

FIFTY NINTH LEGISLATURE - REGULAR SESSION

FIFTEENTH DAY

House Chamber, Olympia, Monday, January 23, 2006

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Christopher Post and Jill Bakke. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Rabbi Seth Goldstein, Temple Beth Hatfiloh, Olympia.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

The Speaker assumed the chair.

MESSAGE FROM THE SENATE

January 20, 2006

Mr. Speaker:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5360,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5535,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

RESOLUTION

HOUSE RESOLUTION NO. 2006-4681, By Representatives Sells and McCoy

WHEREAS, The students of Jackson Elementary School have distinguished themselves by showing significant improvement on the Washington Assessment of Student Learning; and

WHEREAS, The students of Jackson Elementary School have displayed one of the greatest combined average increases in the percentage of students meeting the fourth grade reading, mathematics, and writing standards on the Washington Assessment of Student Learning; and

WHEREAS, The hard work and dedication of the students, teachers, and staff of Jackson Elementary School have led to this achievement; and

WHEREAS, The Apple Awards Capital Project was designed to honor and reward public elementary schools for Washington Assessment of Student Learning performance; and

WHEREAS, Through a rigorous application process, Jackson Elementary School has met the standards for and won

the Apple Award; and

WHEREAS, As a result of this achievement, Jackson Elementary School is the recipient of an Apple Award Construction Achievement Grant from the State Board of Education in the amount of twenty-five thousand dollars for a capital construction project designed by its students;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor and congratulate Jackson Elementary School students for their exemplary performance on the Washington Assessment of Student Learning; and

BE IT FURTHER RESOLVED, That the House of Representatives honor and congratulate Jackson Elementary School for receiving the prestigious Apple Award for the commendable achievements of its students.

Representative Sells moved the adoption of the resolution.

Representatives Sells and Talcott spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4681 was adopted.

There being no objection, the House advanced to the seventh order of business.

THIRD READING

SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4205, By House Committee on Education (originally sponsored by Representatives Schual-Berke, Haigh, Jarrett, Quall, Tom, Hunter, Hunt, Fromhold, Chase, Appleton, Darneille, Williams, Clibborn, McDermott, Simpson, P. Sullivan, Dickerson, O'Brien, Wood, Sells, Roberts, Green, Conway, Hudgins, Kirby, Kenney, McIntire, Dunshee, Hasegawa, Linville, Santos, Kagi, Ormsby, Lantz, Moeller and Blake)

Amending the Constitution to provide for a simple majority of voters voting to authorize a school levy.

The bill was read the third time.

Representatives Schual-Berke, Talcott, Quall, Haigh, Hunter and Wallace spoke in favor of adoption of the joint resolution.

Representatives Orcutt, Clements and Nixon spoke against

the of adoption of the joint resolution.

The Speaker stated the question before the House to be the adoption of Substitute House Joint Resolution No. 4205.

With the consent of the House, Representative Campbell was excused.

ROLL CALL

The Clerk called the roll on the adoption of Substitute House Joint Resolution No. 4205 and the joint resolution was adopted the House by the following vote: Yeas - 74, Nays - 23, Absent - 0, Excused - 1.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Chase, Clibborn, Cody, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 74.

Voting nay: Representatives Ahern, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Dunn, Hinkle, Holmquist, Kretz, Kristiansen, McCune, Newhouse, Nixon, Orcutt, Pearson, Roach, Schindler, Serben, Sump and Woods - 23.

Excused: Representative Campbell - 1.

SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4205, having received the necessary two-thirds majority, was declared adopted.

MESSAGE FROM THE SENATE

January 20, 2006

Mr. Speaker:

The Senate has passed SENATE BILL NO. 5329, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION & FIRST READING

HB 3129 by Representatives Serben and Dunn

AN ACT Relating to compacts negotiated under the Indian Gaming Regulatory Act of 1988; amending RCW 9.46.360; and declaring an emergency.

Referred to Committee on Commerce & Labor.

HB 3130 by Representatives Serben, Dunn and Nixon

AN ACT Relating to allowing residents to smoke in long-term care facilities; amending RCW 70.160.030; adding a new section to chapter 70.160 RCW; and creating a new section.

Referred to Committee on Health Care.

HB 3132 by Representatives Hunt, Alexander and Williams

AN ACT Relating to blind persons operating vending facilities and vending machines; and amending RCW 74.18.220.

Referred to Committee on State Government Operations & Accountability.

HB 3133 by Representatives Conway and Chase

AN ACT Relating to execution of certain certificates for labor and industries by physician assistants; amending RCW 51.28.021; and amending 2004 c 163 s 4 (uncodified).

Referred to Committee on Commerce & Labor.

HB 3134 by Representatives Conway, Wood, Chase and Kenney

AN ACT Relating to compensation for temporary or permanent total disability; and amending RCW 51.32.225.

Referred to Committee on Commerce & Labor.

HB 3135 by Representatives Hinkle, Schual-Berke, Holmquist, Shabro and Schindler

AN ACT Relating to actions for injuries resulting from health care; amending RCW 4.22.070 and 7.70.070; adding a new section to chapter 4.56 RCW; and adding a new section to chapter 43.70 RCW.

Referred to Committee on Judiciary.

HB 3136 by Representatives Green, Hinkle, Clibborn, Williams, Cody, Skinner, Moeller and Lantz

AN ACT Relating to a certification exemption for the conduct of blood-drawing procedures by research staff in the homes of research study participants; and adding a new section to chapter 18.135 RCW.

Referred to Committee on Health Care.

HB 3137 by Representatives Lovick, Curtis, Clements, Hunt, Grant, Ericks, Conway, Morrell, Simpson and Kenney; by request of Department of Retirement Systems

AN ACT Relating to benefits for surviving spouses of disabled Washington state patrol officers; and amending RCW 43.43.270 and 41.45.0631.

Referred to Committee on Appropriations.

HB 3138 by Representatives Sells, B. Sullivan, Flannigan, Dickerson and Wallace

AN ACT Relating to transportation benefit districts; and amending RCW 36.73.015 and 36.73.020.

Referred to Committee on Transportation.

HB 3139 by Representatives Pettigrew, Haler, Dickerson, Kagi, Dunn, Walsh, Darneille, Roberts, Hinkle, Morrell and Kenney

AN ACT Relating to kinship caregivers' consent for mental health care of minors; and amending RCW 7.70.065, 71.34.020, 71.34.500, and 71.34.530.

Referred to Committee on Children & Family Services.

HB 3140 by Representatives Chandler, B. Sullivan, Dunn, Takko, Orcutt, Schindler, Newhouse, Dunshee and Woods

AN ACT Relating to the boundary review board's authority to modify annexation proposals; and amending RCW 36.93.150.

Referred to Committee on Local Government.

HB 3141 by Representatives Haler, Grant, Clements, Newhouse, Hankins and Chandler

AN ACT Relating to studying the competing interests of domestic water users and other water users in regards to limited water supplies where a curtailment of domestic water right use has been enacted; and creating a new section.

Referred to Committee on Economic Development, Agriculture & Trade.

HB 3142 by Representatives Eickmeyer, Sump, McCoy, Chase, Dunn and Upthegrove

AN ACT Relating to sales and use tax exemptions for on-site sewage disposal systems in aquatic rehabilitation zones; adding a new section to chapter 82.08 RCW; adding a new

section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Select Committee on Hood Canal.

HB 3143 by Representatives Chase, Dunn and Ericks

AN ACT Relating to the transfer of Saint Edward park to the city of Kenmore; creating a new section; and declaring an emergency.

Referred to Committee on Natural Resources, Ecology & Parks.

HB 3144 by Representatives Fromhold, Serben, Orcutt, Grant, Crouse, Dunn, Jarrett, Haler and Kilmer

AN ACT Relating to community revitalization financing; amending RCW 39.89.020, 39.89.030, 39.89.050, 39.89.060, 39.89.070, and 39.89.080; adding new sections to chapter 39.89 RCW; adding new sections to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; and creating new sections.

Referred to Committee on Economic Development, Agriculture & Trade.

HB 3145 by Representatives P. Sullivan, Nixon, Hunt, Wood, Fromhold, Crouse, Grant, Condotta, Kessler, Kretz, Buri, Serben, Flannigan, Kristiansen, Ahern, Armstrong, Sump, Talcott, McDonald, Upthegrove, Tom, Quall, Darneille, Anderson, Woods, Schual-Berke, Bailey, Rodne, Morrell, Appleton, Kilmer, Green, Roberts, Sells, Kagi, Hudgins, Santos and Kenney

AN ACT Relating to civics education; creating new sections; making appropriations; and providing an expiration date.

Referred to Committee on Education.

HB 3146 by Representatives Linville, Serben, Ericksen, Hunt, Ormsby, Kessler, Wood, Morrell and Kilmer

AN ACT Relating to community-based health care solutions; creating new sections; making an appropriation; providing an effective date; and providing an expiration date.

Referred to Committee on Health Care.

HB 3147 by Representatives Hunt, Williams, Priest, Serben and Rodne

AN ACT Relating to limitations on asbestos-related liabilities relating to certain mergers or consolidations occurring before 1972; adding a new chapter to Title 23 RCW; and declaring an emergency.

Referred to Committee on Judiciary.

HB 3148 by Representatives Kagi, Darneille and Roberts

AN ACT Relating to investigations of child abuse and neglect; amending RCW 26.44.010 and 26.44.125; adding a new section to chapter 26.44 RCW; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Judiciary.

HB 3149 by Representatives Condotta, Hinkle and Armstrong

AN ACT Relating to the fuel tax rate used to determine fuel tax distributions to fund nonhighway expenditures; amending RCW 46.09.170, 46.10.170, and 79A.25.070; and providing an effective date.

Referred to Committee on Transportation.

HB 3150 by Representatives Condotta, Linville, Kenney, Chase, Kessler, Conway, Holmquist, Morrell, Newhouse and Armstrong

AN ACT Relating to efforts to promote the wine industry; amending RCW 66.08.060; and reenacting and amending RCW 66.28.010.

Referred to Committee on Commerce & Labor.

HB 3152 by Representatives Kagi, Walsh, Roberts, Haler and Dickerson

AN ACT Relating to establishing the family assessment response demonstration program; adding a new chapter to Title 74 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Children & Family Services.

HB 3151 by Representatives Pearson, Kristiansen and Ahern

AN ACT Relating to review by the commission of service extension requests; and adding a new section to chapter 80.36 RCW.

Referred to Committee on Technology, Energy & Communications.

HB 3153 by Representatives Haler, Pettigrew, Roberts, Kagi and Kenney

AN ACT Relating to retention of records regarding child abuse and neglect; and adding a new section to chapter 26.44 RCW.

Referred to Committee on Children & Family Services.

HB 3154 by Representatives Condotta, Wood and Newhouse

AN ACT Relating to ensuring that brewers may sell beer of their own production from their restaurant premises; amending RCW 66.24.240; and reenacting and amending RCW 66.24.244.

Referred to Committee on Commerce & Labor.

HB 3155 by Representatives Roberts, Haler, Kagi, Walsh, Hudgins, Chase, Darneille, Linville, Dickerson, Schual-Berke, Conway, Hasegawa, Simpson and Santos

AN ACT Relating to the office of the ombudsman for persons with developmental disabilities; and adding a new chapter to Title 43 RCW.

Referred to Committee on Children & Family Services.

HB 3156 by Representatives Darneille, Haler, Dickerson, Morrell, Pettigrew and Simpson

AN ACT Relating to creating a pilot program to assist in asset building for low-income persons; adding new sections to chapter 43.63A RCW; and creating a new section.

Referred to Committee on Economic Development, Agriculture & Trade.

HB 3157 by Representatives Darneille, Haler, Morrell, Dickerson, Pettigrew, Simpson, Hudgins and Santos

AN ACT Relating to financial literacy and asset building; and adding a new section to chapter 74.08A RCW.

Referred to Committee on Children & Family Services.

HB 3158 by Representatives Roberts, Haler, Kagi, Walsh, Hudgins, Darneille, Dickerson, Schual-Berke and Simpson

AN ACT Relating to record checks for developmental disabilities service providers; and adding a new section to chapter 71A.12 RCW.

Referred to Committee on Children & Family Services.

HB 3159 by Representatives Linville, Newhouse, Grant, Kessler, Orcutt, Chandler, Dunn and Kristiansen

AN ACT Relating to the excise taxation of food products; amending RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending RCW 82.04.260; adding new sections to chapter 82.04 RCW; providing effective dates; and providing expiration dates.

Referred to Committee on Finance.

HB 3160 by Representatives Hudgins, Conway, Chase and Simpson

AN ACT Relating to requiring disclosure of information regarding work done for the state of Washington; and creating a new section.

Referred to Committee on Commerce & Labor.

HB 3161 by Representatives Simpson and Chase

AN ACT Relating to using adequacy of water supply in determining population projections; and amending RCW 43.62.035.

Referred to Committee on Local Government.

HB 3162 by Representatives Simpson and Schindler

AN ACT Relating to adjusting contracting limits for water-sewer districts; and reenacting and amending RCW 57.08.050.

Referred to Committee on Local Government.

HB 3163 by Representatives Simpson, Schindler, Chase and Upthegrove

AN ACT Relating to the role of fire protection districts and water-sewer districts in growth management planning; and amending RCW 36.70A.030, 36.70A.110, 36.70A.150, 36.70A.210, and 36.70A.350.

Referred to Committee on Local Government.

HB 3164 by Representatives Kilmer, Kristiansen, Linville, Bailey, Pettigrew, P. Sullivan, Dunn, Ericks, Appleton, Green, Morrell, Sells and Simpson

AN ACT Relating to an increase in the personal property tax exemption for the head of a family; amending RCW

84.36.110; creating a new section; and providing a contingent effective date.

Referred to Committee on Finance.

HB 3165 by Representatives Miloscia, Chase and Hasegawa

AN ACT Relating to using surplus property to develop affordable housing; and amending RCW 35.21.687, 36.34.137, 43.20A.037, 47.12.064, and 72.09.055.

Referred to Committee on Housing.

HB 3166 by Representatives Hunter, Jarrett, Clibborn, Kagi and Tom

AN ACT Relating to the shipment of wine and beer from wine and beer manufacturers directly to Washington retailers; amending RCW 66.24.206, 66.24.210, 66.24.270, and 66.24.290; reenacting and amending RCW 66.28.070; creating a new section; and declaring an emergency.

Referred to Committee on Commerce & Labor.

HJR 4222 by Representatives Serben, Haler, Dunn and Ericks

Amending the Constitution to make public safety another paramount duty of the state.

Referred to Committee on State Government Operations & Accountability.

HJR 4223 by Representatives Kilmer, Kristiansen, Linville, Bailey, Pettigrew, P. Sullivan, Dunn, Ericks, Morrell, Appleton, Green, Sells and Simpson

Amending the state Constitution to increase the personal property tax exemption for the head of a family.

Referred to Committee on Finance.

HCR 4415 by Representatives Kessler, Armstrong and Dunn

Approving the names of certain state facilities.

HCR 4416 by Representatives Quall, Chase and Talcott

Requiring that a summary of the findings and recommendations of the joint select committee on secondary education be forwarded to Washington Learns.

Referred to Committee on Education.

SB 5329 by Senators Pflug, Shin, Esser, Schoesler, Roach, Rasmussen, Rockefeller, Berkey and Mulliken

AN ACT Relating to cluster-based economic development; amending RCW 43.330.090; and creating a new section.

Referred to Committee on Economic Development, Agriculture & Trade.

ESSB 5360 by Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Brandland, Sheldon, Fairley, Berkey, Delvin, Benson and Rockefeller)

AN ACT Relating to studying performance and funding of running start students; and creating new sections.

Referred to Committee on Higher Education & Workforce Education.

ESSB 5535 by Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Brandland, Berkey, Spanel, Schoesler, Rockefeller, Delvin, Kohl-Welles, Oke and Shin)

AN ACT Relating to optometry; and amending RCW 18.53.010.

Referred to Committee on Health Care.

There being no objection, the bills and resolutions listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated except for HOUSE CONCURRENT RESOLUTION NO. 4415 which was placed on the Second Reading calendar.

REPORTS OF STANDING COMMITTEES

January 18, 2006

HB 2339 Prime Sponsor, Representative Kirby: Regulating business development companies and the participation of financial institutions and nondepository lenders in economic development within the state. Reported by Committee on Financial Institutions & Insurance

MAJORITY recommendation: Signed by Representatives Kirby, Chairman; Ericks, Vice Chairman; Roach, Ranking Minority Member; O'Brien; Santos; Serben; Simpson; Strow and Williams.

MINORITY recommendation: Signed by Representatives Tom, Assistant Ranking Minority Member; Newhouse.

Passed to Committee on Rules for second reading.

January 19, 2006

HB 2368 Prime Sponsor, Representative B. Sullivan: Authorizing development rights demonstration projects. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Blake; Dickerson; Eickmeyer; Hunt and Kagi.

MINORITY recommendation: Signed by Representatives Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Chandler and Orcutt.

Referred to Committee on Appropriations.

January 19, 2006

HB 2381 Prime Sponsor, Representative Kretz: Authorizing a beaver relocation permit. Reported by Committee on Natural Resources, Ecology & Parks

MAJORITY recommendation: Signed by Representatives B. Sullivan, Chairman; Upthegrove, Vice Chairman; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake; Chandler; Dickerson; Eickmeyer; Hunt; Kagi and Orcutt.

Passed to Committee on Rules for second reading.

January 19, 2006

HB 2393 Prime Sponsor, Representative Dunshee: Funding energy freedom projects. Reported by Committee on Capital Budget

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute do pass and do not pass the substitute bill by Committee on Technology, Energy & Communications. Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Cox; Ericks; Ericksen; Flannigan; Green; Hasegawa; Kretz; Kristiansen; Lantz; McCune; Moeller; Morrell; Newhouse; Roach; Schual-Berke; Serben; Springer; Strow and Upthegrove.

MINORITY recommendation: Signed by Representatives Armstrong; Eickmeyer and O'Brien.

Passed to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports sheet under the fifth order of business were

referred to the committees so designated.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2292, By House Committee on Judiciary (originally sponsored by Representatives Lantz, Cody, Campbell, Kirby, Flannigan, Williams, Linville, Springer, Clibborn, Wood, Fromhold, Morrell, Hunt, Moeller, Green, Kilmer, Conway, O'Brien, Sells, Kenney, Kessler, Chase, Upthegrove, Ormsby, Lovick, McCoy and Santos)

Addressing health care liability reform.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 2292 was substituted for Substitute House Bill No. 2292 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2292 was read the second time.

With the consent of the House, amendment (654) was withdrawn.

Representative Rodne moved the adoption of amendment (655):

On page 3, line 22, after "is not" insert "discoverable or"

Representative Rodne spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Priest moved the adoption of amendment (657):

On page 39, after line 28, insert the following:
"Joint and Several Liability and Allocation of Fault

Sec. 304. RCW 4.22.070 and 1993 c 496 s 1 are each amended to read as follows:

(1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other

individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party.

(b)(i) Except as provided in (b)(ii) of this subsection, if the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the ((claimants [claimant's]) claimant's total damages.

(ii) Subsection (b)(i) of this subsection does not apply to health care providers as defined in RCW 7.70.020, in all cases governed by chapter 7.70 RCW with respect to judgments for noneconomic damages. In all cases governed by chapter 7.70 RCW, the liability of health care providers for noneconomic damages is several only. For the purposes of this section, "noneconomic damages" has the meaning given in RCW 4.56.250.

(2) In all actions for damages under chapter 7.70 RCW, the entities to whom fault may be attributed shall be limited to the claimants, defendants, and third-party defendants who are parties to the action and any entities released by the claimant.

(3) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

~~((3))~~ (4)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking.

Sec. 305. RCW 70.105.112 and 1987 c 528 s 9 are each amended to read as follows:

This chapter does not apply to special incinerator ash regulated under chapter 70.138 RCW except that, for purposes of RCW 4.22.070(~~((3))~~) (4)(a), special incinerator ash shall be considered hazardous waste."

Renumber the remaining sections consecutively, correct internal references accordingly, and correct the title.

Representative Priest spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

An electronic roll call vote was requested.

The Speaker stated the question before the House to be adoption of amendment (657) to Second Substitute House Bill No. 2292.

ROLL CALL

The Clerk called the roll on the adoption of amendment (657) to Second Substitute House Bill No. 2292, and the amendment was not adopted by the following vote: Yeas - 45, Nays - 52, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Hunter, Jarrett, Kretz, Kristiansen, Linville, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 45.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 52.

Excused: Representative Campbell - 1.

Representative Rodne moved the adoption of amendment (656):

On page 42, line 14, strike "claimant" and insert "prevailing party"

On page 42, beginning on line 15, after "section," strike all material through "section," on line 18

On page 43, beginning on line 4, after "(3)" strike all material through "(4)" on line 12

Renumber the remaining subsections consecutively.

Representative Rodne spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Priest moved the adoption of amendment (658):

On page 49, after line 34, insert the following:

"NEW SECTION. Sec. 322. A new section is added to chapter 7.70 RCW to read as follows:

In any action brought under this chapter that is tried by jury, the judge shall present the following questions to the jury after the jury has delivered its verdict in the proceeding. The questions shall be considered and answered by the jury in a deliberative process and the results announced in open court.

(1) Do you as a jury believe any pleading, claim, or issue in this case was frivolous? To decide that a pleading, claim, or issue in this case was frivolous you must decide at least one of the following in the affirmative:

(a) The pleading, claim, or issue was primarily filed, brought, or raised by a party for an improper purpose. "Improper purpose" means that the pleading, claim, or issue was filed, brought, or raised with the purpose of harassing, embarrassing, or coercing another party, causing unnecessary delay, or needlessly increasing litigation costs.

(b) The pleading, claim, or issue was filed, brought, or raised in bad faith. "Bad faith" means that the party either knew reasonable grounds did not exist for filing, bringing, or raising the pleading, claim, or issue, or the party acted with reckless disregard as to whether or not reasonable grounds existed for filing, bringing, or raising the pleading, claim, or issue.

(2) If your answers to the question in both (a) and (b) of subsection (1) of this section are "No" do not proceed further. If your answer is "Yes" to a question in either (a) or (b) of subsection (1) of this section, you must make one of the following recommendations:

(a) We recommend that (name of party) be required to pay sanctions in the amount of dollars, payable to (name of party) as a result of filing, bringing, or raising a frivolous pleading, claim, or issue.

(b) We do not believe that a monetary sanction should be imposed against (name of party) for filing, bringing, or raising a frivolous pleading, claim, or issue.

(3) The court shall take the jury's recommendation under consideration in deciding whether to impose sanctions against a party for filing, bringing, or raising a frivolous pleading, claim, or issue. The court shall enter into the record written findings and conclusions in accepting or rejecting the jury's recommendations.

(4) In addition to any other remedies provided in RCW 4.84.185 or by court rule, sanctions that may be imposed under this section at the discretion of the court for filing, bringing, or raising a frivolous pleading, claim, or issue include the payment of reasonable costs and reasonable attorneys' fees of the other party caused in responding to the frivolous pleading, claim, or issue, and a monetary penalty on the party or party's attorney who brought the frivolous pleading, claim, or issue, and the firm with which the attorney is employed or associated."

Representatives Priest and Hinkle spoke in favor of the adoption of the amendment.

Representative Lantz spoke against the adoption of the amendment.

An electronic roll call vote was requested.

The Speaker stated the question before the House to be adoption of amendment (658) to Second Substitute House Bill No. 2292.

ROLL CALL

The Clerk called the roll on the adoption of amendment (658) to Second Substitute House Bill No. 2292, and the amendment was not adopted by the following vote: Yeas - 43, Nays - 54, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 43.

Voting nay: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 54.

Excused: Representative Campbell - 1.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Lantz, Kirby and Schual-Berke spoke in favor of passage of the bill.

Representatives Priest, Serben, Hinkle and Ericksen spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Second Substitute House Bill No. 2292.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2292 and the bill passed the House by the following vote: Yeas - 54, Nays - 43, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 54.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta,

Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Walsh and Woods - 43.

Excused: Representative Campbell - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2292, having received the necessary constitutional majority, was declared passed.

THIRD READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1291, By House Committee on Appropriations (originally sponsored by Representatives Cody, Bailey, Morrell, Hinkle, Green, Moeller, Kessler, Haigh, Linville, Kagi, Santos and Ormsby)

Improving health care professional and health care facility patient safety practices.

There being no objection, the rules were suspended and ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1291 was returned to Second Reading for purpose of amendments.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1291, By House Committee on Appropriations (originally sponsored by Representatives Cody, Bailey, Morrell, Hinkle, Green, Moeller, Kessler, Haigh, Linville, Kagi, Santos and Ormsby)

Improving health care professional and health care facility patient safety practices.

Representative Cody moved the adoption of amendment (659):

On page 2, beginning on line 9, strike all of sections 2 and 3 and insert the following:

"Sec. 2. RCW 43.70.110 and 2005 c 268 s 2 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in RCW 18.79.202(2) until June 30, 2013, and except as provided in section 4 of this act, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 3. RCW 43.70.250 and 2005 c 268 s 3 are each amended to read as follows:

It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the patient safety fee established in section 4 of this act, except as provided in RCW 18.79.202 until June 30, 2013. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW."

On page 5, line 34, after "December 1," strike "2008" and insert "2009"

On page 6, beginning on line 15, strike all of section 11

Correct the title.

Representative Cody spoke in favor of the adoption of the amendment.

The amendment was adopted. The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Cody spoke in favor of passage of the bill.

Representative Hinkle spoke against the passage of the bill.

The Speaker stated the question before the House to be the final passage of Second Engrossed Second Substitute House Bill No. 1291.

ROLL CALL

The Clerk called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1291 and the bill passed the House by the following vote: Yeas - 73, Nays - 24, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Bailey, Blake,

Buck, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 73.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Hinkle, Jarrett, Kretz, Newhouse, Nixon, Orcutt, Rodne, Schindler, Sump, Talcott and Tom - 24.

Excused: Representative Campbell - 1.

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1291, having received the necessary constitutional majority, was declared passed.

There being no objection, ENGROSSED SUBSTITUTE HOUSE BILL NO. 1127 was returned to the House Rules.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 9:55 a.m., January 24, 2006, the 16th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

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Draft