
ENGROSSED SUBSTITUTE HOUSE BILL 2274

State of Washington

64th Legislature

2016 Regular Session

By House Transportation (originally sponsored by Representatives Harmsworth, Bergquist, Hayes, Morris, Moscoso, Pollet, Vick, Wilson, Van Werven, and Haler)

1 AN ACT Relating to protecting individuals from reports of sale
2 filed with an incorrect buyer of a subsequently abandoned vehicle;
3 amending RCW 46.12.650, 46.55.105, 19.16.250, and 9.94A.753; and
4 adding a new section to chapter 46.64 RCW.

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

6 **Sec. 1.** RCW 46.12.650 and 2015 3rd sp.s. c 44 s 214 are each
7 amended to read as follows:

8 (1) **Releasing interest.** An owner releasing interest in a vehicle
9 shall:

10 (a) Sign the release of interest section provided on the
11 certificate of title or on a release of interest document or form
12 approved by the department;

13 (b) Give the certificate of title or most recent evidence of
14 ownership to the person gaining the interest in the vehicle;

15 (c) Give the person gaining interest in the vehicle an odometer
16 disclosure statement if one is required; and

17 (d) Report the vehicle sold as provided in subsection (2) of this
18 section.

19 (2) **Report of sale.** An owner shall notify the department, county
20 auditor or other agent, or subagent appointed by the director in

1 writing within (~~twenty-one~~) five business days after a vehicle is
2 or has been:

3 (a) Sold;

4 (b) Given as a gift to another person;

5 (c) Traded, either privately or to a dealership;

6 (d) Donated to charity;

7 (e) Turned over to an insurance company or wrecking yard; or

8 (f) Disposed of.

9 (3) **Report of sale properly filed.** A report of sale is properly
10 filed if it is received by the department, county auditor or other
11 agent, or subagent appointed by the director within (~~twenty-one~~)
12 five business days after the date of sale or transfer and it
13 includes:

14 (a) The date of sale or transfer;

15 (b) The owner's full name and complete, current address;

16 (c) The full name and complete, current address of the person
17 acquiring the vehicle, including street name and number, and
18 apartment number if applicable, or post office box number, city or
19 town, and postal code;

20 (d) The vehicle identification number and license plate number;

21 (e) A date or stamp by the department showing it was received on
22 or before the (~~twenty-first~~) fifth business day after the date of
23 sale or transfer; and

24 (f) Payment of the fees required under RCW 46.17.050.

25 (4) **Report of sale - administration.** (a) The department shall:

26 (i) Provide or approve reports of sale forms;

27 (ii) Provide a system enabling an owner to submit reports of sale
28 electronically;

29 (iii) Immediately update the department's vehicle record when a
30 report of sale has been filed;

31 (iv) Provide instructions on release of interest forms that allow
32 the seller of a vehicle to release their interest in a vehicle at the
33 same time a financial institution, as defined in RCW 30A.22.040,
34 releases its lien on the vehicle; and

35 (v) Send a report to the department of revenue that lists
36 vehicles for which a report of sale has been received but no transfer
37 of ownership has taken place. The department shall send the report
38 once each quarter.

39 (~~(A report of sale that is received by the department, county~~
40 ~~auditor or other agent, or subagent appointed by the director after~~

1 ~~the twenty-first day becomes effective on the day it is received by~~
2 ~~the department, county auditor or other agent, or subagent appointed~~
3 ~~by the director.)) A report of sale is not proof of a completed~~
4 ~~vehicle transfer for purposes of the collection of expenses related~~
5 ~~to towing, storage, and auction of an abandoned vehicle in situations~~
6 ~~where there is no evidence indicating the buyer knew of or was a~~
7 ~~party to acceptance of the vehicle transfer. A contract signed by the~~
8 ~~prior owner and the new owner, a certificate of title, or other legal~~
9 ~~proof of acceptance of the vehicle by the new owner may be provided~~
10 ~~to establish legal responsibility for the abandoned vehicle.~~

11 (5)(a) **Transferring ownership.** A person who has recently acquired
12 a vehicle by purchase, exchange, gift, lease, inheritance, or legal
13 action shall apply to the department, county auditor or other agent,
14 or subagent appointed by the director for a new certificate of title
15 within fifteen days of delivery of the vehicle. A secured party who
16 has possession of the certificate of title shall either:

17 (i) Apply for a new certificate of title on behalf of the owner
18 and pay the fee required under RCW 46.17.100; or

19 (ii) Provide all required documents to the owner, as long as the
20 transfer was not a breach of its security agreement, to allow the
21 owner to apply for a new certificate of title.

22 (b) Compliance with this subsection does not affect the rights of
23 the secured party.

24 (6) **Certificate of title delivered to secured party.** The
25 certificate of title must be kept by or delivered to the person who
26 becomes the secured party when a security interest is reserved or
27 created at the time of the transfer of ownership. The parties must
28 comply with RCW 46.12.675.

29 (7) **Penalty for late transfer.** A person who has recently acquired
30 a motor vehicle by purchase, exchange, gift, lease, inheritance, or
31 legal action who does not apply for a new certificate of title within
32 fifteen calendar days of delivery of the vehicle is charged a
33 penalty, as described in RCW 46.17.140, when applying for a new
34 certificate of title. It is a misdemeanor to fail or neglect to apply
35 for a transfer of ownership within forty-five days after delivery of
36 the vehicle. The misdemeanor is a single continuing offense for each
37 day that passes regardless of the number of days that have elapsed
38 following the forty-five day time period.

1 (8) **Penalty for late transfer - exceptions.** The penalty is not
2 charged if the delay in application is due to at least one of the
3 following:

4 (a) The department requests additional supporting documents;

5 (b) The department, county auditor or other agent, or subagent
6 fails to perform or is neglectful;

7 (c) The owner is prevented from applying due to an illness or
8 extended hospitalization;

9 (d) The legal owner fails or neglects to release interest;

10 (e) The owner did not know of the filing of a report of sale by
11 the previous owner and signs an affidavit to the fact; or

12 (f) The department finds other conditions exist that adequately
13 explain the delay.

14 (9) **Review and issue.** The department shall review applications
15 for certificates of title and issue certificates of title when it has
16 determined that all applicable provisions of law have been complied
17 with.

18 (10) **Rules.** The department may adopt rules as necessary to
19 implement this section.

20 **Sec. 2.** RCW 46.55.105 and 2010 c 161 s 1119 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (4) of this section, the
23 abandonment of any vehicle creates a prima facie presumption that the
24 last registered owner of record is responsible for the abandonment
25 and is liable for costs incurred in removing, storing, and disposing
26 of the abandoned vehicle, less amounts realized at auction.

27 (2) If an unauthorized vehicle is found abandoned under
28 subsection (1) of this section and removed at the direction of law
29 enforcement, the last registered owner of record is guilty of the
30 traffic infraction of "littering—abandoned vehicle," unless the
31 vehicle is redeemed as provided in RCW 46.55.120. In addition to any
32 other monetary penalty payable under chapter 46.63 RCW, the court
33 shall not consider all monetary penalties as having been paid until
34 the court is satisfied that the person found to have committed the
35 infraction has made restitution in the amount of the deficiency
36 remaining after disposal of the vehicle under RCW 46.55.140.

37 (3) A vehicle theft report filed with a law enforcement agency
38 relieves the last registered owner of liability under subsection (2)
39 of this section for failure to redeem the vehicle. However, the last

1 registered owner remains liable for the costs incurred in removing,
2 storing, and disposing of the abandoned vehicle under subsection (1)
3 of this section. Nothing in this section limits in any way the
4 registered owner's rights in a civil action or as restitution in a
5 criminal action against a person responsible for the theft of the
6 vehicle.

7 (4) Properly filing a report of sale or transfer regarding the
8 vehicle involved in accordance with RCW 46.12.650 (1) through (3)
9 relieves the last registered owner of liability under subsections (1)
10 and (2) of this section. However, if there is a reason to believe
11 that a report of sale has been filed in which the reported buyer did
12 not know of the alleged transfer or did not accept the vehicle
13 transfer, the liability remains with the last registered owner to
14 prove the vehicle transfer was made pursuant to a legal transfer or
15 accepted by the person reported as the new owner on the report of
16 sale. If the date of sale as indicated on the report of sale is ((~~or~~
17 ~~or~~)) before the date of impoundment, the buyer identified on the
18 latest properly filed report of sale with the department is assumed
19 liable for the costs incurred in removing, storing, and disposing of
20 the abandoned vehicle, less amounts realized at auction. If the date
21 of sale is after the date of impoundment, the previous registered
22 owner is assumed to be liable for such costs. A licensed vehicle
23 dealer is not liable under subsections (1) and (2) of this section if
24 the dealer, as transferee or assignee of the last registered owner of
25 the vehicle involved, has complied with the requirements of RCW
26 46.70.122 upon selling or otherwise disposing of the vehicle, or if
27 the dealer has timely filed a transitional ownership record or report
28 of sale under RCW 46.12.660. In that case the person to whom the
29 licensed vehicle dealer has sold or transferred the vehicle is
30 assumed liable for the costs incurred in removing, storing, and
31 disposing of the abandoned vehicle, less amounts realized at auction.

32 (5) For the purposes of reporting notices of traffic infraction
33 to the department under RCW 46.20.270 and 46.52.101, and for purposes
34 of reporting notices of failure to appear, respond, or comply
35 regarding a notice of traffic infraction to the department under RCW
36 46.63.070(6), a traffic infraction under subsection (2) of this
37 section is not considered to be a standing, stopping, or parking
38 violation.

39 (6) A notice of infraction for a violation of this section may be
40 filed with a court of limited jurisdiction organized under Title 3,

1 35, or 35A RCW, or with a violations bureau subject to the court's
2 jurisdiction.

3 (7)(a) A person named as a buyer in a report of sale filed under
4 RCW 46.12.650(4) in which there was no acceptance of the transfer has
5 a cause of action against the person who filed the report to recover
6 costs associated with towing, storage, auction, or any other damages
7 incurred as a result of being named as the buyer in the report of
8 sale, including reasonable attorneys' fees and litigation costs. The
9 cause of action provided in this subsection (7)(a) is in addition to
10 any other remedy available to the person at law or in equity.

11 (b) A person named as a seller in a report of sale filed under
12 RCW 46.12.650(4) in which the named buyer alleges that there was no
13 acceptance of the transfer has a cause of action against the named
14 buyer to recover damages incurred as a result of the allegation,
15 including reasonable attorneys' fees and litigation costs. The cause
16 of action in this subsection (7)(b) is in addition to any other
17 remedy available to the person at law or in equity.

18 NEW SECTION. Sec. 3. A new section is added to chapter 46.64
19 RCW to read as follows:

20 If a court has declared that a fraudulent report of sale has been
21 filed with the department, county auditor or other agent, or subagent
22 appointed by the director, the court must notify the department in
23 writing with a copy of the court order. Once notified, the department
24 may remove the fraudulent report of sale from the vehicle record.

25 **Sec. 4.** RCW 19.16.250 and 2013 c 148 s 2 are each amended to
26 read as follows:

27 No licensee or employee of a licensee shall:

28 (1) Directly or indirectly aid or abet any unlicensed person to
29 engage in business as a collection agency in this state or receive
30 compensation from such unlicensed person: PROVIDED, That nothing in
31 this chapter shall prevent a licensee from accepting, as forwarder,
32 claims for collection from a collection agency or attorney whose
33 place of business is outside the state.

34 (2) Collect or attempt to collect a claim by the use of any means
35 contrary to the postal laws and regulations of the United States
36 postal department.

37 (3) Publish or post or cause to be published or posted, any list
38 of debtors commonly known as "bad debt lists" or threaten to do so.

1 For purposes of this chapter, a "bad debt list" means any list of
2 natural persons alleged to fail to honor their lawful debts. However,
3 nothing herein shall be construed to prohibit a licensee from
4 communicating to its customers or clients by means of a coded list,
5 the existence of a check dishonored because of insufficient funds,
6 not sufficient funds or closed account by the financial institution
7 servicing the debtor's checking account: PROVIDED, That the debtor's
8 identity is not readily apparent: PROVIDED FURTHER, That the licensee
9 complies with the requirements of subsection (10)(e) of this section.

10 (4) Have in his or her possession or make use of any badge, use a
11 uniform of any law enforcement agency or any simulation thereof, or
12 make any statements which might be construed as indicating an
13 official connection with any federal, state, county, or city law
14 enforcement agency, or any other governmental agency, while engaged
15 in collection agency business.

16 (5) Perform any act or acts, either directly or indirectly,
17 constituting the unauthorized practice of law.

18 (6) Advertise for sale or threaten to advertise for sale any
19 claim as a means of endeavoring to enforce payment thereof or
20 agreeing to do so for the purpose of soliciting claims, except where
21 the licensee has acquired claims as an assignee for the benefit of
22 creditors or where the licensee is acting under court order.

23 (7) Use any name while engaged in the making of a demand for any
24 claim other than the name set forth on his or her or its current
25 license issued hereunder.

26 (8) Give or send to any debtor or cause to be given or sent to
27 any debtor, any notice, letter, message, or form, other than through
28 proper legal action, process, or proceedings, which represents or
29 implies that a claim exists unless it shall indicate in clear and
30 legible type:

31 (a) The name of the licensee and the city, street, and number at
32 which he or she is licensed to do business;

33 (b) The name of the original creditor to whom the debtor owed the
34 claim if such name is known to the licensee or employee: PROVIDED,
35 That upon written request of the debtor, the licensee shall provide
36 this name to the debtor or cease efforts to collect on the debt until
37 this information is provided;

38 (c) If the notice, letter, message, or form is the first notice
39 to the debtor or if the licensee is attempting to collect a different

1 amount than indicated in his or her or its first notice to the
2 debtor, an itemization of the claim asserted must be made including:

3 (i) Amount owing on the original obligation at the time it was
4 received by the licensee for collection or by assignment;

5 (ii) Interest or service charge, collection costs, or late
6 payment charges, if any, added to the original obligation by the
7 original creditor, customer or assignor before it was received by the
8 licensee for collection, if such information is known by the licensee
9 or employee: PROVIDED, That upon written request of the debtor, the
10 licensee shall make a reasonable effort to obtain information on such
11 items and provide this information to the debtor;

12 (iii) Interest or service charge, if any, added by the licensee
13 or customer or assignor after the obligation was received by the
14 licensee for collection;

15 (iv) Collection costs, if any, that the licensee is attempting to
16 collect;

17 (v) Attorneys' fees, if any, that the licensee is attempting to
18 collect on his or her or its behalf or on the behalf of a customer or
19 assignor; and

20 (vi) Any other charge or fee that the licensee is attempting to
21 collect on his or her or its own behalf or on the behalf of a
22 customer or assignor;

23 (d) If the notice, letter, message, or form concerns a judgment
24 obtained against the debtor, no itemization of the amounts contained
25 in the judgment is required, except postjudgment interest, if
26 claimed, and the current account balance;

27 (e) If the notice, letter, message, or form is the first notice
28 to the debtor, an itemization of the claim asserted must be made
29 including the following information:

30 (i) The original account number or redacted original account
31 number assigned to the debt, if known to the licensee or employee:
32 PROVIDED, That upon written request of the debtor, the licensee must
33 make a reasonable effort to obtain this information or cease efforts
34 to collect on the debt until this information is provided; and

35 (ii) The date of the last payment to the creditor on the subject
36 debt by the debtor, if known to the licensee or employee: PROVIDED,
37 That upon written request of the debtor, the licensee must make a
38 reasonable effort to obtain this information or cease efforts to
39 collect on the debt until this information is provided.

1 (9) Communicate in writing with a debtor concerning a claim
2 through a proper legal action, process, or proceeding, where such
3 communication is the first written communication with the debtor,
4 without providing the information set forth in subsection (8)(c) of
5 this section in the written communication.

6 (10) Communicate or threaten to communicate, the existence of a
7 claim to a person other than one who might be reasonably expected to
8 be liable on the claim in any manner other than through proper legal
9 action, process, or proceedings except under the following
10 conditions:

11 (a) A licensee or employee of a licensee may inform a credit
12 reporting bureau of the existence of a claim. If the licensee or
13 employee of a licensee reports a claim to a credit reporting bureau,
14 the licensee shall, upon receipt of written notice from the debtor
15 that any part of the claim is disputed, notify the credit reporting
16 bureau of the dispute by written or electronic means and create a
17 record of the fact of the notification and when the notification was
18 provided;

19 (b) A licensee or employee in collecting or attempting to collect
20 a claim may communicate the existence of a claim to a debtor's
21 employer if the claim has been reduced to a judgment;

22 (c) A licensee or employee in collecting or attempting to collect
23 a claim that has not been reduced to judgment, may communicate the
24 existence of a claim to a debtor's employer if:

25 (i) The licensee or employee has notified or attempted to notify
26 the debtor in writing at his or her last known address or place of
27 employment concerning the claim and the debtor after a reasonable
28 time has failed to pay the claim or has failed to agree to make
29 payments on the claim in a manner acceptable to the licensee, and

30 (ii) The debtor has not in writing to the licensee disputed any
31 part of the claim: PROVIDED, That the licensee or employee may only
32 communicate the existence of a claim which has not been reduced to
33 judgment to the debtor's employer once unless the debtor's employer
34 has agreed to additional communications.

35 (d) A licensee may for the purpose of locating the debtor or
36 locating assets of the debtor communicate the existence of a claim to
37 any person who might reasonably be expected to have knowledge of the
38 whereabouts of a debtor or the location of assets of the debtor if
39 the claim is reduced to judgment, or if not reduced to judgment,
40 when:

1 (i) The licensee or employee has notified or attempted to notify
2 the debtor in writing at his or her last known address or last known
3 place of employment concerning the claim and the debtor after a
4 reasonable time has failed to pay the claim or has failed to agree to
5 make payments on the claim in a manner acceptable to the licensee,
6 and

7 (ii) The debtor has not in writing disputed any part of the
8 claim.

9 (e) A licensee may communicate the existence of a claim to its
10 customers or clients if the claim is reduced to judgment, or if not
11 reduced to judgment, when:

12 (i) The licensee has notified or attempted to notify the debtor
13 in writing at his or her last known address or last known place of
14 employment concerning the claim and the debtor after a reasonable
15 time has failed to pay the claim or has failed to agree to make
16 payments on the claim in a manner acceptable to the licensee, and

17 (ii) The debtor has not in writing disputed any part of the
18 claim.

19 (11) Threaten the debtor with impairment of his or her credit
20 rating if a claim is not paid: PROVIDED, That advising a debtor that
21 the licensee has reported or intends to report a claim to a credit
22 reporting agency is not considered a threat if the licensee actually
23 has reported or intends to report the claim to a credit reporting
24 agency.

25 (12) Communicate with the debtor after notification in writing
26 from an attorney representing such debtor that all further
27 communications relative to a claim should be addressed to the
28 attorney: PROVIDED, That if a licensee requests in writing
29 information from an attorney regarding such claim and the attorney
30 does not respond within a reasonable time, the licensee may
31 communicate directly with the debtor until he or she or it again
32 receives notification in writing that an attorney is representing the
33 debtor.

34 (13) Communicate with a debtor or anyone else in such a manner as
35 to harass, intimidate, threaten, or embarrass a debtor, including but
36 not limited to communication at an unreasonable hour, with
37 unreasonable frequency, by threats of force or violence, by threats
38 of criminal prosecution, and by use of offensive language. A
39 communication shall be presumed to have been made for the purposes of
40 harassment if:

1 (a) It is made with a debtor or spouse in any form, manner, or
2 place, more than three times in a single week, unless the licensee is
3 responding to a communication from the debtor or spouse;

4 (b) It is made with a debtor at his or her place of employment
5 more than one time in a single week, unless the licensee is
6 responding to a communication from the debtor;

7 (c) It is made with the debtor or spouse at his or her place of
8 residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a
9 telephone is presumed to be received in the local time zone to which
10 the area code of the number called is assigned for landline numbers,
11 unless the licensee reasonably believes the telephone is located in a
12 different time zone. If the area code is not assigned to landlines in
13 any specific geographic area, such as with toll-free telephone
14 numbers, a call to a telephone is presumed to be received in the
15 local time zone of the debtor's last known place of residence, unless
16 the licensee reasonably believes the telephone is located in a
17 different time zone.

18 (14) Communicate with the debtor through use of forms or
19 instruments that simulate the form or appearance of judicial process,
20 the form or appearance of government documents, or the simulation of
21 a form or appearance of a telegraphic or emergency message.

22 (15) Communicate with the debtor and represent or imply that the
23 existing obligation of the debtor may be or has been increased by the
24 addition of attorney fees, investigation fees, service fees, or any
25 other fees or charges when in fact such fees or charges may not
26 legally be added to the existing obligation of such debtor.

27 (16) Threaten to take any action against the debtor which the
28 licensee cannot legally take at the time the threat is made.

29 (17) Send any telegram or make any telephone calls to a debtor or
30 concerning a debt or for the purpose of demanding payment of a claim
31 or seeking information about a debtor, for which the charges are
32 payable by the addressee or by the person to whom the call is made:
33 PROVIDED, That:

34 (a) This subsection does not prohibit a licensee from attempting
35 to communicate by way of a cellular telephone or other wireless
36 device: PROVIDED, That a licensee cannot cause charges to be incurred
37 to the recipient of the attempted communication more than three times
38 in any calendar week when the licensee knows or reasonably should
39 know that the number belongs to a cellular telephone or other

1 wireless device, unless the licensee is responding to a communication
2 from the debtor or the person to whom the call is made.

3 (b) The licensee is not in violation of (a) of this subsection if
4 the licensee at least monthly updates its records with information
5 provided by a commercial provider of cellular telephone lists that
6 the licensee in good faith believes provides reasonably current and
7 comprehensive data identifying cellular telephone numbers, calls a
8 number not appearing in the most recent list provided by the
9 commercial provider, and does not otherwise know or reasonably should
10 know that the number belongs to a cellular telephone.

11 (c) This subsection may not be construed to increase the number
12 of communications permitted pursuant to subsection (13)(a) of this
13 section.

14 (18) Call, or send a text message or other electronic
15 communication to, a cellular telephone or other wireless device more
16 than twice in any day when the licensee knows or reasonably should
17 know that the number belongs to a cellular telephone or other
18 wireless device, unless the licensee is responding to a communication
19 from the debtor or the person to whom the call, text message, or
20 other electronic communication is made. The licensee is not in
21 violation of this subsection if the licensee at least monthly updates
22 its records with information provided by a commercial provider of
23 cellular telephone lists that the licensee in good faith believes
24 provides reasonably current and comprehensive data identifying
25 cellular telephone numbers, calls a number not appearing in the most
26 recent list provided by the commercial provider, and does not
27 otherwise know or reasonably should know that the number belongs to a
28 cellular telephone. Nothing in this subsection may be construed to
29 increase the number of communications permitted pursuant to
30 subsection (13)(a) of this section.

31 (19) Intentionally block its telephone number from displaying on
32 a debtor's telephone.

33 (20) In any manner convey the impression that the licensee is
34 vouched for, bonded to or by, or is an instrumentality of the state
35 of Washington or any agency or department thereof.

36 (21) Collect or attempt to collect in addition to the principal
37 amount of a claim any sum other than allowable interest, collection
38 costs or handling fees expressly authorized by statute, and, in the
39 case of suit, attorney's fees and taxable court costs. A licensee may
40 collect or attempt to collect collection costs and fees, including

1 contingent collection fees, as authorized by a written agreement or
2 contract, between the licensee's client and the debtor, in the
3 collection of a commercial claim. The amount charged to the debtor
4 for collection services shall not exceed thirty-five percent of the
5 commercial claim.

6 (22) Procure from a debtor or collect or attempt to collect on
7 any written note, contract, stipulation, promise or acknowledgment
8 under which a debtor may be required to pay any sum other than
9 principal, allowable interest, except as noted in subsection (21) of
10 this section, and, in the case of suit, attorney's fees and taxable
11 court costs.

12 (23) Bring an action or initiate an arbitration proceeding on a
13 claim when the licensee knows, or reasonably should know, that such
14 suit or arbitration is barred by the applicable statute of
15 limitations.

16 (24) Upon notification by a debtor that the debtor disputes all
17 debts arising from a series of dishonored checks, automated
18 clearinghouse transactions on a demand deposit account, or other
19 preprinted written instruments, initiate oral contact with a debtor
20 more than one time in an attempt to collect from the debtor debts
21 arising from the identified series of dishonored checks, automated
22 clearinghouse transactions on a demand deposit account, or other
23 preprinted written instruments when: (a) Within the previous one
24 hundred eighty days, in response to the licensee's attempt to collect
25 the initial debt assigned to the licensee and arising from the
26 identified series of dishonored checks, automated clearinghouse
27 transactions on a demand deposit account, or other preprinted written
28 instruments, the debtor in writing notified the licensee that the
29 debtor's checkbook or other series of preprinted written instruments
30 was stolen or fraudulently created; (b) the licensee has received
31 from the debtor a certified copy of a police report referencing the
32 theft or fraudulent creation of the checkbook, automated
33 clearinghouse transactions on a demand deposit account, or series of
34 preprinted written instruments; (c) in the written notification to
35 the licensee or in the police report, the debtor identified the
36 financial institution where the account was maintained, the account
37 number, the magnetic ink character recognition number, the full bank
38 routing and transit number, and the check numbers of the stolen
39 checks, automated clearinghouse transactions on a demand deposit
40 account, or other preprinted written instruments, which check numbers

1 included the number of the check that is the subject of the
2 licensee's collection efforts; (d) the debtor provides, or within the
3 previous one hundred eighty days provided, to the licensee a legible
4 copy of a government-issued photo identification, which contains the
5 debtor's signature and which was issued prior to the date of the
6 theft or fraud identified in the police report; and (e) the debtor
7 advised the licensee that the subject debt is disputed because the
8 identified check, automated clearinghouse transaction on a demand
9 deposit account, or other preprinted written instrument underlying
10 the debt is a stolen or fraudulently created check or instrument.

11 The licensee is not in violation of this subsection if the
12 licensee initiates oral contact with the debtor more than one time in
13 an attempt to collect debts arising from the identified series of
14 dishonored checks, automated clearinghouse transactions on a demand
15 deposit account, or other preprinted written instruments when: (i)
16 The licensee acted in good faith and relied on their established
17 practices and procedures for batching, recording, or packeting debtor
18 accounts, and the licensee inadvertently initiates oral contact with
19 the debtor in an attempt to collect debts in the identified series
20 subsequent to the initial debt assigned to the licensee; (ii) the
21 licensee is following up on collection of a debt assigned to the
22 licensee, and the debtor has previously requested more information
23 from the licensee regarding the subject debt; (iii) the debtor has
24 notified the licensee that the debtor disputes only some, but not all
25 the debts arising from the identified series of dishonored checks,
26 automated clearinghouse transactions on a demand deposit account, or
27 other preprinted written instruments, in which case the licensee
28 shall be allowed to initiate oral contact with the debtor one time
29 for each debt arising from the series of identified checks, automated
30 clearinghouse transactions on a demand deposit account, or written
31 instruments and initiate additional oral contact for those debts that
32 the debtor acknowledges do not arise from stolen or fraudulently
33 created checks or written instruments; (iv) the oral contact is in
34 the context of a judicial, administrative, arbitration, mediation, or
35 similar proceeding; or (v) the oral contact is made for the purpose
36 of investigating, confirming, or authenticating the information
37 received from the debtor, to provide additional information to the
38 debtor, or to request additional information from the debtor needed
39 by the licensee to accurately record the debtor's information in the
40 licensee's records.

1 (25) Bring an action or initiate an arbitration proceeding on a
2 claim for any amounts related to a transfer of sale of a vehicle
3 when:

4 (a) The licensee has been informed or reasonably should know that
5 the department of licensing transfer of sale form was filed in
6 accordance with RCW 46.12.650 (1) through (3);

7 (b) The licensee has been informed or reasonably should know that
8 the transfer of the vehicle either (i) was not made pursuant to a
9 legal transfer or (ii) was not voluntarily accepted by the person
10 designated as the purchaser/transferee; and

11 (c) Prior to the commencement of the action or arbitration, the
12 licensee has received from the putative transferee a copy of a police
13 report referencing that the transfer of sale of the vehicle either
14 (i) was not made pursuant to a legal transfer or (ii) was not
15 voluntarily accepted by the person designated as the purchaser/
16 transferee.

17 (26) Submit an affidavit or other request pursuant to chapter
18 6.32 RCW asking a superior or district court to transfer a bond
19 posted by a debtor subject to a money judgment to the licensee, when
20 the debtor has appeared as required.

21 **Sec. 5.** RCW 9.94A.753 and 2003 c 379 s 16 are each amended to
22 read as follows:

23 This section applies to offenses committed after July 1, 1985.

24 (1) When restitution is ordered, the court shall determine the
25 amount of restitution due at the sentencing hearing or within one
26 hundred eighty days except as provided in subsection (7) of this
27 section. The court may continue the hearing beyond the one hundred
28 eighty days for good cause. The court shall then set a minimum
29 monthly payment that the offender is required to make towards the
30 restitution that is ordered. The court should take into consideration
31 the total amount of the restitution owed, the offender's present,
32 past, and future ability to pay, as well as any assets that the
33 offender may have.

34 (2) During the period of supervision, the community corrections
35 officer may examine the offender to determine if there has been a
36 change in circumstances that warrants an amendment of the monthly
37 payment schedule. The community corrections officer may recommend a
38 change to the schedule of payment and shall inform the court of the
39 recommended change and the reasons for the change. The sentencing

1 court may then reset the monthly minimum payments based on the report
2 from the community corrections officer of the change in
3 circumstances.

4 (3) Except as provided in subsection (6) of this section,
5 restitution ordered by a court pursuant to a criminal conviction
6 shall be based on easily ascertainable damages for injury to or loss
7 of property, actual expenses incurred for treatment for injury to
8 persons, and lost wages resulting from injury. Restitution shall not
9 include reimbursement for damages for mental anguish, pain and
10 suffering, or other intangible losses, but may include the costs of
11 counseling reasonably related to the offense. The amount of
12 restitution shall not exceed double the amount of the offender's gain
13 or the victim's loss from the commission of the crime.

14 (4) For the purposes of this section, for an offense committed
15 prior to July 1, 2000, the offender shall remain under the court's
16 jurisdiction for a term of ten years following the offender's release
17 from total confinement or ten years subsequent to the entry of the
18 judgment and sentence, whichever period ends later. Prior to the
19 expiration of the initial ten-year period, the superior court may
20 extend jurisdiction under the criminal judgment an additional ten
21 years for payment of restitution. For an offense committed on or
22 after July 1, 2000, the offender shall remain under the court's
23 jurisdiction until the obligation is completely satisfied, regardless
24 of the statutory maximum for the crime. The portion of the sentence
25 concerning restitution may be modified as to amount, terms, and
26 conditions during any period of time the offender remains under the
27 court's jurisdiction, regardless of the expiration of the offender's
28 term of community supervision and regardless of the statutory maximum
29 sentence for the crime. The court may not reduce the total amount of
30 restitution ordered because the offender may lack the ability to pay
31 the total amount. The offender's compliance with the restitution
32 shall be supervised by the department only during any period which
33 the department is authorized to supervise the offender in the
34 community under RCW 9.94A.728, 9.94A.501, or in which the offender is
35 in confinement in a state correctional institution or a correctional
36 facility pursuant to a transfer agreement with the department, and
37 the department shall supervise the offender's compliance during any
38 such period. The department is responsible for supervision of the
39 offender only during confinement and authorized supervision and not
40 during any subsequent period in which the offender remains under the

1 court's jurisdiction. The county clerk is authorized to collect
2 unpaid restitution at any time the offender remains under the
3 jurisdiction of the court for purposes of his or her legal financial
4 obligations.

5 (5) Restitution shall be ordered whenever the offender is
6 convicted of an offense which results in injury to any person or
7 damage to or loss of property or as provided in subsection (6) of
8 this section unless extraordinary circumstances exist which make
9 restitution inappropriate in the court's judgment and the court sets
10 forth such circumstances in the record. In addition, restitution
11 shall be ordered to pay for an injury, loss, or damage if the
12 offender pleads guilty to a lesser offense or fewer offenses and
13 agrees with the prosecutor's recommendation that the offender be
14 required to pay restitution to a victim of an offense or offenses
15 which are not prosecuted pursuant to a plea agreement.

16 (6) Restitution for the crime of rape of a child in the first,
17 second, or third degree, in which the victim becomes pregnant, shall
18 include: (a) All of the victim's medical expenses that are associated
19 with the rape and resulting pregnancy; and (b) child support for any
20 child born as a result of the rape if child support is ordered
21 pursuant to a civil superior court or administrative order for
22 support for that child. The clerk must forward any restitution
23 payments made on behalf of the victim's child to the Washington state
24 child support registry under chapter 26.23 RCW. Identifying
25 information about the victim and child shall not be included in the
26 order. The offender shall receive a credit against any obligation
27 owing under the administrative or superior court order for support of
28 the victim's child. For the purposes of this subsection, the offender
29 shall remain under the court's jurisdiction until the offender has
30 satisfied support obligations under the superior court or
31 administrative order for the period provided in RCW 4.16.020 or a
32 maximum term of twenty-five years following the offender's release
33 from total confinement or twenty-five years subsequent to the entry
34 of the judgment and sentence, whichever period is longer. The court
35 may not reduce the total amount of restitution ordered because the
36 offender may lack the ability to pay the total amount. The department
37 shall supervise the offender's compliance with the restitution
38 ordered under this subsection.

39 (7) Regardless of the provisions of subsections (1) through (6)
40 of this section, the court shall order restitution in all cases where

1 the victim is entitled to benefits under the crime victims'
2 compensation act, chapter 7.68 RCW. If the court does not order
3 restitution and the victim of the crime has been determined to be
4 entitled to benefits under the crime victims' compensation act, the
5 department of labor and industries, as administrator of the crime
6 victims' compensation program, may petition the court within one year
7 of entry of the judgment and sentence for entry of a restitution
8 order. Upon receipt of a petition from the department of labor and
9 industries, the court shall hold a restitution hearing and shall
10 enter a restitution order.

11 (8) In addition to any sentence that may be imposed, an offender
12 who has been found guilty of an offense involving fraud or other
13 deceptive practice or an organization which has been found guilty of
14 any such offense may be ordered by the sentencing court to give
15 notice of the conviction to the class of persons or to the sector of
16 the public affected by the conviction or financially interested in
17 the subject matter of the offense by mail, by advertising in
18 designated areas or through designated media, or by other appropriate
19 means.

20 (9) This section does not limit civil remedies or defenses
21 available to the victim, survivors of the victim, or offender
22 including support enforcement remedies for support ordered under
23 subsection (6) of this section for a child born as a result of a rape
24 of a child victim. The court shall identify in the judgment and
25 sentence the victim or victims entitled to restitution and what
26 amount is due each victim. The state or victim may enforce the court-
27 ordered restitution in the same manner as a judgment in a civil
28 action. Restitution collected through civil enforcement must be paid
29 through the registry of the court and must be distributed
30 proportionately according to each victim's loss when there is more
31 than one victim.

32 (10) If a person has caused a victim to lose money or property
33 through the filing of a vehicle report of sale in which the
34 designated buyer had no knowledge of the vehicle transfer or the
35 fraudulent filing of the report of sale, upon conviction or when the
36 offender pleads guilty and agrees with the prosecutor's
37 recommendation that the offender be required to pay restitution to a
38 victim, the court may order the defendant to pay an amount, fixed by
39 the court, not to exceed double the amount of the defendant's gain or
40 victim's loss from the filing of the vehicle report of sale in which

1 the designated buyer had no knowledge of the vehicle transfer or the
2 fraudulent filing of the report of sale. Such an amount may be used
3 to provide restitution to the victim at the order of the court. It is
4 the duty of the prosecuting attorney to investigate the alternative
5 of restitution, and to recommend it to the court, when the
6 prosecuting attorney believes that restitution is appropriate and
7 feasible. If the court orders restitution, the court must make a
8 finding as to the amount of the victim's loss due to the filing of
9 the report of sale in which the designated buyer had no knowledge of
10 the vehicle transfer or the fraudulent filing of the report of sale,
11 and if the record does not contain sufficient evidence to support
12 such finding, the court may conduct a hearing upon the issue. For
13 purposes of this section, "loss" refers to the amount of money or the
14 value of property or services lost.

--- END ---