;

36 (5) Cause or attempt to cause an employer to pay or deliver or

1 agree to pay or deliver any money or other thing of value, in the
2 nature of an exaction, for services which are not performed or not to
3 be performed;

4 (6) Enter into any contract or agreement, express or implied,
5 whereby an employer or other person ceases or refrains, or agrees to
6 cease or refrain, from handling, using, selling, transporting, or
7 otherwise dealing in any of the products or services of any other
8 employer or person, or to cease doing business with any other employer
9 or person, and any such contract or agreement shall be unenforceable
10 and void; or

11 (7) Engage in, or induce or encourage any individual employed by
12 any employer or to engage in, an activity prohibited by RCW 49.66.060.

13 **Sec. 12064.** RCW 49.66.060 and 1972 ex.s. c 156 s 6 are each
14 amended to read as follows:

15 No employee organization, bargaining representative, person, or
16 employee shall authorize, sanction, engage in, or participate in a
17 strike (including but not limited to a concerted work stoppage of any
18 kind, concerted slowdown or concerted refusal or failure to report for
19 work or perform work) or picketing against an employer under any
20 circumstances, whether arising out of a recognition dispute, bargaining
21 impasse, or otherwise: PROVIDED, That nothing in this section shall
22 prohibit picketing or other publicity for the sole purpose of
23 truthfully advising the public of the existence of a dispute with the
24 employer, unless an effect of such picketing or other publicity is (a)
25 to induce any employee of the employer or any other individual, in the
26 course of his or her employment, not to pick up, deliver, or transfer
27 goods, not to enter the employer's premises, or not to perform
28 services; or (b) to induce such an employee or individual to engage in
29 a strike.

30 **Sec. 12065.** RCW 49.66.080 and 1973 2nd ex.s. c 3 s 6 are each
31 amended to read as follows:

32 The director shall have the power to make such rules and
33 regulations not inconsistent with this chapter, including the
34 establishment of procedures for the hearing and determination of
35 charges alleging unfair labor practices, and for a determination on

1 application by either party when an impasse has arisen, and as he or
2 she shall determine are necessary to effectuate its purpose and to
3 enable him or her to carry out its provisions.

4 **Sec. 12066.** RCW 49.66.090 and 2005 c 433 s 44 are each amended to
5 read as follows:

6 In the event that a health care activity and an employees'
7 bargaining unit shall reach an impasse, the matters in dispute shall be
8 submitted to a board of arbitration composed of three arbitrators for
9 final and binding resolution. The board shall be selected in the
10 following manner: Within ten days, the employer shall appoint one
11 arbitrator and the employees shall appoint one arbitrator. The two
12 arbitrators so selected and named shall within ten days agree upon and
13 select the name of a third arbitrator who shall act as ((~~chairman~~))
14 chair. If, upon the expiration of the period allowed therefor the
15 arbitrators are unable to agree on the selection of a third arbitrator,
16 such arbitrator shall be appointed at the request of either party in
17 accordance with RCW 7.04A.110, and that person shall act as chair of
18 the arbitration board.

19 **Sec. 12067.** RCW 49.66.100 and 1972 ex.s. c 156 s 10 are each
20 amended to read as follows:

21 The arbitration board, acting through its ((~~chairman~~)) chair, shall
22 call a hearing to be held within ten days after the date of the
23 appointment of the ((~~chairman~~)) chair. The board shall conduct public
24 or private hearings. Reasonable notice of such hearings shall be given
25 to the parties who shall appear and be heard either in person or by
26 counsel or other representative. Hearings shall be informal and the
27 rules of evidence prevailing in judicial proceedings shall not be
28 binding. A recording of the proceedings shall be taken. Any oral or
29 documentary evidence and other data deemed relevant by the board may be
30 received in evidence. The board shall have the power to administer
31 oaths, require the attendance of witnesses, and the production of such
32 books, papers, contracts, agreements, and documents as may be deemed by
33 the board material to a just determination of the issues in dispute and
34 to issue subpoenas. If any person refuses to obey such subpoena or
35 refuses to be sworn to testify, or any witness, party, or attorney is
36 guilty of any contempt while in attendance at any hearing held

1 hereunder, the board may invoke the jurisdiction of any superior court
2 and such court shall have jurisdiction to issue an appropriate order.
3 A failure to obey such order may be punished by the court as a contempt
4 thereof. The hearing conducted by the arbitrators shall be concluded
5 within twenty days of the time of commencement and, within ten days
6 after conclusion of the hearings, the arbitrator shall make written
7 findings and a written opinion upon the issues presented, a copy of
8 which shall be mailed or otherwise delivered to the employees'
9 negotiating agent or its attorney or other designated representative
10 and to the employer or the employer's attorney or designated
11 representative. The determination of the dispute made by the board
12 shall be final and binding upon both parties.

13 **Sec. 12068.** RCW 49.70.170 and 2004 c 276 s 911 are each amended to
14 read as follows:

15 (1) The worker and community right to know fund is hereby
16 established in the custody of the state treasurer. The department
17 shall deposit all moneys received under this chapter in the fund.
18 Moneys in the fund may be spent only for the purposes of this chapter
19 following legislative appropriation. Disbursements from the fund shall
20 be on authorization of the director or the director's designee. During
21 the 2003-2005 fiscal biennium, moneys in the fund may also be used by
22 the military department for the purpose of assisting the state
23 emergency response commission and coordinating local emergency planning
24 activities. The fund is subject to the allotment procedure provided
25 under chapter 43.88 RCW.

26 (2) The department shall assess each employer who reported ten
27 thousand four hundred or more worker hours in the prior calendar year
28 an annual fee to provide for the implementation of this chapter. The
29 department shall promulgate rules establishing a fee schedule for all
30 employers who reported ten thousand four hundred or more worker hours
31 in the prior calendar year and are engaged in business operations
32 having a standard industrial classification, as designated in the
33 standard industrial classification manual prepared by the federal
34 office of management and budget, within major group numbers 01 through
35 08 (agriculture and forestry industries), numbers 10 through 14 (mining
36 industries), numbers 15 through 17 (construction industries), numbers
37 20 through 39 (manufacturing industries), numbers 41, 42, and 44

1 through 49 (transportation, communications, electric, gas, and sanitary
2 services), number 75 (automotive repair, services, and garages), number
3 76 (miscellaneous repair services), number 80 (health services), and
4 number 82 (educational services). The department shall establish the
5 annual fee for each employer who reported ten thousand four hundred or
6 more worker hours in the prior calendar year in industries identified
7 by this section, provided that fees assessed shall not be more than two
8 dollars and fifty cents per full time equivalent employee. The annual
9 fee shall not exceed fifty thousand dollars. The fees shall be
10 collected solely from employers whose industries have been identified
11 by rule under this chapter. The department shall promulgate rules
12 allowing employers who do not have hazardous substances at their
13 workplace to request an exemption from the assessment and shall
14 establish penalties for fraudulent exemption requests. All fees
15 collected by the department pursuant to this section shall be collected
16 in a cost-efficient manner and shall be deposited in the fund.

17 (3) Records required by this chapter shall at all times be open to
18 the inspection of the director, or his or her designee including, the
19 traveling auditors, agents, or assistants of the department provided
20 for in RCW 51.16.070 and 51.48.040. The information obtained from
21 employer records under the provisions of this section shall be subject
22 to the same confidentiality requirements as set forth in RCW 51.16.070.

23 (4) An employer may appeal the assessment of the fee or penalties
24 pursuant to the procedures set forth in Title 51 RCW and accompanying
25 rules except that the employer shall not have the right of appeal to
26 superior court as provided in Title 51 RCW. The employer from whom the
27 fee or penalty is demanded or enforced, may however, within thirty days
28 of the board of industrial insurance appeal's final order, pay the fee
29 or penalty under written protest setting forth all the grounds upon
30 which such fee or penalty is claimed to be unlawful, excessive, or
31 otherwise improper and thereafter bring an action in superior court
32 against the department to recover such fee or penalty or any portion of
33 the fee or penalty which was paid under protest.

34 (5) Repayment shall be made to the general fund of any moneys
35 appropriated by law in order to implement this chapter.

36

PART XIII

1 **Sec. 13001.** RCW 50.01.010 and 2005 c 133 s 2 are each amended to
2 read as follows:

3 Whereas, economic insecurity due to unemployment is a serious
4 menace to the health, morals, and welfare of the people of this state;
5 involuntary unemployment is, therefore, a subject of general interest
6 and concern which requires appropriate action by the legislature to
7 prevent its spread and to lighten its burden which now so often falls
8 with crushing force upon the unemployed worker and his or her family.
9 Social security requires protection against this greatest hazard of our
10 economic life. This can be provided only by application of the
11 insurance principle of sharing the risks, and by the systematic
12 accumulation of funds during periods of employment to provide benefits
13 for periods of unemployment, thus maintaining purchasing powers and
14 limiting the serious social consequences of relief assistance. The
15 state of Washington, therefore, exercising herein its police and
16 sovereign power endeavors by this title to remedy any widespread
17 unemployment situation which may occur and to set up safeguards to
18 prevent its recurrence in the years to come. The legislature,
19 therefore, declares that in its considered judgment the public good,
20 and the general welfare of the citizens of this state require the
21 enactment of this measure, under the police powers of the state, for
22 the compulsory setting aside of unemployment reserves to be used for
23 the benefit of persons unemployed through no fault of their own, and
24 that this title shall be liberally construed for the purpose of
25 reducing involuntary unemployment and the suffering caused thereby to
26 the minimum.

27 **Sec. 13002.** RCW 50.04.040 and 1945 c 35 s 5 are each amended to
28 read as follows:

29 "Benefits" means the compensation payable to an individual, as
30 provided in this title, with respect to his or her unemployment.

31 **Sec. 13003.** RCW 50.04.230 and 1991 c 246 s 7 are each amended to
32 read as follows:

33 The term "employment" shall not include service performed by an
34 insurance agent, insurance broker, or insurance solicitor or a real
35 estate broker or a real estate (~~salesman~~) salesperson to the extent
36 he or she is compensated by commission and service performed by an

1 investment company agent or solicitor to the extent he or she is
2 compensated by commission. The term "investment company", as used in
3 this section is to be construed as meaning an investment company as
4 defined in the act of congress entitled "Investment Company Act of
5 1940."

6 **Sec. 13004.** RCW 50.04.235 and 1957 c 181 s 1 are each amended to
7 read as follows:

8 The term "employment" shall not include services as an outside
9 (~~salesman~~) salesperson of merchandise paid solely by way of
10 commission; and such services must have been performed outside of all
11 the places of business of the enterprises for which such services are
12 performed only.

13 **Sec. 13005.** RCW 50.04.290 and 1945 c 35 s 30 are each amended to
14 read as follows:

15 "Employment office" means a free public employment office, or
16 branch thereof, operated by this or any other state as a part of a
17 state controlled system of public employment offices, or by a federal
18 agency or any agency of a foreign government charged with the
19 administration of an unemployment compensation program or free public
20 employment offices. All claims for unemployment compensation benefits,
21 registrations for employment, and all job or placement referrals
22 received or made by any of the employment offices as above defined and
23 pursuant to regulation of the commissioner subsequent to December 31,
24 1941, are hereby declared in all respects to be valid. The
25 commissioner is authorized to make such investigation, secure and
26 transmit such information, make available such services and facilities
27 and exercise such of the other powers provided herein with respect to
28 the administration of this title as he or she deems necessary or
29 appropriate to facilitate the administration of any state or federal
30 unemployment compensation or public employment service law and in like
31 manner to accept and utilize information, services, and facilities made
32 available to the state by the agency charged with the administration of
33 any such unemployment compensation or public employment service law.
34 Any such action taken by the commissioner subsequent to December 31,
35 1941, is hereby declared to be in all respects valid.

1 **Sec. 13006.** RCW 50.04.320 and 1998 c 162 s 1 are each amended to
2 read as follows:

3 (1) For the purpose of payment of contributions, "wages" means the
4 remuneration paid by one employer during any calendar year to an
5 individual in its employment under this title or the unemployment
6 compensation law of any other state in the amount specified in RCW
7 50.24.010. If an employer (hereinafter referred to as a successor
8 employer) during any calendar year acquires substantially all the
9 operating assets of another employer (hereinafter referred to as a
10 predecessor employer) or assets used in a separate unit of a trade or
11 business of a predecessor employer, and immediately after the
12 acquisition employs in the individual's trade or business an individual
13 who immediately before the acquisition was employed in the trade or
14 business of the predecessor employer, then, for the purposes of
15 determining the amount of remuneration paid by the successor employer
16 to the individual during the calendar year which is subject to
17 contributions, any remuneration paid to the individual by the
18 predecessor employer during that calendar year and before the
19 acquisition shall be considered as having been paid by the successor
20 employer.

21 (2) For the purpose of payment of benefits, "wages" means the
22 remuneration paid by one or more employers to an individual for
23 employment under this title during his or her base year: PROVIDED,
24 That at the request of a claimant, wages may be calculated on the basis
25 of remuneration payable. The department shall notify each claimant
26 that wages are calculated on the basis of remuneration paid, but at the
27 claimant's request a redetermination may be performed and based on
28 remuneration payable.

29 (3) For the purpose of payment of benefits and payment of
30 contributions, the term "wages" includes tips which are received after
31 January 1, 1987, while performing services which constitute employment,
32 and which are reported to the employer for federal income tax purposes.

33 (4)(a) "Remuneration" means all compensation paid for personal
34 services including commissions and bonuses and the cash value of all
35 compensation paid in any medium other than cash. The reasonable cash
36 value of compensation paid in any medium other than cash and the
37 reasonable value of gratuities shall be estimated and determined in
38 accordance with rules prescribed by the commissioner. Remuneration

1 does not include payments to members of a reserve component of the
2 armed forces of the United States, including the organized militia of
3 the state of Washington, for the performance of duty for periods not
4 exceeding seventy-two hours at a time.

5 (b) Previously accrued compensation, other than severance pay or
6 payments received pursuant to plant closure agreements, when assigned
7 to a specific period of time by virtue of a collective bargaining
8 agreement, individual employment contract, customary trade practice, or
9 request of the individual compensated, shall be considered remuneration
10 for the period to which it is assigned. Assignment clearly occurs when
11 the compensation serves to make the individual eligible for all regular
12 fringe benefits for the period to which the compensation is assigned.

13 (c) Settlements or other proceeds received by an individual as a
14 result of a negotiated settlement for termination of an individual
15 written employment contract prior to its expiration date shall be
16 considered remuneration. The proceeds shall be deemed assigned in the
17 same intervals and in the same amount for each interval as compensation
18 was allocated under the contract.

19 (d) Except as provided in (c) of this subsection, the provisions of
20 this subsection (4) pertaining to the assignment of previously accrued
21 compensation shall not apply to individuals subject to RCW 50.44.050.

22 **Sec. 13007.** RCW 50.04.330 and 1951 c 265 s 4 are each amended to
23 read as follows:

24 Prior to January 1, 1951, the term "wages" shall not include the
25 amount of any payment by an employing unit for or on behalf of an
26 individual in its employ under a plan or system established by such
27 employing unit which makes provision for individuals in its employ
28 generally, or for a class or classes of such individuals (including any
29 amount paid by an employing unit for insurance or annuities or into a
30 fund to provide for any payment) on account of retirement, sickness or
31 accident disability, or medical and hospitalization expenses in
32 connection with sickness or accident disability. After December 31,
33 1950, the term "wages" shall not include:

34 (1) The amount of any payment made (including any amount paid by an
35 employing unit for insurance or annuities, or into a fund to provide
36 for any such payment), to, or on behalf of, an individual or any of his
37 or her dependents under a plan or system established by an employing

1 unit which makes provision generally for individuals performing service
2 for it (or for such individuals generally and their dependents) or for
3 a class or classes of such individuals (or for a class or classes of
4 such individuals and their dependents), on account of (a) retirement,
5 or (b) sickness or accident disability, or (c) medical or
6 hospitalization expenses in connection with sickness or accident
7 disability, or (d) death;

8 (2) The amount of any payment by an employing unit to an individual
9 performing service for it (including any amount paid by an employing
10 unit for insurance or annuities, or into a fund, to provide for any
11 such payment) on account of retirement;

12 (3) The amount of any payment on account of sickness or accident
13 disability, or medical or hospitalization expenses in connection with
14 sickness or accident disability, made by an employing unit to, or on
15 behalf of, an individual performing services for it after the
16 expiration of six calendar months following the last calendar month in
17 which the individual performed services for such employing unit;

18 (4) The amount of any payment made by an employing unit to, or on
19 behalf of, an individual performing services for it or his or her
20 beneficiary (a) from or to a trust exempt from tax under section 165(a)
21 of the federal internal revenue code at the time of such payment unless
22 such payment is made to an individual performing services for the trust
23 as remuneration for such services and not as a beneficiary of the
24 trust, or (b) under or to an annuity plan which, at the time of such
25 payments, meets the requirements of section 165(a)(3), (4), (5), and
26 (6) of the federal internal revenue code; or

27 (5) The amount of any payment (other than vacation or sick pay)
28 made to an individual after the month in which he or she attains the
29 age of sixty-five, if he or she did not perform services for the
30 employing unit in the period for which such payment is made.

31 **Sec. 13008.** RCW 50.04.340 and 1951 c 265 s 5 are each amended to
32 read as follows:

33 Prior to January 1, 1951, the term "wages" shall not include the
34 amount of any payment by an employing unit for or on behalf of an
35 individual in its employ under a plan or system established by such
36 employing unit which makes provision for individuals in its employ
37 generally, or for a class or classes of such individuals (including any

1 amount paid by an employing unit for insurance or annuities or into a
2 fund to provide for any payment) on account of death, provided the
3 individual in its employ

4 (1) has not the option to receive instead of provisions for such
5 death benefits, any part of such payment, or, if such death benefit is
6 insured, any part of the premium (or contributions to premiums) paid by
7 his or her employing unit; and

8 (2) has not the right under the provisions of the plan or system or
9 policy of insurance providing for such death benefits to assign such
10 benefits or to receive a cash consideration in lieu of such benefits,
11 either upon his or her withdrawal from the plan or system providing for
12 such benefits or upon termination of such plan or system or policy of
13 insurance or of his or her services with such employing unit.

14 **Sec. 13009.** RCW 50.04.350 and 1951 c 265 s 2 are each amended to
15 read as follows:

16 The term "wages" shall not include the payment by an employing unit
17 (without deduction from the remuneration of the individual in its
18 employ) of the tax imposed upon an individual in employment under
19 section 1400 of the federal internal revenue code, as amended, or any
20 amount paid to a person in the military service for any pay period
21 during which he or she performs no service for the employer: PROVIDED,
22 HOWEVER, That prior to January 1, 1952, the term "wages" shall not
23 include dismissal payments which an employing unit is not legally
24 required to make.

25 **Sec. 13010.** RCW 50.06.030 and 2002 c 73 s 1 are each amended to
26 read as follows:

27 (1) In the case of individuals eligible under RCW 50.06.020(1), an
28 application for initial determination made pursuant to this chapter, to
29 be considered timely, must be filed in accordance with RCW 50.20.140
30 within twenty-six weeks following the week in which the period of
31 temporary total disability commenced. Notice from the department of
32 labor and industries shall satisfy this requirement. The records of
33 the agency supervising the award of compensation shall be conclusive
34 evidence of the fact of temporary disability and the beginning date of
35 such disability.

1 (2) In the case of individuals eligible under RCW 50.06.020(2), an
2 application for initial determination must be filed in accordance with
3 RCW 50.20.140 within twenty-six weeks following the week in which the
4 period of temporary total physical disability commenced. This filing
5 requirement is satisfied by filing a signed statement from the
6 attending physician stating the date that the disability commenced and
7 stating that the individual was unable to reenter the workforce during
8 the time of the disability. The department may examine any medical
9 information related to the disability. If the claim is appealed, a
10 base year employer may examine the medical information related to the
11 disability and require, at the employer's expense, that the individual
12 obtain the opinion of a second health care provider selected by the
13 employer concerning any information related to the disability.

14 (3) The employment security department shall process and issue an
15 initial determination of entitlement or nonentitlement as the case may
16 be.

17 (4) For the purpose of this chapter, a special base year is
18 established for an individual consisting of either the first four of
19 the last five completed calendar quarters or the last four completed
20 calendar quarters immediately prior to the first day of the calendar
21 week in which the individual's temporary total disability commenced,
22 and a special individual benefit year is established consisting of the
23 entire period of disability and a fifty-two consecutive week period
24 commencing with the first day of the calendar week immediately
25 following the week or part thereof with respect to which the individual
26 received his or her final temporary total disability compensation under
27 the applicable industrial insurance or crime victims compensation laws,
28 or the week in which the individual reentered the workforce after an
29 absence under subsection (2) of this section, as applicable, except
30 that no special benefit year shall have a duration in excess of three
31 hundred twelve calendar weeks: PROVIDED HOWEVER, That such special
32 benefit year will not be established unless the criteria contained in
33 RCW 50.04.030 has been met, except that an individual meeting the
34 eligibility requirements of this chapter and who has an unexpired
35 benefit year established which would overlap the special benefit year
36 provided by this chapter, notwithstanding the provisions in RCW
37 50.04.030 relating to the establishment of a subsequent benefit year
38 and RCW 50.40.010 relating to waiver of rights, may elect to establish

1 a special benefit year under this chapter: PROVIDED FURTHER, that the
2 unexpired benefit year shall be terminated with the beginning of the
3 special benefit year if the individual elects to establish such special
4 benefit year.

5 (5) For the purposes of establishing a benefit year, the department
6 shall initially use the first four of the last five completed calendar
7 quarters as the base year. If a benefit year is not established using
8 the first four of the last five calendar quarters as the base year, the
9 department shall use the last four completed calendar quarters as the
10 base year.

11 **Sec. 13011.** RCW 50.08.010 and 1953 ex.s. c 8 s 3 are each amended
12 to read as follows:

13 There is established the employment security department for the
14 state, to be administered by a commissioner. The commissioner shall be
15 appointed by the governor with the consent of the senate, and shall
16 hold office at the pleasure of, and receive such compensation for his
17 or her services as may be fixed by, the governor.

18 **Sec. 13012.** RCW 50.08.020 and 1973 1st ex.s. c 158 s 1 are each
19 amended to read as follows:

20 There are hereby established in the employment security department
21 two coordinate divisions to be known as the unemployment compensation
22 division, and the Washington state employment service division, each of
23 which shall be administered by a full time salaried supervisor who
24 shall be an assistant to the commissioner and shall be appointed by him
25 or her. Each division shall be responsible to the commissioner for the
26 dispatch of its distinctive functions. Each division shall be a
27 separate administrative unit with respect to personnel, budget, and
28 duties, except insofar as the commissioner may find that such
29 separation is impracticable.

30 It is hereby further provided that the governor in his or her
31 discretion may delegate any or all of the organization, administration,
32 and functions of the said Washington state employment service division
33 to any federal agency.

34 **Sec. 13013.** RCW 50.12.010 and 2008 c 74 s 5 are each amended to
35 read as follows:

1 (1) The commissioner shall administer this title. He or she shall
2 have the power and authority to adopt, amend, or rescind such rules and
3 regulations, to employ such persons, make such expenditures, require
4 such reports, make such investigations, and take such other action as
5 he or she deems necessary or suitable to that end. Such rules and
6 regulations shall be effective upon publication and in the manner, not
7 inconsistent with the provisions of this title, which the commissioner
8 shall prescribe. The commissioner, in accordance with the provisions
9 of this title, shall determine the organization and methods of
10 procedure of the divisions referred to in this title, and shall have an
11 official seal which shall be judicially noticed. The commissioner
12 shall submit to the governor a report covering the administration and
13 operation of this title during the preceding fiscal year, July 1st
14 through June 30th, and shall make such recommendations for amendments
15 to this title as he or she deems proper. Such report shall include a
16 balance sheet of the moneys in the fund in which there shall be
17 provided, if possible, a reserve against the liability in future years
18 to pay benefits in excess of the then current contributions, which
19 reserve shall be set up by the commissioner in accordance with accepted
20 actuarial principles on the basis of statistics of employment, business
21 activity, and other relevant factors for the longest possible period.
22 Whenever the commissioner believes that a change in contribution or
23 benefit rates will become necessary to protect the solvency of the
24 fund, he or she shall promptly so inform the governor and legislature
25 and make recommendations with respect thereto.

26 (2) There is established a unit within the department for the
27 purpose of detection and investigation of fraud under this title. The
28 department will employ supervisory and investigative personnel for the
29 program, who must be qualified by training and experience.

30 (3) The commissioner or the commissioner's duly authorized designee
31 is authorized to receive criminal history record information that
32 includes nonconviction data for any purpose associated with the
33 investigation for abuse or fraud under chapter 50.20 RCW.
34 Dissemination or use of nonconviction data for purposes other than that
35 authorized in this section is prohibited.

36 **Sec. 13014.** RCW 50.12.060 and 1945 c 35 s 45 are each amended to
37 read as follows:

1 The commissioner is hereby authorized to enter into arrangements
2 with the appropriate agencies of other states, foreign governments, or
3 the federal government whereby services performed by an individual for
4 a single employing unit for which services are customarily performed in
5 more than one state shall be deemed to be services performed entirely
6 within any one of the states (1) in which any part of such individual's
7 service is performed, or (2) in which such individual has his or her
8 residence, or (3) in which the employing unit maintains a place of
9 business: PROVIDED, That there is in effect, as to such services, an
10 election by the employing unit with the acquiescence of such
11 individual, approved by the agency charged with the administration of
12 such state's unemployment compensation law, pursuant to which all the
13 services performed by such individual for such employing unit are
14 deemed to be performed entirely within such state.

15 **Sec. 13015.** RCW 50.12.080 and 1983 1st ex.s. c 23 s 9 are each
16 amended to read as follows:

17 If any employing unit fails to make or file any report or return
18 required by this title, or any regulation made pursuant hereto, the
19 commissioner may, upon the basis of such knowledge as may be available
20 to him or her, arbitrarily make a report on behalf of such employing
21 unit and the report so made shall be deemed to be prima facie correct.
22 In any action or proceedings brought for the recovery of contributions,
23 interest, or penalties due upon the payroll of an employer, the
24 certificate of the department that an audit has been made of the
25 payroll of such employer pursuant to the direction of the department,
26 or a certificate that a return has been filed by or for an employer or
27 estimated by reason of lack of a return, shall be prima facie evidence
28 of the amount of such payroll for the period stated in the certificate.

29 **Sec. 13016.** RCW 50.12.120 and 1945 c 35 s 51 are each amended to
30 read as follows:

31 No person shall be excused from attending and testifying or from
32 producing books, papers, correspondence, memoranda, and other records
33 before any duly authorized representative of the commissioner or any
34 appeal tribunal in obedience to the subpoena of such representative of
35 the commissioner or such appeal tribunal, on the ground that the
36 testimony or evidence, documentary or otherwise, required of him or her

1 may tend to incriminate him or her or subject him or her to a penalty
2 or forfeiture; but no individual shall be prosecuted or subjected to
3 any penalty or forfeiture for or on account of any transaction, matter,
4 or thing concerning which he or she is compelled, after having claimed
5 his or her privilege against self-incrimination, to testify or produce
6 evidence, documentary or otherwise, except that such individual so
7 testifying shall not be exempt from prosecution and punishment for
8 perjury committed in so testifying.

9 **Sec. 13017.** RCW 50.12.150 and 1945 c 35 s 54 are each amended to
10 read as follows:

11 The attorney general shall be the general counsel of each and all
12 divisions and departments under this title and it shall be his or her
13 duty to institute and prosecute all actions and proceedings which may
14 be necessary in the enforcement and carrying out of each, every, and
15 all of the provisions of this title, and it shall be the duty of the
16 attorney general to assign such assistants and attorneys as may be
17 necessary to the exclusive duty of assisting each, every, and all
18 divisions and departments created under this title in the enforcement
19 of this title. The salaries of such assistants shall be paid out of
20 the unemployment compensation administration fund, together with their
21 expenses fixed by the attorney general and allowed by the treasurer of
22 the unemployment compensation administration fund when approved upon
23 vouchers by the attorney general.

24 **Sec. 13018.** RCW 50.12.160 and 1977 c 75 s 76 are each amended to
25 read as follows:

26 The commissioner may cause to be printed for distribution to the
27 public the text of this title, the regulations and general rules, and
28 other material which he or she deems relevant and suitable.

29 **Sec. 13019.** RCW 50.12.170 and 1945 c 35 s 56 are each amended to
30 read as follows:

31 The sheriff of any county, upon request of the commissioner or his
32 or her duly authorized representative, or upon request of the attorney
33 general, shall, for and on behalf of the commissioner, perform the
34 functions of service, distraint, seizure, and sale, authority for which
35 is granted to the commissioner or his or her duly authorized

1 representative. No bond shall be required by the sheriff of any county
2 for services rendered for the commissioner, his or her duly authorized
3 representative, or the attorney general. The sheriff shall be allowed
4 such fees as may be prescribed for like or similar official services.

5 **Sec. 13020.** RCW 50.16.050 and 1993 c 62 s 8 are each amended to
6 read as follows:

7 (1) There is hereby established a fund to be known as the
8 unemployment compensation administration fund. Except as otherwise
9 provided in this section, all moneys which are deposited or paid into
10 this fund are hereby made available to the commissioner. All moneys in
11 this fund shall be expended solely for the purpose of defraying the
12 cost of the administration of this title, and for no other purpose
13 whatsoever. All moneys received from the United States of America, or
14 any agency thereof, for said purpose pursuant to section 302 of the
15 social security act, as amended, shall be expended solely for the
16 purposes and in the amounts found necessary by the secretary of labor
17 for the proper and efficient administration of this title. All moneys
18 received from the United States employment service, United States
19 department of labor, for said purpose pursuant to the act of congress
20 approved June 6, 1933, as amended or supplemented by any other act of
21 congress, shall be expended solely for the purposes and in the amounts
22 found necessary by the secretary of labor for the proper and efficient
23 administration of the public employment office system of this state.
24 The unemployment compensation administration fund shall consist of all
25 moneys received from the United States of America or any department or
26 agency thereof, or from any other source, for such purpose. All moneys
27 in this fund shall be deposited, administered, and disbursed by the
28 treasurer of the unemployment compensation fund under rules and
29 regulations of the commissioner and none of the provisions of RCW
30 43.01.050 shall be applicable to this fund. The treasurer last named
31 shall be the treasurer of the unemployment compensation administration
32 fund and shall give a bond conditioned upon the faithful performance of
33 his or her duties in connection with that fund. All sums recovered on
34 the official bond for losses sustained by the unemployment compensation
35 administration fund shall be deposited in said fund.

36 (2) Notwithstanding any provision of this section:

1 (a) All money requisitioned and deposited in this fund pursuant to
2 RCW 50.16.030(6) shall remain part of the unemployment compensation
3 fund and shall be used only in accordance with the conditions specified
4 in RCW 50.16.030 (4), (5) and (6).

5 (b) All money deposited in this fund pursuant to RCW 50.38.065
6 shall be used only after appropriation and only for the purposes of RCW
7 50.38.060.

8 **Sec. 13021.** RCW 50.20.020 and 1949 c 214 s 10 are each amended to
9 read as follows:

- 10 No week shall be counted as a waiting period week,
11 (1) if benefits have been paid with respect thereto, and
12 (2) unless the individual was otherwise eligible for benefits with
13 respect thereto, and
14 (3) unless it occurs within the benefit year which includes the
15 week with respect to which he or she claims payment of benefits.

16 **Sec. 13022.** RCW 50.20.130 and 1983 1st ex.s. c 23 s 12 are each
17 amended to read as follows:

18 If an eligible individual is available for work for less than a
19 full week, he or she shall be paid his or her weekly benefit amount
20 reduced by one-seventh of such amount for each day that he or she is
21 unavailable for work: PROVIDED, That if he or she is unavailable for
22 work for three days or more of a week, he or she shall be considered
23 unavailable for the entire week.

24 Each eligible individual who is unemployed in any week shall be
25 paid with respect to such week a benefit in an amount equal to his or
26 her weekly benefit amount less seventy-five percent of that part of the
27 remuneration (if any) payable to him or her with respect to such week
28 which is in excess of five dollars. Such benefit, if not a multiple of
29 one dollar, shall be reduced to the next lower multiple of one dollar.

30 **Sec. 13023.** RCW 50.20.150 and 1970 ex.s. c 2 s 7 are each amended
31 to read as follows:

32 The applicant for initial determination, his or her most recent
33 employing unit as stated by the applicant, and any other interested
34 party which the commissioner by regulation prescribes, shall, if not
35 previously notified within the same continuous period of unemployment,

1 be given notice promptly in writing that an application for initial
2 determination has been filed and such notice shall contain the reasons
3 given by the applicant for his or her last separation from work. If,
4 during his or her benefit year, the applicant becomes unemployed after
5 having accepted subsequent work, and reports for the purpose of
6 reestablishing his or her eligibility for benefits, a similar notice
7 shall be given promptly to his or her then most recent employing unit
8 as stated by him or her, or to any other interested party which the
9 commissioner by regulation prescribes.

10 Each base year employer shall be promptly notified of the filing of
11 any application for initial determination which may result in a charge
12 to his or her account.

13 **Sec. 13024.** RCW 50.20.170 and 1945 c 35 s 85 are each amended to
14 read as follows:

15 An individual who has received an initial determination finding
16 that he or she is potentially entitled to receive waiting period credit
17 or benefits shall, during the benefit year, be given waiting period
18 credit or be paid benefits in accordance with such initial
19 determination for any week with respect to which the conditions of
20 eligibility for such credit or benefits, as prescribed by this title,
21 are met, unless the individual is denied waiting period credit or
22 benefits under the disqualification provisions of this title.

23 All benefits shall be paid through employment offices in accordance
24 with such regulations as the commissioner may prescribe.

25 **Sec. 13025.** RCW 50.20.180 and 1951 c 215 s 7 are each amended to
26 read as follows:

27 If waiting period credit or the payment of benefits shall be denied
28 to any claimant for any week or weeks, the claimant and such other
29 interested party as the commissioner by regulation prescribes shall be
30 promptly issued written notice of the denial and the reasons therefor.
31 In any case where the department is notified in accordance with such
32 regulation as the commissioner prescribes or has reason to believe that
33 the claimant's right to waiting period credit or benefits is in issue
34 because of his or her separation from work for any reason other than
35 lack of work, the department shall promptly issue a determination of
36 allowance or denial of waiting period credit or benefits and the

1 reasons therefor to the claimant, his or her most recent employing unit
2 as stated by the claimant, and such other interested party as the
3 commissioner by regulation prescribes. Notice that waiting period
4 credit or benefits are allowed or denied shall suffice for the
5 particular weeks stated in the notice or until the condition upon which
6 the allowance or denial was based has been changed.

7 **Sec. 13026.** RCW 50.22.040 and 1983 1st ex.s. c 23 s 13 are each
8 amended to read as follows:

9 The weekly extended benefit amount payable to an individual for a
10 week of total unemployment in his or her eligibility period shall be an
11 amount equal to the weekly benefit amount payable to him or her during
12 his or her applicable benefit year. However, for those individuals
13 whose eligibility period for extended benefits commences with weeks
14 beginning after October 1, 1983, the weekly benefit amount, as computed
15 in RCW 50.20.120(2) and payable under this section, if not a multiple
16 of one dollar, shall be reduced to the next lower multiple of one
17 dollar.

18 **Sec. 13027.** RCW 50.24.040 and 1987 c 111 s 3 are each amended to
19 read as follows:

20 If contributions are not paid on the date on which they are due and
21 payable as prescribed by the commissioner, the whole or part thereof
22 remaining unpaid shall bear interest at the rate of one percent per
23 month or fraction thereof from and after such date until payment plus
24 accrued interest is received by him or her. The date as of which
25 payment of contributions, if mailed, is deemed to have been received
26 may be determined by such regulations as the commissioner may
27 prescribe. Interest collected pursuant to this section shall be paid
28 into the administrative contingency fund. Interest shall not accrue on
29 contributions from any estate in the hands of a receiver, executor,
30 administrator, trustee in bankruptcy, common law assignee, or other
31 liquidating officer subsequent to the date when such receiver,
32 executor, administrator, trustee in bankruptcy, common law assignee, or
33 other liquidating officer qualifies as such, but contributions accruing
34 with respect to employment of persons by any receiver, executor,
35 administrator, trustee in bankruptcy, common law assignee, or other
36 liquidating officer shall become due and shall draw interest in the

1 same manner as contributions due from other employers. Where adequate
2 information has been furnished the department and the department has
3 failed to act or has advised the employer of no liability or inability
4 to decide the issue, interest may be waived.

5 **Sec. 13028.** RCW 50.24.050 and 1981 c 302 s 39 are each amended to
6 read as follows:

7 The claim of the employment security department for any
8 contributions, interest, or penalties not paid when due, shall be a
9 lien prior to all other liens or claims and on a parity with prior tax
10 liens against all property and rights to property, whether real or
11 personal, belonging to the employer. In order to avail itself of the
12 lien hereby created, the department shall file with any county auditor
13 where property of the employer is located a statement and claim of lien
14 specifying the amount of delinquent contributions, interest, and
15 penalties claimed by the department. From the time of filing for
16 record, the amount required to be paid shall constitute a lien upon all
17 property and rights to property, whether real or personal, in the
18 county, owned by the employer or acquired by him or her. The lien
19 shall not be valid against any purchaser, holder of a security
20 interest, mechanic's lien, or judgment lien creditor until notice
21 thereof has been filed with the county auditor. This lien shall be
22 separate and apart from, and in addition to, any other lien or claim
23 created by, or provided for in, this title. When any such notice of
24 lien has been so filed, the commissioner may release the same by filing
25 a certificate of release when it shall appear that the amount of
26 delinquent contributions, interest, and penalties have been paid, or
27 when such assurance of payment shall be made as the commissioner may
28 deem to be adequate. Fees for filing and releasing the lien provided
29 herein may be charged to the employer and may be collected from the
30 employer utilizing the remedies provided in this title for the
31 collection of contributions.

32 **Sec. 13029.** RCW 50.24.080 and 1979 ex.s. c 190 s 4 are each
33 amended to read as follows:

34 If the commissioner shall have reason to believe that an employer
35 is insolvent or if any reason exists why the collection of any
36 contributions accrued will be jeopardized by delaying collection, he or

1 she may make an immediate assessment thereof and may proceed to enforce
2 collection immediately, but interest and penalties shall not begin to
3 accrue upon any contributions until the date when such contributions
4 would normally have become delinquent.

5 **Sec. 13030.** RCW 50.24.090 and 1979 ex.s. c 190 s 5 are each
6 amended to read as follows:

7 If the amount of contributions, interest, or penalties assessed by
8 the commissioner by order and notice of assessment provided in this
9 title is not paid within ten days after the service or mailing of the
10 order and notice of assessment, the commissioner or his or her duly
11 authorized representative may collect the amount stated in said
12 assessment by the distraint, seizure, and sale of the property, goods,
13 chattels, and effects of said delinquent employer. There shall be
14 exempt from distraint and sale under this section such goods and
15 property as are exempt from execution under the laws of this state.

16 **Sec. 13031.** RCW 50.24.100 and 1979 ex.s. c 190 s 6 are each
17 amended to read as follows:

18 The commissioner, upon making a distraint, shall seize the property
19 and shall make an inventory of the property distrained, a copy of which
20 shall be mailed to the owner of such property or personally delivered
21 to him or her, and shall specify the time and place when said property
22 shall be sold. A notice specifying the property to be sold and the
23 time and place of sale shall be posted in at least two public places in
24 the county wherein the seizure has been made. The time of sale shall
25 be not less than ten nor more than twenty days from the date of posting
26 of such notices. Said sale may be adjourned from time to time at the
27 discretion of the commissioner, but not for a time to exceed in all
28 sixty days. Said sale shall be conducted by the commissioner or his or
29 her authorized representative who shall proceed to sell such property
30 by parcel or by lot at a public auction, and who may set a minimum
31 price to include the expenses of making a levy and of advertising the
32 sale, and if the amount bid for such property at the sale is not equal
33 to the minimum price so fixed, the commissioner or his or her
34 representative may declare such property to be purchased by the
35 employment security department for such minimum price. In such event
36 the delinquent account shall be credited with the amount for which the

1 property has been sold. Property acquired by the employment security
2 department as herein prescribed may be sold by the commissioner or his
3 or her representative at public or private sale, and the amount
4 realized shall be placed in the unemployment compensation trust fund.

5 In all cases of sale, as aforesaid, the commissioner shall issue a
6 bill of sale or a deed to the purchaser and said bill of sale or deed
7 shall be prima facie evidence of the right of the commissioner to make
8 such sale and conclusive evidence of the regularity of his or her
9 proceeding in making the sale, and shall transfer to the purchaser all
10 right, title, and interest of the delinquent employer in said property.
11 The proceeds of any such sale, except in those cases wherein the
12 property has been acquired by the employment security department, shall
13 be first applied by the commissioner in satisfaction of the delinquent
14 account, and out of any sum received in excess of the amount of
15 delinquent contributions, interest, and penalties the administration
16 fund shall be reimbursed for the costs of distraint and sale. Any
17 excess which shall thereafter remain in the hands of the commissioner
18 shall be refunded to the delinquent employer. Sums so refundable to a
19 delinquent employer may be subject to seizure or distraint in the hands
20 of the commissioner by any other taxing authority of the state or its
21 political subdivisions.

22 **Sec. 13032.** RCW 50.24.115 and 2001 c 146 s 8 are each amended to
23 read as follows:

24 Whenever any order and notice of assessment or jeopardy assessment
25 shall have become final in accordance with the provisions of this title
26 the commissioner may file with the clerk of any county within the state
27 a warrant in the amount of the notice of assessment plus interest,
28 penalties, and a filing fee under RCW 36.18.012(10). The clerk of the
29 county wherein the warrant is filed shall immediately designate a
30 superior court cause number for such warrant, and the clerk shall cause
31 to be entered in the judgment docket under the superior court cause
32 number assigned to the warrant, the name of the employer mentioned in
33 the warrant, the amount of the tax, interest, penalties, and filing fee
34 and the date when such warrant was filed. The aggregate amount of such
35 warrant as docketed shall become a lien upon the title to, and interest
36 in all real and personal property of the employer against whom the
37 warrant is issued, the same as a judgment in a civil case duly docketed

1 in the office of such clerk. Such warrant so docketed shall be
2 sufficient to support the issuance of writs of execution and writs of
3 garnishment in favor of the state in the manner provided by law in the
4 case of civil judgment, wholly or partially unsatisfied. The clerk of
5 the court shall be entitled to a filing fee under RCW 36.18.012(10),
6 which shall be added to the amount of the warrant, and charged by the
7 commissioner to the employer or employing unit. A copy of the warrant
8 shall be mailed to the employer or employing unit by certified mail to
9 his or her last known address within five days of filing with the
10 clerk.

11 **Sec. 13033.** RCW 50.24.140 and 1979 ex.s. c 190 s 12 are each
12 amended to read as follows:

13 Remedies given to the state under this title for the collection of
14 contributions, interest, or penalties shall be cumulative and no action
15 taken by the commissioner or his or her duly authorized representative,
16 the attorney general, or any other officer shall be construed to be an
17 election on the part of the state or any of its officers to pursue any
18 remedy to the exclusion of any other.

19 **Sec. 13034.** RCW 50.24.150 and 1979 ex.s. c 190 s 13 are each
20 amended to read as follows:

21 No later than three years after the date on which any
22 contributions, interest, or penalties have been paid, an employer who
23 has paid such contributions, interest, or penalties may file with the
24 commissioner a petition in writing for an adjustment thereof in
25 connection with subsequent contribution payments or for a refund
26 thereof when such adjustment cannot be made. If the commissioner upon
27 an ex parte consideration shall determine that such contributions,
28 interest, penalties, or portion thereof were erroneously collected, he
29 or she shall allow such employer to make an adjustment thereof without
30 interest in connection with subsequent contribution payments by him or
31 her, or if such adjustment cannot be made, the commissioner shall
32 refund said amount without interest from the unemployment compensation
33 fund: PROVIDED, HOWEVER, That after June 20, 1953, that refunds of
34 interest on delinquent contributions or penalties shall be paid from
35 the administrative contingency fund upon warrants issued by the
36 treasurer under the direction of the commissioner. For like cause and

1 within the same period, adjustment or refund may be made on the
2 commissioner's own initiative. If the commissioner finds that upon ex
3 parte consideration he or she cannot readily determine that such
4 adjustment or refund should be allowed, he or she shall deny such
5 application and notify the employer in writing.

6 **Sec. 13035.** RCW 50.29.080 and 1970 ex.s. c 2 s 17 are each amended
7 to read as follows:

8 The commissioner may redetermine any contribution rate if, within
9 three years of the rate computation date he or she finds that the rate
10 as originally computed was erroneous.

11 In the event that the redetermined rate is lower than that
12 originally computed the difference between the amount paid and the
13 amount which should have been paid on the employer's taxable payroll
14 for the rate year involved shall be established as a credit against his
15 or her tax liability; however, if the redetermined rate is higher than
16 that originally computed the difference between the amount paid and the
17 amount which should have been paid on the employer's taxable payroll
18 shall be assessed against the employer as contributions owing for the
19 rate year involved.

20 The redetermination of an employer's contribution rate shall not
21 affect the contribution rates which have been established for any other
22 employer nor shall such redetermination affect any other computation
23 made pursuant to this title.

24 The employer shall have the same rights to request review and
25 redetermination as he or she had from his or her original rate
26 determination.

27 **Sec. 13036.** RCW 50.32.010 and 1981 c 67 s 30 are each amended to
28 read as follows:

29 The commissioner shall establish one or more impartial appeal
30 tribunals, each of which shall consist of an administrative law judge
31 appointed under chapter 34.12 RCW who shall decide the issues submitted
32 to the tribunal. No administrative law judge may hear or decide any
33 disputed claim in any case in which he or she is an interested party.
34 Wherever the term "appeal tribunal" or "the appeal tribunal" is used in
35 this title the same refers to an appeal tribunal established under the
36 provisions of this section. Notice of any appeal or petition for

1 hearing taken to an appeal tribunal in any proceeding under this title
2 may be filed with such agency as the commissioner may by regulation
3 prescribe.

4 **Sec. 13037.** RCW 50.32.080 and 1982 1st ex.s. c 18 s 8 are each
5 amended to read as follows:

6 After having acquired jurisdiction for review, the commissioner
7 shall review the proceedings in question. Prior to rendering his or
8 her decision, the commissioner may order the taking of additional
9 evidence by an appeal tribunal to be made a part of the record in the
10 case. Upon the basis of evidence submitted to the appeal tribunal and
11 such additional evidence as the commissioner may order to be taken, the
12 commissioner shall render his or her decision in writing affirming,
13 modifying, or setting aside the decision of the appeal tribunal.
14 Alternatively, the commissioner may order further proceedings to be
15 held before the appeal tribunal, upon completion of which the appeal
16 tribunal shall issue a decision in writing affirming, modifying, or
17 setting aside its previous decision. The new decision may be appealed
18 under RCW 50.32.070. The commissioner shall mail his or her decision
19 to the interested parties at their last known addresses.

20 **Sec. 13038.** RCW 50.32.110 and 1945 c 35 s 127 are each amended to
21 read as follows:

22 No individual shall be charged fees of any kind in any proceeding
23 involving the individual's application for initial determination, or
24 claim for waiting period credit, or claim for benefits, under this
25 title by the commissioner or his or her representatives, or by an
26 appeal tribunal, or any court, or any officer thereof. Any individual
27 in any such proceeding before the commissioner or any appeal tribunal
28 may be represented by counsel or other duly authorized agent who shall
29 neither charge nor receive a fee for such services in excess of an
30 amount found reasonable by the officer conducting such proceeding.

31 **Sec. 13039.** RCW 50.32.150 and 1945 c 35 s 131 are each amended to
32 read as follows:

33 In all court proceedings under or pursuant to this title the
34 decision of the commissioner shall be prima facie correct, and the
35 burden of proof shall be upon the party attacking the same.

1 If the court shall determine that the commissioner has acted within
2 his or her power and has correctly construed the law, the decision of
3 the commissioner shall be confirmed; otherwise, it shall be reversed or
4 modified. In case of a modification or reversal the superior court
5 shall refer the same to the commissioner with an order directing him or
6 her to proceed in accordance with the findings of the court.

7 Whenever any order and notice of assessment shall have become final
8 in accordance with the provisions of this title, the court shall upon
9 application of the commissioner enter a judgment in the amount provided
10 for in said order and notice of assessment, and said judgment shall
11 have and be given the same effect as if entered pursuant to civil
12 action instituted in said court.

13 **Sec. 13040.** RCW 50.36.030 and 1951 c 265 s 13 are each amended to
14 read as follows:

15 Employing units or agents thereof supplying information to the
16 employment security department pertaining to the cause of a benefit
17 claimant's separation from work, which cause stated to the department
18 is contrary to that given the benefit claimant by such employing unit
19 or agent thereof at the time of his or her separation from the
20 employing unit's employ, shall be guilty of a misdemeanor and shall be
21 punished by a fine of not less than twenty dollars nor more than two
22 hundred and fifty dollars or by imprisonment in the county jail for not
23 more than ninety days.

24 **Sec. 13041.** RCW 50.40.020 and 1982 1st ex.s. c 18 s 10 are each
25 amended to read as follows:

26 Any assignment, pledge, or encumbrance of any right to benefits
27 which are or may become due or payable under this title shall be void.
28 Such rights to benefits shall be exempt from levy, execution,
29 attachment, or any other remedy whatsoever provided for the collection
30 of debts, except as provided in RCW 50.40.050. Benefits received by
31 any individual, so long as they are not commingled with other funds of
32 the recipient, shall be exempt from any remedy whatsoever for
33 collection of all debts except debts incurred for necessities furnished
34 such individual or his or her spouse or dependents during the time when
35 such individual was unemployed. Any waiver of any exemption provided
36 for in this section shall be void.

1 **Sec. 13042.** RCW 50.44.040 and 2007 c 386 s 1 are each amended to
2 read as follows:

3 The term "employment" as used in RCW 50.44.010, 50.44.020, and
4 50.44.030 shall not include service performed:

5 (1) In the employ of (a) a church or convention or association of
6 churches, or (b) an organization which is operated primarily for
7 religious purposes and which is operated, supervised, controlled, or
8 principally supported by a church or convention or association of
9 churches; however, the employer shall notify its employees as required
10 by RCW 50.44.045; or

11 (2) By a duly ordained, commissioned, or licensed minister of a
12 church in the exercise of his or her ministry or by a member of a
13 religious order in the exercise of duties required by such order; or

14 (3) In a facility conducted for the purpose of carrying out a
15 program of (a) rehabilitation for individuals whose earning capacity is
16 impaired by age or physical or mental deficiency or injury, or (b)
17 providing remunerative work for individuals who because of their
18 impaired physical or mental capacity cannot be readily absorbed in the
19 competitive labor market, by an individual receiving such
20 rehabilitation or remunerative work; or

21 (4) As part of an unemployment work-relief or work-training program
22 assisted or financed in whole or in part by a federal agency or an
23 agency of a state or political subdivision thereof, by an individual
24 receiving such work-relief or work-training; or

25 (5) For a custodial or penal institution by an inmate of the
26 custodial or penal institution; or

27 (6) In the employ of a hospital, if such service is performed by a
28 patient of such hospital; or

29 (7) In the employ of a school, college, or university, if such
30 service is performed (a) by a student who is enrolled and is regularly
31 attending classes at such school, college, or university, or (b) by the
32 spouse of such a student, if such spouse is advised, at the time such
33 spouse commences to perform such service, that (i) the employment of
34 such spouse to perform such service is provided under a program to
35 provide financial assistance to such student by such school, college,
36 or university, and (ii) such employment will not be covered by any
37 program of unemployment insurance; or

1 (8) By an individual under the age of twenty-two who is enrolled at
2 a nonprofit or public educational institution which normally maintains
3 a regular faculty and curriculum and normally has a regularly organized
4 body of students in attendance at the place where its educational
5 activities are carried on as a student in a full time program, taken
6 for credit at such institution, which combines academic instruction
7 with work experience, if such service is an integral part of such
8 program, and such institution has so certified to the employee, except
9 that this subsection shall not apply to service performed in a program
10 established for or on behalf of an employer or group of employers; or

11 (9) In the employ of a nongovernmental preschool which is devoted
12 exclusively to the area of child development training of preschool age
13 children through an established curriculum of formal classroom or
14 laboratory instruction which did not employ four or more individuals on
15 each of some twenty days during the calendar year or the preceding
16 calendar year, each day being in a different calendar week; or

17 (10) In the employ of the state or any of its instrumentalities or
18 political subdivisions of this state in any of its instrumentalities by
19 an individual in the exercise of duties:

- 20 (a) As an elected official;
- 21 (b) As a member of the national guard or air national guard; or
- 22 (c) In a policymaking position the performance of the duties of
23 which ordinarily do not require more than eight hours per week.

24 **Sec. 13043.** RCW 50.44.060 and 1990 c 245 s 9 are each amended to
25 read as follows:

26 Benefits paid to employees of "nonprofit organizations" shall be
27 financed in accordance with the provisions of this section. For the
28 purpose of this section and RCW 50.44.070, the term "nonprofit
29 organization" is limited to those organizations described in RCW
30 50.44.010, and joint accounts composed exclusively of such
31 organizations.

32 (1) Any nonprofit organization which is, or becomes subject to this
33 title on or after January 1, 1972, shall pay contributions under the
34 provisions of RCW 50.24.010 and chapter 50.29 RCW, unless it elects, in
35 accordance with this subsection, to pay to the commissioner for the
36 unemployment compensation fund an amount equal to the full amount of
37 regular and additional benefits and one-half of the amount of extended

1 benefits paid to individuals for weeks of unemployment that are based
2 upon wages paid or payable during the effective period of such election
3 to the extent that such payments are attributable to service in the
4 employ of such nonprofit organization.

5 (a) Any nonprofit organization which becomes subject to this title
6 after January 1, 1972, may elect to become liable for payments in lieu
7 of contributions for a period of not less than twelve months beginning
8 with the date on which such subjectivity begins by filing a written
9 notice of its election with the commissioner not later than thirty days
10 immediately following the date of the determination of such
11 subjectivity.

12 (b) Any nonprofit organization which makes an election in
13 accordance with ((paragraph)) (a) of this subsection will continue to
14 be liable for payments in lieu of contributions until it files with the
15 commissioner a written notice terminating its election not later than
16 thirty days prior to the beginning of the taxable year for which such
17 termination shall first be effective.

18 (c) Any nonprofit organization which has been paying contributions
19 under this title for a period subsequent to January 1, 1972, may change
20 to a reimbursable basis by filing with the commissioner not later than
21 thirty days prior to the beginning of any taxable year a written notice
22 of election to become liable for payments in lieu of contributions.
23 Such election shall not be terminable by the organization for that and
24 the next year.

25 (d) The commissioner may for good cause extend the period within
26 which a notice of election, or a notice of termination, must be filed
27 and may permit an election to be retroactive but not any earlier than
28 with respect to benefits paid after December 31, 1969.

29 (e) The commissioner, in accordance with such regulations as the
30 commissioner may prescribe, shall notify each nonprofit organization of
31 any determination which the commissioner may make of its status as an
32 employer and of the effective date of any election which it makes and
33 of any termination of such election. Any nonprofit organization
34 subject to such determination and dissatisfied with such determination
35 may file a request for review and redetermination with the commissioner
36 within thirty days of the mailing of the determination to the
37 organization. Should such request for review and redetermination be
38 denied, the organization may, within ten days of the mailing of such

1 notice of denial, file with the appeal tribunal a petition for hearing
2 which shall be heard in the same manner as a petition for denial of
3 refund. The appellate procedure prescribed by this title for further
4 appeal shall apply to all denials of review and redetermination under
5 this paragraph.

6 (2) Payments in lieu of contributions shall be made in accordance
7 with the provisions of this section including either ((paragraph)) (a)
8 or (b) of this subsection.

9 (a) At the end of each calendar quarter, the commissioner shall
10 bill each nonprofit organization or group of such organizations which
11 has elected to make payments in lieu of contributions for an amount
12 equal to the full amount of regular and additional benefits plus one-
13 half of the amount of extended benefits paid during such quarter that
14 is attributable to service in the employ of such organization.

15 (b)(i) Each nonprofit organization that has elected payments in
16 lieu of contributions may request permission to make such payments as
17 provided in this paragraph. Such method of payment shall become
18 effective upon approval by the commissioner.

19 (ii) At the end of each calendar quarter, or at the end of such
20 other period as determined by the commissioner, the commissioner shall
21 bill each nonprofit organization for an amount representing one of the
22 following:

23 (A) The percentage of its total payroll for the immediately
24 preceding calendar year as the commissioner shall determine. Such
25 determination shall be based each year on the average benefit costs
26 attributable to service in the employ of nonprofit organizations during
27 the preceding calendar year.

28 (B) For any organization which did not pay wages throughout the
29 four calendar quarters of the preceding calendar year, such percentage
30 of its payroll during such year as the commissioner shall determine.

31 (iii) At the end of each taxable year, the commissioner may modify
32 the quarterly percentage of payroll thereafter payable by the nonprofit
33 organization in order to minimize excess or insufficient payments.

34 (iv) At the end of each taxable year, the commissioner shall
35 determine whether the total of payments for such year made by a
36 nonprofit organization is less than, or in excess of, the total amount
37 of regular and additional benefits plus one-half of the amount of
38 extended benefits paid to individuals during such taxable year based on

1 wages attributable to service in the employ of such organization. Each
2 nonprofit organization whose total payments for such year are less than
3 the amount so determined shall be liable for payment of the unpaid
4 balance to the fund in accordance with ~~((paragraph))~~ (c) of this
5 subsection. If the total payments exceed the amount so determined for
6 the taxable year, all of the excess payments will be retained in the
7 fund as part of the payments which may be required for the next taxable
8 year, or a part of the excess may, at the discretion of the
9 commissioner, be refunded from the fund or retained in the fund as part
10 of the payments which may be required for the next taxable year.

11 (c) Payment of any bill rendered under ~~((paragraph))~~ (a) or (b) of
12 this subsection shall be made not later than thirty days after such
13 bill was mailed to the last known address of the nonprofit organization
14 or was otherwise delivered to it, and if not paid within such thirty
15 days, the reimbursement payments itemized in the bill shall be deemed
16 to be delinquent and the whole or part thereof remaining unpaid shall
17 bear interest and penalties from and after the end of such thirty days
18 at the rate and in the manner set forth in RCW 50.12.220 and 50.24.040.

19 (d) Payments made by any nonprofit organization under the
20 provisions of this section shall not be deducted or deductible, in
21 whole or in part, from the remuneration of individuals in the employ of
22 the organization. Any deduction in violation of the provisions of this
23 paragraph shall be unlawful.

24 (3) Each employer that is liable for payments in lieu of
25 contributions shall pay to the commissioner for the fund the total
26 amount of regular and additional benefits plus the amount of one-half
27 of extended benefits paid that are attributable to service in the
28 employ of such employer. If benefits paid to an individual are based
29 on wages paid by more than one employer and one or more of such
30 employers are liable for payments in lieu of contributions, the amount
31 payable to the fund by each employer that is liable for such payments
32 shall be determined in accordance with the provisions of ~~((paragraphs))~~
33 (a) and (b) of this subsection.

34 (a) If benefits paid to an individual are based on wages paid by
35 one or more employers that are liable for payments in lieu of
36 contributions and on wages paid by one or more employers who are liable
37 for contributions, the amount of benefits payable by each employer that
38 is liable for payments in lieu of contributions shall be an amount

1 which bears the same ratio to the total benefits paid to the individual
2 as the total base-period wages paid to the individual by such employer
3 bear to the total base-period wages paid to the individual by all of
4 his or her base-period employers.

5 (b) If benefits paid to an individual are based on wages paid by
6 two or more employers that are liable for payments in lieu of
7 contributions, the amount of benefits payable by each such employer
8 shall be an amount which bears the same ratio to the total benefits
9 paid to the individual as the total base-period wages paid to the
10 individual by such employer bear to the total base-period wages paid to
11 the individual by all of his or her base-period employers.

12 **Sec. 13044.** RCW 50.44.070 and 1973 c 73 s 11 are each amended to
13 read as follows:

14 In the discretion of the commissioner, any nonprofit organization
15 that elects to become liable for payments in lieu of contributions
16 shall be required within thirty days after the effective date of its
17 election, to execute and file with the commissioner a surety bond
18 approved by the commissioner or it may elect instead to deposit with
19 the commissioner money or securities. The amount of such bond or
20 deposit shall be determined in accordance with the provisions of this
21 section.

22 (1) The amount of the bond or deposit required by this subsection
23 shall be an amount deemed by the commissioner to be sufficient to cover
24 any reimbursement payments which may be required from the employer
25 attributable to employment during any year for which the election is in
26 effect but in no event shall such amount be in excess of the amount
27 which said employer would pay for such year if he or she were subject
28 to the contribution provisions of this title. The determination made
29 pursuant to this subsection shall be based on payroll information,
30 employment experience, and such other factors as the commissioner deems
31 pertinent.

32 (2) Any bond deposited under this section shall be in force for a
33 period of not less than two taxable years and shall be renewed with the
34 approval of the commissioner, at such times as the commissioner may
35 prescribe, but not less frequently than at two-year intervals as long
36 as the organization continues to be liable for payments in lieu of
37 contributions. The commissioner shall require adjustments to be made

1 in a previously filed bond as he or she deems appropriate. If the bond
2 is to be increased, the adjusted bond shall be filed by the
3 organization within thirty days of the date notice of the required
4 adjustment was mailed or otherwise delivered to it. Failure by any
5 organization covered by such bond to pay the full amount of payments in
6 lieu of contributions when due, together with any applicable interest
7 and penalties provided for in this title, shall render the surety
8 liable on said bond to the extent of the bond, as though the surety was
9 such organization.

10 (3) Any deposit of money or securities in accordance with this
11 section shall be retained by the commissioner in an escrow account
12 until liability under the election is terminated, at which time it
13 shall be returned to the organization, less any deductions as
14 hereinafter provided. The commissioner may deduct from the money
15 deposited under this section by a nonprofit organization or sell the
16 securities it has so deposited to the extent necessary to satisfy any
17 due and unpaid payments in lieu of contributions and any applicable
18 interest and penalties provided for in this act. The commissioner
19 shall require the organization within thirty days following any
20 deduction from a money deposit or sale of deposited securities under
21 the provisions of this subsection to deposit sufficient additional
22 money or securities to make whole the organization's deposit at the
23 prior level. Any cash remaining from the sale of such securities shall
24 be a part of the organization's escrow account. The commissioner may,
25 at any time review the adequacy of the deposit made by any
26 organization. If, as a result of such review, he or she determines
27 that an adjustment is necessary he or she shall require the
28 organization to make an additional deposit within thirty days of
29 written notice of his or her determination or shall return to it such
30 portion of the deposit as he or she no longer considers necessary,
31 whichever action is appropriate. Disposition of income from securities
32 held in escrow shall be governed by the applicable provisions of the
33 state law.

34 (4) If any nonprofit organization fails to file a bond or make a
35 deposit, or to file a bond in an increased amount or to increase or
36 make whole the amount of a previously made deposit, as provided under
37 this section, the commissioner may terminate such organization's
38 election to make payments in lieu of contributions and such termination

1 shall continue for not less than the four-consecutive-calendar-quarter
2 period beginning with the quarter in which termination becomes
3 effective: PROVIDED, That the commissioner may extend for good cause
4 the applicable filing, deposit, or adjustment period by not more than
5 thirty days.

6 **Sec. 13045.** RCW 50.72.060 and 1994 sp.s. c 3 s 6 are each amended
7 to read as follows:

8 (1) An application for a grant under this chapter shall be
9 submitted by the applicant in such form and in accordance with the
10 requirements as determined by the commissioner.

11 (2) The application for a grant under this chapter shall contain at
12 a minimum:

13 (a) The amount of the grant request and its proposed use;

14 (b) A description of the applicant and a statement of its
15 qualifications, including a description of the applicant's past
16 experience with housing rehabilitation or construction with youth and
17 youth education and employment training programs, and its relationship
18 with local unions and apprenticeship programs and other community
19 groups;

20 (c) A description of the proposed site for the program;

21 (d) A description of the educational and job training activities,
22 work opportunities, and other services that will be provided to
23 participants;

24 (e) A description of the proposed construction or rehabilitation
25 activities to be undertaken and the anticipated schedule for carrying
26 out such activities;

27 (f) A description of the manner in which eligible participants will
28 be recruited and selected, including a description of arrangements
29 which will be made with federal or state agencies, community-based
30 organizations, local school districts, the courts of jurisdiction for
31 status and youth offenders, shelters for homeless individuals and other
32 agencies that serve homeless youth, foster care agencies, and other
33 appropriate public and private agencies;

34 (g) A description of the special outreach efforts that will be
35 undertaken to recruit eligible young women, including young women with
36 dependent children;

1 (h) A description of how the proposed program will be coordinated
2 with other federal, state, local, and private resources and programs,
3 including vocational, adult, and bilingual education programs, and job
4 training programs;

5 (i) Assurances that there will be a sufficient number of adequately
6 trained supervisory personnel in the program who have attained ((the))
7 journey level ((of journeyman)) status or have served an apprenticeship
8 through the Washington state apprenticeship training council;

9 (j) A description of the applicant's relationship with building
10 contractor groups and trade unions regarding their involvement in
11 training, and the relationship of the youthbuild program with
12 established apprenticeship and training programs;

13 (k) A description of activities that will be undertaken to develop
14 the leadership skills of the participants;

15 (l) A description of the commitments for any additional resources
16 to be made available to the local program from the applicant, from
17 recipients of other federal, state, local, or private sources; and

18 (m) Other factors the commissioner deems necessary.

19 **PART XIV**

20 **Sec. 14001.** RCW 51.04.110 and 1982 c 109 s 2 are each amended to
21 read as follows:

22 The director shall appoint a workers' compensation advisory
23 committee composed of ten members: Three representing subject workers,
24 three representing subject employers, one representing self-insurers,
25 one representing workers of self-insurers, and two ex officio members,
26 without a vote, one of whom shall be the ((chairman)) chair of the
27 board of industrial appeals and the other the representative of the
28 department. The member representing the department shall be
29 ((chairman)) chair. This committee shall conduct a continuing study of
30 any aspects of workers' compensation as the committee shall determine
31 require their consideration. The committee shall report its findings
32 to the department or the board of industrial insurance appeals for such
33 action as deemed appropriate. The members of the committee shall be
34 appointed for a term of three years commencing on July 1, 1971 and the
35 terms of the members representing the workers and employers shall be
36 staggered so that the director shall designate one member from each

1 such group initially appointed whose term shall expire on June 30, 1972
2 and one member from each such group whose term shall expire on June 30,
3 1973. The members shall serve without compensation, but shall be
4 entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060
5 as now existing or hereafter amended. The committee may hire such
6 experts, if any, as it shall require to discharge its duties, and may
7 utilize such personnel and facilities of the department and board of
8 industrial insurance appeals as it shall need without charge. All
9 expenses of this committee shall be paid by the department.

10 **Sec. 14002.** RCW 51.12.080 and 1973 1st ex.s. c 154 s 92 are each
11 amended to read as follows:

12 Inasmuch as it has proved impossible in the case of employees of
13 common carriers by railroad, engaged in maintenance and operation of
14 railways doing interstate, foreign, and intrastate commerce, and in
15 maintenance and construction of their equipment, to separate and
16 distinguish the connection of such employees with interstate or foreign
17 commerce from their connection with intrastate commerce, and such
18 employees have, in fact, received no compensation under this title, the
19 provisions of this title shall not apply to work performed by such
20 employees in the maintenance and operation of such railroads or
21 performed in the maintenance or construction of their equipment, or to
22 the employees of such common carriers by railroad engaged therein, but
23 nothing herein shall be construed as excluding from the operation of
24 this title railroad construction work, or the employees engaged
25 thereon: PROVIDED, That common carriers by railroad engaged in such
26 interstate or foreign commerce and in intrastate commerce shall, in all
27 cases where liability does not exist under the laws of the United
28 States, be liable in damages to any person suffering injury while
29 employed by such carrier, or in case of the death of such employee, to
30 the surviving spouse and child, or children, and if no surviving spouse
31 or child or children, then to the parents, minor sisters, or minor
32 brothers, residents of the United States at the time of such death, and
33 who were dependent upon such deceased for support, to the same extent
34 and subject to the same limitations as the liability now existing, or
35 hereafter created, by the laws of the United States governing
36 recoveries by railroad employees injured while engaged in interstate
37 commerce: PROVIDED FURTHER, That if any interstate common carrier by

1 railroad shall also be engaged in one or more intrastate enterprises or
2 industries (including street railways and power plants) other than its
3 railroad, the foregoing provisions of this section shall not exclude
4 from the operation of the other sections of this title or bring under
5 the foregoing proviso of this section any work of such other enterprise
6 or industry, the payroll of which may be clearly separable and
7 distinguishable from the payroll of the maintenance or operation of
8 such railroad, or of the maintenance or construction of its equipment:
9 PROVIDED FURTHER, That nothing in this section shall be construed as
10 relieving an independent contractor engaged through or by his or her
11 employees in performing work for a common carrier by railroad, from the
12 duty of complying with the terms of this title, nor as depriving any
13 employee of such independent contractor of the benefits of this title.

14 **Sec. 14003.** RCW 51.14.040 and 1971 ex.s. c 289 s 29 are each
15 amended to read as follows:

16 (1) The surety on a bond filed by a self-insurer pursuant to this
17 title may terminate its liability thereon by giving the director
18 written notice stating when, not less than thirty days thereafter, such
19 termination shall be effective.

20 (2) In case of such termination, the surety shall remain liable, in
21 accordance with the terms of the bond, with respect to future
22 compensation for injuries to employees of the self-insurer occurring
23 prior to the termination of the surety's liability.

24 (3) If the bond is terminated for any reason other than the
25 employer's terminating his or her status as a self-insurer, the
26 employer shall, prior to the date of termination of the surety's
27 liability, otherwise comply with the requirements of this title.

28 (4) The liability of a surety on any bond filed pursuant to this
29 section shall be released and extinguished and the bond returned to the
30 employer or surety provided either such liability is secured by another
31 bond filed, or money or securities deposited as required by this title.

32 **Sec. 14004.** RCW 51.14.050 and 1971 ex.s. c 289 s 30 are each
33 amended to read as follows:

34 (1) Any employer may at any time terminate his or her status as a
35 self-insurer by giving the director written notice stating when, not
36 less than thirty days thereafter, such termination shall be effective,

1 provided such termination shall not be effective until the employer
2 either shall have ceased to be an employer or shall have filed with the
3 director for state industrial insurance coverage under this title.

4 (2) An employer who ceases to be a self-insurer, and who so files
5 with the director, must maintain money, securities, or surety bonds
6 deemed sufficient in the director's discretion to cover the entire
7 liability of such employer for injuries or occupational diseases to his
8 or her employees which occurred during the period of self-insurance:
9 PROVIDED, That the director may agree for the medical aid and accident
10 funds to assume the obligation of such claims, in whole or in part, and
11 shall adjust the employer's premium rate to provide for the payment of
12 such obligations on behalf of the employer.

13 **Sec. 14005.** RCW 51.14.100 and 1971 ex.s. c 289 s 34 are each
14 amended to read as follows:

15 (1) Every employer subject to the provisions of this title shall
16 post and keep posted in a conspicuous place or places in and about his
17 or her place or places of business a reasonable number of typewritten
18 or printed notices of compliance substantially identical to a form
19 prescribed by the director, stating that such employer is subject to
20 the provisions of this title. Such notice shall advise whether the
21 employer is self-insured or has insured with the department, and shall
22 designate a person or persons on the premises to whom report of injury
23 shall be made.

24 (2) Any employer who has failed to open an account with the
25 department or qualify as a self-insurer shall not post or permit to be
26 posted on or about his or her place of business or premises any notice
27 of compliance with this title and any wilful violation of this
28 subsection by any officer or supervisory employee of an employer shall
29 be a misdemeanor.

30 **Sec. 14006.** RCW 51.16.150 and 1986 c 9 s 4 are each amended to
31 read as follows:

32 If any employer shall default in any payment to any fund, the sum
33 due may be collected by action at law in the name of the state as
34 plaintiff, and such right of action shall be in addition to any other
35 right of action or remedy. If such default occurs after demand, the
36 director may require from the defaulting employer a bond to the state

1 for the benefit of any fund, with surety to the director's
2 satisfaction, in the penalty of double the amount of the estimated
3 payments which will be required from such employer into the said funds
4 for and during the ensuing one year, together with any penalty or
5 penalties incurred. In case of refusal or failure after written demand
6 personally served to furnish such bond, the state shall be entitled to
7 an injunction restraining the delinquent from prosecuting an occupation
8 or work until such bond is furnished, and until all delinquent
9 premiums, penalties, interest, and costs are paid, conditioned for the
10 prompt and punctual making of all payments into said funds during such
11 periods, and any sale, transfer, or lease attempted to be made by such
12 delinquent during the period of any of the defaults herein mentioned,
13 of his or her works, plant, or lease thereto, shall be invalid until
14 all past delinquencies are made good, and such bond furnished.

15 **Sec. 14007.** RCW 51.16.170 and 1986 c 9 s 5 are each amended to
16 read as follows:

17 Separate and apart from and in addition to the foregoing provisions
18 in this chapter, the claims of the state for payments and penalties due
19 under this title shall be a lien prior to all other liens or claims and
20 on a parity with prior tax liens not only against the interest of any
21 employer, in real estate, plant, works, equipment, and buildings
22 improved, operated, or constructed by any employer, and also upon any
23 products or articles manufactured by such employer.

24 The lien created by this section shall attach from the date of the
25 commencement of the labor upon such property for which such premiums
26 are due. In order to avail itself of the lien hereby created, the
27 department shall, within four months after the employer has made report
28 of his or her payroll and has defaulted in the payment of his or her
29 premiums thereupon, file with the county auditor of the county within
30 which such property is then situated, a statement in writing describing
31 in general terms the property upon which a lien is claimed and stating
32 the amount of the lien claimed by the department. If any employer
33 fails or refuses to make report of his or her payroll, the lien hereby
34 created shall continue in full force and effect, although the amount
35 thereof is undetermined and the four months' time within which the
36 department shall file its claim of lien shall not begin to run until
37 the actual receipt by the department of such payroll report. From and

1 after the filing of such claim of lien, the department shall be
2 entitled to commence suit to cause such lien to be foreclosed in the
3 manner provided by law for the foreclosure of other liens on real or
4 personal property, and in such suit the certificate of the department
5 stating the date of the actual receipt by the department of such
6 payroll report shall be prima facie evidence of such fact.

7 **Sec. 14008.** RCW 51.32.025 and 1987 c 185 s 33 are each amended to
8 read as follows:

9 Any payments to or on account of any child or children of a
10 deceased or temporarily or totally permanently disabled worker pursuant
11 to any of the provisions of chapter 51.32 RCW shall terminate when any
12 such child reaches the age of eighteen years unless such child is a
13 dependent invalid child or is permanently enrolled at a full time
14 course in an accredited school, in which case such payments after age
15 eighteen shall be made directly to such child. Payments to any
16 dependent invalid child over the age of eighteen years shall continue
17 in the amount previously paid on account of such child until he or she
18 shall cease to be dependent. Payments to any child over the age of
19 eighteen years permanently enrolled at a full time course in an
20 accredited school shall continue in the amount previously paid on
21 account of such child until the child reaches an age over that provided
22 for in the definition of "child" in this title or ceases to be
23 permanently enrolled whichever occurs first. Where the worker sustains
24 an injury or dies when any of the worker's children is over the age of
25 eighteen years and is either a dependent invalid child or is a child
26 permanently enrolled at a full time course in an accredited school the
27 payment to or on account of any such child shall be made as herein
28 provided.

29 **Sec. 14009.** RCW 51.32.230 and 1979 ex.s. c 151 s 2 are each
30 amended to read as follows:

31 Notwithstanding any other provisions of law, any overpayments
32 previously recovered under the provisions of RCW 51.32.220 as now or
33 hereafter amended shall be limited to six months' overpayments. Where
34 greater recovery has already been made, the director, in his or her
35 discretion, may make restitution in those cases where an extraordinary
36 hardship has been created.

1 **Sec. 14010.** RCW 51.44.120 and 1961 c 23 s 51.44.120 are each
2 amended to read as follows:

3 The state treasurer shall be liable on his or her official bond for
4 the safe custody of the moneys and securities of the several funds, but
5 all of the provisions of law relating to state depositaries and to the
6 deposit of state moneys therein shall apply to the several funds and
7 securities.

8 **Sec. 14011.** RCW 51.48.017 and 1985 c 347 s 3 are each amended to
9 read as follows:

10 If a self-insurer unreasonably delays or refuses to pay benefits as
11 they become due there shall be paid by the self-insurer upon order of
12 the director an additional amount equal to five hundred dollars or
13 twenty-five percent of the amount then due, whichever is greater, which
14 shall accrue for the benefit of the claimant and shall be paid to him
15 or her with the benefits which may be assessed under this title. The
16 director shall issue an order determining whether there was an
17 unreasonable delay or refusal to pay benefits within thirty days upon
18 the request of the claimant. Such an order shall conform to the
19 requirements of RCW 51.52.050.

20 **Sec. 14012.** RCW 51.48.250 and 1986 c 200 s 4 are each amended to
21 read as follows:

22 (1) No person, firm, corporation, partnership, association, agency,
23 institution, or other legal entity, but not including an industrially
24 injured recipient of health service, shall, on behalf of himself or
25 herself or others, obtain or attempt to obtain payments under this
26 chapter in a greater amount than that to which entitled by means of:

27 (a) A wilful false statement;

28 (b) Wilful misrepresentation, or by concealment of any material
29 facts; or

30 (c) Other fraudulent scheme or device, including, but not limited
31 to:

32 (i) Billing for services, drugs, supplies, or equipment that were
33 not furnished, of lower quality, or a substitution or misrepresentation
34 of items billed; or

35 (ii) Repeated billing for purportedly covered items, which were not
36 in fact so covered.

1 (2) Any person, firm, corporation, partnership, association,
2 agency, institution, or other legal entity knowingly violating any of
3 the provisions of subsection (1) of this section shall be liable for
4 repayment of any excess payments received, plus interest on the amount
5 of the excess benefits or payments at the rate of one percent each
6 month for the period from the date upon which payment was made to the
7 date upon which repayment is made to the state. Such person or other
8 entity shall further, in addition to any other penalties provided by
9 law, be subject to civil penalties. The director of the department of
10 labor and industries may assess civil penalties in an amount not to
11 exceed the greater of one thousand dollars or three times the amount of
12 such excess benefits or payments: PROVIDED, That these civil penalties
13 shall not apply to any acts or omissions occurring prior to April 1,
14 1986.

15 (3) A criminal action need not be brought against a person, firm,
16 corporation, partnership, association, agency, institution, or other
17 legal entity for that person or entity to be civilly liable under this
18 section.

19 (4) Civil penalties shall be deposited in the general fund upon
20 their receipt.

21 **Sec. 14013.** RCW 51.52.102 and 1963 c 148 s 5 are each amended to
22 read as follows:

23 At the time and place fixed for hearing each party shall present
24 all his or her evidence with respect to the issues raised in the notice
25 of appeal, and if any party fails so to do, the board may determine the
26 issues upon such evidence as may be presented to it at said hearing, or
27 if an appealing party who has the burden of going forward with the
28 evidence fails to present any evidence, the board may dismiss the
29 appeal: PROVIDED, That for good cause shown in the record to prevent
30 hardship, the board may grant continuances upon application of any
31 party, but such continuances, when granted, shall be to a time and
32 place certain within the county where the initial hearing was held
33 unless it shall appear that a continuance elsewhere is required in
34 justice to interested parties: AND PROVIDED FURTHER, That the board
35 may continue hearings on its own motion to secure in an impartial
36 manner such evidence, in addition to that presented by the parties, as
37 the board, in its opinion, deems necessary to decide the appeal fairly

1 and equitably, but such additional evidence shall be received subject
2 to any objection as to its admissibility, and, if admitted in evidence
3 all parties shall be given full opportunity for cross-examination and
4 to present rebuttal evidence.

5 **Sec. 14014.** RCW 51.52.106 and 1982 c 109 s 9 are each amended to
6 read as follows:

7 After the filing of a petition or petitions for review as provided
8 for in RCW 51.52.104, the proposed decision and order of the industrial
9 appeals judge, petition or petitions for review and, in its discretion,
10 the record or any part thereof, may be considered by the board and on
11 agreement of at least two of the regular members thereof, the board
12 may, within twenty days after the receipt of such petition or
13 petitions, decline to review the proposed decision and order and
14 thereupon deny the petition or petitions. In such event all parties
15 shall forthwith be notified in writing of said denial: PROVIDED, That
16 if a petition for review is not denied within said twenty days it shall
17 be deemed to have been granted. If the petition for review is granted,
18 the proposed decision and order, the petition or petitions for review
19 and the record or any part thereof deemed necessary shall be considered
20 by a panel of at least two of the members of the board, on which not
21 more than one industry and one labor member serve. The ((~~chairman~~))
22 chair may be a member of any panel. The decision and order of any such
23 panel shall be the decision and order of the board. Every final
24 decision and order rendered by the board shall be in writing and shall
25 contain findings and conclusions as to each contested issue of fact and
26 law, as well as the board's order based thereon. The board shall, in
27 all cases, render a final decision and order within one hundred and
28 eighty days from the date a petition for review is filed. A copy of
29 the decision and order, including the findings and conclusions, shall
30 be mailed to each party to the appeal and to his or her attorney of
31 record.

32 **PART XV**

33 **Sec. 15001.** RCW 52.04.111 and 2009 c 115 s 6 are each amended to
34 read as follows:

35 When any city, code city, partial city as set forth in RCW

1 52.04.061(2), or town is annexed to a fire protection district under
2 RCW 52.04.061 and 52.04.071, any employee of the fire department of
3 such city, code city, partial city as set forth in RCW 52.04.061(2), or
4 town who (1) was at the time of annexation employed exclusively or
5 principally in performing the powers, duties, and functions which are
6 to be performed by the fire protection district (2) will, as a direct
7 consequence of annexation, be separated from the employ of the city,
8 code city, partial city as set forth in RCW 52.04.061(2), or town, and
9 (3) can perform the duties and meet the minimum requirements of the
10 position to be filled, then such employee may transfer his or her
11 employment to the fire protection district as provided in this section
12 and RCW 52.04.121 and 52.04.131.

13 For purposes of this section and RCW 52.04.121 and 52.04.131,
14 employee means an individual whose employment with a city, code city,
15 partial city as set forth in RCW 52.04.061(2), or town has been
16 terminated because the city, code city, partial city as set forth in
17 RCW 52.04.061(2), or town was annexed by a fire protection district for
18 purposes of fire protection.

19 **Sec. 15002.** RCW 52.12.031 and 1995 c 369 s 65 are each amended to
20 read as follows:

21 Any fire protection district organized under this title may:

22 (1) Lease, acquire, own, maintain, operate, and provide fire and
23 emergency medical apparatus and all other necessary or proper
24 facilities, machinery, and equipment for the prevention and suppression
25 of fires, the providing of emergency medical services and the
26 protection of life and property;

27 (2) Lease, acquire, own, maintain, and operate real property,
28 improvements, and fixtures for housing, repairing, and maintaining the
29 apparatus, facilities, machinery, and equipment described in subsection
30 (1) of this section;

31 (3) Contract with any governmental entity under chapter 39.34 RCW
32 or private person or entity to consolidate, provide, or cooperate for
33 fire prevention protection, fire suppression, investigation, and
34 emergency medical purposes. In so contracting, the district or
35 governmental entity is deemed for all purposes to be acting within its
36 governmental capacity. This contracting authority includes the

1 furnishing of fire prevention, fire suppression, investigation,
2 emergency medical services, facilities, and equipment to or by the
3 district, governmental entity, or private person or entity;

4 (4) Encourage uniformity and coordination of fire protection
5 district operations. The fire commissioners of fire protection
6 districts may form an association to secure information of value in
7 suppressing and preventing fires and other district purposes, to hold
8 and attend meetings, and to promote more economical and efficient
9 operation of the associated fire protection districts. The
10 commissioners of fire protection districts in the association shall
11 adopt articles of association or articles of incorporation for a
12 nonprofit corporation, select a (~~chairman~~) chair, secretary, and
13 other officers as they may determine, and may employ and discharge
14 agents and employees as the officers deem convenient to carry out the
15 purposes of the association. The expenses of the association may be
16 paid from funds paid into the association by fire protection districts:
17 PROVIDED, That the aggregate contributions made to the association by
18 a district in a calendar year shall not exceed two and one-half cents
19 per thousand dollars of assessed valuation;

20 (5) Enter into contracts to provide group life insurance for the
21 benefit of the personnel of the fire districts;

22 (6) Perform building and property inspections that the district
23 deems necessary to provide fire prevention services and pre-fire
24 planning within the district and any area that the district serves by
25 contract in accordance with RCW 19.27.110: PROVIDED, That codes used
26 by the district for building and property inspections shall be limited
27 to the applicable codes adopted by the state, county, city, or town
28 that has jurisdiction over the area in which the property is located.
29 A copy of inspection reports prepared by the district shall be
30 furnished by the district to the appropriate state, county, city, or
31 town that has jurisdiction over the area in which the property is
32 located: PROVIDED, That nothing in this subsection shall be construed
33 to grant code enforcement authority to a district. This subsection
34 shall not be construed as imposing liability on any governmental
35 jurisdiction;

36 (7) Determine the origin and cause of fires occurring within the
37 district and any area the district serves by contract. In exercising

1 the authority conferred by this subsection, the fire protection
2 district and its authorized representatives shall comply with the
3 provisions of RCW ((48.48.060)) 43.44.050;

4 (8) Perform acts consistent with this title and not otherwise
5 prohibited by law.

6 **Sec. 15003.** RCW 52.14.080 and 1984 c 230 s 35 are each amended to
7 read as follows:

8 The fire commissioners shall elect a ((chairman)) chair from their
9 number and shall appoint a secretary of the district, who may or may
10 not be a member of the board, for such term as they shall by resolution
11 determine. The secretary, if a member of the board, shall not receive
12 additional compensation for serving as secretary.

13 The secretary of the district shall keep a record of the
14 proceedings of the board, shall perform other duties as prescribed by
15 the board or by law, and shall take and subscribe an official oath
16 similar to that of the fire commissioners which oath shall be filed in
17 the same office as that of the commissioners.

18 **PART XVI**

19 **Sec. 16001.** RCW 53.08.091 and 1982 c 75 s 1 are each amended to
20 read as follows:

21 Except in cases where the full purchase price is paid at the time
22 of the purchase, every sale of real property or personal property under
23 authority of RCW 53.08.090 or 53.25.110 shall be subject to the
24 following terms and conditions:

25 (1) The purchaser shall enter into a contract with the district in
26 which the purchaser shall covenant that he or she will make the
27 payments of principal and interest when due, and that he or she will
28 pay all taxes and assessments on such property. Upon failure to make
29 payments of principal, interest, assessments, or taxes when due all
30 rights of the purchaser under said contract may, at the election of the
31 district, after notice to said purchaser, be declared to be forfeited.
32 When the rights of the purchaser are declared forfeited, the district
33 shall be released from all obligation to convey land covered by the
34 contract, and in the case of personal property, the district shall have
35 all rights granted to a secured party under chapter 62A.9 RCW;

1 (2) The district may, as it deems advisable, extend the time for
2 payment of principal and interest due or to become due;

3 (3) The district shall notify the purchaser in each instance when
4 payment is overdue, and that the purchaser is liable to forfeiture if
5 payment is not made within thirty days from the time the same became
6 due, unless the time be extended by the district;

7 (4) Not less than four percent of the total purchase price shall be
8 paid on the date of execution of the contract for sale and not less
9 than four percent shall be paid annually thereafter until the full
10 purchase price has been paid, but any purchaser may make full payment
11 at any time. All unpaid deferred payments shall draw interest at a
12 rate not less than six percent per annum.

13 Nothing in this section shall be deemed to supersede other
14 provisions of law more specifically governing sales of port district
15 property. It is the purpose of this section to provide additional
16 authority and procedures for sale of port district property no longer
17 needed for port purposes.

18 **Sec. 16002.** RCW 53.08.208 and 1975 c 60 s 1 are each amended to
19 read as follows:

20 Whenever any action, claim, or proceeding is instituted against any
21 person who is or was an officer, employee, or agent of a port district
22 established under this title arising out of the performance or failure
23 of performance of duties for, or employment with any such district, the
24 commission of the district may grant a request by such person that the
25 attorney of the district's choosing be authorized to defend said claim,
26 suit or proceeding, and the costs of defense, attorney's fees, and any
27 obligation for payment arising from such action may be paid from the
28 district's funds: PROVIDED, That costs of defense and/or judgment or
29 settlement against such person shall not be paid in any case where the
30 court has found that such person was not acting in good faith or within
31 the scope of his or her employment with or duties for the district.

32 **Sec. 16003.** RCW 53.08.390 and 2001 2nd sp.s. c 22 s 1 are each
33 amended to read as follows:

34 A countywide port district located in part or in whole within the
35 Grays Harbor pilotage district, as defined by RCW 88.16.050(2), may

1 commence pilotage service with the following powers and subject to the
2 conditions contained in this section.

3 (1) Persons employed to perform the pilotage service of a port
4 district must be licensed under chapter 88.16 RCW to provide pilotage.

5 (2) Before establishing pilotage service, a port district shall
6 give at least sixty days' written notice to the ((~~chairman~~)) chair of
7 the board of pilotage commissioners to provide pilotage.

8 (3) A port district providing pilotage service under this section
9 requiring additional pilots may petition the board of pilotage
10 commissioners to qualify and license as a pilot a person who has passed
11 the examination and is on the waiting list for the training program for
12 the district. If there are no persons on the waiting list, the board
13 shall solicit applicants and offer the examination.

14 (4) In addition to the power to employ or contract with pilots, a
15 port district providing pilotage services under this section has such
16 other powers as are reasonably necessary to accomplish the purpose of
17 this section including, but not limited to, providing through ownership
18 or contract pilots launches, dispatcher services, or ancillary tug
19 services required for operations or safety.

20 (5) A port district providing pilotage services under this section
21 may recommend to the board of pilotage commissioners rules of service,
22 rates, and tariffs governing its pilotage services for consideration
23 and adoption pursuant to RCW 88.16.035. The rules, rates, and tariffs
24 recommended by the port district must have been approved in open
25 meetings of the port district ten or more days after published notice
26 in a newspaper of general circulation and after mailing a copy of the
27 notice to the ((~~chairman~~)) chair of the board of pilotage
28 commissioners.

29 (6) A pilot providing pilotage services under this section must
30 comply with all requirements of the pilotage act, chapter 88.16 RCW,
31 and all rules adopted thereunder.

32 **Sec. 16004.** RCW 53.12.265 and 1975 1st ex.s. c 187 s 2 are each
33 amended to read as follows:

34 A commissioner of any port district may waive all or any portion of
35 his or her compensation payable under RCW 53.12.260 as to any month or
36 months during his or her term of office, by a written waiver filed with
37 the secretary of the commission. The waiver, to be effective, must be

1 filed any time after the commissioner's election and prior to the date
2 on which said compensation would otherwise be paid. The waiver shall
3 specify the month or period of months for which it is made.

4 **Sec. 16005.** RCW 53.18.030 and 1975 1st ex.s. c 296 s 38 are each
5 amended to read as follows:

6 In determining which employee organization will represent them,
7 employees shall have maximum freedom in exercising their right of self-
8 organization.

9 Controversies as to the choice of employee organization within a
10 port shall be submitted to the public employment relations commission.
11 Employee organizations may agree with the port district to
12 independently resolve jurisdictional disputes: PROVIDED, That when no
13 other procedure is available the procedures of RCW 49.08.010 shall be
14 followed in resolving such disputes. In such case the ((~~chairman~~))
15 chair of the public employment relations commission shall, at the
16 request of any employee organization, arbitrate any dispute between
17 employee organizations and enter a binding award in such dispute.

18 **Sec. 16006.** RCW 53.25.020 and 1955 c 73 s 2 are each amended to
19 read as follows:

20 It is further found and declared that:

21 (1) The existence of such marginal lands characterized by any or
22 all of such conditions constitutes a serious and growing menace which
23 is condemned as injurious and inimical to the public health, safety,
24 and welfare of the people of the communities in which they exist and of
25 the people of the state.

26 (2) Such marginal lands present difficulties and handicaps which
27 are beyond remedy and control solely by regulatory processes in the
28 exercise of the police power.

29 (3) They contribute substantially and increasingly to the problems
30 of, and necessitate excessive and disproportionate expenditures for,
31 crime prevention, correction, prosecution, and punishment, the
32 treatment of juvenile delinquency, the preservation of the public
33 health and safety, and the maintaining of adequate police, fire and
34 accident protection, and other public services and facilities.

35 (4) This menace is becoming increasingly direct and substantial in
36 its significance and effect.

1 (5) The benefits which will result from the remedying of such
2 conditions and the redevelopment of such marginal lands will accrue to
3 all the inhabitants and property owners of the communities in which
4 they exist.

5 (6) Such conditions of marginal lands tend to further obsolescence,
6 deterioration, and disuse because of the lack of incentive to the
7 individual landowner and his or her inability to improve, modernize, or
8 rehabilitate his or her property while the condition of the neighboring
9 properties remains unchanged.

10 (7) As a consequence the process of deterioration of such marginal
11 lands frequently cannot be halted or corrected except by redeveloping
12 the entire area, or substantial portions of it.

13 (8) Such conditions of marginal lands are chiefly found in areas
14 subdivided into small parcels, held in divided and widely scattered
15 ownerships, frequently under defective titles, and in many such
16 instances the private assembly of the land areas for redevelopment is
17 so difficult and costly that it is uneconomic and as a practical matter
18 impossible for owners to undertake because of lack of the legal power
19 and excessive costs.

20 (9) The remedying of such conditions may require the public
21 acquisition at fair prices of adequate areas, the redevelopment of the
22 areas suffering from such conditions under proper supervision, with
23 appropriate planning, and continuing land use.

24 (10) The development or redevelopment of land, or both, acquired
25 under the authority of this chapter constitute a public use and are
26 governmental functions, and that the sale or leasing of such land after
27 the same has been developed or redeveloped is merely incidental to the
28 accomplishment of the real or fundamental purpose, that is, to remove
29 the condition which caused said property to be marginal property as in
30 this chapter defined.

31 **Sec. 16007.** RCW 53.25.150 and 1984 c 195 s 2 are each amended to
32 read as follows:

33 If the commission chooses to sell the property through competitive
34 bidding under RCW 53.25.140:

35 (1) Bids may be submitted for the property or any part of it, shall
36 state the use which the bidder intends to make of it, and the

1 commission may require the successful bidder to file additional
2 information as to the intended use, and may require of him or her
3 security as assurance that the property will be used for that purpose;

4 (2) All sales shall be made to the best bidder, and in determining
5 the best bid, the commission may also consider the nature of the
6 proposed use and the relation thereof to the improvement of the harbor
7 and the business and facilities thereof;

8 (3) Within thirty days after the last day for submitting bids, the
9 commission shall decide which if any bids it accepts. All sales shall
10 be made upon such terms and conditions as the commission may prescribe.

11 **Sec. 16008.** RCW 53.25.160 and 1955 c 73 s 16 are each amended to
12 read as follows:

13 The purchaser shall, within one year from the date of purchase,
14 devote the property to its intended use, or shall commence work on the
15 improvements thereon to devote it to such use, and if he or she fails
16 to do so, the port commission may cancel the sale and return the money
17 paid on the purchase price, and title to the property shall revert to
18 the district. This remedy shall be in addition to any other remedy
19 under the terms of the sale. No purchaser shall transfer title to such
20 property within one year from the date of purchase.

21 **Sec. 16009.** RCW 53.34.020 and 1959 c 236 s 2 are each amended to
22 read as follows:

23 The district shall have the power to enter into a contract or
24 contracts for the use of said projects, their approaches and equipment
25 and from time to time to amend such contracts, with persons and with
26 private and public corporations, and by said contracts to give such
27 persons or corporations the right to use said projects, their
28 approaches and equipment for the transmission of power for telephone
29 and telegraph lines, for the transportation of water, gas, petroleum,
30 and other products, for railroad and railway purposes, and for any
31 other purpose to which the same may be adapted: PROVIDED, That no such
32 contract shall be for a period longer than ninety-nine years, and that
33 the projects shall be put to the largest possible number of uses
34 consistent with the purposes for which such projects are constructed.

35 In making such contract or contracts and providing for payments and
36 rentals thereunder the port district shall determine the value of the

1 separate and different uses to which the projects are to be put and
2 shall apportion the annual rentals and charges as nearly as possible
3 according to the respective values of such uses. No such contract
4 shall be made with any person or corporation unless and until such
5 person or corporation shall bind himself or herself or itself to pay as
6 rental therefor an amount determined by the port district and specified
7 in the contract which shall be a fair and just proportion of the total
8 amount required to pay interest on the bonds provided for in this
9 chapter, plus a just proportion of the amount necessary for their
10 retirement, and plus the cost of maintenance of the projects, their
11 approaches and equipment.

12 The port district may require any of such contracts to be entered
13 into before beginning the construction of said projects or before the
14 expenditure of funds under the provisions of this chapter if in its
15 judgment it is deemed expedient.

16 There shall be no monopoly of the use of said projects, and their
17 approaches by any one use, or by any person or corporation, private or
18 public, in respect to the several uses, and the port district may
19 continue to make separate, additional, and supplemental contracts for
20 one or more uses until in the judgment of said port district the
21 capacity of the projects and approaches for any such use has been
22 reached. When such capacity has been reached contracts for the use of
23 said projects shall be given preference in regard to such uses
24 according to the public interest as determined by the port district,
25 and subsequent contracts shall be subject to all existing and prior
26 contracts. The port district shall have the power to prescribe
27 regulations for the use of such facilities by the parties to contracts
28 for such use, or any of them, and to hear and determine all
29 controversies which may arise between such parties, under such rules as
30 the port district may from time to time promulgate; and all contracts
31 shall expressly reserve such power to the port district.

32 **Sec. 16010.** RCW 53.34.140 and 1959 c 236 s 14 are each amended to
33 read as follows:

34 Prior to the issuance and delivery of revenue bonds or notes under
35 the authority of this chapter, such revenue bonds or notes and a
36 certified copy of the resolution, resolutions, or trust agreements
37 authorizing such revenue bonds or notes shall be forwarded by the port

1 commission to the state auditor together with any additional
2 information requested by him or her, and when such revenue bonds or
3 notes have been examined they shall be registered by the auditor in
4 books to be kept by him or her for that purpose, and a certificate of
5 registration shall be endorsed upon each such revenue bond or note and
6 signed by the auditor or a deputy appointed by him or her for that
7 purpose.

8 Revenue bonds or notes so registered shall then be prima facie
9 valid and binding obligations of the port district in accordance with
10 the terms thereof, notwithstanding any defect or irregularity in the
11 proceedings for the authorization and issuance of such revenue bonds or
12 notes or in the sale, execution or delivery thereof or in the
13 application of the proceeds thereof.

14 **Sec. 16011.** RCW 53.36.010 and 1983 c 250 s 1 are each amended to
15 read as follows:

16 The treasurer of the county in which a port district is located
17 shall be treasurer of the district unless the commission of a port
18 district which has for the last three consecutive years received annual
19 gross operating revenues of one hundred thousand dollars or more,
20 excluding tax revenues and grants for capital purposes, designates by
21 resolution some other person having experience in financial or fiscal
22 matters as treasurer of the port district to act with the same powers
23 and under the same restrictions as provided by law for a county
24 treasurer acting on behalf of a port district: PROVIDED, That any port
25 district which was authorized by the county treasurer to appoint its
26 own treasurer prior to July 24, 1983, may continue to appoint its own
27 treasurer. The commission may, and if the treasurer is not the county
28 treasurer it shall, require a bond, with a surety company authorized to
29 do business in the state of Washington, in an amount and under the
30 terms and conditions which the commission by resolution from time to
31 time finds will protect the district against loss. The premium on such
32 bonds shall be paid by the district. All district funds shall be paid
33 to the treasurer and shall be disbursed by him or her upon warrants
34 signed by a port auditor appointed by the port commission, upon
35 vouchers approved by the commission.

1 commission may by resolution direct. The officer disbursing said fund
2 shall be required to give bond to the port district in the full
3 authorized amount of the said incidental expense fund for the faithful
4 performance of his or her duties in connection with the disbursement of
5 moneys from such fund.

6 **Sec. 16014.** RCW 53.46.030 and 1965 c 102 s 4 are each amended to
7 read as follows:

8 The county canvassing board of election returns shall certify the
9 results of the election to the board of county commissioners; and if at
10 such election a majority of voters voting on the question of
11 consolidation in each port district to be consolidated shall vote in
12 favor of consolidation, the board of county commissioners shall so
13 declare, and the port district resulting from the consolidation shall
14 then be and become a municipal corporation of the state of Washington.
15 The county auditor shall in such event issue a certificate of election
16 to the successful candidate from each port commissioner district. If
17 the proposed district includes area in two or more counties,
18 certificates of election shall be issued by the principal county
19 auditor, and the canvassing board of elections shall be made up of the
20 (~~chairmen~~) chairs of the board of county commissioners, prosecutors,
21 and the auditors of each county with area within the consolidated port
22 district. Of the successful port commissioner candidates, if three are
23 elected, the one receiving the highest number of votes shall serve
24 until his or her successor is elected and qualified at the third
25 subsequent regular election for port commissioner, and the ones
26 receiving the second and third highest numbers of votes shall serve
27 until their successors are elected and qualified at the second and
28 first subsequent regular elections for port commissioner, respectively.
29 If five or seven commissioners are elected, the two with the greatest
30 number of votes shall serve until their successors are elected and
31 qualified at the third subsequent regular election of port
32 commissioners, the two commissioners receiving the next highest number
33 of votes shall serve until their successors are elected and qualified
34 at the second subsequent regular election of port commissioners; and
35 the remaining commissioner or commissioners shall serve until their
36 successors are elected and qualified at the next regular election of
37 port commissioners.

1 **Sec. 16015.** RCW 53.46.080 and 1965 c 102 s 6 are each amended to
2 read as follows:

3 If the district includes area from two or more counties, it shall
4 be the duty of the county assessor in each county to certify annually
5 to the auditor of his or her county, who shall forward the same to the
6 principal county auditor, the total assessed valuation of that part of
7 the port district which lies within his or her county. The port
8 commission of such consolidated port district shall certify to the
9 principal county auditor the budget and the levies to be assessed for
10 port purposes: PROVIDED, That the amount of tax to be levied upon
11 taxable property of that part of a port district lying in one county
12 shall be in such ratio to the whole amount levied upon the property
13 lying in the entire consolidated port district as the assessed
14 valuation lying in such county bears to the assessed valuation of the
15 property in the entire consolidated port district.

16 Thereafter the principal county auditor shall forward a certificate
17 to each county auditor, for the county commissioners thereof, which
18 shall specify the proportion of taxes to be levied for port district
19 purposes.

20 **Sec. 16016.** RCW 53.46.090 and 1965 c 102 s 7 are each amended to
21 read as follows:

22 Upon receipt of the certificate from the principal county auditor
23 as provided in RCW 53.46.080 it shall be the duty of the board of
24 county commissioners of each county to levy on all taxable property of
25 the consolidated port district which lies within the county a tax
26 sufficient to raise the amount necessary to meet the county's
27 proportionate share of the total tax levy. Such taxes shall be levied
28 and collected in the same manner as other taxes are levied and
29 collected. The proceeds shall be forwarded quarterly by the treasurer
30 of each county to the principal county treasurer. The principal county
31 treasurer shall place to the credit of said consolidated port district
32 all funds received from the other county treasurers as well as those
33 amounts he or she shall have collected for the account of the port
34 district. The principal county treasurer shall be the treasurer of the
35 consolidated port district and shall perform all functions required of
36 a treasurer of a port district.

1 **Sec. 16017.** RCW 53.47.030 and 1971 ex.s. c 162 s 3 are each
2 amended to read as follows:

3 The county prosecutor of the county in which such port district is
4 located acting upon his or her own motion shall file such petition for
5 dissolution with the clerk of the superior court of the county in which
6 such inactive port district is located. Such petition shall:

7 (1) Describe with certainty the port district which is declared to
8 be inactive and which is sought to be dissolved;

9 (2) Allege with particularity that the port district sought to be
10 dissolved is inactive within the purview of any of the several
11 particulars set forth in RCW 53.47.020; and

12 (3) Request that the court find the port district inactive and
13 declare it dissolved upon such terms and conditions as the court may
14 impose and declare.

15 **Sec. 16018.** RCW 53.47.040 and 1973 1st ex.s. c 195 s 59 are each
16 amended to read as follows:

17 The superior court, upon the filing of such petition, shall set
18 such petition for hearing not less than one hundred twenty days and not
19 more than one hundred eighty days after the date of filing said
20 petition. Further, the court shall order the clerk of said court to
21 give notice of the time and place fixed for the hearing by publication
22 of notice in a newspaper of general circulation within such district,
23 such publication to be once each week for three consecutive weeks, the
24 date of first publication to be not less than thirty nor more than
25 seventy days prior to the date fixed for the hearing upon such
26 petition. Said notice shall further provide that all creditors of said
27 district, including holders of revenue or general obligation bonds
28 issued by said district, if any, shall present their claims to the
29 clerk of said court within ninety days from the date of first
30 publication of said notice, and that upon failure to do so all such
31 claims will be forever barred. The clerk shall also mail a copy by
32 ordinary mail of such notice to all creditors of said district,
33 including holders of revenue or general obligation bonds issued by said
34 district, if any, such mailing to be mailed not later than thirty days
35 after the hearing date has been set. No other or further notices shall
36 be required at any stage of the proceedings for dissolution of an
37 inactive port district pursuant to this chapter.

1 The clerk, ten days prior to the date set for the hearing, shall
2 deliver to the court the following:

3 (1) A list of the liabilities of the port district in detail with
4 the names and addresses of creditors as then known; and

5 (2) A list of the assets of the port district in detail as then
6 known.

7 The court upon hearing the petition shall fix and determine all
8 such claims subject to proof being properly filed as provided in this
9 section; shall fix and determine the financial condition of the
10 district as to its assets and liabilities, and if it finds the port
11 district to be inactive in respect of any standard of inactivity set
12 forth by this chapter, shall order the port district to be dissolved
13 upon the following terms and conditions:

14 (1) If there be no outstanding debts, or if the debts be less than
15 the existing assets, the court shall appoint the auditor of the county
16 in which the port district is located to be trustee of the port's
17 assets and shall empower such person to wind up and liquidate the
18 affairs of such district in such manner as the court shall provide and
19 to file his or her accounting with the court within ninety days from
20 the date of his or her appointment. Upon the filing of such account,
21 the court shall fix a date for hearing upon the same and upon approval
22 thereof, if such accounting be the final accounting, shall enter its
23 order approving the same and declaring the port district dissolved.

24 At the request of the trustee the county sheriff may sell, at
25 public auction, all real and personal property of the port district.
26 The county sheriff shall cause a notice of such sale fixing the time
27 and place thereof which shall be at a suitable place, which will be
28 noted in the advertisement for sale. Such notice shall contain a
29 description of the property to be sold and shall be signed by the
30 sheriff or his or her deputy. Such notice shall be published at least
31 once in an official newspaper in said county at least ten days prior to
32 the date fixed for said sale. The sheriff or his or her deputy shall
33 conduct said sale and sell the property described in the notice at
34 public auction to the highest and best bidder for cash, and upon
35 payment of the amount of such bid shall deliver the said property to
36 such bidder. The moneys arising from such sale shall be turned over to
37 the county auditor acting as trustee: PROVIDED, HOWEVER, That the

1 sheriff shall first deduct the costs and expenses of the sale from the
2 moneys and shall apply such moneys to pay said costs and expenses.

3 The court order shall provide that the assets remaining in the
4 hands of the trustee shall be transferred to any school district,
5 districts, or portions of districts, lying within the dissolved port
6 district boundaries. The transfer of assets shall be prorated to the
7 districts based on the assessed valuation of said districts.

8 (2) If the debts exceed the assets of the port district, then the
9 court shall appoint the auditor of the county in which a port district
10 is located to be trustee of the port's assets for the purpose of
11 conserving the same and of paying liability of the port district as
12 funds become available therefor. The trustee shall be empowered to
13 generally manage, wind up, and liquidate the affairs of such district
14 in such manner as the court shall provide and to file his or her
15 accounting with the court within ninety days from the date of his or
16 her appointment and as often thereafter as the court shall provide.
17 The board of county commissioners, acting as pro tempore port district
18 commissioners under the authority of RCW 53.36.020 shall levy an annual
19 tax not exceeding forty-five cents per thousand dollars of assessed
20 value or such lesser amount as may previously have been voted by the
21 taxpayers within said district, together with an amount deemed
22 necessary for payment of the costs and expenses attendant upon the
23 dissolution of said district, upon all the taxable property within said
24 district, the amount of such levy to be determined from time to time by
25 the court. When, as shown by the final accounting of the trustee, all
26 of the indebtedness of the district shall have been satisfied, the cost
27 and expense of the proceeding paid or provided for, and the affairs of
28 the district wound up, the court shall declare the district dissolved:
29 PROVIDED, That if the indebtedness be composed in whole or in part of
30 bonded debt for which a regular program of retirement has been
31 provided, then the board of county commissioners shall be directed by
32 the court to continue to make such annual levies as are required for
33 the purpose of debt service upon said bonded debt.

34 **Sec. 16019.** RCW 53.49.020 and 1943 c 282 s 2 are each amended to
35 read as follows:

36 The superior court of any such county shall enter his or her order
37 authorizing such transfer of funds if he or she is satisfied, after

1 hearing the petition therefor, that the port district is dissolved and
2 disestablished or is about to be dissolved and disestablished and that
3 no obligations of the port district remain unpaid. The court shall
4 equitably divide such sums of money between school districts if there
5 be more than one district involved.

6 **PART XVII**

7 **Sec. 17001.** RCW 54.04.060 and 1951 c 207 s 1 are each amended to
8 read as follows:

9 The supervisor of elections or other proper officer of the county
10 shall give notice of all elections held under this title, for the time
11 and in the manner and form provided for city, town, school district,
12 and port district elections. When the supervisor or other officer
13 deems an emergency exists, and is requested so to do by a resolution of
14 the district commission, he or she may call a special election at any
15 time in the district, and he or she may combine or divide precincts for
16 the purpose of holding special elections, and special elections shall
17 be conducted and notice thereof given in the manner provided by law.

18 The supervisor or other officer shall provide polling places,
19 appoint the election officers, provide their compensation, provide
20 ballot boxes, and ballots or voting machines, poll books and tally
21 sheets, and deliver them to the election officers at the polling
22 places, publish and post notices of the elections in the manner
23 provided by law, and apportion to the district its share of the expense
24 of the election.

25 The manner of conducting and voting at the elections, opening and
26 closing of polls, keeping of poll lists, canvassing the votes,
27 declaring the result, and certifying the returns, shall be the same as
28 for the election of state and county officers, except as otherwise
29 provided herein.

30 The district commission shall certify to the supervisor a list of
31 offices to be filled at a district election and the commission, if it
32 desires to submit to the voters of the district a proposition, shall
33 require the secretary of the commission to certify it at the time and
34 in the manner and form provided for certifying propositions by the
35 governing board of cities, towns, and port districts.

1 **Sec. 17002.** RCW 54.04.120 and 1985 c 95 s 1 are each amended to
2 read as follows:

3 In order that the commissioners of a public utility district may be
4 better able to plan for the marketing of power and for the development
5 of resources pertaining thereto, they shall have the same powers as are
6 vested in a board of county commissioners as provided in chapter 44,
7 Laws of 1935 (sections 9322-2 to 9322-4, both inclusive, and 9322-10 to
8 9322-11 inclusive, Remington's Revised Statutes, also Pierce's
9 Perpetual Code 776-3 to -7, 776-19 and -21), entitled: "An Act
10 relating to city, town, county and regional planning and the creation,
11 organization, duties and powers of planning commissions." For the
12 purposes of such act, the president of a public utility district shall
13 have the powers of the (~~chairman~~) chair of the board of county
14 commissioners, and a planning commission created hereunder shall have
15 the same powers, enumerated in the above sections, with reference to a
16 public utility district as a county planning commission has with
17 reference to a county. However, this section shall not be construed to
18 grant the power to adopt, regulate, or enforce comprehensive plans,
19 zoning, land use, or building codes.

20 **Sec. 17003.** RCW 54.04.140 and 1961 c 139 s 2 are each amended to
21 read as follows:

22 Any person affected by RCW 54.04.130 who was employed by the
23 private utility at the time of acquisition may, at his or her option,
24 apply to the district and/or appropriate officers, for admission to any
25 plan available to other employees of the district. Every such person
26 who was covered at the time of acquisition by a plan with the private
27 utility shall have added and accredited to his or her period of
28 employment his or her period of immediately preceding continuous
29 service with such private utility if he or she remains in the service
30 of the municipal corporation until such plan for which he or she seeks
31 admission becomes applicable to him or her.

32 No such person shall have added and accredited to his or her period
33 of employment his or her period of service with said private utility
34 unless he or she or a third party shall pay to the appropriate officer
35 or fund of the plan to which he or she requests admission his or her
36 contribution for the period of such service with the private utility at
37 the rate provided in or for such plan to which he or she desires

1 admission, or if he or she shall be entitled to any private benefits,
2 as a result of such private service, unless he or she agrees at the
3 time of his or her employment with the district to accept a reduction
4 in the payment of any benefits payable under the plan to which he or
5 she requests entry that are based in whole or in part on such added and
6 accredited service by the amount of benefits received. For the
7 purposes of contributions, the date of entry of service shall be deemed
8 the date of entry into service with the private utility, which service
9 is accredited by this section, and the amount of contributions for the
10 period of accredited service shall be based on the wages or salary of
11 such person during that added and accredited period of service with the
12 private utility.

13 The district may receive such payments from a third party and shall
14 make from such payments contributions with respect to such prior
15 service as may be necessary to enable it to assume its obligations.

16 After such contributions have been made and such service added and
17 accredited such employee shall be established in the plan to which he
18 or she seeks admission with all rights, benefits, and privileges that
19 he or she would have been entitled to had he or she been a member of
20 the plan from the beginning of his or her immediately preceding
21 continuous employment with the private utility or of his or her
22 eligibility.

23 **Sec. 17004.** RCW 54.08.010 and 2006 c 344 s 36 are each amended to
24 read as follows:

25 At any general election held in an even-numbered year, the county
26 legislative authority of any county in this state may, or, on petition
27 of ten percent of the qualified electors of the county based on the
28 total vote cast in the last general county election held in an even-
29 numbered year, shall, by resolution, submit to the voters of the county
30 the proposition of creating a public utility district which shall be
31 coextensive with the limits of the county as now or hereafter
32 established. A form of petition for the creation of a public utility
33 district shall be submitted to the county auditor within ten months
34 prior to the election at which the proposition is to be submitted to
35 the voters. Petitions shall be filed with the county auditor not less
36 than four months before the election and the county auditor shall
37 within thirty days examine the signatures thereof and certify to the

1 sufficiency or insufficiency thereof. If the petition be found to be
2 insufficient, it shall be returned to the persons filing the same, who
3 may amend or add names thereto for ten days, when the same shall be
4 returned to the county auditor, who shall have an additional fifteen
5 days to examine the same and attach his or her certificate thereto. No
6 person having signed the petition shall be allowed to withdraw his or
7 her name therefrom after the filing of the same with the county
8 auditor: PROVIDED, That each signature shall be dated and that no
9 signature dated prior to the date on which the form of petition was
10 submitted to the county auditor shall be valid. Whenever the petition
11 shall be certified to as sufficient, the county auditor shall forthwith
12 transmit the same, together with his or her certificate of sufficiency
13 attached thereto, to the county legislative authority which shall
14 submit the proposition to the voters of the county at the next general
15 election in an even-numbered year according to RCW 29A.04.330. The
16 notice of the election shall state the boundaries of the proposed
17 public utility district and the object of such election, and shall in
18 other respects conform to the requirements of the general laws of the
19 state of Washington, governing the time and manner of holding
20 elections. In submitting the question to the voters for their approval
21 or rejection, the proposition shall be expressed on the ballot
22 substantially in the following terms:

- 23 Public Utility District No. YES
24 Public Utility District No. NO

25 Any petition for the formation of a public utility district may
26 describe a less area than the entire county in which the petition is
27 filed, the boundaries of which shall follow the then existing precinct
28 boundaries and not divide any voting precinct; and in the event that
29 such a petition is filed the county legislative authority shall fix a
30 date for a hearing on such petition, and shall publish the petition,
31 without the signatures thereto appended, for two weeks prior to the
32 date of the hearing, together with a notice stating the time of the
33 meeting when the petition will be heard. The publication, and all
34 other publications required by chapter 1, Laws of 1931, shall be in a
35 newspaper of general circulation in the county in which the district is
36 situated. The hearing on the petition may be adjourned from time to
37 time, not exceeding four weeks in all. If upon the final hearing the
38 county legislative authority shall find that any lands have been

1 unjustly or improperly included within the proposed public utility
2 district and will not be benefited by inclusion therein, it shall
3 change and fix the boundary lines in such manner as it shall deem
4 reasonable and just and conducive to the public welfare and
5 convenience, and make and enter an order establishing and defining the
6 boundary lines of the proposed public utility district: PROVIDED, That
7 no lands shall be included within the boundaries so fixed lying outside
8 the boundaries described in the petition, except upon the written
9 request of the owners of those lands. Thereafter the same procedure
10 shall be followed as prescribed in this chapter for the formation of a
11 public utility district including an entire county, except that the
12 petition and election shall be confined solely to the lesser public
13 utility district.

14 No public utility district created after September 1, 1979, shall
15 include any other public utility district within its boundaries:
16 PROVIDED, That this paragraph shall not alter, amend, or modify
17 provisions of chapter 54.32 RCW.

18 **Sec. 17005.** RCW 54.08.070 and 2006 c 344 s 37 are each amended to
19 read as follows:

20 Any district which does not own or operate electric facilities for
21 the generation, transmission, or distribution of electric power on
22 March 25, 1969, or any district which hereafter does not construct or
23 acquire such electric facilities within ten years of its creation,
24 shall not construct or acquire any such electric facilities without the
25 approval of such proposal by the voters of such district: PROVIDED,
26 That a district shall have the power to construct or acquire electric
27 facilities within ten years following its creation by action of its
28 commission without voter approval of such action.

29 At any general election held in an even-numbered year, the proposal
30 to construct or acquire electric facilities may be submitted to the
31 voters of the district by resolution of the public utility district
32 commission or shall be submitted to the voters of the district by the
33 county legislative authority on petition of ten percent of the
34 qualified electors of such district, based on the total vote cast in
35 the last general county election held in an even-numbered year. A form
36 of petition for the construction or acquisition of electric facilities
37 by the public utility district shall be submitted to the county auditor

1 within ten months prior to the election at which such proposition is to
2 be submitted to the voters. Petitions shall be filed with the county
3 auditor not less than four months before such election and the county
4 auditor shall within thirty days examine the signatures thereof and
5 certify to the sufficiency or insufficiency thereof. If such petition
6 is found to be insufficient, it shall be returned to the persons filing
7 the same, who may amend and add names thereto for ten days, when the
8 same shall be returned to the county auditor, who shall have an
9 additional fifteen days to examine the same and attach his or her
10 certificate thereto. No person having signed such petition shall be
11 allowed to withdraw his or her name therefrom after the filing of the
12 same with the county auditor: PROVIDED, That each signature shall be
13 dated and that no signature dated prior to the date on which the form
14 of petition was submitted to the county auditor shall be valid.
15 Whenever such petition shall be certified to as sufficient, the county
16 auditor shall forthwith transmit the same, together with his or her
17 certificate of sufficiency attached thereto, to the county legislative
18 authority which shall submit such proposition to the voters of said
19 district at the next general election in an even-numbered year
20 according to RCW 29A.04.330. The notice of the election shall state
21 the object of such election, and shall in other respects conform to the
22 requirements of the general laws of Washington, governing the time and
23 manner of holding elections.

24 The proposal submitted to the voters for their approval or
25 rejection, shall be expressed on the ballot substantially in the
26 following terms:

27 Shall Public Utility District No. of County
28 construct or acquire electric facilities for the generation,
29 transmission or distribution of electric power?

- 30 Yes
31 No

32 Within ten days after such election, the election board of the
33 county shall canvass the returns, and if at such election a majority of
34 the voters voting on such proposition shall vote in favor of such
35 construction or acquisition of electric facilities, the district shall
36 be authorized to construct or acquire electric facilities.

1 **Sec. 17006.** RCW 54.12.100 and 1986 c 167 s 23 are each amended to
2 read as follows:

3 Each commissioner before he or she enters upon the duties of his or
4 her office shall take and subscribe an oath or affirmation that he or
5 she will faithfully and impartially discharge the duties of his or her
6 office to the best of his or her ability. This oath, or affirmation,
7 shall be administered and certified by an officer of the county in
8 which the district is situated, who is authorized to administer oaths,
9 without charge therefor. The oath or affirmation shall be filed with
10 the county auditor.

11 **Sec. 17007.** RCW 54.16.097 and 1975 c 60 s 2 are each amended to
12 read as follows:

13 Whenever any action, claim, or proceeding is instituted against any
14 person who is or was an officer, employee, or agent of a public utility
15 district established under this title arising out of the performance or
16 failure of performance of duties for, or employment with any such
17 district, the commission of the district may grant a request by such
18 person that the attorney of the district's choosing be authorized to
19 defend said claim, suit, or proceeding, and the costs of defense,
20 attorney's fees, and any obligation for payment arising from such
21 action may be paid from the district's funds: PROVIDED, That costs of
22 defense and/or judgment or settlement against such person shall not be
23 paid in any case where the court has found that such person was not
24 acting in good faith or within the scope of his or her employment with
25 or duties for the district.

26 **Sec. 17008.** RCW 54.16.150 and 1959 c 142 s 3 are each amended to
27 read as follows:

28 When a petition signed by a majority of the landowners in a
29 proposed local improvement district is filed with the commission,
30 asking that the improvement therein described be ordered, the
31 commission shall forthwith fix a date for hearing thereon after which
32 it shall, by resolution, order the improvement, and may alter the
33 boundaries of the proposed district; prepare and adopt the improvement;
34 prepare and adopt detail plans thereof; declare the estimated cost
35 thereof, what proportion of the cost shall be borne by the local
36 district, and what proportion, if any, shall be borne by the entire

1 public utility district, and provide the general funds thereof to be
2 applied thereto, if any; acquire all lands and other properties
3 therefor; pay all damages caused thereby; and commence in the name of
4 the public utility district such eminent domain proceedings and
5 supplemental assessment or reassessment proceedings to pay all eminent
6 domain awards necessary to entitle the district to proceed with the
7 work, and shall thereafter proceed with the work, and shall file with
8 the county treasurer its roll levying special assessments in the amount
9 to be paid by special assessment against the property in the local
10 improvement district in proportion to the special benefits to be
11 derived by the property in the local district from the improvement:
12 PROVIDED, HOWEVER, No such improvement shall be ordered unless the same
13 appears to the commission to be financially and economically feasible:
14 AND PROVIDED FURTHER, That the commission may require as a condition to
15 ordering such improvement or to making its determination as to the
16 financial and economic feasibility, that all or a portion of such
17 engineering, legal, or other costs incurred or to be incurred by the
18 commission in determining financial and economic feasibility shall be
19 borne or guaranteed by the petitioners of the proposed local
20 improvement district under such rules as the commission may adopt. No
21 person shall withdraw his or her name from the petition after the same
22 has been filed with the commission.

23 **Sec. 17009.** RCW 54.40.050 and 1994 c 223 s 59 are each amended to
24 read as follows:

25 The question of reclassification of a public utility district that
26 has or had a license from the federal power commission to construct a
27 hydroelectric project of an estimated cost of more than two hundred
28 fifty million dollars, including interest during construction, or has
29 a population of five hundred thousand or more, as a five commissioner
30 public utility district shall be submitted to the voters if a petition
31 proposing the change is filed with the county auditor of the county in
32 which the district is located, identifying the district by number and
33 praying that an election be held to determine whether it shall become
34 a five commissioner district. The petition must be signed by a number
35 of registered voters of the district equal to at least ten percent of
36 the number of registered voters in the district who voted at the last
37 general election and include each signer's residence address.

1 The petition shall be filed with the county auditor for
2 verification of the validity of the signatures. Within thirty days
3 after receipt of the petition, the county auditor shall determine the
4 sufficiency of the petition. If the petition is found insufficient,
5 the person who filed the same shall be notified by mail and he or she
6 shall have an additional fifteen days from the date of mailing such
7 notice within which to submit additional signatures, and the county
8 auditor shall have an additional thirty days after the submission of
9 such additional signatures to determine the validity of the entire
10 petition. No signature may be withdrawn after the petition has been
11 filed.

12 If the petition, including these additional signatures if any, is
13 found sufficient, the county auditor shall certify its sufficiency to
14 the public utility district and if the commissioners of the public
15 utility district had certified to the county auditor the eligibility of
16 the district for reclassification as provided in this chapter, the
17 county auditor shall submit to the voters of the district the question
18 of whether the district shall become a five commissioner district. The
19 election shall be held at the next state general election occurring
20 sixty or more days after the petition was certified as having
21 sufficient valid signatures.

22 **PART XVIII**

23 **Sec. 18001.** RCW 58.08.035 and Code 1881 s 2332 are each amended to
24 read as follows:

25 All streets, lanes, and alleys, laid off and recorded in accordance
26 with the foregoing provisions, shall be considered, to all intents and
27 purposes, public highways, and any person who may lay off any town or
28 any addition to any town in this state, and neglect or refuse to comply
29 with the requisitions aforesaid, shall forfeit and pay for the use of
30 said town, for every month he or she may delay a compliance with the
31 provisions of this chapter, a sum not exceeding one hundred dollars,
32 nor less than five dollars, to be recovered by civil action, in the
33 name of the treasurer of the county.

34 **Sec. 18002.** RCW 58.09.030 and 1973 c 50 s 3 are each amended to
35 read as follows:

1 Any land surveyor engaged in the practice of land surveying may
2 prepare maps, plats, reports, descriptions, or other documentary
3 evidence in connection therewith.

4 Every map, plat, report, description, or other document issued by
5 a licensed land surveyor shall comply with the provisions of this
6 chapter whenever such map, plat, report, description, or other document
7 is filed as a public record.

8 It shall be unlawful for any person to sign, stamp, or seal any
9 map, report, plat, description, or other document for filing under this
10 chapter unless he or she be a land surveyor.

11 **Sec. 18003.** RCW 58.09.040 and 1973 c 50 s 4 are each amended to
12 read as follows:

13 After making a survey in conformity with sound principles of land
14 surveying, a land surveyor may file a record of survey with the county
15 auditor in the county or counties wherein the lands surveyed are
16 situated.

17 (1) It shall be mandatory, within ninety days after the
18 establishment, reestablishment, or restoration of a corner on the
19 boundary of two or more ownerships or general land office corner by
20 survey that a land surveyor shall file with the county auditor in the
21 county or counties wherein the lands surveyed are situated a record of
22 such survey, in such form as to meet the requirements of this chapter,
23 which through accepted survey procedures, shall disclose:

24 (a) The establishment of a corner which materially varies from the
25 description of record;

26 (b) The establishment of one or more property corners not
27 previously existing;

28 (c) Evidence that reasonable analysis might result in alternate
29 positions of lines or points as a result of an ambiguity in the
30 description;

31 (d) The reestablishment of lost government land office corners.

32 (2) When a licensed land surveyor, while conducting work of a
33 preliminary nature or other activity that does not constitute a survey
34 required by law to be recorded, replaces, or restores an existing or
35 obliterated general land office corner, it is mandatory that, within
36 ninety days thereafter, he or she shall file with the county auditor in

1 the county in which said corner is located a record of the monuments
2 and accessories found or placed at the corner location, in such form as
3 to meet the requirements of this chapter.

4 **Sec. 18004.** RCW 58.09.090 and 1992 c 106 s 1 are each amended to
5 read as follows:

6 (1) A record of survey is not required of any survey:

7 (a) When it has been made by a public officer in his or her
8 official capacity and a reproducible copy thereof has been filed with
9 the county engineer of the county in which the land is located. A map
10 so filed shall be indexed and kept available for public inspection. A
11 record of survey shall not be required of a survey made by the United
12 States bureau of land management. A state agency conducting surveys to
13 carry out the program of the agency shall not be required to use a land
14 surveyor as defined by this chapter;

15 (b) When it is of a preliminary nature;

16 (c) When a map is in preparation for recording or shall have been
17 recorded in the county under any local subdivision or platting law or
18 ordinance;

19 (d) When it is a retracement or resurvey of boundaries of platted
20 lots, tracts, or parcels shown on a filed or recorded and surveyed
21 subdivision plat or filed or recorded and surveyed short subdivision
22 plat in which monuments have been set to mark all corners of the block
23 or street centerline intersections, provided that no discrepancy is
24 found as compared to said recorded information or information revealed
25 on other subsequent public survey map records, such as a record of
26 survey or city or county engineer's map. If a discrepancy is found,
27 that discrepancy must be clearly shown on the face of the required new
28 record of survey. For purposes of this exemption, the term discrepancy
29 shall include:

30 (i) A nonexistent or displaced original or replacement monument
31 from which the parcel is defined and which nonexistence or displacement
32 has not been previously revealed in the public record;

33 (ii) A departure from proportionate measure solutions which has not
34 been revealed in the public record;

35 (iii) The presence of any physical evidence of encroachment or
36 overlap by occupation or improvement; or

1 (iv) Differences in linear and/or angular measurement between all
2 controlling monuments that would indicate differences in spatial
3 relationship between said controlling monuments in excess of 0.50 feet
4 when compared with all locations of public record: That is, if these
5 measurements agree with any previously existing public record plat or
6 map within the stated tolerance, a discrepancy will not be deemed to
7 exist under this subsection.

8 (2) Surveys exempted by foregoing subsections of this section shall
9 require filing of a record of corner information pursuant to RCW
10 58.09.040(2).

11 **Sec. 18005.** RCW 58.17.210 and 1974 ex.s. c 134 s 10 are each
12 amended to read as follows:

13 No building permit, septic tank permit, or other development
14 permit, shall be issued for any lot, tract, or parcel of land divided
15 in violation of this chapter or local regulations adopted pursuant
16 thereto unless the authority authorized to issue such permit finds that
17 the public interest will not be adversely affected thereby. The
18 prohibition contained in this section shall not apply to an innocent
19 purchaser for value without actual notice. All purchasers' or
20 transferees' property shall comply with provisions of this chapter and
21 each purchaser or transferee may recover his or her damages from any
22 person, firm, corporation, or agent selling or transferring land in
23 violation of this chapter or local regulations adopted pursuant
24 thereto, including any amount reasonably spent as a result of inability
25 to obtain any development permit and spent to conform to the
26 requirements of this chapter as well as cost of investigation, suit,
27 and reasonable attorneys' fees occasioned thereby. Such purchaser or
28 transferee may as an alternative to conforming his or her property to
29 these requirements, rescind the sale or transfer and recover costs of
30 investigation, suit, and reasonable attorneys' fees occasioned thereby.

31 **Sec. 18006.** RCW 58.28.030 and 1909 c 231 s 3 are each amended to
32 read as follows:

33 A plat thereof must be made in triplicate, on a scale of not less
34 than eighty feet to one inch, which must be duly certified under oath
35 by the surveyor, one of which must be filed with the county auditor of
36 the county wherein the city or town is situated, one must be deposited

1 in the proper United States land office, and one with the city or town
2 clerk. These plats shall be considered public records, and each must
3 be accompanied with a copy of the field notes, and the county auditor
4 must make a record of such plat in a book to be kept by him or her for
5 that purpose, and such county auditor must file a copy of said field
6 notes in his or her office. The said surveyor must number the blocks
7 as divided by the roads, highways, and streets opened and generally
8 used, and for which a public necessity exists at the time of making
9 such survey, and must number the several lots consecutively in each
10 block, and all other parcels of land within said town or city surveyed
11 as herein provided, which said numbers must be a sufficient description
12 of any parcel of land in said plats. Said survey and plat thereof
13 shall conform as near as may be to the existing rights, interests, and
14 claims of the occupants thereof, but no lot in the central or business
15 portion of such city or town shall exceed in area four thousand, two
16 hundred square feet, and no suburban lot in such city or town shall
17 exceed two acres in area.

18 **Sec. 18007.** RCW 58.28.070 and 1909 c 231 s 7 are each amended to
19 read as follows:

20 If a stone is used as a monument, it must have a cross cut in the
21 top at the point of intersection of the center lines of streets, or a
22 hole may be drilled in the stone to mark such point. If an iron
23 monument is used it must be at least two inches in diameter by two and
24 one-half feet in length, and may be either solid iron or pipe. The
25 dimensions of the monuments must be marked on the plat, and reference
26 thereto made in the field notes, and establish permanently the lines of
27 all the streets. The surveyor must make and subscribe on the plat a
28 certificate that such survey was made in accordance with the provisions
29 of this chapter, stating the date of survey, and verify the same by his
30 or her oath.

31 **Sec. 18008.** RCW 58.28.080 and 1909 c 231 s 8 are each amended to
32 read as follows:

33 All such plats must be made on mounted drawing paper, and filed and
34 recorded in the office of the county auditor, and he or she must keep
35 the original plat for public inspection. The fee of such county

1 auditor for filing and recording each of such plats and the field notes
2 accompanying the same shall be the sum of ten dollars.

3 **Sec. 18009.** RCW 58.28.090 and 1909 c 231 s 9 are each amended to
4 read as follows:

5 Each lot or parcel of said lands having thereon valuable
6 improvements or buildings ordinarily used as dwellings or for business
7 purposes, not exceeding one-tenth of one acre in area, shall be rated
8 and assessed by the said corporate authorities at the sum of one
9 dollar; each lot or parcel of such lands exceeding one-tenth and not
10 exceeding one-eighth of one acre in area, shall be rated and assessed
11 at the sum of one dollar and fifty cents; each lot or parcel of such
12 lands exceeding in area one-eighth of one acre and not exceeding one-
13 quarter of an acre in area, shall be rated and assessed at the sum of
14 two dollars; and each lot or parcel of such lands exceeding one-quarter
15 of an acre and not exceeding one-half of one acre in area, shall be
16 rated and assessed at the sum of two dollars and fifty cents; and each
17 lot or parcel of land so improved exceeding one-half acre in area shall
18 be assessed at the rate of two dollars and fifty cents for each half an
19 acre or fractional part over half an acre; and every lot or parcel of
20 land enclosed, which may not otherwise be improved, claimed by any
21 person, corporation, or association, shall be rated and assessed at the
22 rate of two dollars per acre or fractional part over an acre; and where
23 upon one parcel of land there shall be two or more separate buildings
24 occupied or used ordinarily as dwellings or for business purposes each
25 such building, for the purposes of this section, shall be considered as
26 standing on a separate lot of land; but the whole of such premises may
27 be conveyed in one deed; which moneys so assessed must be received by
28 the clerk and be paid by him or her into the city or town treasury.

29 **Sec. 18010.** RCW 58.28.140 and 1909 c 231 s 14 are each amended to
30 read as follows:

31 In all cases of adverse claims or disputes arising out of
32 conflicting claims to lands or concerning boundary lines, the adverse
33 claimants may submit the decision thereof to the council of such city
34 or town by an agreement in writing specifying particularly the subject
35 matter in dispute, and may agree that their decision shall be final.
36 The council must hear the proofs, and shall order a deed to be executed

1 or denied in accordance with the facts; but in all other cases of
2 adverse claims, the party out of possession shall commence his or her
3 action in a court of competent jurisdiction within six months after the
4 time of filing of the patent from the United States (or a certified
5 copy thereof), in the office of the county auditor. In case such
6 action be commenced, the plaintiff must serve a notice of lis pendens
7 upon the mayor, who must thereupon stay all proceedings in the matter
8 of granting any deed to the land in dispute until the final decision in
9 such suit; and upon presentation of a certified copy of the final
10 judgment of such court in such action, the council must cause to be
11 executed and delivered a deed of such premises, in accordance with the
12 judgment, adjudging the claimant to have been an occupant of any
13 particular lot or lots at the time of the entry of such townsite in the
14 United States land office, or to be the successor in interest of such
15 occupant. If in any action brought under this chapter, or under said
16 acts of congress, the right to the ground in controversy shall not be
17 established by either party, the court or jury shall so find and
18 judgment shall be entered accordingly. In such case costs shall not be
19 allowed to either party, and neither party shall be entitled to a deed
20 to the ground in controversy, and in such action it shall be incumbent
21 upon each claimant to establish that he, she, or it was an occupant of
22 the ground in controversy within the meaning of the said acts of
23 congress at the time of the entry of said townsite in the United States
24 land office, or is the successor in interest of such occupant.

25 **Sec. 18011.** RCW 58.28.220 and 1909 c 231 s 22 are each amended to
26 read as follows:

27 The judge of the superior court of any county in this state,
28 whenever he or she is so requested by a petition signed by not less
29 than five residents, householders in any such unincorporated town,
30 whose names appear upon the assessment roll for the year preceding such
31 application in the county wherein such unincorporated town is
32 situated--which petition shall set forth the existence, name, and
33 locality of such town, whether such town is situated on surveyed or
34 unsurveyed lands, and if on surveyed lands an accurate description
35 according to the government survey of the legal subdivisions sought to
36 be entered as a government townsite must be stated; the estimated
37 number of its inhabitants; the approximate number of separate lots or

1 parcels of land within such townsite, and the amount of land to which
2 they are entitled under such acts of congress--must estimate the cost
3 of entering such land, and of the survey, platting, and recording of
4 the same, and must endorse such estimate upon such petition, and upon
5 receiving from any of the parties interested the amount of money
6 mentioned in such estimate, the said judge may cause an enumeration of
7 the inhabitants of such town to be made by some competent person,
8 exhibiting therein the names of all persons residing in said proposed
9 townsite and the names of occupants of lots, lands, or premises within
10 such townsite, alphabetically arranged, verified by his or her oath,
11 and cause such enumeration to be presented to such judge.

12 **Sec. 18012.** RCW 58.28.240 and 1909 c 231 s 24 are each amended to
13 read as follows:

14 The plat thereof must be made in triplicate on a scale of not less
15 than eighty feet to an inch, which must be duly certified under oath by
16 the surveyor, one of which must be filed with the county auditor of the
17 county wherein such unincorporated town is situated, one must be
18 deposited in the proper United States land office, and one with such
19 judge. These plats shall constitute public records, and must each be
20 accompanied by a copy of the field notes, and the county auditor must
21 make a record of such plat in a book to be kept by him or her for that
22 purpose, and such county auditor must file such copy of said field
23 notes in his or her office. The said surveyor must number and survey
24 the blocks as divided by the roads, and streets opened and generally
25 used and for which a public necessity exists, at the time of making
26 such survey, and must number the several lots consecutively in each
27 block, and all other parcels of land within said unincorporated town as
28 herein provided, which said numbers must be a sufficient description of
29 any parcel of land represented on said plats. Said survey and plat
30 thereof shall conform as nearly as may be to the existing rights,
31 interest, and claims of the occupants thereof, but no lot in the center
32 or business portion of said unincorporated town shall exceed in area
33 four thousand two hundred feet, and no suburban lot in such
34 unincorporated town shall exceed two acres in area.

35 **Sec. 18013.** RCW 58.28.280 and 1909 c 231 s 28 are each amended to
36 read as follows:

1 If a stone is used as a monument it must have a cross cut in the
2 top at the point of intersection of center lines of streets, or a hole
3 may be drilled in the stone to mark such point. If an iron monument is
4 used it must be at least two inches in diameter by two and one-half
5 feet in length, and may be either solid iron or pipe. The dimensions
6 of the monuments must be marked on the plat, and reference thereto made
7 in the field notes, and establish permanently the lines of all the
8 streets. The surveyor must make and subscribe on the plat a
9 certificate that such survey was made in accordance with the provisions
10 of this chapter, stating the date of survey, and verify the same by his
11 or her oath.

12 **Sec. 18014.** RCW 58.28.290 and 1909 c 231 s 29 are each amended to
13 read as follows:

14 All such plats must be made on mounted drawing paper, and filed and
15 recorded in the office of the county auditor, and he or she must keep
16 the original plat for public inspection. The fee of such county
17 auditor for filing and recording each of such plats, and the field
18 notes accompanying the same shall be the sum of ten dollars.

19 **Sec. 18015.** RCW 58.28.300 and 1909 c 231 s 30 are each amended to
20 read as follows:

21 Each lot or parcel of said lands having thereon valuable
22 improvements or buildings ordinarily used as dwellings or for business
23 purposes, not exceeding one-tenth of one acre in area, shall be rated
24 and assessed by the said judge at the sum of one dollar; each lot or
25 parcel of such lands exceeding one-tenth, and not exceeding one-eighth
26 of one acre in area, shall be rated and assessed at the sum of one
27 dollar and (~~(five-[fifty])~~) fifty cents; each lot or parcel of such
28 lands exceeding in area one-eighth of one acre and not exceeding one-
29 quarter of an acre in area, shall be rated and assessed at the sum of
30 two dollars; and each lot or parcel of such lands exceeding one-quarter
31 of an acre and not exceeding one-half of one acre in area, shall be
32 rated and assessed at the sum of two dollars and fifty cents; and each
33 lot or parcel of land so improved, exceeding one-half acre in area,
34 shall be assessed at the rate of two dollars and fifty cents for each
35 half an acre or fractional part over half an acre; and every lot or
36 parcel of land enclosed, which may not otherwise be improved, claimed

1 by any person, corporation, or association, shall be rated and assessed
2 at the rate of two dollars per acre or fractional part over an acre;
3 and where upon one parcel of land there shall be two or more separate
4 buildings occupied or used ordinarily as dwellings or for business
5 purposes, each such building, for the purposes of this section, shall
6 be considered as standing on a separate lot of land; but the whole of
7 such premises may be conveyed in one deed; which moneys so assessed
8 must constitute a fund from which must be reimbursed or paid the moneys
9 necessary to pay the government of the United States for said townsite
10 lands, and interest thereon, if such moneys have been loaned or
11 advanced for the purpose and expenses of their location, entry and
12 purchase, and cost and expenses attendant upon the making of such
13 survey, plats, publishing and recording, including a reasonable
14 attorney's fee for legal services necessarily performed, and the
15 persons or occupants in such townsite procuring said townsite entry to
16 be made, may employ an attorney to assist them in so doing and to
17 assist such judge in the execution of his or her trust, and he or she
18 shall be allowed by such judge out of said fund a reasonable
19 compensation for his or her services.

20 **Sec. 18016.** RCW 58.28.310 and 1909 c 231 s 31 are each amended to
21 read as follows:

22 Every person, company, corporation, or association, claimant of any
23 town lot or parcel of land, within the limits of such townsite, must
24 present to such judge within three months after the patent (or a
25 certified copy thereof), from the United States has been filed in the
26 office of the county auditor, his, her, or its (~~or their~~) affidavit,
27 (or by guardian or next friend where the claimant is under disability),
28 verified in person, or by duly authorized agent or attorney, guardian
29 or next friend, in which must be concisely stated the facts
30 constituting the possession or right of possession of the claimant and
31 that the claimant is entitled to the possession thereof and to a deed
32 therefor as against all other persons or claimants, to the best of his
33 or her knowledge and belief, and in which must be stated who was an
34 occupant of such lot or parcel of land at the time of the entry of such
35 townsite at the United States land office, to which must be attached a
36 copy of so much of the plat of said townsite as will fully exhibit the
37 particular lots or parcels of land so claimed; and every such claimant,

1 at the time of presenting and filing such affidavit with said judge,
2 must pay to such judge such sum of money as said judge shall certify to
3 be due for the assessment mentioned in RCW 58.28.300, together with the
4 further sum of four dollars, to be appropriated to the payment of cost
5 and expenses incurred in carrying out the provisions of this chapter,
6 and the said judge must thereupon give to such claimant a certificate,
7 signed by him or her and attested by the seal of the superior court,
8 containing a description of the lot or parcel of land claimed, and
9 setting forth the amounts paid thereon by such claimant. Such judge
10 must procure a bound book for each unincorporated government townsite
11 in his or her county wherein he or she must make proper entries of the
12 substantial matters contained in such certificate issued by him or her,
13 numbering the same in consecutive order, setting forth the name of the
14 claimant or claimants in full, date of issue, and description of the
15 lot or lands claimed.

16 **Sec. 18017.** RCW 58.28.350 and 1909 c 231 s 35 are each amended to
17 read as follows:

18 In all cases of adverse claims or disputes arising out of
19 conflicting claims to land or concerning boundary lines, the adverse
20 claimants may submit the decision thereof to said judge by an agreement
21 in writing specifying particularly the subject matter in dispute and
22 may agree that his or her decision shall be final. The said judge must
23 hear the proofs, and shall execute a deed or deny the execution of a
24 deed in accordance with the facts; but in all other cases of adverse
25 claims the party out of possession shall commence his or her action in
26 a court of competent jurisdiction within six months after the filing of
27 the patent (or a certified copy thereof) from the United States, in the
28 office of the county auditor. In case such action be commenced within
29 the time herein limited, the plaintiff must serve notice of lis pendens
30 upon such judge, who must thereupon stay all proceedings in the matter
31 of granting or executing any deed to the land in dispute until the
32 final decision in such suit; upon presentation of a certified copy of
33 the final judgment in such action, such judge must execute and deliver
34 a deed of the premises, in accordance with the judgment, adjudging the
35 claimant to have been an occupant of any particular lot or lots at the
36 time of the entry of such townsite in the United States land office, or
37 to be the successor in interest of such occupant.

1 **Sec. 18018.** RCW 58.28.390 and 1909 c 231 s 39 are each amended to
2 read as follows:

3 All lots in such townsite which were unoccupied within the meaning
4 of the said acts of congress at the time of the entry of said townsite
5 in the United States land office shall be sold by such judge or under
6 his or her direction, at public auction to the highest bidder for cash,
7 each lot to be sold separately, and notice of such sale, or sales,
8 shall be given by posting five written or printed notices in public
9 places within said townsite, giving the time and particular place of
10 sale, which notices must be posted at least thirty days prior to the
11 date of any such sale, and by publishing a like notice for four
12 consecutive weeks prior to any such sale in a newspaper published in
13 such town, or if no newspaper be published in such town, then in some
14 newspaper having general circulation in such town. And deed shall be
15 given therefor to the several purchasers: PROVIDED, That no such
16 unoccupied lot shall be sold for less than five dollars in addition to
17 an assessment equivalent to assessment provided for in RCW 58.28.300,
18 and all moneys arising from such sale or sales after deducting the cost
19 and expenses of such sale or sales shall be placed in the fund
20 hereinbefore mentioned.

21 **Sec. 18019.** RCW 58.28.410 and 1909 c 231 s 41 are each amended to
22 read as follows:

23 Any sum of money remaining in said fund after defraying all
24 necessary expenses of location, entry, surveying, platting,
25 advertising, filing and recording, reimbursement of moneys loaned or
26 advanced and paying the cost and expenses herein authorized and
27 provided for must be deposited in the county treasury by such judge to
28 the credit of a special fund of each particular town, and kept separate
29 by the county treasurer to be paid out by him or her only upon the
30 written order of such judge in payment for making public improvements,
31 or for public purposes, in such town.

32 **Sec. 18020.** RCW 58.28.460 and 1909 c 231 s 46 are each amended to
33 read as follows:

34 Such judge when fulfilling the duties imposed upon him or her by
35 said acts of congress, and by this chapter, must keep a correct account
36 of all moneys received and paid out by him or her. He or she must

1 deposit all surplus money with the treasurer of the proper county, and
2 he or she must promptly settle up all the affairs relating to his or
3 her trust pertaining to such town.

4 **Sec. 18021.** RCW 58.28.470 and 1909 c 231 s 47 are each amended to
5 read as follows:

6 Whenever the affairs pertaining to such trust shall be finally
7 settled and disposed of by such judge, he or she shall deposit all
8 books and papers relating thereto in the office of the county clerk of
9 the proper county to be thereafter kept in the custody of such county
10 clerk as public records, and the county clerk's fee, for the use of his
11 or her county therefor, shall be the sum of ten dollars.

12 **Sec. 18022.** RCW 58.28.480 and 1909 c 231 s 48 are each amended to
13 read as follows:

14 Every such judge when fulfilling the duties imposed upon him or her
15 by said acts of congress, and by this chapter, shall be deemed and held
16 to be acting as a trustee for the purposes of fulfilling the purposes
17 of said acts and not as a superior court, and such judge shall be
18 deemed to be disqualified to sit as judge of such superior court in any
19 action or proceeding wherein is involved the execution of such trust or
20 rights involved therein.

21 **Sec. 18023.** RCW 58.28.500 and 1909 c 231 s 51 are each amended to
22 read as follows:

23 The successors in office of such superior court judge shall be his
24 or her successors as trustee of such trust.

25 **Sec. 18024.** RCW 58.28.510 and 1909 c 231 s 52 are each amended to
26 read as follows:

27 The judge of the superior court of any county is hereby declared to
28 be the successor as trustee of any territorial probate judge in such
29 county who was trustee under any such acts of congress, and may as such
30 succeeding trustee perform any unperformed duties of his or her
31 predecessor in office as such trustee, agreeably to the provisions of
32 this chapter as nearly as may be. And when entry was made by any such
33 probate judge under any of said acts of congress and subsequent to such
34 entry, the city or town situated upon such townsite entry has been

1 incorporated according to law, and the corporate authorities thereof
2 have or have attempted to vacate any common, plaza, public square,
3 public park, or the like, in such government townsite, and where
4 thereafter, any person, or corporation, has placed permanent
5 improvements on such land so vacated or attempted to be vacated,
6 exceeding in value the sum of five thousand dollars, with the
7 knowledge, consent, or acquiescence of the corporate authorities of
8 such city or town and with the general consent and approval of the
9 inhabitants of said city or town and such improvements have been made
10 for more than five years and such person or corporation making such
11 improvements has been in the open, notorious, and peaceable possession
12 of such lands and premises for a period of more than five years, such
13 superior court judge, as trustee, of such government townsite, and
14 successor as trustee to such judge of probate, trustee of such
15 government townsite, shall have the power and authority to make and
16 deliver to such person or corporation, or to his, her, or its heirs,
17 executors, administrators, successors, or assigns, a deed for such
18 lands and premises, conveying a fee simple title to such lands and
19 premises upon such terms and for such price as he or she shall deem
20 just and reasonable under all the facts and surrounding circumstances
21 of the case, and the consideration paid for such deed, one dollar or
22 more, shall be placed in the city or town treasury of such city or
23 town, in the general fund.

24

PART XIX

25 **Sec. 19001.** RCW 59.04.040 and Code 1881 s 2056 are each amended to
26 read as follows:

27 When a tenant fails to pay rent when the same is due, and the
28 landlord notifies him or her to pay said rent or quit the premises
29 within ten days, unless the rent is paid within said ten days, the
30 tenancy shall be forfeited at the end of said ten days.

31 **Sec. 19002.** RCW 59.04.050 and Code 1881 s 2057 are each amended to
32 read as follows:

33 Whenever any person obtains possession of premises without the
34 consent of the owner or other person having the right to give said
35 possession, he or she shall be deemed a tenant by sufferance merely,

1 and shall be liable to pay reasonable rent for the actual time he or
2 she occupied the premises, and shall forthwith on demand surrender his
3 or her said possession to the owner or person who had the right of
4 possession before said entry, and all his or her right to possession of
5 said premises shall terminate immediately upon said demand.

6 **Sec. 19003.** RCW 59.08.030 and 1941 c 188 s 3 are each amended to
7 read as follows:

8 Such proceedings shall be commenced by the filing of a complaint
9 executed under oath by the owner or landlord or his or her authorized
10 agent. It shall be sufficient to state in such complaint a description
11 of the property with reasonable certainty, that the defendant is in
12 possession thereof and wrongfully holds the same by reason of failure
13 to pay the agreed rental due, or the monthly rental value of the
14 premises.

15 **Sec. 19004.** RCW 59.08.040 and 1941 c 188 s 4 are each amended to
16 read as follows:

17 Upon the filing of such complaint it may be presented to the judge,
18 and by order he or she shall forthwith fix a place and time for the
19 trial of said cause, not more than ten days after the date of making
20 the order. A copy of the complaint, together with a copy of the
21 summons specifying the time and place for trial, shall be served on the
22 defendant not less than five days prior to the time fixed for hearing
23 in the manner provided for the service of notice to quit in RCW
24 59.12.040.

25 **Sec. 19005.** RCW 59.08.070 and 1941 c 188 s 7 are each amended to
26 read as follows:

27 If the defendant feels aggrieved at an order of restitution, he or
28 she may within three days after the entry of the order file a bond to
29 be approved by the court in double the amount of the rent found to be
30 due, plus two hundred dollars, conditioned for the payment and
31 performance of any judgment rendered against him or her, and the court
32 shall thereupon enter an order for the parties to proceed in the usual
33 form of action, and recall the writ of restitution.

1 **Sec. 19006.** RCW 59.12.035 and 1891 c 96 s 4 are each amended to
2 read as follows:

3 In all cases of tenancy upon agricultural lands, where the tenant
4 has held over and retained possession for more than sixty days after
5 the expiration of his or her term without any demand or notice to quit
6 by his or her landlord or the successor in estate of his or her
7 landlord, if any there be, he or she shall be deemed to be holding by
8 permission of his or her landlord or the successor in estate of his or
9 her landlord, if any there be, and shall be entitled to hold under the
10 terms of the lease for another full year, and shall not be guilty of an
11 unlawful detainer during said year, and such holding over for the
12 period aforesaid shall be taken and construed as a consent on the part
13 of a tenant to hold for another year.

14 **Sec. 19007.** RCW 59.12.040 and 1983 c 264 s 2 are each amended to
15 read as follows:

16 Any notice provided for in this chapter shall be served either (1)
17 by delivering a copy personally to the person entitled thereto; or (2)
18 if he or she be absent from the premises unlawfully held, by leaving
19 there a copy, with some person of suitable age and discretion, and
20 sending a copy through the mail addressed to the person entitled
21 thereto at his or her place of residence; or (3) if the person to be
22 notified be a tenant, or an unlawful holder of premises, and his or her
23 place of residence is not known, or if a person of suitable age and
24 discretion there cannot be found then by affixing a copy of the notice
25 in a conspicuous place on the premises unlawfully held, and also
26 delivering a copy to a person there residing, if such a person can be
27 found, and also sending a copy through the mail addressed to the
28 tenant, or unlawful occupant, at the place where the premises
29 unlawfully held are situated. Service upon a subtenant may be made in
30 the same manner: PROVIDED, That in cases where the tenant or unlawful
31 occupant, shall be conducting a hotel, inn, lodging house, boarding
32 house, or shall be renting rooms while still retaining control of the
33 premises as a whole, that the guests, lodgers, boarders, or persons
34 renting such rooms shall not be considered as subtenants within the
35 meaning of this chapter, but all such persons may be served by affixing
36 a copy of the notice to be served in two conspicuous places upon the
37 premises unlawfully held; and such persons shall not be necessary

1 parties defendant in an action to recover possession of said premises.
2 Service of any notice provided for in this chapter may be had upon a
3 corporation by delivering a copy thereof to any officer, agent, or
4 person having charge of the business of such corporation, at the
5 premises unlawfully held, and in case no such officer, agent, or person
6 can be found upon such premises, then service may be had by affixing a
7 copy of such notice in a conspicuous place upon said premises and by
8 sending a copy through the mail addressed to such corporation at the
9 place where said premises are situated. Proof of any service under
10 this section may be made by the affidavit of the person making the same
11 in like manner and with like effect as the proof of service of summons
12 in civil actions. When a copy of notice is sent through the mail, as
13 provided in this section, service shall be deemed complete when such
14 copy is deposited in the United States mail in the county in which the
15 property is situated properly addressed with postage prepaid:
16 PROVIDED, HOWEVER, That when service is made by mail one additional day
17 shall be allowed before the commencement of an action based upon such
18 notice. RCW 59.18.375 may also apply to notice given under this
19 chapter.

20 **Sec. 19008.** RCW 59.12.060 and 1891 c 96 s 7 are each amended to
21 read as follows:

22 No person other than the tenant of the premises, and subtenant, if
23 there be one, in the actual occupation of the premises when the
24 complaint is filed, need be made parties defendant in any proceeding
25 under this chapter, nor shall any proceeding abate, nor the plaintiff
26 be nonsuited, for the nonjoinder of any person who might have been made
27 party defendant; but when it appears that any of the parties served
28 with process, or appearing in the proceeding, are guilty of the offense
29 charged, judgment must be rendered against him or her. In case a
30 person has become a subtenant of the premises in controversy after the
31 service of any notice in this chapter provided for, the fact that such
32 notice was not served on such subtenant shall constitute no defense to
33 the action. All persons who enter the premises under the tenant, after
34 the commencement of the action hereunder, shall be bound by the
35 judgment the same as if they had been made parties to the action.

1 within three days after the service of the writ of restitution may
2 execute to the plaintiff a bond to be filed with and approved by the
3 clerk of the court in such sum as may be fixed by the judge, with
4 sufficient surety to be approved by the clerk of said court,
5 conditioned that (~~they~~) he or she will pay to the plaintiff such sum
6 as the plaintiff may recover for the use and occupation of the said
7 premises, or any rent found due, together with all damages the
8 plaintiff may sustain by reason of the defendant occupying or keeping
9 possession of said premises, and also all the costs of the action. The
10 plaintiff, his or her agent or attorneys, shall have notice of the time
11 and place where the court or judge thereof shall fix the amount of the
12 defendant's bond, and shall have notice and a reasonable opportunity to
13 examine into the qualification and sufficiency of the sureties upon
14 said bond before said bond shall be approved by the clerk. The writ
15 may be served by the sheriff, in the event he or she shall be unable to
16 find the defendant, an agent or attorney, or a person in possession of
17 the premises, by affixing a copy of said writ in a conspicuous place
18 upon the premises.

19 **Sec. 19012.** RCW 59.12.121 and 1891 c 96 s 14 are each amended to
20 read as follows:

21 On or before the day fixed for his or her appearance the defendant
22 may appear and answer or demur.

23 **Sec. 19013.** RCW 59.12.140 and 1891 c 96 s 16 are each amended to
24 read as follows:

25 On the trial of any proceeding for any forcible entry or forcible
26 detainer the plaintiff shall only be required to show, in addition to
27 a forcible entry complained of, that he or she was peaceably in the
28 actual possession at the time of the forcible entry; or, in addition to
29 a forcible detainer complained of, that he or she was entitled to the
30 possession at the time of the forcible detainer.

31 **Sec. 19014.** RCW 59.12.170 and 1891 c 96 s 18 are each amended to
32 read as follows:

33 If upon the trial the verdict of the jury or, if the case be tried
34 without a jury, the finding of the court be in favor of the plaintiff
35 and against the defendant, judgment shall be entered for the

1 restitution of the premises; and if the proceeding be for unlawful
2 detainer after neglect or failure to perform any condition or covenant
3 of a lease or agreement under which the property is held, or after
4 default in the payment of rent, the judgment shall also declare the
5 forfeiture of the lease, agreement, or tenancy. The jury, or the
6 court, if the proceedings be tried without a jury, shall also assess
7 the damages occasioned to the plaintiff by any forcible entry, or by
8 any forcible or unlawful detainer, alleged in the complaint and proved
9 on the trial, and, if the alleged unlawful detainer be after default in
10 the payment of rent, find the amount of any rent due, and the judgment
11 shall be rendered against the defendant guilty of the forcible entry,
12 forcible detainer, or unlawful detainer for twice the amount of damages
13 thus assessed and of the rent, if any, found due. When the proceeding
14 is for an unlawful detainer after default in the payment of rent, and
15 the lease or agreement under which the rent is payable has not by its
16 terms expired, execution upon the judgment shall not be issued until
17 the expiration of five days after the entry of the judgment, within
18 which time the tenant or any subtenant, or any mortgagee of the term,
19 or other party interested in its continuance, may pay into court for
20 the landlord the amount of the judgment and costs, and thereupon the
21 judgment shall be satisfied and the tenant restored to his or her
22 estate; but if payment, as herein provided, be not made within five
23 days the judgment may be enforced for its full amount and for the
24 possession of the premises. In all other cases the judgment may be
25 enforced immediately. If writ of restitution shall have been executed
26 prior to judgment no further writ or execution for the premises shall
27 be required.

28 **Sec. 19015.** RCW 59.12.190 and 1891 c 96 s 21 are each amended to
29 read as follows:

30 The court may relieve a tenant against a forfeiture of a lease and
31 restore him or her to his or her former estate, as in other cases
32 provided by law, where application for such relief is made within
33 thirty days after the forfeiture is declared by the judgment of the
34 court, as provided in this chapter. The application may be made by a
35 tenant or subtenant, or a mortgagee of the term, or any person
36 interested in the continuance of the term. It must be made upon
37 petition, setting forth the facts upon which the relief is sought, and

1 be verified by the applicant. Notice of the application, with a copy
2 of the petition, must be served on the plaintiff in the judgment, who
3 may appear and contest the application. In no case shall the
4 application be granted except on condition that full payment of rent
5 due, or full performance of conditions of covenants stipulated, so far
6 as the same is practicable, be first made.

7 **Sec. 19016.** RCW 59.16.020 and 1891 c 115 s 2 are each amended to
8 read as follows:

9 The complaint in all cases under the provisions of this chapter
10 shall be upon oath, and (~~then—[there]~~) there shall be embodied
11 therein or amended thereto an abstract of the plaintiff's title, and
12 the defendant shall, in his or her answer, state whether he or she
13 makes any claim of title to the lands described in the complaint, and
14 if he or she makes no claim to the legal title but does claim a right
15 to the possession of such lands, he or she shall state upon what
16 grounds he or she claims a right to such possession.

17 **Sec. 19017.** RCW 59.16.030 and 1891 c 115 s 3 are each amended to
18 read as follows:

19 It shall not be necessary for the plaintiff, in proceedings under
20 this chapter, to allege or prove that the said lands were, at any time,
21 actually occupied prior to the defendant's entry thereupon, but it
22 shall be sufficient to allege that he or she is the legal owner and
23 entitled to the immediate possession thereof: PROVIDED, That if the
24 defendant shall, by his or her answer, deny such ownership and shall
25 state facts showing that he or she has a lawful claim to the possession
26 thereof, the cause shall thereupon be entered for trial upon the docket
27 of the court in all respects as if the action were brought under the
28 provisions of chapter XLVI of the code of eighteen hundred and eighty-
29 one.

30 **Sec. 19018.** RCW 59.18.070 and 1989 c 342 s 4 are each amended to
31 read as follows:

32 If at any time during the tenancy the landlord fails to carry out
33 the duties required by RCW 59.18.060 or by the rental agreement, the
34 tenant may, in addition to pursuit of remedies otherwise provided him
35 or her by law, deliver written notice to the person designated in RCW

1 59.18.060(~~(+11+)~~) (14), or to the person who collects the rent, which
2 notice shall specify the premises involved, the name of the owner, if
3 known, and the nature of the defective condition. The landlord shall
4 commence remedial action after receipt of such notice by the tenant as
5 soon as possible but not later than the following time periods, except
6 where circumstances are beyond the landlord's control:

7 (1) Not more than twenty-four hours, where the defective condition
8 deprives the tenant of hot or cold water, heat, or electricity, or is
9 imminently hazardous to life;

10 (2) Not more than seventy-two hours, where the defective condition
11 deprives the tenant of the use of a refrigerator, range and oven, or a
12 major plumbing fixture supplied by the landlord; and

13 (3) Not more than ten days in all other cases.

14 In each instance the burden shall be on the landlord to see that
15 remedial work under this section is completed promptly. If completion
16 is delayed due to circumstances beyond the landlord's control,
17 including the unavailability of financing, the landlord shall remedy
18 the defective condition as soon as possible.

19 **Sec. 19019.** RCW 59.18.080 and 1973 1st ex.s. c 207 s 8 are each
20 amended to read as follows:

21 The tenant shall be current in the payment of rent including all
22 utilities which the tenant has agreed in the rental agreement to pay
23 before exercising any of the remedies accorded him or her under the
24 provisions of this chapter: PROVIDED, That this section shall not be
25 construed as limiting the tenant's civil remedies for negligent or
26 intentional damages: PROVIDED FURTHER, That this section shall not be
27 construed as limiting the tenant's right in an unlawful detainer
28 proceeding to raise the defense that there is no rent due and owing.

29 **Sec. 19020.** RCW 59.18.090 and 1973 1st ex.s. c 207 s 9 are each
30 amended to read as follows:

31 If, after receipt of written notice, and expiration of the
32 applicable period of time, as provided in RCW 59.18.070, the landlord
33 fails to remedy the defective condition within a reasonable time the
34 tenant may:

35 (1) Terminate the rental agreement and quit the premises upon
36 written notice to the landlord without further obligation under the

1 rental agreement, in which case he or she shall be discharged from
2 payment of rent for any period following the quitting date, and shall
3 be entitled to a pro rata refund of any prepaid rent, and shall receive
4 a full and specific statement of the basis for retaining any of the
5 deposit together with any refund due in accordance with RCW 59.18.280;

6 (2) Bring an action in an appropriate court, or at arbitration if
7 so agreed, for any remedy provided under this chapter or otherwise
8 provided by law; or

9 (3) Pursue other remedies available under this chapter.

10 **Sec. 19021.** RCW 59.18.100 and 1989 c 342 s 5 are each amended to
11 read as follows:

12 (1) If at any time during the tenancy, the landlord fails to carry
13 out any of the duties imposed by RCW 59.18.060, and notice of the
14 defect is given to the landlord pursuant to RCW 59.18.070, the tenant
15 may submit to the landlord or his or her designated agent by certified
16 mail or in person a good faith estimate by the tenant of the cost to
17 perform the repairs necessary to correct the defective condition if the
18 repair is to be done by licensed or registered persons, or if no
19 licensing or registration requirement applies to the type of work to be
20 performed, the cost if the repair is to be done by responsible persons
21 capable of performing such repairs. Such estimate may be submitted to
22 the landlord at the same time as notice is given pursuant to RCW
23 59.18.070: PROVIDED, That the remedy provided in this section shall
24 not be available for a landlord's failure to carry out the duties in
25 RCW 59.18.060 (9)(~~7~~) and (~~(11)~~) (14): PROVIDED FURTHER, That if
26 the tenant utilizes this section for repairs pursuant to RCW
27 59.18.060(6), the tenant shall promptly provide the landlord with a key
28 to any new or replaced locks. The amount the tenant may deduct from
29 the rent may vary from the estimate, but cannot exceed the one-month
30 limit as described in subsection (2) of this section.

31 (2) If the landlord fails to commence remedial action of the
32 defective condition within the applicable time period after receipt of
33 notice and the estimate from the tenant, the tenant may contract with
34 a licensed or registered person, or with a responsible person capable
35 of performing the repair if no license or registration is required, to
36 make the repair, and upon the completion of the repair and an
37 opportunity for inspection by the landlord or his or her designated

1 agent, the tenant may deduct the cost of repair from the rent in an
2 amount not to exceed the sum expressed in dollars representing one
3 month's rental of the tenant's unit per repair: PROVIDED, That when
4 the landlord must commence to remedy the defective condition within ten
5 days as provided in RCW 59.18.070(3), the tenant cannot contract for
6 repairs for ten days after notice or five days after the landlord
7 receives the estimate, whichever is later: PROVIDED FURTHER, That the
8 total costs of repairs deducted in any twelve-month period under this
9 subsection shall not exceed the sum expressed in dollars representing
10 two month's rental of the tenant's unit.

11 (3) If the landlord fails to carry out the duties imposed by RCW
12 59.18.060 within the applicable time period, and if the cost of repair
13 does not exceed one-half month's rent, including the cost of materials
14 and labor, which shall be computed at the prevailing rate in the
15 community for the performance of such work, and if repair of the
16 condition need not by law be performed only by licensed or registered
17 persons, and if the tenant has given notice under RCW 59.18.070,
18 although no estimate shall be necessary under this subsection, the
19 tenant may repair the defective condition in a workmanlike manner and
20 upon completion of the repair and an opportunity for inspection, the
21 tenant may deduct the cost of repair from the rent: PROVIDED, That
22 repairs under this subsection are limited to defects within the leased
23 premises: PROVIDED FURTHER, That the cost per repair shall not exceed
24 one-half month's rent of the unit and that the total costs of repairs
25 deducted in any twelve-month period under this subsection shall not
26 exceed one month's rent of the unit.

27 (4) The provisions of this section shall not:

28 (a) Create a relationship of employer and employee between landlord
29 and tenant; or

30 (b) Create liability under the workers' compensation act; or

31 (c) Constitute the tenant as an agent of the landlord for the
32 purposes of RCW 60.04.010 and 60.04.040.

33 (5) Any repair work performed under the provisions of this section
34 shall comply with the requirements imposed by any applicable code,
35 statute, ordinance, or regulation. A landlord whose property is
36 damaged because of repairs performed in a negligent manner may recover
37 the actual damages in an action against the tenant.

1 (6) Nothing in this section shall prevent the tenant from agreeing
2 with the landlord to undertake the repairs himself or herself in return
3 for cash payment or a reasonable reduction in rent, the agreement
4 thereof to be agreed upon between the parties, and such agreement does
5 not alter the landlord's obligations under this chapter.

6 **Sec. 19022.** RCW 59.18.140 and 1989 c 342 s 6 are each amended to
7 read as follows:

8 The tenant shall conform to all reasonable obligations or
9 restrictions, whether denominated by the landlord as rules, rental
10 agreement, rent, or otherwise, concerning the use, occupation, and
11 maintenance of his or her dwelling unit, appurtenances thereto, and the
12 property of which the dwelling unit is a part if such obligations and
13 restrictions are not in violation of any of the terms of this chapter
14 and are not otherwise contrary to law, and if such obligations and
15 restrictions are brought to the attention of the tenant at the time of
16 his or her initial occupancy of the dwelling unit and thus become part
17 of the rental agreement. Except for termination of tenancy, after
18 thirty days written notice to each affected tenant, a new rule of
19 tenancy including a change in the amount of rent may become effective
20 upon completion of the term of the rental agreement or sooner upon
21 mutual consent.

22 **Sec. 19023.** RCW 59.18.190 and 1973 1st ex.s. c 207 s 19 are each
23 amended to read as follows:

24 Whenever the landlord learns of a breach of RCW 59.18.130 or has
25 accepted performance by the tenant which is at variance with the terms
26 of the rental agreement or rules enforceable after the commencement of
27 the tenancy, he or she may immediately give notice to the tenant to
28 remedy the nonconformance. Said notice shall expire after sixty days
29 unless the landlord pursues any remedy under this chapter.

30 **Sec. 19024.** RCW 59.18.230 and 1989 c 342 s 8 are each amended to
31 read as follows:

32 (1) Any provision of a lease or other agreement, whether oral or
33 written, whereby any section or subsection of this chapter is waived
34 except as provided in RCW 59.18.360 and shall be deemed against public

1 policy and shall be unenforceable. Such unenforceability shall not
2 affect other provisions of the agreement which can be given effect
3 without them.

4 (2) No rental agreement may provide that the tenant:

5 (a) Agrees to waive or to forego rights or remedies under this
6 chapter; or

7 (b) Authorizes any person to confess judgment on a claim arising
8 out of the rental agreement; or

9 (c) Agrees to pay the landlord's attorney's fees, except as
10 authorized in this chapter; or

11 (d) Agrees to the exculpation or limitation of any liability of the
12 landlord arising under law or to indemnify the landlord for that
13 liability or the costs connected therewith; or

14 (e) And landlord have agreed to a particular arbitrator at the time
15 the rental agreement is entered into.

16 (3) A provision prohibited by subsection (2) of this section
17 included in a rental agreement is unenforceable. If a landlord
18 deliberately uses a rental agreement containing provisions known by him
19 or her to be prohibited, the tenant may recover actual damages
20 sustained by him or her and reasonable attorney's fees.

21 (4) The common law right of the landlord of distress for rent is
22 hereby abolished for property covered by this chapter. Any provision
23 in a rental agreement creating a lien upon the personal property of the
24 tenant or authorizing a distress for rent is null and void and of no
25 force and effect. Any landlord who takes or detains the personal
26 property of a tenant without the specific written consent of the tenant
27 to such incident of taking or detention, and who, after written demand
28 by the tenant for the return of his or her personal property, refuses
29 to return the same promptly shall be liable to the tenant for the value
30 of the property retained, actual damages, and if the refusal is
31 intentional, may also be liable for damages of up to one hundred
32 dollars per day but not to exceed one thousand dollars, for each day or
33 part of a day that the tenant is deprived of his or her property. The
34 prevailing party may recover his or her costs of suit and a reasonable
35 attorney's fee.

36 In any action, including actions pursuant to chapters 7.64 or 12.28
37 RCW, brought by a tenant or other person to recover possession of his
38 or her personal property taken or detained by a landlord in violation

1 of this section, the court, upon motion and after notice to the
2 opposing parties, may waive or reduce any bond requirements where it
3 appears to be to the satisfaction of the court that the moving party is
4 proceeding in good faith and has, prima facie, a meritorious claim for
5 immediate delivery or redelivery of said property.

6 **Sec. 19025.** RCW 59.18.240 and 1983 c 264 s 9 are each amended to
7 read as follows:

8 So long as the tenant is in compliance with this chapter, the
9 landlord shall not take or threaten to take reprisals or retaliatory
10 action against the tenant because of any good faith and lawful:

11 (1) Complaints or reports by the tenant to a governmental authority
12 concerning the failure of the landlord to substantially comply with any
13 code, statute, ordinance, or regulation governing the maintenance or
14 operation of the premises, if such condition may endanger or impair the
15 health or safety of the tenant; or

16 (2) Assertions or enforcement by the tenant of his or her rights
17 and remedies under this chapter.

18 "Reprisal or retaliatory action" shall mean and include but not be
19 limited to any of the following actions by the landlord when such
20 actions are intended primarily to retaliate against a tenant because of
21 the tenant's good faith and lawful act:

- 22 (a) Eviction of the tenant;
23 (b) Increasing the rent required of the tenant;
24 (c) Reduction of services to the tenant; and
25 (d) Increasing the obligations of the tenant.

26 **Sec. 19026.** RCW 59.18.250 and 1983 c 264 s 10 are each amended to
27 read as follows:

28 Initiation by the landlord of any action listed in RCW 59.18.240
29 within ninety days after a good faith and lawful act by the tenant as
30 enumerated in RCW 59.18.240, or within ninety days after any inspection
31 or proceeding of a governmental agency resulting from such act, shall
32 create a rebuttable presumption affecting the burden of proof, that the
33 action is a reprisal or retaliatory action against the tenant:
34 PROVIDED, That if at the time the landlord gives notice of termination
35 of tenancy pursuant to chapter 59.12 RCW the tenant is in arrears in
36 rent or in breach of any other lease or rental obligation, there is a

1 rebuttable presumption affecting the burden of proof that the
2 landlord's action is neither a reprisal nor retaliatory action against
3 the tenant: PROVIDED FURTHER, That if the court finds that the tenant
4 made a complaint or report to a governmental authority within ninety
5 days after notice of a proposed increase in rent or other action in
6 good faith by the landlord, there is a rebuttable presumption that the
7 complaint or report was not made in good faith: PROVIDED FURTHER, That
8 no presumption against the landlord shall arise under this section,
9 with respect to an increase in rent, if the landlord, in a notice to
10 the tenant of increase in rent, specifies reasonable grounds for said
11 increase, which grounds may include a substantial increase in market
12 value due to remedial action under this chapter: PROVIDED FURTHER,
13 That the presumption of retaliation, with respect to an eviction, may
14 be rebutted by evidence that it is not practical to make necessary
15 repairs while the tenant remains in occupancy. In any action or
16 eviction proceeding where the tenant prevails upon his or her claim or
17 defense that the landlord has violated this section, the tenant shall
18 be entitled to recover his or her costs of suit or arbitration,
19 including a reasonable attorney's fee, and where the landlord prevails
20 upon his or her claim he or she shall be entitled to recover his or her
21 costs of suit or arbitration, including a reasonable attorney's fee:
22 PROVIDED FURTHER, That neither party may recover attorney's fees to the
23 extent that their legal services are provided at no cost to them.

24 **Sec. 19027.** RCW 59.18.280 and 1989 c 342 s 9 are each amended to
25 read as follows:

26 Within fourteen days after the termination of the rental agreement
27 and vacation of the premises or, if the tenant abandons the premises as
28 defined in RCW 59.18.310, within fourteen days after the landlord
29 learns of the abandonment, the landlord shall give a full and specific
30 statement of the basis for retaining any of the deposit together with
31 the payment of any refund due the tenant under the terms and conditions
32 of the rental agreement. No portion of any deposit shall be withheld
33 on account of wear resulting from ordinary use of the premises. The
34 landlord complies with this section if the required statement or
35 payment, or both, are deposited in the United States mail properly
36 addressed with first-class postage prepaid within the fourteen days.

1 The notice shall be delivered to the tenant personally or by mail
2 to his or her last known address. If the landlord fails to give such
3 statement together with any refund due the tenant within the time
4 limits specified above he or she shall be liable to the tenant for the
5 full amount of the deposit. The landlord is also barred in any action
6 brought by the tenant to recover the deposit from asserting any claim
7 or raising any defense for retaining any of the deposit unless the
8 landlord shows that circumstances beyond the landlord's control
9 prevented the landlord from providing the statement within the fourteen
10 days or that the tenant abandoned the premises as defined in RCW
11 59.18.310. The court may in its discretion award up to two times the
12 amount of the deposit for the intentional refusal of the landlord to
13 give the statement or refund due. In any action brought by the tenant
14 to recover the deposit, the prevailing party shall additionally be
15 entitled to the cost of suit or arbitration including a reasonable
16 attorney's fee.

17 Nothing in this chapter shall preclude the landlord from proceeding
18 against, and the landlord shall have the right to proceed against a
19 tenant to recover sums exceeding the amount of the tenant's damage or
20 security deposit for damage to the property for which the tenant is
21 responsible together with reasonable attorney's fees.

22 **Sec. 19028.** RCW 59.18.290 and 1973 1st ex.s. c 207 s 29 are each
23 amended to read as follows:

24 (1) It shall be unlawful for the landlord to remove or exclude from
25 the premises the tenant thereof except under a court order so
26 authorizing. Any tenant so removed or excluded in violation of this
27 section may recover possession of the property or terminate the rental
28 agreement and, in either case, may recover the actual damages
29 sustained. The prevailing party may recover the costs of suit or
30 arbitration and reasonable attorney's fees.

31 (2) It shall be unlawful for the tenant to hold over in the
32 premises or exclude the landlord therefrom after the termination of the
33 rental agreement except under a valid court order so authorizing. Any
34 landlord so deprived of possession of premises in violation of this
35 section may recover possession of the property and damages sustained by
36 him or her, and the prevailing party may recover his or her costs of
37 suit or arbitration and reasonable attorney's fees.

1 **Sec. 19029.** RCW 59.18.300 and 1973 1st ex.s. c 207 s 30 are each
2 amended to read as follows:

3 It shall be unlawful for a landlord to intentionally cause
4 termination of any of his or her tenant's utility services, including
5 water, heat, electricity, or gas, except for an interruption of utility
6 services for a reasonable time in order to make necessary repairs. Any
7 landlord who violates this section may be liable to such tenant for his
8 or her actual damages sustained by him or her, and up to one hundred
9 dollars for each day or part thereof the tenant is thereby deprived of
10 any utility service, and the prevailing party may recover his or her
11 costs of suit or arbitration and a reasonable attorney's fee. It shall
12 be unlawful for a tenant to intentionally cause the loss of utility
13 services provided by the landlord, including water, heat, electricity,
14 or gas, excepting as resulting from the normal occupancy of the
15 premises.

16 **Sec. 19030.** RCW 59.18.340 and 1983 c 264 s 12 are each amended to
17 read as follows:

18 The administrative fee for this arbitration procedure shall be
19 established by agreement of the parties and the arbitrator and, unless
20 otherwise allocated by the arbitrator, shall be shared equally by the
21 parties: PROVIDED, That upon either party signing an affidavit to the
22 effect that he or she is unable to pay his or her share of the fee,
23 that portion of the fee may be waived or deferred.

24 **Sec. 19031.** RCW 59.18.350 and 1973 1st ex.s. c 207 s 35 are each
25 amended to read as follows:

26 When a party gives notice pursuant to (~~subsection (2) of~~) RCW
27 59.18.320(2), he or she must, at the same time, arrange for arbitration
28 of the grievance in the manner provided for in this chapter. The
29 arbitration shall be completed before the rental due date next
30 occurring after the giving of notice pursuant to RCW 59.18.320:
31 PROVIDED, That in no event shall the arbitrator have less than ten days
32 to complete the arbitration process.

33 **Sec. 19032.** RCW 59.18.380 and 1973 1st ex.s. c 207 s 39 are each
34 amended to read as follows:

35 At the time and place fixed for the hearing of plaintiff's motion

1 for a writ of restitution, the defendant, or any person in possession
2 or claiming possession of the property, may answer, orally or in
3 writing, and assert any legal or equitable defense or set-off arising
4 out of the tenancy. If the answer is oral the substance thereof shall
5 be endorsed on the complaint by the court. The court shall examine the
6 parties and witnesses orally to ascertain the merits of the complaint
7 and answer, and if it shall appear that the plaintiff has the right to
8 be restored to possession of the property, the court shall enter an
9 order directing the issuance of a writ of restitution, returnable ten
10 days after its date, restoring to the plaintiff possession of the
11 property and if it shall appear to the court that there is no
12 substantial issue of material fact of the right of the plaintiff to be
13 granted other relief as prayed for in the complaint and provided for in
14 this chapter, the court may enter an order and judgment granting so
15 much of such relief as may be sustained by the proof, and the court may
16 grant such other relief as may be prayed for in the plaintiff's
17 complaint and provided for in this chapter, then the court shall enter
18 an order denying any relief sought by the plaintiff for which the court
19 has determined that the plaintiff has no right as a matter of law:
20 PROVIDED, That within three days after the service of the writ of
21 restitution the defendant, or person in possession of the property,
22 may, in any action for the recovery of possession of the property for
23 failure to pay rent, stay the execution of the writ pending final
24 judgment by paying into court or to the plaintiff, as the court
25 directs, all rent found to be due and all the costs of the action, and
26 in addition by paying, on a monthly basis pending final judgment, an
27 amount equal to the monthly rent called for by the lease or rental
28 agreement at the time the complaint was filed: PROVIDED FURTHER, That
29 before any writ shall issue prior to final judgment the plaintiff shall
30 execute to the defendant and file in the court a bond in such sum as
31 the court may order, with sufficient surety to be approved by the
32 clerk, conditioned that the plaintiff will prosecute his or her action
33 without delay, and will pay all costs that may be adjudged to the
34 defendant, and all damages which he or she may sustain by reason of the
35 writ of restitution having been issued, should the same be wrongfully
36 sued out. The court shall also enter an order directing the parties to
37 proceed to trial on the complaint and answer in the usual manner.

1 If it appears to the court that the plaintiff should not be
2 restored to possession of the property, the court shall deny
3 plaintiff's motion for a writ of restitution and enter an order
4 directing the parties to proceed to trial within thirty days on the
5 complaint and answer. If it appears to the court that there is a
6 substantial issue of material fact as to whether or not the plaintiff
7 is entitled to other relief as is prayed for in plaintiff's complaint
8 and provided for in this chapter, or that there is a genuine issue of
9 a material fact pertaining to a legal or equitable defense or set-off
10 raised in the defendant's answer, the court shall grant or deny so much
11 of plaintiff's other relief sought and so much of defendant's defenses
12 or set-off claimed, as may be proper.

13 **Sec. 19033.** RCW 59.18.410 and 1973 1st ex.s. c 207 s 42 are each
14 amended to read as follows:

15 If upon the trial the verdict of the jury or, if the case be tried
16 without a jury, the finding of the court be in favor of the plaintiff
17 and against the defendant, judgment shall be entered for the
18 restitution of the premises; and if the proceeding be for unlawful
19 detainer after neglect or failure to perform any condition or covenant
20 of a lease or agreement under which the property is held, or after
21 default in the payment of rent, the judgment shall also declare the
22 forfeiture of the lease, agreement, or tenancy. The jury, or the
23 court, if the proceedings be tried without a jury, shall also assess
24 the damages arising out of the tenancy occasioned to the plaintiff by
25 any forcible entry, or by any forcible or unlawful detainer, alleged in
26 the complaint and proved on the trial, and, if the alleged unlawful
27 detainer be after default in the payment of rent, find the amount of
28 any rent due, and the judgment shall be rendered against the defendant
29 guilty of the forcible entry, forcible detainer, or unlawful detainer
30 for the amount of damages thus assessed and for the rent, if any, found
31 due, and the court may award statutory costs and reasonable attorney's
32 fees. When the proceeding is for an unlawful detainer after default in
33 the payment of rent, and the lease or agreement under which the rent is
34 payable has not by its terms expired, execution upon the judgment shall
35 not be issued until the expiration of five days after the entry of the
36 judgment, within which time the tenant or any subtenant, or any
37 mortgagee of the term, or other party interested in the continuance of

1 the tenancy, may pay into court for the landlord the amount of the
2 judgment and costs, and thereupon the judgment shall be satisfied and
3 the tenant restored to his or her tenancy; but if payment, as herein
4 provided, be not made within five days the judgment may be enforced for
5 its full amount and for the possession of the premises. In all other
6 cases the judgment may be enforced immediately. If writ of restitution
7 shall have been executed prior to judgment no further writ or execution
8 for the premises shall be required.

9 **Sec. 19034.** RCW 59.20.090 and 2003 c 7 s 3 are each amended to
10 read as follows:

11 (1) Unless otherwise agreed rental agreements shall be for a term
12 of one year. Any rental agreement of whatever duration shall be
13 automatically renewed for the term of the original rental agreement,
14 unless a different specified term is agreed upon.

15 (2) A landlord seeking to increase the rent upon expiration of the
16 term of a rental agreement of any duration shall notify the tenant in
17 writing three months prior to the effective date of any increase in
18 rent.

19 (3) A tenant shall notify the landlord in writing one month prior
20 to the expiration of a rental agreement of an intention not to renew.

21 (4)(a) The tenant may terminate the rental agreement upon thirty
22 days written notice whenever a change in the location of the tenant's
23 employment requires a change in his or her residence, and shall not be
24 liable for rental following such termination unless after due diligence
25 and reasonable effort the landlord is not able to rent the mobile home
26 lot at a fair rental. If the landlord is not able to rent the lot, the
27 tenant shall remain liable for the rental specified in the rental
28 agreement until the lot is rented or the original term ends.

29 (b) Any tenant who is a member of the armed forces, including the
30 national guard and armed forces reserves, or that tenant's spouse or
31 dependent, may terminate a rental agreement with less than thirty days
32 notice if the tenant receives reassignment or deployment orders which
33 do not allow greater notice. The tenant shall provide notice of the
34 reassignment or deployment order to the landlord no later than seven
35 days after receipt.

