

## ONE HUNDREDTH DAY

## MORNING SESSION

Senate Chamber, Olympia  
Tuesday, April 18, 2017

The Senate was called to order at 10:02 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Elaine Chavez and Miss Yasmin Olyae, presented the Colors. Page Miss Catherine Kirschbaum led the Senate in the Pledge of Allegiance. The prayer was offered by Reverend Tony Johnson of Tacoma First Nazarene Church.

## MOTION

On motion of Senator Fain, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

## MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

## MOTION

Senator Keiser moved adoption of the following resolution:

SENATE RESOLUTION  
8648

By Senators Keiser, Nelson, Palumbo, Hunt, Zeiger, McCoy, Conway, Rivers, Miloscia, and Fain

WHEREAS, On June 21, 1947, Tacoma resident Harold Dahl and his son allegedly sighted six flying discs over Puget Sound near Vashon-Maury Island, an event now commonly known as "The Maury Island Incident"; and

WHEREAS, On June 22, 1947, Mr. Dahl alleges he was warned not to talk about what he saw by a man dressed in a black suit; and

WHEREAS, On June 24, 1947, pilot Kenneth Arnold alleges he saw nine unidentified flying objects ("UFO's") near Mt. Rainier; and

WHEREAS, These controversial sightings helped launch a pop culture phenomenon of UFO sightings across the United States during the summer of 1947, which became known as "The Summer of the Saucers"; and

WHEREAS, On August 8, 1947, two weeks after the Washington sightings, a UFO is alleged to have crashed outside

Roswell, New Mexico, and this alleged crash has since become the most well-known alleged UFO incident in history; and

WHEREAS, On August 1, 1947, Army Air Corp Intelligence Officers Capt. William L. Davidson and 1st Lt. Frank M. Brown, who interviewed Harold Dahl about his sighting, lost their lives when the B-25 Bomber they were piloting crashed outside of Kelso, Washington; and

WHEREAS, Following the tragic deaths of Davidson and Brown, Harold Dahl publicly claimed his sighting at Maury Island was a hoax; and

WHEREAS, Special Agents of the Federal Bureau of Investigation conducted an investigation of the deaths of Davidson and Brown and ultimately concluded that Dahl did not recant his story but that his claim of hoax was itself a fabrication to avoid further public attention and ridicule; and

WHEREAS, The FBI's conclusions and Dahl's secret were sealed for fifty years; and

WHEREAS, The Maury Island Incident and its surrounding circumstances have made immeasurable contributions to Washington State's cultural heritage and to popular culture worldwide, including most recently the 2014 award-winning motion picture "The Maury Island Incident," and the 2015 web series "The Maury Island Incident," produced in conjunction with the Washington FilmWorks Innovation Lab and Motion Picture Competitiveness Program; and

WHEREAS, On April 1, 2017, the 3rd Annual Burien UFO Festival will be held in the newest hipster hangout of downtown Olde Burien with wide community participation and good humor; and

WHEREAS, On the seventieth anniversary of the seminal UFO sightings events, the Washington State sightings should be recognized for both their prominence and primacy in the modern era of UFO popular culture;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate pause to acknowledge the seventieth anniversary of the June 21, 1947, Maury Island Incident; the 1947 "Summer of the Saucers" popular culture phenomenon launched worldwide by these controversial events; and the first reference to the characters now popularly known as "men in black"; and

BE IT FURTHER RESOLVED, That the Washington State Senate recognize and honor the heroism and service of Army Air Corp Intelligence Officers Capt. William L. Davidson and 1st Lt. Frank M. Brown, who lost their lives following their investigation of the Maury Island Incident when their airplane crashed outside of Kelso, Washington, on August 1, 1947; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Air Force Historical Research Agency, to the Vashon-Maury Island Heritage Association, to the Des Moines Historical Society, to the Highline Historical Society, to the Burien Historical Society, to the Longview-Kelso Historical Society, and to the Washington State Historical Museum.

Senators Keiser, Nelson and Chase spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8648.

The motion by Senator Keiser carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members from the team that created the film *The Maury Island Incident*; Mr. Steve Edmiston, Writer/Producer; Mr. Scott Schaefer, Director/Producer; and Mr. John White, Executive Producer who were seated in the gallery.

## MOTION

At 10:18 a.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Majority Coalition Caucus.

Senator McCoy announced a meeting of the Democratic Caucus.

The Senate was called to order at 11:43 a.m. by President Habib.

## MOTION

Senator Padden moved adoption of the following resolution:

SENATE RESOLUTION  
8656

By Senator Padden

WHEREAS, Salvatore (Sam) F. Cozza has passed away following a combined 26 years of distinguished service as a judge on the Spokane County Superior Court and District Court benches; and

WHEREAS, Before embarking on a career in law, Judge Cozza attended Gonzaga Preparatory School, continued his Jesuit education at Gonzaga University graduating with a degree in history, and was a loyal and ardent Zags fan; and

WHEREAS, Following graduation from the University of Washington School of Law, Judge Cozza served as a Spokane County deputy prosecutor for 10 years, during which time he married his wife, Megan at St. Augustine Catholic Church in Spokane; and

WHEREAS, In 1990, Judge Cozza ran and was elected to the Spokane County District Court bench; in 1996, he ran and was elected to the Spokane County Superior Court bench, a position he held for the remainder of his life; and, beginning in 2014, Judge Cozza served as presiding judge for three years; and

WHEREAS, In addition to his outstanding reputation as a legal professional, Judge Cozza was proud of his Italian Heritage, a dedicated husband, son, friend, and father to his three children, as well as a faithful Catholic; and

WHEREAS, Throughout his career, Judge Cozza served as chair of the Superior Court Judges' Association's Criminal Law & Rules Committee, as a member of the Superior Court Judges' Association's Legislative Committee, as a former member of the Board of Governors for the District & Municipal Court Judges' Association, former chair of the Court Rules Committee of the District & Municipal Court Judges' Association, and as a member of the Time for Trial Task Force; and

WHEREAS, Over the course of his career, Judge Cozza embodied the words displayed on his bench: "Attentiveness, Patience, Fairness, Completeness – Don't rush the process or the decision;"

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the life of Judge Salvatore (Sam) F. Cozza, and recognize his outstanding career and dedication to the communities he served.

Senators Padden, Pedersen, Baumgartner and Kuderer spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8656.

The motion by Senator Padden carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced family members of Judge Sam Cozza: his wife Mrs. Megan Cozza; son Joey; daughter Clare; sister Sandra and her husband Kevin McKee; extended family Maura and John Dixon and Ms. Addie Sauer; and friend Ms. Janie Slater who were seated in the gallery.

## MOTION

On motion of Senator Fain, the Senate reverted to the third order of business.

## MESSAGE FROM THE GOVERNOR

April 18, 2017

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 17, 2017, Governor Insee approved the following Senate Bills entitled:

Senate Bill No. 5011  
Relating to the business corporation act.

Substitute Senate Bill No. 5012  
Relating to the distribution of a Washington trust's assets to another trust.

Substitute Senate Bill No. 5031  
Relating to licensing and enforcement provisions applicable to money transmitters and currency exchanges under the uniform money services act.

Senate Bill No. 5040  
Relating to making revisions to the uniform business organizations code.

Engrossed Senate Bill No. 5042  
Relating to authorizing funeral planning and funeral services as noninsurance benefits under group life and disability insurance policies.

Senate Bill No. 5075  
Relating to dispute resolution between seed buyers and dealers.

Engrossed Senate Bill No. 5097  
Relating to clarifying procedures for appointment to the Chehalis board created by chapter 194, Laws of 2016.

Substitute Senate Bill No. 5142

Relating to educational interpreters.

Senate Bill No. 5162

Relating to creating the wastewater treatment plant operator certification account.

Substitute Senate Bill No. 5185

Relating to immunity from liability for professional or trade associations providing emergency response volunteers.

Senate Bill No. 5187

Relating to modernizing county auditor statutes.

Substitute Senate Bill No. 5207

Relating to the public disclosure of global positioning system data corresponding to residential addresses of public employees and volunteers.

Senate Bill No. 5237

Relating to updating workforce investment act references and making no substantive changes.

Substitute Senate Bill No. 5241

Relating to the educational success of youth who are homeless or in foster care.

Senate Bill No. 5244

Relating to the means of communication between a buyer or lessee and an auto dealer during the "bushing" period.

Substitute Senate Bill No. 5277

Relating to disqualification of judges.

Substitute Senate Bill No. 5343

Relating to notice sent by and certain release of information affecting registered tow truck operators.

Substitute Senate Bill No. 5374

Relating to state employee whistleblower protection.

Senate Bill No. 5413

Relating to physician limited licenses.

Sincerely,

/s/

Drew Shirk, Executive Director of Legislative Affairs

MOTION

On motion of Senator Fain, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5201 with the following amendment(s): 5201-S2 AMH ELHS H2510.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 82. The legislature recognizes the need for person-centered services that enable developmentally

disabled clients to have greater access to their community regardless of the degree of each client's disability or level of acuity. The legislature further recognizes that employment is highly effective for many and should be encouraged and offered at the outset for individuals age twenty-one and older. However, for others with significant barriers to employment the state likewise recognizes the need for the availability of community access services to enhance employment discovery prospects, provide skills development, or provide community involvement and meaningful activities.

The legislature intends to maximize the benefits that clients receive through supported employment through accountability measures. These transparency measures will allow supported employment providers to demonstrate successes and provide data on client outcomes.

Sec. 83. RCW 71A.12.290 and 2012 c 49 s 1 are each amended to read as follows:

(1) Clients age twenty-one and older who are receiving employment services must be offered the choice to transition to a community access program after nine months of enrollment in an employment program, and the option to transition from a community access program to an employment program at any time. Enrollment in an employment program begins at the time the client is authorized to receive employment.

(2)(a) Prior approval by the department shall not be required to effectuate the client's choice to transition from an employment program to community access services after verifying nine months of participation in employment-related services.

(b) The department shall permit clients to enroll in a community access program without first engaging in nine months of employment services when:

(i) Medical or behavioral health records document a condition or a combination of conditions that prevent the client from successfully participating in, engaging in, and completing nine consecutive months of supported employment services;

(ii) Employment services were not provided to the client within ninety days of referral; or

(iii) The department otherwise determines that the client should be provided an exception to engaging in nine months of employment services.

(3) The department shall inform clients and their legal representatives of all available options for employment and day services, including the opportunity to request an exception from enrollment in an employment program. The department shall inform clients and their legal representatives of the ability to request an exception to the employment services participation requirement and describe the process for requesting such an exception to clients in writing. The department shall provide a written response to clients who have requested such an exception within sixty days. This written response from the department shall include a description of the reason or reasons why the request was granted or denied. Information provided to the client and the client's legal representative must include the types of activities each service option provides, and the amount, scope, and duration of service for which the client would be eligible under each service option. An individual client may be authorized for only one service option, either employment services or community access services. Clients may not participate in more than one of these services at any given time.

(4) The department shall work with counties and stakeholders to strengthen and expand ~~((the existing community access program, including the consideration of options that allow for alternative service settings outside of the client's residence. The program should emphasize support for the clients so that they are~~

~~able to participate in activities that integrate them into their community and support independent living and skills)) employment services and other community access services. Community access services shall emphasize supports and activities that increase community involvement, maintain or improve skills and independence, and meet the diversity of person-centered needs.~~

~~((5) The department shall develop rules to allow for an exception to the requirement that a client participate in an employment program for nine months prior to transitioning to a community access program)) (a) Beginning July 1, 2019, the department shall allow clients age twenty-one and older who are assessed as high acuity clients to transition into the community access program after ninety days of enrollment in an employment program and subject to federal waiver approval. The department shall inform clients assessed as high acuity of the ability to transition into the community access program no later than ten days after enrollment in an employment program. For purposes of this section, "high acuity clients" means clients of the department who are receiving developmental disability services; require support in the community at all times to maintain his or her health and safety; experience significant barriers to employment or community participation; and require frequent supervision, training, or full physical assistance with community activities most of the time.~~

~~(b) The department shall permit clients assessed as high acuity clients to enroll in a community access program without first engaging in ninety days of employment services when:~~

~~(i) Medical or behavioral health records document a condition or a combination of conditions that prevent the client from successfully participating in, engaging in, and completing ninety consecutive days of supported employment services;~~

~~(ii) Employment services were not provided to the client within ninety days of referral; or~~

~~(iii) The department otherwise determines that the client should be provided an exception to engaging in ninety days of employment services.~~

NEW SECTION. Sec. 84. A new section is added to chapter 71A.12 RCW to read as follows:

(1) By December 1, 2017, the department shall adopt accountability and outcome measures to determine whether supported employment providers are achieving the employment goals of the clients that they serve. At a minimum, these accountability and outcome measures must include the following information provided annually:

(a) A description of the supported employment services provided;

(b) The number of service hours billed per client;

(c) The number of clients who obtained employment; and

(d) Of those clients who obtained employment:

(i) The number of service hours provided to the client;

(ii) The number of service hours involving direct interaction with the client while employment was being secured;

(iii) The number of hours per month clients were employed;

(iv) The amount of wages earned; and

(v) The occupation types secured by clients.

(2) By July 1, 2019, the department shall require that counties entering into new contracts for supported employment services or renewing supported employment contracts include provisions in their contracts that incorporate the accountability and outcome measures adopted by the department pursuant to this section and mechanisms for reporting data to support the accountability and outcome measures.

NEW SECTION. Sec. 85. A new section is added to chapter 71A.12 RCW to read as follows:

(1) By December 1, 2017, the department shall report to the appropriate committees of the legislature and the governor the accountability measures that were adopted for ensuring that supported employment providers achieve the employment goals of the clients that they serve pursuant to section 3 of this act.

(2) This section expires July 1, 2018.

NEW SECTION. Sec. 86. A new section is added to chapter 71A.12 RCW to read as follows:

(1) Within existing resources, the department shall consult with the office of the superintendent of public instruction to identify best practices within schools for offering transition services and employment-related services to individuals with developmental disabilities. By December 1, 2017, the department shall post the results of this consultation on its web site, as appropriate.

(2) This section expires July 1, 2018."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Fain moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5201 and ask the House to recede therefrom.

Senator O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5201 and ask the House to recede therefrom.

The motion by Senator Fain carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5201 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5289 with the following amendment(s): 5289-S AMH ENGR H2609.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 87. A new section is added to chapter 46.61 RCW to read as follows:

(1) A person who uses a personal electronic device while driving a motor vehicle on a public highway is guilty of a traffic infraction and must pay a fine as provided in RCW 46.63.110(3).

(2) Subsection (1) of this section does not apply to:

(a) A driver who is using a personal electronic device to contact emergency services;

(b) The use of a system by a transit system employee for time-sensitive relay communication between the transit system employee and the transit system's dispatch services;

(c) An individual employed as a commercial motor vehicle driver who uses a personal electronic device within the scope of such individual's employment if such use is permitted under 49 U.S.C. Sec. 31136 as it existed on the effective date of this section; and

(d) A person operating an authorized emergency vehicle.

(3) The state preempts the field of regulating the use of personal electronic devices in motor vehicles while driving, and this section supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality

to regulate the use of a personal electronic device by the operator of a motor vehicle.

(4) A second or subsequent offense under this section is subject to two times the penalty amount under RCW 46.63.110.

(5) A finding that a person has committed an offense under this section, if that offense is the first such offense committed within five years, must not be made available to insurance companies.

(6) For purposes of this section:

(a) "Driving" means to operate a motor vehicle on a public highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. "Driving" does not include when the vehicle has pulled over to the side of, or off of, an active roadway and has stopped in a location where it can safely remain stationary.

(b) "Personal electronic device" means any portable electronic device that is capable of wireless communication or electronic data retrieval and is not manufactured primarily for hands-free use in a motor vehicle. "Personal electronic device" includes, but is not limited to, a cell phone, tablet, laptop, two-way messaging device, or electronic game. "Personal electronic device" does not include two-way radio, citizens band radio, or amateur radio equipment.

(c) "Use" or "uses" means:

(i) Holding a personal electronic device in either hand or both hands;

(ii) Using your hand or finger to compose, send, read, view, access, browse, transmit, save, or retrieve email, text messages, instant messages, photographs, or other electronic data; however, this does not preclude the minimal use of a finger to activate, deactivate, or initiate a function of the device;

(iii) Watching video on a personal electronic device.

**NEW SECTION. Sec. 88.** The following acts or parts of acts are each repealed:

(1) RCW 46.61.667 (Using a wireless communications device or handheld mobile telephone while driving) and 2013 c 224 s 15, 2010 c 223 s 3, & 2007 c 417 s 2; and

(2) RCW 46.61.668 (Sending, reading, or writing a text message while driving) and 2013 c 224 s 16, 2010 c 223 s 4, & 2007 c 416 s 1.

**NEW SECTION. Sec. 89.** A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of thirty dollars.

(b) Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction or an equivalent local ordinance.

(c) For the purposes of this section, "dangerously distracted" means a person who engages in any activity not related to the actual operation of a motor vehicle in a manner that interferes with the safe operation of such motor vehicle on any highway.

(2) The additional monetary penalty imposed under this section must be deposited into the distracted driving prevention account created in subsection (3) of this section.

(3) The distracted driving prevention account is created in the state treasury. All receipts from the base penalty in subsection (1) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support programs dedicated to reducing distracted driving and improving driver education on distracted driving.

**Sec. 90.** RCW 46.25.010 and 2013 c 224 s 3 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or

leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a ~~((handheld wireless communications device handheld mobile telephone handheld mobile telephone.doc was not found, defined as a violation of RCW 46.61.667(1)(b)))~~ personal electronic device, defined as a violation of section 1 of this act, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) ~~(Texting, defined as a violation of RCW 46.61.668(1)(b) or an equivalent administrative rule or local law, ordinance, rule, or resolution;~~

(e)) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

~~((f))~~ (e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

~~((g))~~ (f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

~~((h))~~ (g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

~~((i))~~ (h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL or CLP holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

(24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 91.** RCW 46.52.130 and 2015 2nd sp.s. c 3 s 12 are each amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i)(A) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(B) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (I) The employee or prospective employee that authorizes the release of the record; and (II) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their

behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(C) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(D) No employer or prospective employer, nor any agent of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agent of the employer or prospective employer, as may be required to ensure the application of this subsection.

(ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Not include any information related to a finding that a person has committed an offense for using a personal electronic device while driving a motor vehicle on a public highway under section 1 of this act if that offense is the first such offense committed within five years;

(C) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

~~((C))~~ (D) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys, county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys, county prosecuting attorneys, or the named individual's attorney of record. City attorneys, county prosecuting attorneys, or the named individual's attorney

of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(6) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

NEW SECTION. **Sec. 92.** This act takes effect January 1, 2019."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5289 and ask the House to recede therefrom.

Senators King and Liias spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5289 and ask the House to recede therefrom.

The motion by Senator King carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5289 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5436 with the following amendment(s): 5436 AMH SENN MORI 087

On page 8, after line 21, insert the following:

"NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Upon initiation or renewal of a contract with the department, a behavioral health organization shall reimburse a provider for a behavioral health service provided to a covered person who is under eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health organization and provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health organization. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A behavioral health organization may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A behavioral health organization may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit under the behavioral health organization; or

(c) An originating site or provider when the site or provider is not a contracted provider with the behavioral health organization.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

(d) "Provider" has the same meaning as in RCW 48.43.005;

(e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and

video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) The department must, in consultation with the health care authority, adopt rules as necessary to implement the provisions of this section.

**NEW SECTION. Sec. 5.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Upon initiation or renewal of a contract with the authority, a behavioral health organization shall reimburse a provider for a behavioral health service provided to a covered person who is under eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health organization and provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health organization. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A behavioral health organization may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A behavioral health organization may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit under the behavioral health organization; or

(c) An originating site or provider when the site or provider is not a contracted provider with the behavioral health organization.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

- (d) "Provider" has the same meaning as in RCW 48.43.005;
- (e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and
- (f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.
- (9) The authority must adopt rules as necessary to implement the provisions of this section."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 8, line 22, after "Sec. 4." insert "(1)"

- On page 8, after line 23, insert the following:
- "(2) Section 4 of this act takes effect January 1, 2018, but only if neither Substitute House Bill No. 1388 (including any later amendments or substitutes) nor Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section.
- (3) Section 5 of this act takes effect January 1, 2018, only if Substitute House Bill No. 1388 (including any later amendments or substitutes) or Substitute Senate Bill No. 5259 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section."
- Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Becker moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5436 and ask the House to recede therefrom.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5436 and ask the House to recede therefrom.

The motion by Senator Becker carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5436 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5589 with the following amendment(s): 5589-S AMH COG H2442.1

Strike everything after the enacting clause and insert the following:

"Sec. 6. RCW 66.24.140 and 2015 c 194 s 1 are each amended to read as follows:

(1) There is a license to distillers, including blending, rectifying, and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

- (a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;
- (b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;
- (c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee; and
- (d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

(2) Any distillery licensed under this section may:

- (a) Sell spirits of its own production for consumption off the premises. A distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;
- (b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and
- (c) Provide samples subject to the following conditions:
- (i) For the purposes of this subsection, the maximum amount of alcohol per person per day is two ounces;
- (ii) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. ((The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.)) Spirits samples may be adulterated with nonalcoholic mixers, mixers with alcohol of the distiller's own production, water, and/or ice;
- (iii) Sell adulterated samples of spirits of their own production, water, and/or ice to persons on the premises at the distillery; and
- (iv) Every person who participates in any manner in the service of these samples must obtain a class 12 alcohol server permit."
- Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Baumgartner moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5589 and ask the House to recede therefrom.

Senators Baumgartner and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Baumgartner that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5589 and ask the House to recede therefrom.

The motion by Senator Baumgartner carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5589 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5762 with the following amendment(s): 5762 AMH ENVI H2480.2

Strike everything after the enacting clause and insert the following:

"Sec. 7. RCW 70.275.050 and 2014 c 119 s 5 are each amended to read as follows:

(1) Each stewardship organization must recommend to the department an environmental handling charge to be added to the price of each mercury-containing light sold in or into the state of Washington for sale at retail. The environmental handling charge must be designed to provide revenue necessary and sufficient to cover all administrative and operational costs associated with the stewardship program described in the department-approved product stewardship plan for that organization, including the department's annual fee required by subsection (5) of this section, and a prudent reserve. The stewardship organization must consult with collectors, retailers, recyclers, and each of its participating producers in developing its recommended environmental handling charge. The environmental handling charge may, but is not required to, vary by the type of mercury-containing light. In developing its recommended environmental handling charge, the stewardship organization must take into consideration and report to the department:

(a) The anticipated number of mercury-containing lights that will be sold to covered entities in the state at retail during the relevant period;

(b) The number of unwanted mercury-containing lights delivered from covered entities expected to be recycled during the relevant period;

(c) The operational costs of the stewardship organization as described in RCW 70.275.030(2);

(d) The administrative costs of the stewardship organization including the department's annual fee, described in subsection (5) of this section; and

(e) The cost of other stewardship program elements including public outreach.

(2) The department must review, adjust if necessary, and approve the stewardship organization's recommended environmental handling charge within sixty days of submittal. In making its determination, the department shall review the product stewardship plan and may consult with the producers, the stewardship organization, retailers, collectors, recyclers, and other entities.

(3) No sooner than January 1, 2015:

(a) The mercury-containing light environmental handling charge must be added to the purchase price of all mercury-containing lights sold to Washington retailers for sale at retail, and each Washington retailer shall add the charge to the purchase price of all mercury-containing lights sold at retail in this state, and the producer shall remit the environmental handling charge to the stewardship organization in the manner provided for in the stewardship plan; or

(b) Each Washington retailer must add the mercury-containing light environmental handling charge to the purchase price of all mercury-containing lights sold at retail in this state, where the retailer, by voluntary binding agreement with the producer, arranges to remit the environmental handling charge to the stewardship organization on behalf of the producer in the manner provided for in the stewardship plan. Producers may not require retailers to opt for this provision via contract, marketing practice, or any other means. The stewardship organization must allow retailers to retain a portion of the environmental handling charge

as reimbursement for any costs associated with the collection and remittance of the charge.

(4) At any time, a stewardship organization may submit to the department a recommendation for an adjusted environmental handling charge for the department's review, adjustment, if necessary, and approval under subsection (2) of this section to ensure that there is sufficient revenue to fund the cost of the program, current deficits, or projected needed reserves for the next year. The department must review the stewardship organization's recommended environmental handling charge and must adjust or approve the recommended charge within thirty days of submittal if the department determines that the charge is reasonably designed to meet the criteria described in subsection (1) of this section.

(5) Beginning March 1, 2015, and each year thereafter, each stewardship organization shall pay to the department an annual fee equivalent to ~~((five))~~ three thousand dollars for each participating producer to cover the department's administrative and enforcement costs. The amount paid under this section must be deposited into the product stewardship programs account created in RCW 70.275.130.

Sec. 8. RCW 70.275.040 and 2014 c 119 s 4 are each amended to read as follows:

(1) On June 1st of the year prior to implementation, each producer must ensure that a stewardship organization submits a proposed product stewardship plan on the producer's behalf to the department for approval. Plans approved by the department must be implemented by January 1st of the following calendar year.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the product stewardship program, including how consumers will be provided with information describing collection opportunities for unwanted mercury-containing lights from covered entities and safe handling of mercury-containing lights, waste prevention, and recycling. The description must also include information to make consumers aware that an environmental handling charge has been added to the purchase price of mercury-containing lights sold at retail to fund the mercury-containing light stewardship programs in the state. The environmental handling charge may not be described as a department recycling fee or charge at the point of retail sale;

(f) A description of the financing system required under RCW 70.275.050;

(g) How mercury and other hazardous substances will be handled for collection through final disposition;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four years thereafter, each stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) By June 1, 2016, and each June 1st thereafter, each stewardship organization must submit an annual report to the department describing the results of implementing the stewardship organization's plan for the prior calendar year, including an independent financial audit once every two years. The department may adopt rules for reporting requirements. Financial information included in the annual report must include but is not limited to:

(a) The amount of the environmental handling charge assessed on mercury-containing lights and the revenue generated;

(b) Identification of confidential information pursuant to RCW 43.21A.160 submitted in the annual report; and

(c) The cost of the mercury-containing lights product stewardship program, including line item costs for:

(i) Program operations;

(ii) Communications, including media, printing and fulfillment, public relations, and other education and outreach projects;

(iii) Administration, including administrative personnel costs, travel, compliance and auditing, legal services, banking services, insurance, and other administrative services and supplies, and stewardship organization corporate expenses; and

(iv) Amount of unallocated reserve funds.

(6) Beginning in 2023 every stewardship organization must include in its annual report an analysis of the percent of total sales of lights sold at retail to covered entities in Washington that mercury-containing lights constitute, the estimated number of mercury-containing lights in use by covered entities in the state, and the projected number of unwanted mercury-containing lights to be recycled in future years.

(7) All plans and reports submitted to the department must be made available for public review, excluding sections determined to be confidential pursuant to RCW 43.21A.160, on the department's web site and at the department's headquarters.

**Sec. 9.** RCW 70.275.130 and 2010 c 130 s 13 are each amended to read as follows:

The product stewardship programs account is created in the custody of the state treasurer. All funds received from producers under this chapter and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. The department may not retain fees in excess of the estimated amount necessary to cover the agency's administrative costs over the coming year related to the mercury light stewardship program under this chapter. Beginning with the state fiscal year 2018, by October 1st after the closing of each state fiscal year, the department shall refund any fees collected in excess of its estimated administrative costs to any approved stewardship organization under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 10.** RCW 43.131.422 and 2014 c 119 s 8 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026:

(1) RCW 70.275.010 (Findings—Purpose) and 2010 c 130 s 1;  
(2) RCW 70.275.020 (Definitions) and 2014 c 119 s 2 & 2010 c 130 s 2;

(3) RCW 70.275.030 (Product stewardship program) and 2014 c 119 s 3 & 2010 c 130 s 3;

(4) RCW 70.275.040 (Submission of proposed product stewardship plans—Department to establish rules—Public review—Plan update—Annual report) and 2017 c . . . s 2 (section 2 of this act), 2014 c 119 s 4<sub>2</sub> & 2010 c 130 s 4;

(5) RCW 70.275.050 (Financing the mercury-containing light recycling program) and 2017 c . . . s 1 (section 1 of this act), 2014 c 119 s 5<sub>2</sub> & 2010 c 130 s 5;

(6) RCW 70.275.060 (Collection and management of mercury) and 2010 c 130 s 6;

(7) RCW 70.275.070 (Collectors of unwanted mercury-containing lights—Duties) and 2010 c 130 s 7;

(8) RCW 70.275.090 (Producers must participate in an approved product stewardship program) and 2010 c 130 s 9;

(9) RCW 70.275.100 (Written warning—Penalty—Appeal) and 2010 c 130 s 10;

(10) RCW 70.275.110 (Department's web site to list producers participating in product stewardship plan—Required participation in a product stewardship plan—Written warning—Penalty—Rules—Exemptions) and 2010 c 130 s 11;

(11) RCW 70.275.130 (Product stewardship programs account) and 2017 c . . . s 3 (section 3 of this act) & 2010 c 130 s 13;

(12) RCW 70.275.140 (Adoption of rules—Report to the legislature—Invitation to entities to comment on issues—Estimate of statewide recycling rate for mercury-containing lights—Mercury vapor barrier packaging) and 2010 c 130 s 14;

(13) RCW 70.275.150 (Application of chapter to the Washington utilities and transportation commission) and 2010 c 130 s 15;

(14) RCW 70.275.160 (Application of chapter to entities regulated under chapter 70.105 RCW) and 2010 c 130 s 16;

(15) RCW 70.275.900 (Chapter liberally construed) and 2010 c 130 s 17;

(16) RCW 70.275.901 (Severability—2010 c 130) and 2010 c 130 s 21; and

(17) RCW 70.275.170 and 2014 c 119 s 6."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Braun moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5762 and ask the House to recede therefrom.

Senator Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Braun that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5762 and ask the House to recede therefrom.

The motion by Senator Braun carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5762 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5778 with the following amendment(s): 5778 AMH HE H2468.1

Strike everything after the enacting clause and insert the following:

"Sec. 11. RCW 28B.15.012 and 2015 3rd sp.s. c 8 s 1 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the national guard who entered service as a Washington resident and

who has maintained Washington as his or her domicile but is not stationed in the state;

(i) A student who is the spouse or a dependent of a person who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(j) A student who is entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;

(k) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

~~((k))~~ (l) A student who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for benefits under the federal all-volunteer force educational assistance program (38 U.S.C. Sec. 3001 et seq.), the federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.), or any other federal law authorizing educational assistance benefits for veterans; and enters an institution of higher education in Washington within three years of the date of separation;

~~((l))~~ (m) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

~~((m))~~ (n) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who ~~((completed at least ninety days of active duty service and))~~ died in the line of duty ~~((and the student enters an institution of higher education in Washington within three years of the service member's death))~~;

~~((n))~~ (o) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

~~((o))~~ (p) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

~~((p))~~ (q) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

~~((q))~~ (r) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty

moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.

(3)(a) A student who qualifies under subsection (2)((~~(k)~~, (~~l~~), or (~~m~~)) (j), (l), (m), or (n)) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.

(b) Nothing in subsection (2)((~~(k)~~, (~~l~~), or (~~m~~)) (j), (l), (m), or (n)) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.

(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or ((~~(m)~~)) (o) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States citizenship immigration services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

- (a) The armed forces of the United States government; or
- (b) The Washington national guard; or
- (c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and

active service under 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Senate Bill No. 5778.

Senators Wilson and Palumbo spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Senate Bill No. 5778.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5778 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5778, as amended by the House.

MOTION

On motion of Senator Liias, Senator Hobbs was excused.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5778, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Hobbs

SENATE BILL NO. 5778, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5790 with the following amendment(s): 5790-S AMH MAYC H2686.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 12.** This act may be known and cited as the economic revitalization act.

**NEW SECTION. Sec. 13.** Section 1 of the growth management act of 1990 clearly states the act is to provide for sustainable economic development, and that it is in the public interest that economic development programs be shared with communities experiencing insufficient economic growth. Through this act, it is the intent of the legislature to provide additional tools to help local governments provide family wage jobs, increase incomes, and increase economic opportunities for all taxpayers and residents in communities with deteriorating economies.

**Sec. 14.** RCW 36.70A.070 and 2015 c 241 s 2 are each amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity. Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that: (a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth; (b) includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences; (c) identifies sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities; and (d) makes adequate provisions for existing and projected needs of all economic segments of the community.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

(4) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities, including, but not limited to, electrical lines, telecommunication lines, and natural gas lines.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural densities and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

- (i) Containing or otherwise controlling rural development;
- (ii) Assuring visual compatibility of rural development with the surrounding rural area;
- (iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;
- (iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and
- (v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity shall be consistent with the character of the existing areas. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5);

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(15). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(15). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas or uses of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas or uses shall not extend beyond the logical outer boundary of the existing area or use, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of (d) of this subsection, an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated traffic impacts to state-owned transportation facilities resulting from land use assumptions to assist the department of transportation in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels as a basis for future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) Level of service standards for all locally owned arterials and transit routes to serve as a gauge to judge performance of the system. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance locally owned transportation facilities or services that are below an established level of service standard;

(E) Forecasts of traffic for at least ten years based on the adopted land use plan to provide information on the location, timing, and capacity needs of future growth;

(F) Identification of state and local system needs to meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting identified needs, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) Pedestrian and bicycle component to include collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and

encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include increased public transportation service, ride sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. The element ~~((shall) may include((: (a) A summary of the local economy such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate; (b) a summary of the strengths and weaknesses of the local economy defined as the commercial and industrial sectors and supporting factors such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources; and (c) an identification of policies, programs, and projects to foster economic growth and development and to address future needs)) the provisions in section 4 of this act.~~ A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; and (c) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

**NEW SECTION. Sec. 15.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) The economic development element required by RCW 36.70A.070(7) may include the following:

(i) A summary of the local economy, such as population, employment, payroll, sectors, businesses, sales, and other information as appropriate;

(ii) A summary of the strengths and weaknesses of the local economy, including the commercial, industrial, manufacturing, natural resource, and other locally significant economic sectors and supporting factors such as land use, transportation, utilities, education, workforce, housing, and natural/cultural resources;

(iii) An identification of policies, programs, and projects to foster economic growth and development and to address future needs; and

(iv) An evaluation of whether there has been economic growth of the local economy during the prior eight years, including whether the city, town, or county median household income is above or below the state average.

(b) The economic development element should include the following:

(i) Policies and programs to promote increases in family, individual, and business incomes;

(ii) An examination of whether sites planned for economic development have adequate public facilities and services, and, as appropriate, a plan for any needed public facilities and services;

(iii) Policies and programs to encourage access to education and training for family wage jobs; and

(iv) Policies and programs to address economic development opportunities including existing industries and businesses, value added manufacturing of locally produced natural resources, and the use of locally produced energy and other natural resources.

(2) Each county and city planning under RCW 36.70A.040 is encouraged to adopt comprehensive plans and development regulations that promote economic development in urban and rural areas, and evaluate economic performance in the jurisdiction in the time since the most recent update to the comprehensive plan. Each county and city planning under RCW 36.70A.040 may make findings regarding the economic condition of the jurisdiction, including whether economic deterioration exists in the county or city. If there is stagnation or economic deterioration during the period of time since the most recent update to the comprehensive plan, the comprehensive plan and development regulations may be modified to increase economic development opportunities.

(3)(a) Rural counties, as defined in RCW 82.14.370(5), that are planning under RCW 36.70A.040, and the cities within those counties, may identify policies, programs, and development opportunities to address the potential for economic deterioration and to seize economic development opportunities.

(b) Until January 1, 2019, a rural county, as defined in RCW 82.14.370(5), may designate a limited area of more intensive rural development consistent with the requirements of RCW 36.70A.070(5) (d) (i) through (iv) and (e) if the county:

(i) Is planning under RCW 36.70A.040;

(ii) Had a population of less than fifty thousand as of January 1, 2017;

(iii) Has had a population increase of less than seventeen percent in the previous ten years; and

(iv) Has issued a finding of economic deterioration consistent with subsection (2) of this section.

(c) A limited area of more intensive rural development designated by a county under this subsection (3) must apply only to an existing area or existing use that was in existence as of July 1, 1990, or as of January 1, 2017. A limited area of more intensive rural development designated under this subsection (3) is not subject to the definitions of existing area or existing use in RCW 36.70A.070(5)(d)(v). Through the designation of a limited area of more intensive rural development under this subsection (3), a county may authorize use of a type that is different from the existing area or existing use as of July 1, 1990, or January 1, 2017.

(4) For purposes of this section, economic deterioration is exemplified by, but not limited to, any combination of the following performance outcomes:

(a) Incomes that are at least ten thousand dollars less than the statewide median household income for the same year as established by the office of financial management;

(b) A decrease in the county's household median income during any year within the prior eight years;

(c) The inability of the jurisdiction to add new full-time jobs in sufficient quantities to provide for population increases;

(d) Decreases or stagnation of economic start-ups during multiple years within the prior eight years;

(e) Unemployment rates that are higher than the national and statewide averages over multiple years within the prior eight years; and

(f) Decreases or stagnation in the issuance of commercial building permits during multiple years in the time since the comprehensive plan was last updated.

(5) A petition for review of a designation of a local area of more intense rural development under subsection (3) of this section must be directly reviewed by the superior court. The requirements of RCW 36.70A.295 (3) through (7) apply to a superior court review of a petition for review under this subsection."

Correct the title.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5790.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5790.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5790 by voice vote.

#### MOTION

On motion of Senator Saldaña, Senator Keiser was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5790, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5790, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Hawkins, Honeyford, King, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Ranker, Rivers, Rolfes, Rossi, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Carlyle, Chase, Frockt, Hasegawa, Hunt, Kuderer, Lijas, McCoy, Nelson, Pedersen and Saldaña

Excused: Senators Hobbs and Keiser

SUBSTITUTE SENATE BILL NO. 5790, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5647 with the following amendment(s): 5647.E AMH ENGR H2568.E

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 16.** A new section is added to chapter 43.330 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Home" means a single-family residential structure.

(2) "Home rehabilitation" means residential repairs and improvements that address health, safety, and durability issues in existing housing in rural areas.

(3) "Homeowner" means a person who owns and resides permanently in the home the person occupies.

(4) "Low-income" means persons or households with income at or below two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

(5) "Rehabilitation agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for rehabilitating residences under this chapter and has been approved by the department.

(6) "Rural areas" means areas of Washington state defined as non-entitlement areas by the United States department of housing and urban development.

**NEW SECTION. Sec. 17.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, the low-income home rehabilitation revolving loan program is created within the department.

(2) The program must include the following elements:

(a) Eligible homeowners must be low-income and live in rural areas.

(b) Homeowners who are senior citizens, persons with disabilities, families with children five years old and younger, and veterans must receive priority for loans.

(c) The cost of the home rehabilitation must be the lesser of eighty percent of the assessed value of the property post rehabilitation or forty thousand dollars.

(d) The maximum amount that may be loaned under this program may not exceed the cost of the home rehabilitation as provided in (c) of this subsection, and must not result in total loans borrowed against the property equaling more than eighty percent of the assessed value.

(e) The interest rate of the loan must be equal to the previous calendar year's annual average consumer price index compiled by the bureau of labor statistics, United States department of labor.

(f) The department must allow participating homeowners to defer repayment of the loan principal and interest and any fees related to the administration or issuance of the loan. Any amounts deferred pursuant to this section become a lien in favor of the state. The lien is subordinate to liens for general taxes, amounts deferred under chapter 84.37 or 84.38 RCW, or special

assessments as defined in RCW 84.38.020. The lien is also subordinate to the first deed of trust or the first mortgage on the real property but has priority over all other privileges, liens, monetary encumbrances, or other security interests affecting the real property, whenever incurred, filed, or recorded. The department must take such necessary action to file and perfect the state's lien. All amounts due under the loan become due and payable upon the sale of the home or upon change in ownership of the home.

(3) All moneys from repayments must be deposited into the low-income home rehabilitation revolving loan program account created in section 4 of this act.

(4) The department must adopt rules for implementation of this program.

**NEW SECTION. Sec. 18.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must contract with rehabilitation agencies to provide home rehabilitation to participating homeowners. Preference must be given to local agencies delivering programs and services with similar eligibility criteria.

(2) Any rehabilitation agency may charge participating homeowners an administrative fee of no more than seven percent of the home rehabilitation loan amount. The administrative fee must become a component of the total loan amount to be repaid by the participating homeowner.

(3) Any rehabilitation agency receiving funding under this section must report to the department at least quarterly, or in alignment with federal reporting, whichever is the greater frequency, the project costs and the number of homes repaired or rehabilitated. The director must review the accuracy of these reports.

**NEW SECTION. Sec. 19.** A new section is added to chapter 43.330 RCW to read as follows:

The low-income home rehabilitation revolving loan program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments of loans, private contributions, and all other sources must be deposited into the account. Expenditures from the account may be used only for the purposes of the low-income home rehabilitation revolving loan program created in section 2 of this act. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 20.** RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10, 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5647.

Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5647.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5647 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5647, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5647, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Honeyford, Hunt, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senators Hobbs and Keiser

ENGROSSED SENATE BILL NO. 5647, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5336 with the following amendment(s): 5336 AMH PS H2522.1

Strike everything after the enacting clause and insert the following:

"**Sec. 21.** RCW 9A.48.070 and 2009 c 431 s 4 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the first degree if he or she knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding five thousand dollars;

(b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; ~~((or))~~

(c) Causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts; or

(d) Causes an interruption or impairment of service rendered to the public by, without lawful authority, physically damaging, destroying, or removing an official ballot deposit box or ballot drop box or, without lawful authority, damaging, destroying, removing, or tampering with the contents thereof.

(2) Malicious mischief in the first degree is a class B felony.

**Sec. 22.** RCW 9A.48.080 and 2009 c 431 s 5 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding seven hundred fifty dollars; ~~((or))~~

(b) Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or

(c) Creates a substantial risk of interruption or impairment of service rendered to the public by, without lawful authority, physically damaging, destroying, or removing an official ballot deposit box or ballot drop box or, without lawful authority, damaging, destroying, removing, or tampering with the contents thereof.

(2) Malicious mischief in the second degree is a class C felony.

**Sec. 23.** RCW 29A.84.540 and 2011 c 10 s 72 are each amended to read as follows:

Any person who, without lawful authority, removes a ballot from a voting center or ballot drop location is guilty of a ~~((gross misdemeanor))~~ class C felony punishable to the same extent as a ~~((gross misdemeanor))~~ class C felony that is punishable under RCW 9A.20.021."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 5336.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 5336.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5336 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5336, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5336, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Keiser

SENATE BILL NO. 5336, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5338 with the following amendment(s): 5338-S.E AMH TR H2398.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 24.** The legislature finds that many residents of Washington enjoy recreational opportunities for off-road vehicle and snowmobile use afforded by the natural beauty of the state and do so in compliance with vehicle titling and registration laws and other laws that govern off-road vehicle and snowmobile use. At the same time, the legislature recognizes that the current law and corresponding enforcement regime may not be robust enough to ensure full compliance with legal registration requirements and a level playing field for all users. It is therefore the intent of the legislature to modify the statutory framework governing penalties for off-road vehicle and snowmobile registration violations and to add requirements to the department of licensing in order to improve registration compliance.

**NEW SECTION. Sec. 25.** A new section is added to chapter 46.09 RCW under the subchapter heading "uses and violations" to read as follows:

(1) It is a gross misdemeanor, punishable as provided under chapter 9A.20 RCW, for a resident, as identified in RCW 46.16A.140, to knowingly fail to apply for a Washington state certificate of title for, or to knowingly fail to register, an off-road vehicle within fifteen days of receiving or refusing a notice issued by the department under section 4 of this act.

(2) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

**NEW SECTION. Sec. 26.** A new section is added to chapter 46.10 RCW under the subchapter heading "uses and violations" to read as follows:

(1) It is a gross misdemeanor, punishable as provided under chapter 9A.20 RCW, for a resident, as identified in RCW 46.16A.140, to knowingly fail to register a snowmobile within fifteen days of receiving or refusing a notice issued by the department under section 4 of this act.

(2) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

**NEW SECTION. Sec. 27.** A new section is added to chapter 46.93 RCW to read as follows:

(1) By the first business day in February of each year, beginning in 2018, motorsports vehicle manufacturers must report to the department of licensing a listing of all motorsports vehicle warranties for off-road vehicles under chapter 46.09 RCW and snowmobiles under chapter 46.10 RCW sold to Washington residents by out-of-state motorsports vehicle dealers in the previous calendar year. The report must be transmitted such that the department receives the listing no later than the first business day in February. Failure to report a complete listing as required under this subsection results in an administrative fine of one hundred dollars for each day after the first business day in February that the department has not received the report.

(2) The department of licensing shall examine the listing reported in subsection (1) of this section to verify whether the vehicles are properly registered in the state. Beginning in 2018, and to the extent that it has received the listing required under subsection (1) of this section, the department shall notify by certified mail from the United States postal service, with return receipt requested, by the end of February of each year, the purchasers of the warranties of the off-road vehicles and snowmobiles that are not properly registered in the state of the owner's obligations under state law regarding vehicle titling, registration, and use tax payment, as well as of the penalties for failure to comply with the law.

(3) Fines received under this section must be paid into the state treasury and credited to the nonhighway and off-road vehicle activities program account under RCW 46.09.510 and to the snowmobile account under RCW 46.68.350. The state treasurer must apportion the fines between the accounts according to the pro rata share of the number of off-road vehicle and snowmobile registrations in the previous calendar year. The department must provide the state treasurer with the information needed to determine the apportionment.

**NEW SECTION. Sec. 28.** Section 4 of this act applies to the sales of off-road vehicles and snowmobiles beginning in January 2017.

**NEW SECTION. Sec. 29.** This act takes effect August 1, 2017."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5338.

Senator Wilson spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5338.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5338 by voice vote.

MOTION

On motion of Senator Fain, Senator Padden was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5338, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5338, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler,

Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senators Keiser and Padden

ENGROSSED SUBSTITUTE SENATE BILL NO. 5338, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 12, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5100 with the following amendment(s): 5100-S AMH BERG MULV 162

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.76.502 and 2013 c 23 s 59 are each amended to read as follows:

(1) The office must provide a financial aid counseling curriculum to institutions of higher education with state need grant recipients. The curriculum must be available via a web site. The curriculum must include, but not be limited to:

(a) An explanation of the state need grant program rules, including maintaining satisfactory progress, repayment rules, and usage limits;

(b) Information on campus and private scholarships and work-study opportunities, including the application processes;

(c) An overview of student loan options with an emphasis on the repayment obligations a student borrower assumes regardless of program completion, including the likely consequences of default and sample monthly repayment amounts based on a range of student levels of indebtedness;

(d) An overview of ~~((financial literacy))~~ personal finance, including basic money management skills such as living within a budget and handling credit and debt;

(e) Average salaries for a wide range of jobs;

(f) ~~((Perspectives))~~ Financial education that meets the needs of, and includes perspectives from a diverse group of students who are or were recipients of financial aid, including student loans, who may be trained by the financial education public-private partnership; and

(g) Contact information for local financial aid resources and the federal student aid ombuds'((s)) office.

(2) By the 2013-14 academic year, the institution of higher education must take reasonable steps to ensure that each state need grant recipient receives information outlined in subsection (1)(a) through (g) of this section by directly referencing or linking to the web site on the conditions of award statement provided to each recipient.

(3) By July 1, 2013, the office must disseminate the curriculum to all institutions of higher education participating in the state need grant program. The institutions of higher education may require nonstate need grant recipients to participate in all or portions of the financial aid counseling.

(4) Subject to the availability of amounts appropriated for this specific purpose, by the 2017-18 academic year, each institution of higher education must take reasonable steps to ensure that the institution presents, and each incoming student participates in, a financial education workshop. The scope of the workshop must include, but is not limited to, the information outlined in subsection (1)(b) through (g) of this section, and include recommendations by the financial education public-private partnership. The institutions are encouraged to present these

workshops during student orientation or as early as possible in the academic year."

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Bailey moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5100.

Senator Bailey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Bailey that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5100.

The motion by Senator Bailey carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5100 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5100, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5100, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Padden

SUBSTITUTE SENATE BILL NO. 5100, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced students from Fort Stevens Elementary School who were seated in the gallery.

#### MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5437 with the following amendment(s): 5437 AMH AGNR H2435.2

Strike everything after the enacting clause and insert the following:

"Sec. 30. RCW 15.80.300 and 1969 ex.s. c 100 s 1 are each amended to read as follows:

~~((Terms used in this chapter shall have the meaning given to them in RCW 15.80.310 through 15.80.400 unless the context where used shall clearly indicate to the contrary.))~~ The definitions in this section apply throughout this chapter unless the context clearly require otherwise.

(1) "Certified weight" means any signed certified statement or memorandum of weight, measure, or count, issued by a weighmaster or weigher in accordance with the provisions of this chapter or any rule adopted under it.

(2) "Commodity" means anything that may be weighed, measured, or counted in a commercial transaction.

(3) "Department" means the department of agriculture of the state of Washington.

(4) "Director" means the director of the department or the director's duly appointed representative.

(5) "Licensed public weighmaster," also referred to as "weighmaster," means any person, licensed under the provisions of this chapter, who weighs, measures, or counts any commodity or thing and issues therefor a signed certified statement, ticket, or memorandum of weight, measure, or count accepted as the accurate weight, or count upon which the purchase or sale of any commodity or upon which the basic charge or payment for services rendered is based.

(6) "Person" means a natural person, individual, or firm, partnership, corporation, company, society, or association. This term shall import either the singular or plural, as the case may be.

(7) "Retail merchant" means and includes any person operating from a bona fide fixed or permanent location at which place all of the retail business of the merchant is transacted, and whose business is exclusively retail except for the occasional wholesaling of small quantities of surplus commodities that have been taken in exchange for merchandise from the producers thereof at the bona fide fixed or permanent location.

(8) "Thing" means anything used to move, handle, transport, or contain any commodity for which a certified weight, measure, or count is issued when such thing is used to handle, transport, or contain a commodity.

(9) "Vehicle" means any device, other than a railroad car, in, upon, or by which any commodity is or may be transported or drawn.

(10) "Weigher" means any person who is licensed under the provisions of this chapter and who is an agent or employee of a weighmaster and authorized by the weighmaster to issue certified statements of weight, measure, or count.

**Sec. 31.** RCW 15.80.410 and 1969 ex.s. c 100 s 12 are each amended to read as follows:

The director shall enforce and carry out the provisions of this chapter and may adopt the necessary rules to carry out its purposes. The adoption of rules shall be subject to the provisions of chapter 34.05 RCW (administrative procedure act), as enacted or hereafter amended, concerning the adoption of rules.

**Sec. 32.** RCW 15.80.440 and 1969 ex.s. c 100 s 15 are each amended to read as follows:

The director or any peace officer may order the driver of any vehicle previously weighed by a licensed public weighmaster (~~may be required~~) to reweigh the vehicle and load at the nearest scale.

The director or any peace officer may order the driver of any vehicle operated by or for a retail merchant which vehicle contains hay, straw, or grain (~~may be required~~) to weigh the vehicle and load at the nearest scale (~~and~~). If the weight is found to be less than the amount appearing on the invoice, a copy of which is required to be carried on the vehicle, the director or peace officer shall report the finding to the consignee and may (~~cause~~) prosecute such retail merchant (~~to be prosecuted~~) in accordance with the provisions of this chapter.

**Sec. 33.** RCW 15.80.450 and 2006 c 358 s 3 are each amended to read as follows:

(1) Any person may apply to the director for a weighmaster's license. Such application shall be on a form prescribed by the director and shall include:

~~((4))~~ (a) The full name of the person applying for such license and, if the applicant is a partnership, association, or corporation, the full name of each member of the partnership or the names of the officers of the association or corporation;

~~((2))~~ (b) The principal business address of the applicant in this state and elsewhere;

~~((3))~~ (c) The names and addresses of the persons authorized to receive and accept service of summons and legal notice of all kinds for the applicant;

~~((4))~~ (d) The location of ~~((any))~~ each scale ~~((or scales))~~ subject to the applicant's control and from which certified weights will be issued; ~~(and~~

~~(5))~~ (e) The state unified business identifier number for the operator of the scale; and

(f) Such other information as the director (~~feels~~) identifies as necessary to carry out the purposes of this chapter and adopts by rule.

(2) Such annual application shall be accompanied by a license fee of ~~((fifty))~~ eighty dollars for each scale from which certified weights will be issued (~~and a bond as provided for in RCW 15.80.480~~).

**Sec. 34.** RCW 15.80.470 and 2010 c 8 s 6103 are each amended to read as follows:

If an application for the annual renewal of any license provided for in this chapter is not filed prior to the current license expiration date, there shall be assessed and added to the renewal fee as a penalty therefor fifty percent of said renewal fee which shall be paid by the applicant before any renewal license shall be issued. The penalty shall not apply if the applicant furnishes (~~an affidavit~~) a declaration that he or she has not acted as a weighmaster or weigher subsequent to the expiration of his or her prior license.

**Sec. 35.** RCW 15.80.490 and 2010 c 8 s 6105 are each amended to read as follows:

(1) Any weighmaster (~~may~~) must file an application with the director for a license for any employee or agent to operate and issue certified weight tickets from ~~((a))~~ each scale which such weighmaster is licensed to operate under the provisions of this chapter. Such application shall be submitted on a form prescribed by the director and shall contain the following:

~~((4))~~ (a) The name of the weighmaster;

~~((2))~~ (b) The full name of the employee or agent (~~and his or her resident address~~); and

~~((3))~~ The position held by such person with the weighmaster;

~~(4))~~ (c) The scale (~~or scales~~) from which such employee or agent will issue certified weights (~~and~~

~~(5))~~ Signature of the weigher and the weighmaster).

(2) Such annual application shall be accompanied by a license fee of ~~((ten))~~ twenty dollars.

**Sec. 36.** RCW 15.80.510 and 2010 c 8 s 6107 are each amended to read as follows:

A licensed public weighmaster shall: (1) Keep the scale or scales upon which he or she weighs any commodity or thing, in conformity with the standards of weights and measures; (2) carefully and correctly weigh and certify the gross, tare, and net weights of any load of any commodity or thing required to be weighed; and (3) without charge, weigh any commodity or thing brought to his or her scale (~~by an inspector authorized~~) by the director or peace officer, and issue a certificate of the weights thereof.

**Sec. 37.** RCW 15.80.520 and 1983 c 95 s 6 are each amended to read as follows:

(1) Certification of weights ~~((shall be made by))~~ must be in accordance with subsection (2)(a) or (b) of this section.

(2)(a) The certification must appear in an appropriate and conspicuous place on each certificate and copies thereof. In addition the weight ticket must bear the name of the weighmaster, the full name of the weigher issuing the ticket, and a seal number assigned to the scale by the department. The seal number must be used only at the scale to which it is assigned.

**WEIGHMASTER CERTIFICATE**

THIS IS TO CERTIFY that the following described commodity was weighed, measured, or counted by a weighmaster, whose signature is on this certificate, who is a recognized authority of accuracy, as prescribed by chapter 15.80 RCW administered by the Washington state department of agriculture.

(b) Certification must be made by means of an impression seal, the impress of which shall be placed by the weighmaster or weigher making the weight determination upon the weights shown on the weight tickets. The impression seal ~~((shall))~~ may be procured from the director upon the payment of a fee of ~~((five))~~ sixty dollars or the current cost of the seal to the department, whichever is less, and such fee shall accompany the applicant's application for a weighmaster's license. ((The seal shall be retained by the weighmaster upon payment of an annual renewal fee of five dollars, and the fee shall accompany the annual renewal application for a weighmaster's license.)) Any replacement seal needed ~~((shall))~~ may be procured from the director upon payment to the department of the current cost to the department for such replacement. An impression seal ~~((shall))~~ must be used only at the scale to which it is assigned, and remains the property of the state and shall be returned ~~((forthwith))~~ to the director upon the termination, suspension, or revocation of the weighmaster's license.

**Sec. 38.** RCW 15.80.530 and 1969 ex.s. c 100 s 24 are each amended to read as follows:

The certified weight ticket shall be of a form approved by the director and shall contain the following information:

- (1) The date of issuance;
- (2) The kind of commodity weighed, measured, or counted;
- (3) The name of the owner, agent, or consignee of the commodity weighed;
- (4) The name of the seller, agent, or consignor;
- (5) The accurate weight, measure, or count of the commodity weighed, measured, or counted; including the entry of the gross, tare, and/or net weight, where applicable;
- (6) The identifying numerals or symbols, if any, of each container separately weighed and the ~~((motor vehicle))~~ license plate number of each vehicle separately weighed;
- (7) The means by which the commodity was being transported at the time it was weighed, measured, or counted;
- (8) The name of the city or town where such commodity was weighed;
- (9) The complete signature of the weighmaster or weigher who weighed, measured, or counted the commodity; and
- (10) Such other available information as may be necessary to distinguish or identify the commodity.

Such weight certificates when so made and properly ~~((signed and))~~ certified or sealed shall be prima facie evidence of the accuracy of the weights, measures, or count shown, as a certified weight, measure, or count.

**Sec. 39.** RCW 15.80.540 and 1969 ex.s. c 100 s 25 are each amended to read as follows:

(1) Certified weight tickets shall be ~~((made in triplicate, one copy to be))~~ delivered to the person receiving the weighed commodity at the time of delivery ~~((, which copy shall)).~~ The weight ticket must accompany the vehicle that transports such commodity((, one copy to be forwarded)).

(2) A copy must be provided to the seller by the carrier of the weighed commodity ~~((, and one copy to be retained by)).~~

(3) The weighmaster that ~~((weighed the vehicle transporting such commodity. The copy retained by the weighmaster shall be kept at least))~~ provided the certified weight ticket must retain a copy for a period of one year ~~((, and such copies and)).~~

(4) The weighmaster must retain such other records as the director shall determine necessary to carry out the purposes of this chapter.

(5) These records shall be made available at all reasonable business hours for inspection by the director.

**Sec. 40.** RCW 15.80.560 and 1969 ex.s. c 100 s 27 are each amended to read as follows:

A licensed public weighmaster shall, in making a weight determination as provided for in this chapter, use a weighing device that conforms to current state legal requirements for commercial devices and is suitable for the weighing of the type and amount of commodity being weighed. The director shall cause to be tested for proper state standards of weight all weighing or measuring devices utilized by any licensed public weighmaster. Certified weights shall not be issued over a device that has been rejected or condemned for ~~((repair or))~~ use by the director until such device has been repaired and tested as conforming to the intended use requirements.

**Sec. 41.** RCW 15.80.590 and 2010 c 8 s 6109 are each amended to read as follows:

The director is hereby authorized to deny, suspend, or revoke a license ~~((subsequent to a hearing, if a hearing is requested.))~~ in any case in which he or she finds that there has been a failure to comply with the requirements of this chapter or rules adopted hereunder. For hearings for revocations, suspension, or denial of a license, the director shall give the licensee or applicant such notice as is required under the provisions of chapter 34.05 RCW. Such hearings shall be subject to chapter 34.05 RCW (administrative procedure act) concerning adjudicative proceedings.

**Sec. 42.** RCW 15.80.640 and 2011 c 96 s 16 are each amended to read as follows:

Any person who shall mark, stamp, or write any false weight ticket, scale ticket, or weight certificate, knowing it to be false, and any person who influences, or attempts to wrongfully influence, any licensed public weighmaster or weigher in the performance of his or her official duties shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than ~~((one))~~ five hundred dollars nor more than ~~((one))~~ five thousand dollars, or by imprisonment of not less than thirty days nor more than three hundred sixty-four days in the county jail, or by both such fine and imprisonment.

**Sec. 43.** RCW 15.80.650 and 2003 c 53 s 109 are each amended to read as follows:

(1) Except as provided in RCW 15.80.640 or subsection (2) of this section, any person violating any provision of this chapter or rules adopted hereunder is guilty of a misdemeanor.

(2) A second or subsequent same or similar violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(3) The director may assess a civil penalty ranging from one hundred dollars to one thousand dollars per occurrence against any person who knowingly violates any provision under this chapter or rules adopted thereunder. In determining the amount of

any civil penalty, the director shall give due consideration to the appropriateness of the penalty with respect to the gravity of the violation, and the history of any previous violations. The respondent issued a notice of intent to assess a civil penalty must be provided the opportunity to request a hearing as provided under chapter 34.05 RCW to contest the alleged violation and the penalty amount.

**Sec. 44.** RCW 15.80.660 and 1995 c 355 s 25 are each amended to read as follows:

(1) All moneys collected under this chapter shall be placed in the weights and measures account created in RCW 19.94.185.

(2) Civil penalties collected under RCW 15.80.650 must be deposited into the state general fund.

**NEW SECTION. Sec. 45.** The following acts or parts of acts are each repealed:

- (1) RCW 15.80.310 ("Department") and 1969 ex.s. c 100 s 2;
- (2) RCW 15.80.320 ("Director") and 2010 c 8 s 6101 & 1969 ex.s. c 100 s 3;
- (3) RCW 15.80.330 ("Person") and 1969 ex.s. c 100 s 4;
- (4) RCW 15.80.340 ("Licensed public weighmaster") and 1969 ex.s. c 100 s 5;
- (5) RCW 15.80.350 ("Weigher") and 1969 ex.s. c 100 s 6;
- (6) RCW 15.80.360 ("Vehicle") and 1969 ex.s. c 100 s 7;
- (7) RCW 15.80.370 ("Certified weight") and 1969 ex.s. c 100 s 8;
- (8) RCW 15.80.380 ("Commodity") and 1969 ex.s. c 100 s 9;
- (9) RCW 15.80.390 ("Thing") and 1969 ex.s. c 100 s 10;
- (10) RCW 15.80.400 ("Retail merchant") and 1969 ex.s. c 100 s 11;
- (11) RCW 15.80.480 (Surety bond) and 2010 c 8 s 6104 & 1969 ex.s. c 100 s 19; and
- (12) RCW 15.80.600 (Hearings for denial, suspension or revocation of licenses—Notice—Location) and 1969 ex.s. c 100 s 31."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Warnick moved that the Senate concur in the House amendment(s) to Senate Bill No. 5437.

Senators Warnick and Chase spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Warnick that the Senate concur in the House amendment(s) to Senate Bill No. 5437.

The motion by Senator Warnick carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5437 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5437, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5437, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Hasegawa and Van De Wege

Excused: Senator Padden

SENATE BILL NO. 5437, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:27 p.m., on motion of Senator Fain, the Senate adjourned until 8:55 o'clock a.m. Wednesday, April 19, 2017.

CYRUS HABIB, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate