

CHAPTER 241

[Engrossed Substitute Senate Bill No. 4497]

VEHICLE SALES

AN ACT Relating to vehicle sales; amending RCW 46.70.005, 46.70.011, 46.70.021, 46.70.031, 46.70.041, 46.70.061, 46.70.070, 46.70.083, 46.70.101, 46.70.102, 46.70.120, 46.70.170, 46.70.180, 46.70.190, 46.70.200, 46.70.210, and 46.70.260; adding new sections to chapter 46.70.082; [adding new sections to chapter 46.70 RCW; repealing RCW 46.70.081 and 46.70.082;] prescribing penalties; making an appropriation; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 74, Laws of 1967 ex. sess. as amended by section 1, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.005 are each amended to read as follows:

The legislature finds and declares that the distribution and sale of vehicles in the state of Washington vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate and license vehicle manufacturers, distributors, or wholesalers and factory or distributor representatives, and to regulate and license dealers(~~(, and salesmen)~~) of vehicles doing business in Washington, in order to prevent frauds, impositions, and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

Sec. 2. Section 3, chapter 11, Laws of 1979 as last amended by section 2, chapter 305, Laws of 1981 and RCW 46.70.011 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" (~~(shall)~~) means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (4) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles(~~(, or providing or licensing for use facilities and/or services for compensation of any kind which bring together potential buyers and sellers. PROVIDED, That)~~). Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" (~~shall be~~) is a vehicle dealer that deals in new (~~and~~) or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" (~~shall be~~) is a vehicle dealer that deals in mobile homes or travel trailers, or both;

(c) A "miscellaneous vehicle dealer" (~~shall be~~) is a vehicle dealer that deals in motorcycles (~~and~~) or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles.

(4) The term "vehicle dealer" does not include, nor do the provisions of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which he is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or his authorized representative, who, on behalf of the legal or registered owner of a used mobile home negotiates the purchase, sale, or exchange of the used mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the used mobile home is located and the real estate broker is not acting as an agent, subagent, or representative of a vehicle dealer licensed under this chapter; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association and any subsidiaries or holding companies thereof, or credit union authorized to do business in this state under state or federal law.

(5) "Vehicle (~~salesman~~) salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(6) (~~The term~~) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(7) "Director" means the director of licensing.

(8) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and

unused vehicles or remanufactures vehicles in whole or in part and ~~((shall))~~ further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and ~~((shall))~~ further includes any sales promotion organization, whether ~~((the same be))~~ a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of ~~((his, its, or))~~ their vehicles or for supervising or contracting with ~~((his, its, or))~~ their dealers or prospective dealers.

(9) "Established place of business" means a ((permanent, enclosed commercial building located within the state of Washington easily accessible and open to the public, at all reasonable times, with an improved display area of not less than three thousand square feet in or immediately adjoining said building, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building code, zoning and other land-use regulatory ordinances and in which such building the public may contact the vehicle dealer or his vehicle salesman, at all reasonable times and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business at such place. The established place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. A dealer operating a listing service who does not physically maintain any vehicles for display, or a vehicle dealer who merely rents or leases or licenses for use any space on a temporary basis not to exceed two days to private persons to sell their own vehicles, need not operate in a commercial building nor have such a display area)) location meeting the requirements of section 4(1) of this act at which a vehicle dealer conducts business in this state.

(10) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(11) "Subagency" means any place of business of a vehicle dealer within the ((same county as the principal place of business of the firm which)) state, which place is physically and geographically separated from

the principal place of business of the firm or any place of business of a vehicle dealer within the ~~((same county as the principal place of business of the firm under))~~ state, at which ~~((he))~~ place the firm does business ~~((under))~~ using a name other than the principal name of the firm, or both.

(12) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures.

(13) "Wholesale vehicle dealer" means a vehicle dealer who sells to Washington dealers.

(14) "Retail vehicle dealer" means a vehicle dealer who sells vehicles to the public.

(15) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

Sec. 3. Section 4, chapter 74, Laws of 1967 ex. sess. as amended by section 3, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.021 are each amended to read as follows:

It ~~((shall be))~~ is unlawful for any person, firm, or association to act as a vehicle dealer(~~(, vehicle salesman))~~ or vehicle manufacturer, to engage in business as such, ~~((act as such,))~~ serve in the capacity of such, advertise himself, ~~((itself))~~ herself, or themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current license as provided in this chapter(~~(: PROVIDED; That a vehicle dealer shall not be required to have a vehicle salesman's license: PROVIDED, FURTHER, That))~~, unless the title of the vehicle is in the name of the seller. It is unlawful for any person other than a licensed vehicle dealer to display a vehicle for sale unless the registered owner or legal owner is the displayer or holds a notarized power of attorney. A person or firm engaged in buying and offering for sale, or buying and selling five or more vehicles in a twelve-month period, or in any other way engaged in dealer activity without holding a vehicle dealer license, is guilty of a gross misdemeanor, and upon conviction is subject to a fine of up to one thousand dollars for each violation and up to one year in jail. A second offense is a class C felony punishable under chapter 9A.20 RCW. A violation of this section is also a per se violation of chapter 19.86 RCW and is considered a deceptive practice. The department of licensing, the Washington state patrol, the attorney general's office, and the department of revenue shall cooperate in the enforcement of this section. A distributor, factory branch, or factory representative shall not be required to have a vehicle manufacturer license so long as the vehicle manufacturer so represented is properly licensed pursuant to this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 46.70 RCW to read as follows:

(1) An "established place of business" requires a permanent, enclosed commercial building located within the state of Washington easily accessible at all reasonable times. An established place of business shall have an improved display area of not less than three thousand square feet in or immediately adjoining the building, or a display area large enough to display six or more vehicles of the type the dealer is licensed to sell, whichever area is larger. The business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on at an established place of business in accordance with the terms of all applicable building code, zoning, and other land-use regulatory ordinances. The dealer shall keep the building open to the public so that they may contact the vehicle dealer or the dealer's salespersons at all reasonable times. The books, records, and files necessary to conduct the business shall be kept and maintained at that place. The established place of business shall display an exterior sign with the business name and nature of the business, such as auto sales, permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event may a room or rooms in a hotel, rooming house, or apartment house building or part of a single or multiple-unit dwelling house be considered an "established place of business" unless the ground floor of such a dwelling is devoted principally to and occupied for commercial purposes and the dealer offices are located on the ground floor. A mobile office or mobile home may be used as an office if it is connected to utilities and is set up in accordance with state law.

(2) If a dealer maintains a place of business at more than one location or under more than one name in this state, he or she shall designate one location as the principal place of business of the firm, one name as the principal name of the firm, and all other locations or names as subagencies. A subagency license is required for each and every subagency: **PROVIDED,** That the department may grant an exception to the subagency requirement in the specific instance where a licensed new motor vehicle dealer is unable to locate their used vehicle sales facilities adjacent to or at the established place of business. This exception shall be granted and defined under the promulgation of rules consistent with the administrative procedure act.

(3) All vehicle dealers shall maintain ownership or leasehold throughout the license year of the real property from which they do business. The dealer shall provide the department with evidence of ownership or leasehold whenever the ownership changes or the lease is terminated.

(4) A subagency shall comply with all requirements of an established place of business.

(5) A temporary subagency shall meet all local zoning and building codes for the type of merchandising being conducted. The dealer license

certificate shall be posted at the location. No other requirements of an established place of business apply to a temporary subagency.

(6) A wholesale vehicle dealer shall have office facilities in a commercial building within this state, and all storage facilities for inventory shall be listed with the department, and shall meet local zoning and land use ordinances. A wholesale vehicle dealer shall maintain a telecommunications system. An exterior sign visible from the nearest street shall identify the business name and the nature of business. A wholesale dealer need not maintain a display area as required in this section. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory, if any, must be physically segregated and clearly identified.

(7) A retail vehicle dealer shall be open during normal business hours, maintain office and display facilities in a commercially zoned location or in a location complying with all applicable building and land use ordinances, and maintain a business telephone listing in the local directory. When two or more vehicle dealer businesses share a location, all records, office facilities, and inventory shall be physically segregated and clearly identified.

(8) A listing dealer need not have a display area if the dealer does not physically maintain any vehicles for display.

(9) A subagency license is not required for a mobile home dealer to display an on-site display model, a consigned mobile home not relocated from its site, or a repossessed mobile home if sales are handled from a principal place of business or subagency. A mobile home dealer shall identify on-site display models, repossessed mobile homes, and those consigned at their sites with a sign that includes the dealer's name and telephone number.

(10) Every vehicle dealer shall advise the department of the location of each and every place of business of the firm and the name or names under which the firm is doing business at such location or locations. If any name or location is changed, the dealer shall notify the department of such change within ten days. The license issued by the department shall reflect the name and location of the firm and shall be posted in a conspicuous place at that location by the dealer.

(11) A vehicle dealer's license shall upon the death or incapacity of an individual vehicle dealer authorize the personal representative of such dealer, subject to payment of license fees, to continue the business for a period of six months from the date of the death or incapacity.

NEW SECTION. Sec. 5. A new section is added to chapter 46.70 RCW to read as follows:

A vehicle dealer is accountable for the dealer's employees, sales personnel, and managerial personnel while in the performance of their official duties. Any violations of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW committed by any of these employees subjects the

dealer to license penalties prescribed under RCW 46.70.101. A retail purchaser who has suffered a loss or damage by reason of a breach of warranty or by any act by a dealer, salesperson, managerial person, or other employee of a dealership, that constitutes a violation of this chapter or applicable provisions of chapter 46.12 or 46.16 RCW may institute an action for recovery against the dealer and the surety bond as set forth in RCW 46.70.070.

NEW SECTION. Sec. 6. A new section is added to chapter 46.70 RCW to read as follows:

Listing dealers shall transact dealer business by obtaining a consignment for sale, and the buyer's purchase of the mobile home shall be handled as dealer inventory. All funds from the purchaser shall be placed in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the mobile home from these funds. A complete account of all funds received and disbursed shall be given to the seller or consignor after the sale is completed.

Sec. 7. Section 5, chapter 74, Laws of 1967 ex. sess. as amended by section 4, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.031 are each amended to read as follows:

A vehicle dealer(~~(-salesman,))~~ or vehicle manufacturer may apply for a license by filing with the department an application in such form as the department may prescribe.

Sec. 8. Section 6, chapter 74, Laws of 1967 ex. sess. as last amended by section 187, chapter 158, Laws of 1979 and RCW 46.70.041 are each amended to read as follows:

(1) Every application for a vehicle dealer (~~(or a vehicle salesman's))~~ license shall contain the following information to the extent (~~(the same is applicable))~~ it applies to the applicant:

(a) Proof as the department may require concerning the applicant's identity, including but not limited to his fingerprints, the honesty, truthfulness, and good reputation of the applicant for the license, or of the officers of a corporation making the application;

(b) The applicant's form and place of organization including if the applicant is a corporation, proof that the corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant(;) and ((in the case of a vehicle dealer;)) any partner, officer, or director;

(d) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime which directly relates to the business for which the license is sought and the time

elapsed since the conviction is less than ten years, or has suffered any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners;

~~((c)) Any other information the department may reasonably require.~~

~~(2) If the applicant is a vehicle dealer:~~

~~(a)) (f) A business telephone with a listing in the local directory;~~

~~(g) The name or names of new vehicles the vehicle dealer wishes to sell;~~

~~((b)) (h) The names and addresses of each manufacturer from whom the applicant has received a franchise;~~

~~((c)) (i) Whether the applicant intends to sell used vehicles, and if so, whether he has space available for servicing and repairs;~~

~~((d)) (j) A certificate by the chief of police or his deputy, or a member of the Washington state patrol or a representative of the department, that the ~~((applicant has an established))~~ applicant's principal place of business ~~((at))~~ and each subagency business location in the state of Washington ~~((: PROVIDED, That))~~ meets the location requirements as required by this chapter. The certificate shall include proof of the applicant's ownership or lease of the real property where the applicant's principal place of business is established. In no event ~~((shall such))~~ may the certificate be issued by a member of the Washington state patrol if the dealership is located in a city which has a population in excess of five thousand persons;~~

~~((e)) (k) A copy of a current service agreement with a manufacturer, or distributor for a foreign manufacturer, requiring the applicant, upon demand of any customer receiving a new vehicle warranty to perform or arrange for, within a reasonable distance of his established place of business, the service repair and replacement work required of the manufacturer or distributor by such vehicle warranty ~~((: PROVIDED, That))~~. This requirement ~~((shall))~~ applies only ~~((apply))~~ to applicants seeking to sell, to exchange, to offer, ~~((to broker,))~~ to auction, to solicit, or to advertise new or current-model vehicles with factory or distributor warranties;~~

~~((f)) (l) The class of vehicles the vehicle dealer will be buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising, ~~((or for which the dealer will be providing or licensing for use facilities and/or services for compensation of any kind which bring together potential buyers and sellers,))~~ and which classification or classifications the dealer wishes to be designated as;~~

~~((g) The applicant's financial condition or history including whether the applicant or any partner, officer or director has ever been adjudged bankrupt or has any unsatisfied judgment in any federal or state court.~~

~~(3) If the applicant is a vehicle salesman, such application shall contain, in addition, a certification by the vehicle dealer for whom he is going~~

~~to work that he has examined the background of the applicant and to the best of his knowledge is of good moral character;~~

~~(4))~~ (m) Any other information the department may reasonably require.

(2) If the applicant is a manufacturer (~~(such))~~ the application shall contain the following information to the extent it is applicable to the applicant:

(a) The name and address of the principal place of business of the applicant and, if different, the name and address of the Washington state representative of the applicant;

(b) The name or names under which the applicant will do business in the state of Washington;

(c) Evidence that the applicant is authorized to do business in the state of Washington;

(d) The name or names of the vehicles that the licensee manufactures;

(e) The name or names and address or addresses of each and every distributor, factory branch, and factory representative;

(f) The name or names and address or addresses of resident employees or agents to provide service or repairs to vehicles located in the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured, unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(g) Any other information the department may reasonably require.

Sec. 9. Section 13, chapter 74, Laws of 1967 ex. sess. as last amended by section 1, chapter 251, Laws of 1979 ex. sess. and RCW 46.70.061 are each amended to read as follows:

(1) The annual fees for original licenses issued for (~~a calendar year or any portion thereof pursuant to~~) twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: (~~Sixty~~) Two hundred fifty dollars;

(b) Vehicle dealers, each (~~and every~~) subagency: (~~Ten~~) Twenty-five dollars; temporary subagency: Twenty-five dollars;

(c) (~~Vehicle salespersons: Ten~~ dollars;

~~d~~) Vehicle manufacturers: (~~Sixty~~) Two hundred fifty dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: (~~Fifty~~) One hundred twenty-five dollars;

(b) Vehicle dealer, each and every subagency: (~~Ten~~) Twenty-five dollars;

(c) (~~Vehicle salespersons: Ten~~ dollars;

~~(d))~~ Vehicle manufacturers: ~~((Fifty))~~ One hundred twenty-five dollars.

~~((PROVIDED, That))~~ If any licensee fails or neglects to apply for such renewal ~~((prior to February 1st in each year))~~ within thirty days after the expiration of the license, or assigned renewal date under a staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license issued pursuant to this chapter shall be~~((:~~

~~(a) Vehicle dealer, principal place of business of each and every license classification, provided that such change is within the same county: Ten dollars;~~

~~(b) There shall be no transfer of any vehicle dealer subagency license;~~

~~(c) Vehicle salesperson, provided that no such fee shall be required in a transfer from one location of any one dealer to any other location: Five))~~ twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax, except those specified in RCW 82.44.030, and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be ~~((turned into))~~ deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed ~~((herein shall be))~~ in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

Sec. 10. Section 13, chapter 74, Laws of 1967 ex. sess. as last amended by section 9 of this 1986 act and RCW 46.70.061 are each amended to read as follows:

(1) The annual fees for original licenses issued for twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Two hundred fifty))~~ Five hundred dollars;

(b) Vehicle dealers, each subagency: ~~((Twenty-five))~~ Fifty dollars; temporary subagency: Twenty-five dollars;

(c) Vehicle manufacturers: ~~((Two hundred fifty))~~ Five hundred dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((One hundred twenty-five))~~ Two hundred fifty dollars;

(b) Vehicle dealer, each and every subagency: Twenty-five dollars;

(c) Vehicle manufacturers: ~~((One hundred twenty-five))~~ Two hundred fifty dollars.

If any licensee fails or neglects to apply for such renewal within thirty days after the expiration of the license, or assigned renewal date under a

staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license issued pursuant to this chapter shall be twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax, except those specified in RCW 82.44.030, and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

Sec. 11. Section 46.70.070, chapter 12, Laws of 1961 as last amended by section 1, chapter 152, Laws of 1981 and RCW 46.70.070 are each amended to read as follows:

(1) Before issuing a vehicle dealer's license, the department shall require the applicant to file with the department a surety bond in the amount of:

(a) Fifteen thousand dollars for motor vehicle dealers;

(b) Thirty thousand dollars for mobile home and travel trailer dealers: **PROVIDED**, That if such dealer does not deal in mobile homes such bond shall be fifteen thousand dollars;

(c) Five thousand dollars for miscellaneous dealers, running to the state, and executed by a surety company authorized to do business in the state. Such bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter;

(d) Wholesale dealers shall not be required to file a surety bond with the department.

Any retail purchaser who shall have suffered any loss or damage by reason of breach of warranty or by any act by a dealer which constitutes a violation of this chapter shall have the right to institute an action for recovery against such dealer and the surety upon such bond. Successive recoveries against said bond shall be permitted, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. Upon exhaustion of the penalty of said bond or cancellation of the bond by the surety the vehicle dealer license shall automatically be deemed canceled.

(2) The bond for any vehicle dealer licensed or to be licensed under more than one classification shall be the highest bond required for any such classification.

(3) Vehicle dealers shall maintain a bond for each business location in this state and bond coverage for all temporary subagencies.

Sec. 12. Section 10, chapter 74, Laws of 1967 ex. sess. as last amended by section 1, chapter 109, Laws of 1985 and RCW 46.70.083 are each amended to read as follows:

The license of a vehicle dealer or a vehicle manufacturer expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.

~~((Registration of a vehicle salesman expires on the date assigned by the director, and may be renewed by filing with the department prior to the expiration thereof an application containing such information as the department may require to indicate any material change in the information contained in the original application.))~~

Before renewal, the dealer's established place of business shall be certified by a representative of the department, the chief of police or his deputy, or a member of the Washington state patrol. The certification shall verify compliance with the requirements of this chapter for an established place of business. Failure by the dealer to comply is grounds for denial of the renewal application.

Sec. 13. Section 11, chapter 74, Laws of 1967 ex. sess. as last amended by section 5, chapter 152, Laws of 1981 and RCW 46.70.101 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer(~~(;)~~) or vehicle manufacturer(~~(, or vehicle salesman)~~) or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if ~~((he))~~ the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, adjudged guilty shall mean in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court,

the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Does not have an established place of business as ~~((defined))~~ required in this chapter;

(v) ~~((Employs an unlicensed salesman or one whose license has been denied, revoked within the last year, or is currently suspended, the terms of which have not been fulfilled;~~

~~((vi)))~~ Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

~~((vii)))~~ (vi) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same;

~~((viii)))~~ (vii) Is insolvent, either in the sense that ~~((his))~~ their liabilities exceed ~~((his))~~ their assets, or in the sense that ~~((he))~~ they cannot meet ~~((his))~~ their obligations as they mature;

~~((ix)))~~ (viii) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

~~((x)))~~ (ix) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(x) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates (~~and~~) or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices; (~~or~~)

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means; or

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) ~~((In the case of a vehicle salesman:~~

~~(a) Was the holder, or was a partner in a partnership or was an officer, director, or owner involved in the management of a corporation which was the holder, of a license issued pursuant to this chapter which was revoked for cause and never reissued, or was suspended and the terms of the suspension had not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;~~

~~(b) Has been adjudged guilty of a crime which directly relates to the business of a vehicle salesman and the time elapsed since the conviction is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion: For the purpose of this section, the term adjudged guilty means, in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended;~~

~~(c) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto or in any matter under investigation by the department;~~

~~(d) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;~~

~~(e) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;~~

~~(f) Has forged the signature of the registered or legal owner on a certificate of title;~~

~~(g) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;~~

~~(h) Has wilfully failed to deliver to a purchaser a certificate of ownership to a vehicle which he has sold;~~

~~(i) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;~~

~~(j) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;~~

~~(k) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of such property or funds.~~

~~(3)) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:~~

~~(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;~~

~~(b) Has knowingly or with reason to know, made a false statement of a material fact in his application for license, or any data attached thereto, or in any matter under investigation by the department;~~

~~(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;~~

~~(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale or transfer of a vehicle;~~

~~(e) Has purchased, sold, disposed of, or has in his possession, any vehicle which he knows or has reason to know has been stolen or appropriated without the consent of the owner;~~

~~(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;~~

~~(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;~~

~~(h) Sells or distributes in this state or transfers into this state for resale, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;~~

~~(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles~~

manufactured and which are or have been sold or distributed in this state or transferred into this state for resale unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold or distributed in this state or transferred into this state for resale by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

Sec. 14. Section 12, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.102 are each amended to read as follows:

Upon the entry of the order under RCW 46.70.101 the director shall promptly notify the applicant or licensee (~~(, as well as the employer or prospective employer if the applicant or licensee is a salesman,)~~) that the order has been entered and of the reasons therefor and that if requested by the applicant or licensee within fifteen days after the receipt of the director's notification, the matter will be promptly set down for hearing pursuant to chapter 34.04 RCW. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, or his personal representative, after notice of and opportunity for hearing, may modify or vacate the order, or extend it until final determination. No final order may be entered under RCW 46.70.101 denying or revoking a license without appropriate prior notice to the applicant or licensee (~~((as well as the employer or prospective employer if the applicant or licensee is a salesman))),~~ opportunity for hearing, and written findings of fact and conclusions of law.

NEW SECTION. Sec. 15. A new section is added to chapter 46.70 RCW to read as follows:

If it appears to the director that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule adopted or an order issued under this chapter, the director may issue an order directing the person to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The director may issue a temporary order pending a hearing. The temporary order shall remain in effect until ten days after the hearing is held and

shall become final if the person to whom the notice is addressed does not request a hearing within fifteen days after receipt of the notice.

Sec. 16. Section 46.70.120, chapter 12, Laws of 1961 as amended by section 15, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.120 are each amended to read as follows:

A dealer shall complete and maintain for a period of at least five years a record of the purchase and sale of all vehicles purchased or sold by him (~~which~~). The records shall consist of:

(1) The license and title numbers of the state in which the last license was issued;

(2) A description of the vehicle; (~~and~~)

(3) The name and address of person from whom purchased; (~~and~~)

(4) The name of legal owner, if any; (~~and~~)

(5) The name and address of purchaser; (~~and~~)

(6) If purchased from a dealer, the name, business address, dealer license number, and resale tax number of the dealer;

(7) The price paid for the vehicle and the method of payment;

(8) The odometer statement given by the seller to the dealer, and the odometer statement given by the dealer to the purchaser;

(9) The written agreement to allow a dealer to sell between the dealer and the consignor, or the listing dealer and the seller;

(10) Trust account records of receipts, deposits, and withdrawals;

(11) All sale documents, which shall show the full name of dealer employees involved in the sale;

(12) Any additional information the department may require.

Such record shall be maintained separate and apart from all other business records of the dealer and shall at all times be available for inspection by the director or his duly authorized agent.

Sec. 17. Section 5, chapter 68, Laws of 1965 and RCW 46.70.170 are each amended to read as follows:

It (~~shall be~~) is a misdemeanor for any person to violate any of the provisions of this chapter, except where expressly provided otherwise, and the rules (~~and regulations promulgated~~) adopted as provided under this chapter.

Sec. 18. Section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 13, chapter 472, Laws of 1985 and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is (~~hereby declared~~) unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession

of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle said "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his customary total customer deposits for vehicles for future delivery.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.

(11) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) said cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: **PROVIDED**, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties.

Sec. 19. Section 21, chapter 74, Laws of 1967 ex. sess. as amended by section 19, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.190 are each amended to read as follows:

Any person who is injured in his business or property by a violation of this chapter, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him together with the costs of the suit, including a reasonable attorney's fee.

Any person recovering judgment or whose claim has been dismissed with prejudice against a manufacturer pursuant to RCW (~~(46.70.180(7)(b))~~) 46.70.180(11)(b) and this section shall, upon full payment of said judgment, or upon the dismissal of such claim, execute a waiver in favor of the judgment debtor or defendant of any claim arising prior to the date of said judgment or dismissal under the Federal Automobile Dealer Franchise Act, 15 United States Code Sections 1221-1225. Any person having recovered full payment for any judgment or whose claim has been dismissed with prejudice under said Federal Automobile Dealer Franchise Act shall have no cause of action under this section for alleged violation of RCW (~~(46.70.180(7)(b))~~) 46.70.180(11)(b), with respect to matters arising prior to the date of said judgment.

A civil action brought in the superior court pursuant to the provisions of this section must be filed no later than one year following the alleged violation of this chapter.

Sec. 20. Section 17, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.200 are each amended to read as follows:

The director shall revoke or refuse to issue a (~~(motor)~~) vehicle dealer's license for a franchise replacing a canceled or terminated franchise if a civil action pursuant to RCW 46.70.190 is pending and was filed within sixty days following the written notification of the cancellation or nonrenewal of an existing franchise and a certified copy of (~~(said)~~) the complaint alleging the date of said notification is filed with the department within said sixty days by the complaining motor vehicle dealer. The court may, however, in order to maintain adequate and competitive service in the area or upon a showing of good cause by the manufacturer, distributor, or factory branch order the director to issue (~~(said motor)~~) the vehicle dealer's license if the dealer complies with other sections of chapter 46.70 RCW.

Sec. 21. Section 18, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.210 are each amended to read as follows:

Upon the filing of a complaint pursuant to RCW 46.70.190 by a complaining (~~(motor)~~) vehicle dealer within sixty days following the written notification of the cancellation or nonrenewal of the existing franchise, any canceled or nonrenewed franchise of said complaining dealer shall stay in full force and effect until the complaint has been expeditiously disposed of,

unless the court, pursuant to RCW 46.70.200, has ordered the director to issue a ((motor)) vehicle dealer's license to a new franchisee.

If a new franchise is given by a manufacturer, distributor, or factory branch for the sale of the same make of ((motor)) vehicle in the same area of responsibility in that covered in ((said)) the canceled or terminated franchise, ((such act shall be)) that act is prima facie evidence that the new franchise replaced the canceled or terminated franchise.

Sec. 22. Section 24, chapter 74, Laws of 1967 ex. sess. and RCW 46.70.260 are each amended to read as follows:

The provisions of this chapter shall be applicable to all franchises and contracts existing between ((motor)) vehicle dealers and manufacturers or factory branches and to all future franchises and contracts.

NEW SECTION. Sec. 23. A new section is added to chapter 46.70 RCW to read as follows:

Any violation of this chapter is deemed to affect the public interest and constitutes a violation of chapter 19.86 RCW.

NEW SECTION. Sec. 24. The following acts or parts of acts are each repealed:

(1) Section 8, chapter 74, Laws of 1967 ex. sess., section 10, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.081; and

(2) Section 9, chapter 74, Laws of 1967 ex. sess., section 5, chapter 74, Laws of 1971 ex. sess., section 11, chapter 132, Laws of 1973 1st ex. sess. and RCW 46.70.082.

NEW SECTION. Sec. 25. The department shall report to the legislature as to the implementation of this act, and make any necessary recommendations for revisions by December 31, 1987.

NEW SECTION. Sec. 26. The department shall develop a specific plan for the full implementation of this act and shall report its findings to the legislative transportation committee by December 15, 1986. The plan shall include an evaluation of the feasibility of basing the annual license fee schedule on volume, rather than on the flat rates established in RCW 46.70.061, and shall consider the establishment of no fewer than five license fee categories.

NEW SECTION. Sec. 27. To carry out this act, the sum of three hundred seventy-five thousand dollars, or so much thereof as may be necessary, is appropriated to the department of licensing from the motor vehicle fund for the biennium ending June 30, 1987.

NEW SECTION. Sec. 28. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state

government and its existing public institutions, and shall take effect immediately, except section 9 of this act shall take effect July 1, 1986, and section 10 of this act shall take effect July 1, 1987.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 242

[Substitute Senate Bill No. 4547]

CROP LIENS

AN ACT Relating to crop liens; amending RCW 62A.9-310; adding a new chapter to Title 60 RCW; creating new sections; repealing RCW 60.12.010, 60.12.020, 60.12.030, 60.12.040, 60.12.060, 60.12.070, 60.12.080, 60.12.090, 60.12.100, 60.12.110, 60.12.120, 60.12.130, 60.12.140, 60.12.150, 60.12.160, 60.12.170, 60.12.180, 60.12.190, 60.12.200, 60.12.210, 60.14.010, 60.14.020, 60.14.030, 60.22.010, 60.22.020, and 60.22.030; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Crop" means all products of the soil either growing or cropped, cut, or gathered which require annual planting, harvesting, or cultivating. A crop does not include vegetation produced by the powers of nature alone, nursery stock, or vegetation intended as a permanent enhancement of the land itself.

(2) "Landlord" means a person who leases or subleases to a tenant real property upon which crops are growing or will be grown.

(3) "Secured party" and "security interest" have the same meaning as used in the Uniform Commercial Code, Title 62A RCW.

(4) "Supplier" includes, but is not limited to, a person who furnishes seed, furnishes and/or applies commercial fertilizer, pesticide, fungicide, weed killer, or herbicide, including spraying and dusting, upon the land of the grower or landowner, or furnishes any work or labor upon the land of the grower or landowner including tilling, preparing for the growing of crops, sowing, planting, cultivating, cutting, digging, picking, pulling, or otherwise harvesting any crop grown thereon, or in gathering, securing, or housing any crop grown thereon, or in threshing any grain or hauling to any warehouse any crop or grain grown thereon.

(5) "Lien debtor" means the person who is obligated or owes payment or other performance. If the lien debtor and the owner of the collateral are not the same person, "lien debtor" means the owner of the collateral.

(6) "Lien holder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest.